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of Graduate Studies acceptance of the thesis

LEGISLATIVE FINANCIAL AUDIT IN CANADA:
A DEVELOPMENTAL HISTORY OF THE AUDITOR GENERAL'S OFFICE

submitted by Fergus M. Thompson, Hons. B.A.,
in partial fulfilment of the requirement for
the degree of Master of Arts.

Thesis Supervisor

Chairman, Department
of Political Science

Carleton University

April 1981

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LEGISLATIVE FINANCIAL AUDIT IN
CANADA: A DEVELOPMENTAL HISTORY
OF THE AUDITOR GENERAL'S OFFICE

by

Fergus M. Thompson, B.S.Sc., B.A.(Hons), D.P.A.

A thesis submitted to the Faculty of
Graduate Studies and Research in partial fulfillment
of the requirements for the degree of
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OTTAWA, Ontario

April 1981

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ABSTRACT

The study is an historical inquiry into the development of legislative financial audit in relation to the Office of the Auditor General of Canada up to 1979.

The concept of legislative control of public expenditures evolved and developed in an era of British liberalism influenced particularly by Lockian ideology and the Benthamite school of thought. The public purse was regarded by liberal reformers as the 'property' of the tax payer. Lockian ideology considers property to be a "natural right" and therefore must be protected from arbitrary government action.

Financial administration in Canada was modeled on that of the British; however, it developed marked differences from the British model in adapting to Canadian political, economic and social conditions which were being influenced by Lockian liberalism and laissez-faire individualism. The study addresses itself to the reasons for the Canadian differences and analyzes the developmental aspects of financial control of public expenditures in Canada.

PREFACE

This is a study in administrative history. The theme of the discussions will be centered around the origin and development of legislative financial control with special emphasis on the office of the Canadian Auditor General. The object of the inquiry is to determine through empirical observations why the Canadian system of financial administrative controls diverged from the British model, when transplanted to the Canadian environment.

This area of study - the administrative history of Canadian legislative audit and its political ramifications - has been badly neglected by scholars and writers in Canadian public administration. In the course of researching this thesis only a few empirical studies were found that dealt with developmental administration, discussed the historical development of legislative financial control in Canada. There are, however, a number of descriptive essays dealing with the Auditor General or the Public Accounts Committee in a general sort of way. The indepth studies and works of both Norman Ward's The Public Purse: A Study in Canadian Democracy, and J.E. Hodgett's Pioneer Public Service: An Administrative History of the United Canadas 1841-1867 have been invaluable throughout this study. These works, although they did not provide a framework that could be adopted and followed by this inquiry, directed a course on which the research could embark.

Research for this work was done primarily by consulting government documents such as the Reports of the Auditor General presented annually to Parliament, Parliamentary Debates and Journals, and Reports of the Public Accounts Committee. Other valuable sources were various texts, journals, periodicals and personal papers dealing with the Auditor General's Office in relation to Parliament and the control of public expenditures. British sources of reference included United Kingdom House of Commons Debates and Reports.

My appreciation is greatly extended to the many persons who offered their devoted assistance in completing this work. Special appreciation and thanks go to Professor David Bellamy, my adviser, without whose guidance and direction this work would not have gathered sufficient interest, desire and momentum to allow for its completion. I offer my gratitude to the library staff of the Auditor General's Office, the Canadian Public Archives, the Ontario Archives, and Employment and Immigration Canada, who were extremely helpful in assisting me in my search.

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F.M.T.

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1: INTRODUCTION

To attempt to engraft any foreign institution in a new land by direct initiation is usually disappointing and sometimes mischievous; but to study it with a view to getting suggestions for improvements of one's own methods is wholly wise. (A.L. Lowell, Introduction, Willoughby, Willoughby and Lindsay, Financial Administration in Great Britain)

This study covers the development of financial control from pre-Confederation to 1979.

The dissertation argues that Canadian financial administration, which was originally formulated on the British model of financial control, diverged from that model in the process of adapting to the Canadian political, economic and social environment because of differences in the political systems of the two countries. The discussion will show that financial administration in the British North American colonies, after they had won responsible government, developed in relation to the nature of economic and political conditions in each province. This matter will be discussed further in another chapter dealing with British influence on Canadian financial control. The system of financial administration inherited at Confederation was a mixture of the control systems that already existed in the provinces - moulded to suit the provincial, political and economic conditions - and the British model, which had just been reformed

by the Exchequer and Audit Departments Act of 1866, under the guidance of the British parliamentarian and liberal reformist, William E. Gladstone. The Dominion legislature therefore was not to go uninfluenced by the colonial political traditions, which existed in the provinces before Confederation. As Norman Ward observed, "...apart from the general system whereby colonial legislatures manage public finance, the Canadian House of Commons was to be more directly affected by the contemporary political traditions of the Province of Canada than of the Maritimes. ...the House was really a carry-over of the old colonial legislature of Canada with a few extra seats added for Ontario and new seats for the Maritime Provinces."¹

The question that this inquiry raises is, "Why did Canadian financial administrative controls diverge from the model which was inherited from Britain along with responsible parliamentary government?" There are no marked differences between the two parliamentary systems, but there have always been significant differences between their systems of financial administration. The thesis of this inquiry proposes two main treatises for the divergencies between the British and Canadian models of financial control systems.

First, it can be argued that liberalism as a philosophy was influential in shaping Canadian financial administration in relation to the social and political environment. The

¹Norman Ward, The Public Purse: A Study in Canadian Democracy, University of Toronto Press (Toronto, 1964), p. 16.

concept of a liberal ideology was indigenous to the Canadian ecological environment - political, economic and social. In the British North American colonies there were already established government procedures which protected the right of the individual to enter into private contract both privately and publicly. There was also the general belief that government was instituted to serve the needs of individuals and not necessarily the collective needs of the populous. Such a belief had its roots in the liberal ideologies of John Locke, who emphasized the "natural" rights of individual liberty in society. The natural rights of "property" in the Lockian sense include the meanings of "life, liberties, and estate". Governments in general are therefore instituted to protect these natural rights of the individual from being encroached upon or threatened.

Laissez-faire philosophy, which grew out of Lockian liberalism, also believed in the "natural" tendency in every individual to strive to improve his estate through the output of his labour. Laissez-faire philosophy gave a practical meaning to the Lockian concept of "natural" liberty and freedom of the individual. The individual was encouraged under this philosophy to resist all forces that impeded individual economic advancement. The doctrine advocated freedom for the individual to express the liberty of entering into contracts with the express wish of asserting his economic individualism.

The liberalism of eighteenth-century Britain influenced by the laissez-faire doctrine of Adam Smith's The Wealth of Nations, and Lockian ideology of individual liberty and freedom from restraints and a government by the governed, definitely had an impact on the reform of British financial administration. The reforms proposed by British parliamentarians, such as Edmund Burke and William Pitt, were expressions of the liberal ideology of the time, which was to be continued by William E. Gladstone in the next century, when he laid the foundation for modern financial administration by championing the Audit Act of 1866 through the House of Commons.

The Gladstonian concept of liberalism was of course influenced by other liberal ideologies like that of Jeremy Bentham, whose influence on legal and administrative changes in the first half of the nineteenth century in Britain was quite significant. Bentham's theory demonstrated that liberalism can be a power in bringing about radical social changes. It chose the welfare of the individual as the basic norm of political action. Bentham's influence in Britain on financial administration reform is exemplified by the Economical and Administrative Reform movement as it gained momentum toward the middle of the nineteenth century and culminated in the Audit Act of 1866. The movement introduced a consciousness of a new morality - the responsibility and accountability for public expenditures - into financial

legislative control. A scholar of British administrative reforms described the Economical and Administrative Reform as:

An ethic transmitted into a cult, this ideal of economical and therefore virtuous government passed from the hands of prigs like Pitt into those of high priests like Gladstone. It became a religion of financial orthodoxy whose Trinity was Free Trade, Balanced Budgets and the Gold Standard, whose original sin was the National Debt.²

The liberal ideology as developed and expressed in Britain in the context of financial administrative reform was transmitted to the new Dominion. But because Canada was still a developing country with a pioneer spirit, it did not adopt British liberalism as professed by the Benthamite school of thought. Bentham's concept of liberalism was based on the principle of the greatest good to the greatest number, which "tended to establish in Britain the supremacy of the national over local interests."³ Because local interest was influenced by the pioneer conditions of Canada as a developing country, Lockian ideology and laissez-faire economic individualism were congenial to the Canadian environment, where the principles of self-help and private initiative flourished.

²For a thorough and enlightening discussion on this movement see Henry Roseveare, The Treasury: The Evolution of a British Institution, (London, The Penguin Press), Chapter 5, p. 152.

³John Dewey, Liberalism and Social Action, (New York: Capricorn Books, 1963), p. 19.

Bentham's liberalism was uncongenial to the Canadian political and economic environment primarily because its doctrine ran contrary to laissez-faire liberalism which emphasized freedom of contract as the economic norm for industrializing the country. Britain's history of political and economic development had progressed beyond the laissez-faire concept of self-help to that of state-help, where national interests became more dominant than regional or local interests. The political and economic history of Canada is largely a demonstration of provincial or local interests: the direct opposite to Britain's. Another reason for the uncongeniality of Bentham's liberalism to Canadian political and economic systems was the lack of an advanced civil service in Canada, compared to the British that was independent of political party control. Bentham's liberalism may not have found fertile ground in Canadian soil also because "there was no background of feudalism in America [Canada] as was in England...to give leverage to the Benthamine system of legal and administrative reform."⁴

British liberal social policies provided the framework, however, in which Canadian laissez-faire liberalism could continue its development in later years to reflect the liberal

⁴Ibid., loc.cit.

ideology of Bentham, which was the development of an ordered and structured civil service and political institutions for protection of individual liberty. Legislations were developed to effect social change, and one aspect of such a social change was the development of legislative audit legislation, beginning in 1855 when the first Audit Act was enacted for the Province of Canada, for protection of the taxpayer from government over-expenditures. The liberalism of Bentham went beyond the individualism of Lockian liberalism and Adam Smith's laissez-faire doctrine of individual economic determinism. The Benthamite philosophy emphasized that "the criticism of all law and of every administrative effort is its effect upon the sum of happiness enjoyed by the greatest possible number. ...In effect, it made the well-being of the individual the norm of political action."⁵

It is appropriate at this point for the discussion to address itself to the relationship of liberalism, as a philosophy for effecting social change and as a political ideology, to the development of financial administrative reform. It was noted earlier in our discussions that Britain's Economical and Administrative Reform movements were influenced by the liberal ideologies of the time and chiefly by Lockian philosophy. The legislative Act of 1866, which first brought about an independent review of the public purse for the interest

⁵Ibid., p. 13.

and knowledge of the taxpayer, was further developed beyond Lockian individualism to adopt the Benthamite ideology of liberalism, that is, 'the sum of happiness should be enjoyed by the greatest number.' William E. Gladstone, who piloted this important bill through Parliament, would have belonged to the Benthamite school of thought which advocated that liberalism was a power for bringing about legislation and social reforms with the individual as its focus. Gladstonian liberalism which is essentially Lockian in concept and principle, was influenced by Benthamite ideology. To take the liberal ideology, as propounded by Gladstone, a step further, the liberty of the individual lies ultimately with the power of the people - through political action - rather than upon formalized institutions per se. As a scholar of British history noted:

Individual liberty...depends ultimately more on the people themselves than upon any institutions or formal safeguards.... Throughout the centuries they [the British people] have zealously guarded their civil rights, and this has led to the growth of a vigorous public opinion which would never tolerate any attempt by the Cabinet or Parliament of the Courts to ride roughshod over the liberties of the individual.⁶

Transmittal of the British concept of financial administration to Canada also brought with it British liberalism, which was essentially Lockian, but was

⁶William A. Robson, Foreword to André Mathiot, The British Political System, translated by Jeniffer S. Hines, (London: The Hogarth Press, 1958).

impregnated with the liberal ideology of Bentham and was Gladstonian in practice. As discussed earlier, because of the differences between the British and Canadian societies, the British model of financial administration when introduced in Canada took on its development in relation to the political and economic conditions of the Canadian environment. The result was that a Canadian model of financial administration emerged with marked divergencies from its parent British model. This has been noted as one of the problems in developmental administration.

Ralph Braibanti, in his discussions on transnational inducement of administrative reform and political growth, has noted the problems experienced when a developing nation attempts to adopt or assimilate the political culture, that is, the ideologies and administrative theories and practices, of a more developed nation than itself. The following statement explains why, and is found to be quite pertinent to this inquiry.

There is no question that the administrative system has an ecological relationship with the total social order, that it is influenced by it, and that often it cannot contribute to balanced political development unless its increased capability is articulated to the political growth process in some manner....in the long run, an administrative apparatus [the bureaucracy] must be sustained by a doctrinal or ideological support derived from the social order.⁷

⁷ Ralph Braibanti, "Administrative Reform in the Context of Political Growth", Frontiers of Development Administration, Fred W. Riggs, ed., (Durham, N.C., Duke University Press, 1970), p. 229.

The political ideology of liberalism did not begin to find full expression in Canadian society until Alexander Mackenzie⁸ came on the political scene in 1868 as leader of the Liberal Party, which was at the time in Opposition. He promulgated the principles of the Lockian ideology of liberalism with the practicality of Adam Smith's laissez-faire doctrine of economic determinism characterized by ideas of freedom, liberty and individuality. A Canadian historian noted that "...Canadian Liberalism stood for free trade [freedom of contract]. Mackenzie himself...was a doctrinaire on the subject. His Minister of Finance, the pugnacious Richard Cartwright, was steeped in the inheritance of Adam Smith and John Stewart Mill."⁹ Once the philosophy of liberalism was harnessed into political thought, the social order cultivated an intolerance for other ideologies that ran contrary to the "natural" rights of the individual. The welfare of the individual therefore became the bedrock on which government activities and legislative reforms were formulated and developed. It is important to note that a close and strong association had long existed between the legislative control of the public purse and legislative guarantees of human rights, and that both have become - since the

⁸ See Dale C. Thomson, Alexander Mackenzie: Clear Grit, (Toronto, The Macmillan Co., 1960).

⁹ Arthur R.M. Lower, Colony to Nation: A History of Canada, (Toronto, Macmillan and Stewart Ltd., 1977), p. 368.

English Revolution of 1688¹⁰ - the prerogatives of the British Parliament. "The beginning of appropriation as a regular system of financial control dates...from 1688 when it was made part of that system of Government which was then established for the better securing of the rights, liberties and privileges of the people of this country [England]." ¹¹

Having discussed the philosophy and ideologies of liberalism in relation to the development of political and economic reforms, using the liberal principles of individual "natural" rights of liberty and freedom as the norm - it is not difficult to accept the thesis that financial administrative and legislative reforms, as developed in Canada, were liberal in concept as well as in practice. We can apply the concept of liberalism to the development of Canadian financial administration by relating to the liberal reforms of audit legislation. This legislation protects the "natural" rights of the individual from the burden of government over-expenditures and thus the burden of a national debt. The reforms created a watchdog - the Auditor General - for protecting the public purse, and established a Public Accounts Committee to inform Parliament of how the people's taxes were spent. It is in

¹⁰ The year 1688 is generally recognized as a landmark when the period of autocratic monarchy was changed to constitutional monarchy in England, thus giving Parliament supreme powers over public expenditures.

¹¹ C.W. Protheso, Select Statutes and other Constitutional Documents, 4th ed., p. 278, quoted in Basil Chubb, The Control of Public Expenditure, (Oxford, Clarendon Press, 1952), p. 8.

these contexts that we recognize the significance of Gladstonian liberalism in British and Canadian financial administration.

The second treatise proposed by this inquiry is that the transmittal of British financial administration to Canada shows empirically that development of financial control as an institution occurred in relation to the Canadian ecological environment - political, economic and social. From which point on, the Canadian environment congealed and formed a national mould with unique characteristics, but was still capable of assimilating ideas from beyond its boundaries. Canadian financial administration showed marked departures from its British prototype in 1931, when the new Consolidated Revenue and Audit Act radically reformed the old Audit Act of 1878, which was a direct replica of the British Exchequer and Audit Department's Act of 1866. The 1931 Act reduced the powers of the Canadian Auditor General by removing the pre-audit functions which controlled the issue of money. Unlike the British, who have embodied both the pre-audit (before money is spent) and post-audit (after money is spent) functions under the authority of the Comptroller and Auditor General, in Canada the pre-audit functions under the new Act of 1931 were placed under the control of an administrative officer - the Comptroller of the Treasury - who was an executive officer of the Ministry of Finance. The reasons for limiting the functions of the Auditor General to a ex-post-facto exercise

have not been clearly stated. The small number of research studies available have not uncovered any ideological basis for this change.

Nevertheless, there are certain identifiable circumstances which may have prompted a change in the old audit control system. The 1878 Audit Act was firstly an experiment, in that it was in itself a reformed Act that abolished the old Audit Act of 1870. Although the 1870 Act had established the Office of Auditor General "for the more complete examination of the Accounts of Canada, and for the reporting thereon to the House of Commons", it had no provision for independent legislative audit of public expenditures, that is, free from executive influence or control. It was an executive audit, in that the Auditor General was an official of the Department of Finance and therefore was under the department's direction. It was not until the Audit Act of 1878 that the Auditor General was made an independent officer of Parliament, thus removing him from executive influence and administrative powers. It was then that statutory expression was given to parliamentary audit. The circumstances which led up to the various reforms of audit legislation will be discussed in detail throughout the chapters that follow; therefore, for purposes of discussion at this point it will be satisfactory to focus only on the 1931 Act, which must be regarded as the point at which Canadian audit control became noticeably unlike the British

model.

A significant impact on the change involved the economic depressions, when public expenditures were very much on the increase in response to social and economic needs. Responsible also for the change was the ineffectiveness of the systems of financial control in general, particularly the poorly administered letter-of-credit system, which was abused by both the spending departments and those chartered banks which held government funds on deposit. The letter-of-credit system accounted for a major portion of over-expenditures of the public accounts, which were very rarely audited, as can be observed from the evidence of the Auditors General and other sources which are presented later in this discussion. A former deputy Minister of Finance who experienced the letter-of-credit system in operation wrote:

This system was not universal.... In practice, the letter-of-credit system made control over departmental expenditures difficult, resulted frequently in over-commitments by the departments, gave rise to a number of defalcations, and made it practically impossible to render accurate and frequent statements of what the expenditures and obligations of the country were at given points of time.¹²

The letter-of-credit system can be summarized as follows. When Parliament passed an appropriation Act and funds had been released, the spending departments applied to the Minister of Finance for a portion of the funds granted by

¹²W.C. Clark, "Financial Administration of the Government of Canada", The Canadian Journal of Economics and Political Science, No. 3, Vol. 4, (1938), pp. 406-7.

Parliament in order to carry on the services of government. Departmental applications were then scrutinized by the Auditor General, and if he was satisfied that Parliament had made the necessary appropriations he would issue an application for a letter-of-credit. The letter-of-credit had to be signed by both the Minister of Finance and the Auditor General before it could be issued by the Department of Finance. What the letter-of-credit did was to authorize a bank, which handled government funds, to pay cheques drawn on it by departments up to the limited amount specified in the letter-of-credit. After a responsible officer of the department deposited the letter-of-credit with the bank he would develop his own accounting system to handle the disbursement of funds, which was quite independent of the government accounting system, other than the monthly statements of transactions that were sent to the Auditor General and Minister of Finance for verification. Following this the bank was in turn reimbursed by a receiver-general cheque issued by the Minister of Finance.¹³

Under the administration of Prime Minister R.B. Bennett, the 1931 Act was designed with the purpose of ensuring stricter accountability of public expenditures to Parliament. The Act established a central administrative body - the Comptroller of the Treasury - to scrutinize the

¹³For a clear and concise description, see Ibid., Loc. cit.

public spending of departments, and it was felt that this senior administrative officer would function best outside of Parliament. The Auditor General remained an officer of Parliament and independent of the executive; he was responsible only to Parliament to report on whether public funds appropriated by Parliament were spent as intended. Prior to the split in the original functions of the Auditor General, he was subject to overrulings, in his decisions to certify or disallow money to a spending department, by the Minister of Finance, the Law Officer of the Crown, as well as the Treasury Board.

In England the decision of the Comptroller and Auditor General is final and binding. The British theory of legislative supremacy and executive accountability regarding responsible government and financial control of the public purse was theoretically accepted in Canada, although the practice may vary. The spending executive and the legislature have a history of playing tug-of-war with the public purse, a situation that will be given much attention throughout this paper. While Canada was seeking ways to deal with the practical aspects of its financial administrative machinery, in order to alleviate the economic problems of a quickly developing country, laissez-faire philosophy took on its individuality among the spending executive as well as members of the legislature. Local interests in Canada as a developing country superseded national interests, which was

practically the reverse of the traditional concept of nationhood that prevailed in Britain, especially under the influence of Bentham's philosophy of liberalism, which advocated the most happiness for the most people. Because of the strong relationship between local interests and the political ambitions of the Canadian politician, laissez-faire liberalism flourished more than in England, where politicians are not necessarily obliged to abide by the demands of local interests or because they are not always nominated by the constituency which they represent. Nominations are usually made from a list of eligible representatives not all of whom are residents of the local constituency. This will be a topic for discussion in another section dealing with some of the chief differences between the Canadian and British political systems.

It is important that this inquiry, therefore, examine the development of financial administrative and legislative controls in Great Britain, in order to foster an appreciation of the British model, which provided the framework for the Canadian model. Throughout these discussions it will be observed that even where there are differences between the two systems of financial administration, Canadian legislative audit control of public expenditures is essentially British, both in form and practice.

The central thesis of this inquiry is the hypothesis that the transnational inducement of an established set or

body of political and administrative principles, which have been proven empirically to be congenial and adaptable to the specific ecological environment - political, economic and social conditions of a specific society will not necessarily develop autonomously in a new environment, but will diverge from the original thought or model in response to the dictates of the new social environment.¹⁴

¹⁴The hypothesis is a modified formulation of Ralph Braibanti's thesis that "...transnational inducement of administrative reform as a stratagem must proceed as an autonomous action, irrespective of the rate of naturation of the larger political process", in Frontiers of Development Administration ed. Fred W. Riggs, p. 231. Braibanti qualified autonomous to imply "quasi autonomy" as opposed to absolute autonomy and concurs that "the autonomy is relative, varying spatially and temporally".

II: EVOLUTION OF FINANCIAL CONTROL IN BRITAIN

This chapter will examine the development of British financial control in relation to the country's political culture, and the influence that the ecological environment - political, economic and social - had on the evolution and development of administrative and legislative reforms to reflect the eighteenth century liberal ideology of the Administrative and Economical Reform¹ movement in Britain.

It is necessary to observe the connections or relationships between the political culture and the development of government institutions, such as the Comptroller and Auditor General, for legislative audit in the control of public expenditures. An observation of the British experience will help in explaining why the British model of financial administration when transmitted to the Canadian ecological environment developed to be different in mould than the original model. The long history of British constitutional and political practice shows that financial control in Britain developed out of well-established traditions and practices, which were congenial to eighteenth and nineteenth century liberal reform. Rather than giving a comparative overview of British and Canadian parallels and

¹Henry Roseveare, The Treasury, The Evolution of a British Institution, (New York, Columbia University Press, 1969); Chapter 3.

and divergencies in their practice of financial administration, the development of financial control in both countries will be examined in separate chapters. This approach will give a clearer understanding and appreciation of the significance of each country's political culture in relation to governmental reforms of financial legislative control.

The chapter is divided into two parts - A, dealing with events which led to the Audit Departments and Auditor General Act of 1866; and B, The Public Accounts Committee as an inquiry body and a permanent committee of the House of Commons.

A. Events Leading to the Office of Comptroller and
Auditor General

British political and constitutional history illustrates that legislative control of public money is cardinal to the principle of responsible government. As early as the fourteenth century, the British House of Commons took the view that control over public revenue and expenditure would be its supreme responsibility. Although the Bill of Rights of 1689 specified that public funds must be spent according to the dictates of Parliament, it was not until almost two hundred years later - the middle of the 1800s - that the House of Commons created a Select Committee on Public Monies to inquire into the financial mismanagement of the Crimean War. The Committee in its recommendation to the House suggested that public accounts should be audited annually and submitted

to a committee of the House of Commons - The Public Accounts Committee - for review and examination. The Public Accounts Committee was created in 1861 on a motion put forth in Parliament by William E. Gladstone. But it was not until the Exchequer and Audit Departments Act was passed in 1866 that the Committee began to fulfill its statutory obligations. The Public Accounts Committee was Gladstone's idea of completing what he called the 'circle of control'.²

The Act of 1866 required all departments to submit annually, by a specified date, their appropriation accounts showing actual disbursements. The Act also created the office of Comptroller and Auditor General, which was independent of the executive branch of government and responsible only to Parliament. The Comptroller and Auditor General was given the power to audit all departmental accounts as well as the power to control the issue of monies from the Exchequer. Actually this was the culmination of the economical administrative revolutions which sought to

² The Gladstonian expenditure circle commenced with the presentation of comprehensive departmental estimates to Parliament annually by the Executive. The process involved detailed and tedious procedures for parliamentary votes and legal appropriation to the spending departments. The next step was the audit of accounts, on behalf of Parliament, by the Comptroller and Auditor General, to ensure that the money had been spent as intended by Parliament. The final process in the control circle took place in the Public Accounts Committee, which reported to Parliament the criticisms made in the report of the Comptroller and Auditor General.

liberalize financial administration and to protect the taxpayer from waste of public expenditure. This period may be recognized as an era of financial renaissance, when the concept of 'value for money' was considered a right of the individual. An economical government was ethically conceived as a virtuous government, an idea which continued on into the nineteenth century.

According to Paul Einzig, "The nineteenth century idea of a sound budgetary policy was that its aim was to be simply to keep down expenditure, cover it with the aid of taxation, and, if possible, produce a revenue surplus for the gradual reduction of the public debt."³ Edmund Burke's two Acts were also a reflection of this thought. The Act Regulating the Office of Paymaster was characteristic of efficient financial management principles for controlling public expenditures. The other was the Civil Establishment Act, which gave Parliament the authority to control the Crown's Civil List.

The political significance of the reformist movement was that it confirmed the principle of legislative supremacy in matters of public finance as "natural rights" of the individual. In Lockian terms this signifies "property" which is the "natural" right of the individual and therefore must be protected. Parliament, therefore, as protector of these rights was to regulate the public accounts. As mentioned

³ Paul Einzig, How Money is Managed, Penguin Books, (Baltimore, Maryland, 1954); p. 245.

earlier, a national debt was regarded as something evil, a national sin that was contrary to the principles of Benthamites who advocated happiness for the greatest number of individuals in any formalized administrative activities of government. The natural rights of individuals provided the norm for all such activities.

The reformist movement had a psychological connotation in that it generated a mass consciousness among the populace of the evils of a national debt. The public at large felt responsible, and with a conscience of guilt would often seek from their personal purse money to assist in off-setting the national debt. For example, on occasions anonymous donations were made to the Exchequer. These gestures possibly had a religious basis as they were sincere in avoiding a national debt as well as clearing one's conscience at the same time; hence we have today the term 'conscience money'. Strangely enough, with all the religious fervour of a liberal ideology that the economical reform movement generated, for example in the expressed views for the reduction of sinecures on the Civil List, the protection of civil rights, and the general reform of government finance, there was silence on any radical reform of the executive. This did not mean that there was insufficient awareness of the spendthrift habits of the executive; on the contrary, as one parliamentarian pointed out, "The influence of the Crown has increased, is increasing,

and ought to be diminished."⁴

Constitutionists such as Edmund Burke and others advocated that a balance between the Crown and the legislature was an objective which the reformists should aim to achieve. Numerous associations of reformers lobbied for their views to be expressed in Parliament through members of the legislature. The primary demands were the purging of sinecures on the Civil List and the creation of a Parliamentary Committee of Accounts - usually known as the Public Monies Committee. This was championed through Parliament - in the House of Lords by the Duke of Richmond and the Earl of Shelburne, and in the House of Commons by Edmund Burke and Colonel Barre. This inquiry body was to be made up of non-parliamentary financial experts and laymen who would report independently and directly to Parliament. This was the proposal of Lord North, the premier at the time. The proposal in later years significantly revolutionized British financial control of public expenditures. This was an important hallmark in the historical development of institutional financial control; it was further refined by Burke to reflect the liberal ideology of the reformist movement.

⁴ Roseveare, The Treasury, p. 119. See also Lord Kennet, P.C., foreword to Paul Einzig, Control of Public Purse: Progress and Decline of Parliament's Financial Control, (London, Secker, Warburg, 1959), p. 7.

It was only very gradually that the change [i.e. to the modern system of audit] took place. That change is marked by that very remarkable Committee of 1856-7, the Public Monies Committee, which is, I think, one of the most remarkable Committees, both as regards to its constitution and the work it did,... The Public Monies Committee knocked on the head once for all the idea that any effective control could be exercised by watching the issue of money from the Exchequer and showed that the real control of Parliament must be by ascertaining, through independent officers of its own, how the money had been spent.⁵

Burke was set on abolishing the guess work that went into departmental estimates as well as the use of public funds for private gains. To accomplish this task he began by regulating the financial accounting systems to fit a cycle so that the issue of appropriations is followed by the audit of expenditures on a yearly basis, thus avoiding the confusion of overlapping accounts from one year to the next.

This much is certain; he said that neither the present, nor any other first Lord of the Treasury, has been ever able to take a survey, or to make even a tolerable guess, of the expenses of government for any one year.... As things are circumstanced the first Lord of the Treasury cannot make an estimate.⁶

The problem of curbing the national debt, which had plagued eighteenth century Britain, presented a monumental task to William Pitt who, as First Lord of the Treasury, continued the reformist ideal of financial control. The

⁵ Lord Welby in testimony before the Committee on National Expenditures, 1902; quoted in W.F. Willoughby, W.W. Willoughby and Samuel W. Lindsay, The System of Financial Administration in Great Britain. (Washington, The Bookings Institute, 1929), pp. 213-14.

⁶ Ibid., p. 125.

main problem that he had to deal with was how to control government deficits which had reached unprecedented proportions. For example, the national debt, for financing the American War, exceeded 240 million pounds.⁷

Pitt sought to bring efficiency and effectiveness to the British system of public finance through probity. But even with the progress made earlier by men like Lord North and Edmund Burke in reforming financial controls up to the late 1700s and early 1800s, public expenditure was still being abused through the misappropriation of public funds. Sir Edward Coke, a noted reformist for control of public money, felt that more stringent control measures were needed and so figuratively expressed that "...instead of giving the First Lord of the Treasury a staff...I would give him a knife to cut off every man's fingers that dared thrust his fingers into the public purse."⁸

Every office [he later said, in a passage which was to be recalled by nineteenth century reformers], seemed to be the Lord of its own will, and every office seemed to have unlimited power over the purse of the nation, instead of their being, as the spirit of the constitution directed, under the constant check of the Treasury. It used to be the distinguishing feature of the British administration that the Treasury was its heart...⁹

⁷ Ibid., p. 126.

⁸ Ibid., p. 129.

⁹ Ibid.,

This statement complemented Burke's concept of centralized control of all public accounts by the Treasury. But Burke's Civil List Bill and the Public Offices Regulation Bill were criticized for granting very wide inquisitional powers to the Treasury. This was regarded as a "novel concept of Treasury Imperialism".¹⁰ The Public Offices Regulation Bill in particular was attacked by Lord Stormant who stated that the Bill "...gave most extraordinary powers to the Treasury, and diminished the necessary power and the dignity of the other offices...several of the great offices of the state had ever been distinct and independent; but this Bill gave the Treasury a painful pre-eminence over all of them and made every one of the rest subject to its control."¹¹

The spending departments obviously were vying to maintain their political power, which by this time was threatened by the revolutionary ideas and determination of establishing a centralized financial control system of all public expenditures. Needless to say, any such restriction on individualistic departmentalism was met with strong opposition by the departments as an intrusion on administrative effectiveness. Politicizing Burke's idea of placing ultimate control within the powers of the Treasury was a very long and slow process that involved reorganization of the spending departments and their programs. The process was particularly

¹⁰ Ibid., p. 120.

¹¹ Ibid., p. 129.

slow because the government of the day was subject to several parliamentary inquiries by select committees and royal commissions.

The recommendations of these committees and commissions¹² actually set the control machine, as envisaged by Burke, in motion. Some of their recommendations were enacted into legislation or other parliamentary directives. Sinecures, for example, were specifically dealt with by the Committee on Public Expenditure in 1807, and again in 1810 by a select committee. As a result over 242 sinecures worth over 300,000 pounds to their owners were uncovered.¹³ The reformers were successful in getting sinecures abolished by an act of 1816, which eliminated the Crown's Civil List. The List was no longer a public charge as it was made a liability of the Consolidated Revenue Fund and therefore was subject to the annual vote and appropriation by the House of Commons. The Treasury was also given the legislative authority to appoint an Auditor of the Civil List. The office was to be permanent and nonpolitical, with responsibility for checking all public expenditures. Parliamentary estimates and appropriation became applicable to all departments, a change from earlier days when these applied only to military expenditure. This meant that each department had not only to estimate its needs with more accuracy, but was also subject

¹²The numerous Select Committees and Royal Commissions for the years 1808, 1810, 1822, 1828, 1829, 1831, 1847, 1849 culminated in the Exchequer and Audit Act of 1866.

¹³Roseveare, The Treasury, p. 130.

to an annual review by Parliament and was obliged to give an annual defence of its requirements and expenditures.

The power of the Crown began to erode as parliamentary committees and commissions were pressing for a reformed and more liberalized financial administration, the plan for which was to be found in Burke's Civil Establishment Act of 1782, which had laid the ground work for the beginning of legislative inquiry into the use of public money. Parliament recognized that the public accounts should be examined by a body independent of the spending executive. Because the Exchequer was an executive department, the only checks were those set up and imposed by the Exchequer itself. The weakness of controlling the issue of funds only, without the examination of accounts or an audit after expenditure, was pointed out by Lord Welby:

I have always been greatly struck by the fact that for, you may say, 160 years, the House of Commons, always anxious to establish its control, should have expenditure by putting checks on the issue of money from the Exchequer instead of ascertaining how the money had been spent.¹⁴

Parliament had made attempts in earlier years, and particularly during the economic reform period of the 1780s, to examine public accounts. The objective was to provide a regular audit system. This was realized in 1785 when Parliament established a professional audit service. The purpose of the audit was to verify if funds were spent as intended by Parliament. For Parliament to implement an

¹⁴ Chubb, Control of Public Expenditure, p. 14.

effective audit system it had to provide a link of responsibility between executive and legislature. The special financial committees were substituted, in 1780, for Commissioners of Audit. The work of the Commissioners of Audit resulted in the abolition of the two Auditors of the Empress - a creation of the 1560s - and with Pitt's Act of 1785 replaced them with a professional Board of Audit which had semi-judicial status. The Board was composed of five members who were appointed by the Crown under the authority of Parliament, and held office during 'good behaviour'. The authority of this semi-judicial body was further strengthened by a series of acts.

It is of interest to note that the Act of 1785, which abolished the ancient Exchequer, also created the Comptroller-General and Issuer of His Majesty's Exchequer. This office, like the Board of Auditors, was made permanent. It was intended also to be independent of the Treasury, and responsible only to Parliament. The Comptroller's primary duty was to check the validity of Treasury orders to issue money against parliamentary authorizations of supply and appropriations. The Audit Act of 1785 as we recall grew out of the economical reform movement, which was very much more pre-occupied with the economy and efficiency of the Board than with its independence. The audit carried out by the Board was therefore still administrative, and was not independent of the Treasury. The check carried out by the

Audit Office was, for all practical purposes, useless in effecting control, because its findings were not submitted for review by an authority that was independent of executive influence and that had the statutory power to censure misappropriation of government expenditure. According to the procedure, audited accounts went to the Treasury, which usually judged these accounts to suit its own cause. No provision was made to follow-up on issue of appropriations, "there was no parliamentary follow-up on expenditure, there was a whole link missing in the chain of responsibility."¹⁵ In 1810 a select committee on finance pointed out that the Audit Office was usually looking at the carefully doctored end products of the departments' own accounting machinery. "The officers themselves will be found to be the auditors of their own expenditure."¹⁶ The lack of independence which characterized the Audit Office prompted Lord Welby to comment:

It is singular that two of our greatest Chancellors of the Exchequer, Mr. Pitt and Sir Robert Peel, did not seize the point. It is more singular as regards Mr. Pitt.... Possibly he was not anxious to give the House of Commons that which the House had not asked, for it is difficult to conceive that so able a financier, when reforming the system of audit, did not see that the control of Parliament over expenditure must be gravely defective so long as Parliament was not aware of the results of that audit.¹⁷

¹⁵ Roseveare, The Treasury, p. 135.

¹⁶ Ibid.

¹⁷ H.C. 387 of 1902, Evidence, App. 13, pp. 22809; quoted in Chubb, p. 20.

Pitt may not have been zealous in his approach to speedy reform as dictated by Burke and other economical reformers, but he did in fact grasp the importance of the need for parliamentary control of public funds. He told the House of Commons as far back as 1796:

That it was the duty of the House to superintend the expenditure of the public money, he did not deny; but that it was the duty of Parliament to enforce the application of it to the letter of the Act, required the command of a retrospective authority which the House had not the means of enforcing.¹⁸

The idea of responsible government by now had been well propelled into Parliament by the economical reform movement, and the installation of independent audit control was being given serious consideration. Several committees were active in their agitation for parliamentary control of the public purse. In 1810, for example, one committee pointed out that "if accounts were all under one authority immediately responsible to Parliament none of these defects in financial control of ~~expenditure~~ would have arisen."¹⁹ This comment was later followed upon in 1819 by another select committee, which put forward the following question to the head of the Treasury: if it thought it advisable to create "one office upon a great and efficient note, with a high officer of state, having a seat in Parliament at the head, for the purpose of examining and auditing the accounts of the Kingdom."²⁰ The

¹⁸ Roseveare, The Treasury, p. 136.

¹⁹ Ibid.

²⁰ Ibid.

response was in the negative, because in the Treasury's view financial control over the expenditure of public money was not the jurisdiction of the legislative branch of government as the expressed authority for appropriation of funds. But the Select Committee on Income and Expenditure, chaired by Sir Henry Purnell in 1828, continued to press for more stringent controls of public expenditure. The committee mentioned restoring the "ancient and wise control vested by our Financial Policy in the hands of the Treasury over all the departments connected with Public Expenditure..., which could only be effective by the House of Commons constantly enforcing its application, by holding the Treasury responsible for every act of Expenditure in each Department."²¹

The call for a financial reform that had long been echoed by the economical reformers was finally recognized by Parliament. The Treasury was given the authority to keep a watchful eye over the public accounts. The Select Committee on Income and Expenditure later recommended reform in several areas of financial administration. Among the most important reforms sought were for all public departments to abide by a uniform accounting system.²² The problem of not having a

²¹ Ibid., p. 137.

²² The concept of a 'financial year' as known today was practically non-existent. Public departments used a period that suited their business best. "Some financial years usually ended in January, some in March, some on the 24th of December and some on the 31st of March." See Roseveare, The Treasury, p. 137.

generally accepted financial year lingered on, until Gladstone's Public Revenue and Charges Act (1854) 'invented' the financial year as we know it today, that is, ending on 31st March. The Act consolidated revenue and expenditure activities to give a global and comprehensive picture of the public accounts to Parliament at the end of the financial year.

Auditing of the public accounts had still left much to be desired. There actually was no significant improvement over the type of auditing which characterized the eighteenth century. The link of responsibility between executive and legislature was not completely missing, as was the case in eighteenth century auditing, but it was weak, as public auditing lacked professionalism. Departmental accounting was still misguided by rules laid down in the Tudor and Stuart days, and executed by the Auditors of the Empress. As there was no established accounting system, the auditing procedures were ineffective. Scientific accounting came about as late as 1857, when the Select Committee on Public Monies recommended a double entry system of bookkeeping for all government departments.

Reform in financial control had never really followed a logical path since the Economical Reform period, particularly in the 1780s. For example, a professional audit service system was decided on by Parliament in 1785.²³ But as the

²³ Chubb, Control of Public Expenditure, pp. 14-15.

General has been the hub on which the entire review of the Committee revolved. This recognition was appropriately expressed by the Chairman of the Committee in his testimony to a select committee on procedures, stating that the Comptroller and Auditor General was "our guide, philosopher and friend."⁵⁷ The Public Accounts Committee is absolutely dependent on the Comptroller and Auditor General to carry out its legislative review of the formal regularity of expenditure in accordance with estimates and appropriations. Professor Chubb points to the fact that in order to do this:

The Committee must have adequate information on which to base its comments. Without the presentation and scrutiny of these regular and ordered accounts and without the fullest information about them it could not begin to enforce the canons of financial control which were deemed so necessary and which were, indeed, the cause of its genesis and the guiding principle of its Exchequer and Audit Departments Act. Thus provided the Committee could do its work.⁵⁸

The primary function of the Committee is to check on appropriation, that is, to see that public money is distributed in the proper amounts and for the purpose intended by Parliament, and according to the rules and practices laid down by the Treasury and the Committee itself. This is done by comparing estimates and accounts of expenditures and hearing reasons for discrepancies. The Committee is also involved in promoting economy and efficiency in government departments by examining cases of waste as well as the

⁵⁷ H.C. 189-1 of 1945-46, Q. 3927.

⁵⁸ Chubb, Control of Public Expenditure, p. 53.

precedent for such a measure, "which proposes for the first time in our history to place the powers of issuing public money at the absolute command of the Treasury."²⁶ The Comptroller-General completely mistrusted the Treasury's authority for financial control and felt that Parliament too should share his views. In the following year (1857) the Select Committee on Public Monies defined the functions of the Audit Board as authorized by Parliament. The recommendations of the committee, instigated by Gladstonian liberalism, later culminated in the Exchequer and Audit Departments Act of 1866.

The Act thoroughly reorganized the entire accounting and audit system. One of the most significant changes and contributions made to British financial administration was the unification of the offices of the Exchequer and Audit into the office of the 'Comptroller-General of Receipt and Issue of Her Majesty's Exchequer and Auditor General of Public Accounts', with a designated short title of 'Comptroller and Auditor General'. The Act had set in motion a process of reform bent on realizing Gladstone's work to complete 'the circle of control', and laid the foundation for modern financial administration.

The Act²⁷ required the Comptroller and Auditor General to examine departmental accounts "on behalf of the House of

²⁶ Roseveare, The Treasury, p. 139.

²⁷ Sections 26 to 32 of the Act have been excellently summarized by Chubb, Control of Public Expenditure, p. 21, and his summary was drawn upon heavily for conciseness and clarity.

Commons". In his examination he "shall ascertain, first whether the payments...charged to the grant are supported by vouchers or proofs of payments, and second, whether the money expended has been applied to the purpose...for which such grant was intended to provide." His powers of inquisition provide for "free access, at all convenient times, to the books of account and other documents relating to the accounts of...departments." The path along which legislative financial reform could now proceed was finally set for bridging the long existing gap in 'the circle' of financial control. For example, procedures for departmental estimates, appropriation, expenditure and audit were drawn together into a coherent system to form a synthesis of legislative controls.

It should be noted that the Act altered significantly the functions of the executive. The Treasury, for instance, had been invested with the power to enforce stringent financial controls throughout the departments and would be accountable for management of the public purse. The responsibility of confirming the propriety of Treasury instructions to issue money was retained as before under the single portfolio of Comptroller-General. The main responsibilities of the Exchequer and Auditor General were inquisitional in nature. He investigated the annual appropriation accounts submitted by departments to the Treasury, and reported his findings to Parliament through the

Public Accounts Committee.²⁸

Probably the most significant aspect of the Audit Act of 1866 was the statutory powers it placed in the office of an independent Parliamentary officer, who was not to be subservient to the government and the administration, but would be responsible only to Parliament. The Comptroller and Auditor General was conceived as a servant of the House of Commons, and would hold office during 'good behaviour', with a tenure similar to the security and independence of judges. His salary was chargeable to the Consolidated Revenue Fund, which meant that the salary was free of the annual parliamentary vote, thus further strengthening his independence of executive influence or partisan political obligations. The following Treasury Minute of April 1868 expresses the importance attached to the office.

My Lords therefore desire that, in conducting the Appropriation Audit of the several votes, the Comptroller and Auditor General will bring to their notice any excess of charge beyond the amount assigned to each subhead of such votes, or any expenditure which, upon examination, may, on any of the several cases referred to above, appear to have been incurred without Treasury authority, in order that my Lords may determine whether they will sanction the admission of such unauthorized expenditure as a charge against the parliamentary grant.²⁹

²⁸ This House Committee will be given special attention in another section because of its strategic and significant importance to the evolution of modern controls in financial administration. The Public Accounts Committee is the bridge which actually completed Gladstone's 'circle of control'.

²⁹ Roseveare, The Treasury, p. 142.

What the Exchequer and Audit Departments Act started out to accomplish was a financial control system that would synthesize the principles of legislative supremacy and executive responsibility in British financial administration. The appropriating power over public funds was a legislative expression of parliamentary control. Executive responsibility on the other hand rendered the executive accountable to the House for the management of appropriated funds. If followed, then, that the executive at all times must act within its delegated authority according to the terms and conditions specified by Parliament. Here we have a balance between legislative control and executive accountability, thereby determining the right of appropriation and how public money should be spent. The supremacy of Parliament over financial administration of the public purse was to be guarded by a Comptroller and Auditor General vested with statutory inquisitional and auditing authority. The findings of the audit were to be reported to Parliament through the Public Accounts Committee of which the Comptroller and Auditor General is the chief witness and adviser.

B. The Public Accounts Committee

This permanent legislative body of the House of Commons was Gladstone's concept of completing the 'circle of control' in financial administration. The Public Accounts Committee was empowered to scrutinize the audit of public expenditure - as reported by the Comptroller and Auditor

General - and report its findings to the House of Commons. It was in 1861 that Gladstone proposed a Select Committee on Public Accounts to the House of Commons. The Committee, as a permanent body of the House, was to be proportionally representative of all political parties elected to the House. Standing Order No. 90 of the House of Commons provided for this.

There shall be a select committee, to be designated the Committee of Public Accounts, for the examination of the accounts showing the appropriation of the sums granted by Parliament to meet the public expenditure, and of such other accounts laid before Parliament as the Committee may think fit, to consist of not more than fifteen members, who shall be nominated at the commencement of every session, and of whom five shall be a quorum. The Committee shall have power to send for persons, papers and records, and to report from time to time.³⁰

During the early nineteenth century (1802) the public accounts were laid before Parliament, but as can be recalled from an earlier discussion in the previous chapter, there was no effective accounting system to give any details on public expenditure. In fact, prior to the Royal Commission on Public Accounts that was appointed in 1831 to look into the control of public funds, provisions of the Appropriation Act were not properly understood. As one observer wrote:

³⁰ Sir Frank Tribe, "Parliamentary Control of Public Expenditure", Public Administration, Vol. XXXII, No. 4, Winter, 1954, p. 378.

It somehow escaped the financial genius of Pitt and Peel that control of the Estimates was ineffective unless the House of Commons also knew how the grants had been expended - Chancellors of the Exchequer, their advisers, and Parliament itself were still under the illusion that Parliamentary control over expenditure could be effectively secured by safeguards in the issue of money from the Exchequer without following the expenditure further.³¹

The Royal Commission in 1831 on the basis of its investigation stated:

...to secure a more effectual control than has hitherto existed over the application of public money, we suggest that the Comptroller of the Exchequer should be required to prepare for Parliament, before the fifteenth day of January in each year, an Annual Account of all monies received and of all credits ordered by the Exchequer during the previous year: and we further recommend that a law be passed, constituting a Commission of persons independent of the Crown, and to be chosen annually by the House of Commons, to examine this account, and to report their opinion upon it before the Annual Budget is voted.³²

The need for a parliamentary audit again, was expressed in 1845 by a Treasury committee, that "efficient control could only be established through a committee of the House of Commons whose duty it should be to examine the accounts laid before them by the Commissioners of Audit."³³ The committee

³¹ K.B. Smellie, A Hundred Years of English Government, (London, 1937); p. 106.

³² Herbert R. Balls, "The Public Accounts Committee", Canadian Public Administration, Vol. 6, 1963, p. 16.

³³ Sir Frances Baring was on the 1831 Royal Commission on Public Accounts and the view of the Commission was to have parliamentary legislative control, not executive control, of the Public Accounts.

was to report to the Treasury instead of Parliament. But Sir Frances Baring, in 1856, moved that the House appoint a committee "to inquire into the Receipt, Issue, and Audit of Public Moneys in the Exchequer, the Pay Office, and the Audit Department."³⁴ This committee was to receive the delegated authority of Parliament to examine public expenditure and to inquire into the general conduct of financial administration. The delegated authority empowered the Public Accounts Committee to speak for Parliament on all financial and administrative matters concerning the public purse.

It is important to note, however, that although the Public Accounts Committee was created in 1861, it remained practically dormant for five years until the enactment of the Exchequer and Audit Departments Act in 1866. The Act required of all departments an annual submission of their appropriation accounts showing the actual amount of disbursements. In theory the 'circle of control' was complete; but the committee's first attempt at reviewing the audited accounts of the 1868-69 financial year showed that "in practice the committee was as yet far from well equipped...the accounts had to be put into intelligible order and relevant information, both from the accounts and from other sources, had to be organized."³⁵ The Public Accounts Committee sought ways to

³⁴U.K. House of Commons Debates, April 24, 1856, cols. 450-57, quoted in Herbert R. Balls, "The Public Accounts", Vol. 6, December 1963, p. 17.

³⁵Basil Chubb, The Control of Public Expenditure, (Oxford, 1952); p. 43.

improve the accounting system in terms of eligibility, accuracy, promptness in submitting the accounts for examination, and control of regularity for the maintenance of order and discipline in financial administration. The Committee in its search for the delivery of more accurate information required departmental chief financial officers, who were later known as accounting officers, to give supporting evidence of departmental expenditures. These accounting officers and the Comptroller and Auditor General were the Committee's chief source of expert information. Although the statutory functions of the Comptroller and Auditor General were upheld and strongly adhered to by the Committee, they were usually subject to interpretations given to the Exchequer and Audit Departments Act of 1866, where there were differences of opinion. According to Professor Chubb, "these differences arose from the troubles of the new system, from the Treasury's early resentment and the new Audit Departments high view of its functions and perhaps because of personal differences between the Comptroller and Auditor General, and the Treasury."³⁶

The Public Accounts Committee, nevertheless, had always offered strong support to the Comptroller and Auditor General in his chief audit functions, namely accounting audit, appropriation audit and audit of authority. Committee members held the view that strictness of appropriation was

³⁶Ibid., p. 47.

the "essence of parliamentary control", and "authority as an essential part of the new system."³⁷ The Committee showed its support for the Comptroller and Auditor General by approving the report he presented for examination. "Your Committee avail themselves of this opportunity again to record their sense of good service the Comptroller and Auditor General has rendered to the public by directing attention to this subject."³⁸ The Committee also strengthened his demands for information from departments which would otherwise be unwilling to provide it. "Your Committee consider that...officers of Departments should be at all times ready to afford information to the Comptroller and Auditor General."³⁹ The view of the Committee on the prerogative of the Comptroller and Auditor General to seek any information he wished during an examination was given full expression in a Treasury minute of 24 November 1881: "The Comptroller and Auditor General is alone competent to say what information is necessary for the discharge of his statutory functions."⁴⁰

The Comptroller and Auditor General's accounting function was in its strictest sense a regulatory one. Accounts were detailed and involved the most sophisticated

³⁷ Ibid., p. 53.

³⁸ Ibid., p. 48; see also P.A.C., 2R. 1873.23.

³⁹ P.A.C., R. 1875.39, quoted in Ibid., p. 48.

⁴⁰ Epitome of the Reports from the Committee of Public Accounts, H.C. 154 of 1938, p. 108, quoted in Ibid., p. 48.

and technical aspects of financial accounting. The seriousness given to maintaining perfect accounts, and the equating of ordered accounts to regularity were observed in a statement made by the chairman of the Public Accounts Committee to a departmental officer in 1870: "We expect that these accounts will be rendered in a very much better form another year; I suppose your accountant will have learned his duty by that time, because I think, if the same remarks are made in the Report of the Comptroller and Auditor General another year, the Committee will find it their duty to make a very severe report to the House of Commons."⁴¹ Although reports became more detailed their effectiveness could also be readily observed in the general order and regularity of the public accounts. In 1876 the success of an accounting system centered on regularity as well as its advancement in scope for scrutinizing the public accounts was mentioned in a Treasury minute: that, "even many of those who have studied such matters [accounting principles] are hardly aware of the revolution in the public accounts...every irregularity, which in former days would have been judged and buried within the walls of a Department, is examined and reported on."⁴² A strict and professional accounting system was a major achievement in the 1880s. By this time an awareness of

⁴¹ P.A.C. IR 1870, Evidence, Q 1168, quoted in Ibid.

⁴² Epitome, H.C. 154 of 1937-8, p. 57, quoted in Chubb.

developed financial techniques had begun, along with the need for sound financial administration to deal with the volume of expenditure which got larger each year. The Committee took the view that discrepancies between appropriation funds and expenditures must be explained to them.

The Public Accounts Committee, therefore, with all intentions of carrying out in the most effective manner its parliamentary mandate on financial control, continued to give its fullest support to the Comptroller and Auditor General. The Committee's support of the Comptroller and Auditor General's functions as well as his reports was of paramount importance in the development of that office and its influence in parliamentary financial control. The Committee's support strengthened the Auditor's independence against any executive intrusion or influence. When the Comptroller and Auditor General's office was created in 1866 there were doubts as to whether he should be independent of the executive in carrying out his audit functions. These doubts were not completely cleared up; and the independent status of the Comptroller and Auditor General as a parliamentary officer only began to take on a positive significance when the Public Accounts Committee threw its full weight in support of that office.

The earlier resentment and scepticism for the Comptroller and Auditor General's office impelled the chairman of the Audit Board to tell the House of Commons in

1867 that:

Is it in human nature or consistent with political experience that a government should not exert itself to prevent any questionable transaction...from being submitted to the criticism of the House of Commons? No Auditor General can suppose that a very strict and rigid performance of his duties is calculated to raise him in the favour of his powerful superiors.⁴³

The chairman's statement may not have been totally convincing for the chief reason that the Comptroller and Auditor General had no powerful superiors and in fact was given legislative authority to investigate and report to the House of Commons on the state of public expenditures. "In his Report to Parliament he must certify to the accuracy of the accounts, and may question any expenditure which he thinks is not authorized, nor in accord with the intention of Parliament, or does not conform with Treasury or departmental regulations."⁴⁴

The Public Accounts Committee viewed the Comptroller and Auditor General's reports as an accurate source of information on which to base its report to Parliament. The Committee could not function without this type of independent inquiry of departmental accounting records and administrative

⁴³ Correspondence upon the Subject of the Exchequer and Audit Departments Act, 1866, H.C. 97 or 1867, p. 26; quoted in Chubb, Control of Public Expenditure; p. 49.

⁴⁴ Joseph P. Harris, "Legislative Control of Expenditure; "The Public Accounts Committee of the British House of Commons", Canadian Public Administration, Vol. 11, No. 3, September 1959, p. 116.

practices. The Comptroller and Auditor General must report any waste or misuse of public funds due to ineffective and unsound administrative practices. It should be noted, however, that the audit staff refrained from doing efficiency studies of departmental organizations but could point to weaknesses in general administration practices. The Comptroller and Auditor General in 1902 commented on this fact.

It is not for me to criticize administrative action as such; the departments are responsible for their own actions as regards general administration; but if I find as the result of administrative action there has been a loss or wastefulness of money, then I think it is not going beyond my duty of reporting as an officer of the House of Commons if I call specific attention to matters of that kind, even though the account itself would not disclose the fact.⁴⁵

The Comptroller and Auditor General is encouraged by the Public Accounts Committee to bring forth his full findings. Although the Committee was given no statutory powers to enforce any of its recommendations for better financial control in the departments, the Treasury by custom had always impressed upon departments the urgency and importance of the Committee's reports, in aiding the Treasury to maintain financial control within the departments, since the Treasury holds a central supervisory position in all matters of financial administration. For example, in 1884 a minute from the Treasury rebuked some departments which did not comply

⁴⁵ Ibid., p. 117.

with recommendations of the Public Accounts Committee: "The opinion of the Committee on Public Accounts on points of financial order ought on every occasion to receive the most respectful attention from the Departments concerned."⁴⁶ The Committee's control was usually persuasive without being actively aggressive in carrying out its legislative mandate. "Parliament has delegated to the Committee almost completely the function of watching public expenditure and holding public officials responsible for their uses of public funds and is content to leave the matter in its hands."⁴⁷ It was not always clear where the responsibility and accountability for expenditure of public funds should be placed, although the Exchequer and Audit Departments Act of 1866 made an attempt to clarify this.⁴⁸

Section 22 of the Act provided that the department charged with the expenditure of any vote under the authority of the Treasury "shall prepare the appropriation account thereof." Section 26 provided that accounts "shall be signed by such departments." But the definition of "department" was at best very obscure, and implied that a department may be "any public officer or officers to whom that duty may be assigned by the Treasury." By 1872 the questions of

⁴⁶ Epitome, 1857-1937, H.C. 154 of 1938, p. 159, quoted in Ibid., p. 121.

⁴⁷ Harris, "Public Accounts Committee", p. 123.

⁴⁸ Chubb, Control of Public Expenditure, p. 60.

responsibility and accountability had become financial buzz words originating out of the Comptroller and Auditor General's Office and the Public Accounts Committee. That each department be made responsible for its financial administration was a recommendation of the Comptroller and Auditor General from which evolved the office of "accounting officer",⁴⁹ in each department. The Committee defined the responsibility of these officers and gave its support to their status and function. The Committee, also in its effort to rid financial control of political influence, defined the limited financial responsibility of ministers.

The accounting officer is a significant phenomenon in the British system of financial control. The position is a designated one. It is non-political, and held usually by a senior civil servant, who is accountable for his departmental financial accounts and sees that all funds are spent only for the purposes intended by Parliament. He is in some respects independent of his political superior, the minister of the department, in that he may object to any expenditure which in his view is contrary to the intentions of Parliament. In such a situation the accounting officer would state his objection in writing, to his minister, as well as inform the Treasury, with supporting documents to the Comptroller and Auditor General. This rendered him unaccountable for a

⁴⁹See Treasury Minute, 14.8.1872. The relevant section quoted in Epitome, pp. 30ff; also Herbert R. Balls, "The Public Accounts Committee", p. 19.

ministerial expenditure to which he objected.⁵⁰

The direct responsibility of the accounting officer makes for an individual pattern of accountability in contrast to the collective or corporate accountability of the department. He is responsible for all expenditure and must, when called upon by the Public Accounts Committee, be a witness in defence of his department's financial administration. The semi-judicial character of the Committee in fact places him in the position of defendant. Because he is responsible for establishing the necessary internal control, he is accountable for actions or practices that have been brought up for questioning. A Treasury minute of 1872, which installed the permanent head of a department as accounting officer, also gave him authority to sanction any decision which in his view was likely to affect departmental financial administration. The personal nature of his accountability lent itself more to a judicial type of inquiry by the Public Accounts Committee, a practice carried over from the eighteenth century. As described by an observer of British financial administration:

The hub about which all revolved was judicial audit of account by the Barons - the trial of an Accountant.... In these audit proceedings, the charge, so to speak, against the Accountant was that of having the king's money in his hands. The nature of his receipts, and the amount they

⁵⁰ Sir Herbert Brittain, The British Budgetary System, (London, George Allen and Unwin Ltd., 1959); pp. 248-50.

ought to be, were proved by record in court; and beyond this the accountant was on oath to disclose any other receipts.... All this constituted the substance of the prosecution.... The accountant then had to exonerate himself of the obligation to have collected any revenue which he could prove to be incapable of levy; he had to prove that he had neither disbursed, nor retained in his hands, any money otherwise than under sufficient legal authority, and he had to prove that he had delivered the balance to the king in his Exchequer.... If he cleared himself on these counts, the court acquitted him of the charge.⁵¹

The importance of adequate and accurate information cannot be over emphasized in the proceedings of the Public Accounts Committee. This is one of the reasons why the Committee adopted a semi-judicial procedure. Expert evidence on the facts and the law is usually sought, and although the Committee has no judicial power its influence on departments and the witnesses is a very positive one based on custom and conventions. It is the communication link in the circle of financial control between Parliament and the Executive. The judicial nature of the Committee allows also for its non-partisan atmosphere, which is an outstanding and successful feature in the British system of financial control. The Committee has been described as "a Committee of judges... putting aside for the time all political party considerations."⁵²

⁵¹ J.E.D. Binney, British Public Finance and Administration, 1774-92; (Oxford, 1959); pp. 238-39.

⁵² Chubb, Control of Public Expenditure, p. 195, see also H.C. Debates, 28.6, 1921, Col. 2085.

For other comments see the evidence of Mr. Gladstone, H.C. Debates, 29.7. 1873, Col. 1227, Sir Ughtred Kay Shuttleworth, a former chairman 28.2, 1890, Col. 1532, and Osbert Peake a former chairman, H.D. 189-1 of 1945-6, Evidence, Q. 4065.

The Public Accounts Committee speaks with the delegated authority of Parliament. Gladstone, in his motion to set up such a Committee in 1861, intended it to be fair to both sides of the House. The Public Accounts Committee, he remarked, was intended "to give satisfaction to both sides of the House, and fairly to represent all parties, while bringing as much talent, knowledge and experience as possible to discharge these important functions."⁵³ The Comptroller and Auditor General was supposed to be non-partisan and would play a key role in the procedures of the Committee. His reports would form the basis for the Committee's inquiry or judicial review of his audit. This was one of its primary interests with the aim of achieving a high level of accountability and responsibility from permanent department heads. The primary function of the Comptroller and Auditor General, as well as of the Committee, was to ensure that public money was spent as intended by Parliament. This function was what Gladstone intended the Committee to carry out in completing the 'circle of control'. A former chairman of the Public Accounts Committee saw the Committee as having three basic functions:⁵⁴ first, to ensure that appropriations were spent as intended by Parliament; second, to ensure the exercise of

⁵³ Herbert R. Balls, "Public Accounts Committee", p. 18.

⁵⁴ Osbert Peake, Public Administration, Vol. XXVI, 1949, p. 80.

economy; third, to maintain high standards of public morality in all financial matters. These functions depended solely upon a full audit and examination of public accounts by the Comptroller and Auditor General. Although he did not have the power to disallow expenditures or to express his views on policy, or to interpret the meaning and effect of statistics, he nevertheless had discretionary powers which entitled him to report to Parliament on any subject which he thought warranted its attention.

The Public Accounts Committee also expected him to report on administration actions or practices which appeared to be unduly expensive, wasteful or inefficient. This encouragement has been remarked on by a prominent Comptroller and Auditor General. In 1946 Sir Gilbert Upcott remarked that he had been encouraged by the Committee to bring "particular cases of wasteful expenditure or opportunities for economy incidentally out of the audit and examination of accounts...but I do not think they have ever attempted or would desire to pursue general questions of economy."⁵⁵ Sir Frank Tribe stated that "The Comptroller and Auditor General is in no way concerned with policy; he would never criticize the sum voted by Parliament for a given service or suggest that a policy approved by Parliament was a waste of public money."⁵⁶ The testimony of the Comptroller and Auditor

⁵⁵ H.C. 189-1 of 1945-46, p. 187, see also questions 4132 and 4242 in the Minutes of Evidence.

⁵⁶ Ibid.

General has been the hub on which the entire review of the Committee revolved. This recognition was appropriately expressed by the Chairman of the Committee in his testimony to a select committee on procedures, stating that the Comptroller and Auditor General was "our guide, philosopher and friend."⁵⁷ The Public Accounts Committee is absolutely dependent on the Comptroller and Auditor General to carry out its legislative review of the formal regularity of expenditure in accordance with estimates and appropriations. Professor Chubb points to the fact that in order to do this:

The Committee must have adequate information on which to base its comments. Without the presentation and scrutiny of these regular and ordered accounts and without the fullest information about them it could not begin to enforce the canons of financial control which were deemed so necessary and which were, indeed, the cause of its genesis and the guiding principle of its Exchequer and Audit Departments Act. Thus provided the Committee could do its work.⁵⁸

The primary function of the Committee is to check on appropriation, that is, to see that public money is distributed in the proper amounts and for the purpose intended by Parliament, and according to the rules and practices laid down by the Treasury and the Committee itself. This is done by comparing estimates and accounts of expenditures and hearing reasons for discrepancies. The Committee is also involved in promoting economy and efficiency in government departments by examining cases of waste as well as the

⁵⁷ H.C. 189-1 of 1945-46, Q. 3927.

⁵⁸ Chubb, Control of Public Expenditure, p. 53.

departmental method of internal financial control.

Departmental accounts are examined within the terms of reference of Standing Order No. 90: "the examination of the accounts having the appropriations of the sums granted by Parliament to meet the public expenditure and such other accounts laid before Parliament as the Committee may think fit...."⁵⁹

The inquiry is concerned primarily with accounting and auditing to ensure regularity, but the process of such an inquiry demands a check on efficiency, which is not a function per se of the Committee or of the Comptroller and Auditor General. Nevertheless, because the Comptroller and Auditor General's statutory duties and his wide discretionary powers usually were exercised under the consent and encouragement of the Public Accounts Committee, the efficiency of departmental expenditure had become as important as the regularity of public accounts. The Committee had been instrumental in requiring government departments to exercise economy and prudence in the management of public expenditures. But its activity in this respect was subtle and indirect. The key figures through which the Committee exhibited its influence on financial controls, as well as economy and efficiency, are the Comptroller and Auditor General and the departmental accounting officers. According to Professor Harris, "The Public Accounts Committee exerts a continuous

⁵⁹Supra., p. 40.

and highly salutary influence on the day to day administration of the departments, whose officials are constantly mindful of the fact that any questionable expenditure or administrative action may be inquired into and will have to be explained and defended by the Accounting Officer of the department."⁶⁰

The Public Accounts Committee in assuring that efficiency and economy are exercised by departments has gone beyond its original terms of reference to assure the legality of public expenditure. The Committee's concern for the economy and efficiency of departments became its constant propaganda for controls. But according to Professor Chubb, the Committee has not been primarily concerned with efficiency and effectiveness, but with regulation and controls. The Public Accounts Committee is, he wrote:

"...only indirectly and in the second place interested in economy and efficiency. Yet its influence and control in this sphere have been and are very great. From the days when the Comptroller and Auditor General first began to bring up the cases of waste which he found he could detect in the course of audit, this aspect of the Committee's work has become more and more important, until long experience has made it powerful and it has become the recognized authority on such subjects as contracts. Nevertheless, its limits in this field are clear. The Comptroller and Auditor General's audit and its own procedures are not adapted to the many and complicated techniques of an efficiency audit. It has neither the time nor the machinery to investigate properly current activities or to survey wide problems of organization and methods. To modify it would be to destroy its established position in the system and to endanger its ability to do its primary job of checking an audit."⁶¹

⁶⁰Harris, "Legislative Control of Expenditure", p. 128.

⁶¹Chubb, Control of Public Expenditure, pp. 194-95.

The influence of the Public Accounts Committee on sound management practices within the realm of financial administration is of significant importance and cannot be over emphasized. It is important to note that the Committee was able to accomplish many of its functions through extra statutory powers, which aimed at maintaining a balance of power between the central control of the Treasury and the internal administrative controls within the departments. But again it must be emphasized that the Comptroller and Auditor General is the pivot of the Committee, his report and testimony to the semi-judicial review of the Committee is in essence the reality of the Committee's existence. He is much more than a legislative officer of Parliament and a witness to the audit of public accounts. Professor Chubb points to the key factor of this very important position in the Public Accounts Committee:

The Comptroller and Auditor General and the Treasury officers of Accounts have gradually been accorded a special status on the Committee and though called as witnesses they are in practice much more than that. The Auditor General is naturally the key man. His reports provide the starting points and the information he has is more complete than that of any other witness. He aids the members at meetings by turning up papers and furnishing information quickly. Behind the scenes his influence is very great indeed. On the mornings of Committee meetings, he confers with the Chairman for an hour or two and then runs through the business of the day. The Auditor General briefs the Chairman and suggests lines of inquiry and

possible questions,...and indicates the answers the Chairman might reasonably expect to receive,⁶²

The Comptroller and Auditor General, therefore, is not only a witness at Committee hearings but also a judge in the semi-judicial procedures of the Committee, though not overtly so. The chairman of the Committee speaks for the Comptroller and Auditor General, who may be asked to express his views, thus giving the chairman the needed ammunition to interrogate departmental witnesses. The respected status given to the Comptroller and Auditor General is also very much reflected in the seating arrangement of the Committee in session.⁶³ He is positioned on the member side of the table, not on the side for witnesses or at the witness stand. In a court of law his position would be likened to that of crown counsel.

In Britain the Comptroller and Auditor General is a trained civil (public) servant, as are his subordinates. But as Comptroller and Auditor General he is an independent officer reporting and responsible to no other than Parliament. His statutory powers are wide and he has extraordinary discretionary powers. He is responsible for his own actions, making him completely independent of executive or political influence. His reports and testimony to the state of the public accounts are his personal comments. In short

⁶² Ibid., pp. 186-7, with reference to Sir Gilbert Upcott, H.C. 189-1 of 1945-6, Evidence Q. 4299, and Mr. Osbert Peake, Ibid., Q. 3929; and W.J. Jennings, Parliament, p. 332.

⁶³ See Appendix I, Infra, p. 213.

"his responsibility is complete and personal."⁶⁴ This responsibility goes far beyond the control of regularity and the checking of appropriations as intended by Parliament.

It is of interest to note that the Exchequer and Audit Departments Act of 1866 was silent on the question of the Comptroller and Auditor General having other duties than performing an audit, that is, to "certify and report upon" the accounts. However, within the first ten years after the enactment of the Act, custom and convention had begun to prescribe additional functions for the Comptroller and Auditor General. Therefore by 1877 the Treasury and the Public Accounts Committee were in support of the Comptroller and Auditor General to go beyond the traditional function of regularity control. The Public Accounts Committee, for example, stated against the Accountant General of the Army that the Comptroller and Auditor General was free "to state his opinion to Parliament on any points which he may think necessary, in his Report upon Army Appropriation Account."⁶⁵ In 1881, in a case concerning seamen, the Treasury emphasized that: "The Comptroller and Auditor General is alone competent to say what information is necessary for the discharge of his statutory functions, and must exercise his discretion as to

⁶⁴ Balls, "Public Accounts Committee", p. 19.

⁶⁵ E.L. Normanton, The Accountability and Audit of Governments, (Manchester University Press, 1966); p. 105.

communicating to Parliament any information in his possession that is relevant to the accounts upon which he is reporting."⁶⁶ In 1887 the Treasury strongly supported the Comptroller and Auditor General when the War Office questioned his function:

My Lords think it important that the Comptroller and Auditor General should have great freedom in [making] his reports to Parliament. He may draw attention to any circumstance which comes to his knowledge in the course of audit, and point out his financial bearing. As, however, he is the officer of Parliament, he will naturally have no disposition to question anything that Parliament has already sanctioned, and if he reports on a matter of administration from the point of view of its effect on the public purse, it will be for the purpose of bringing before Parliament something which would otherwise pass unnoticed. It is impossible to deny that it will always be his right, and will often be his duty, to take this step.⁶⁷

Government departments are obligated under the act to give to the Comptroller and Auditor General any information requested by him on the regularity of their accounts. But even when departments are not obliged to furnish information on administrative matters surrounding their expenditures they may be summoned to the Public Accounts Committee to justify their action. In the statement that follows, the Treasury pointed out the obligation of departments to the Comptroller and Auditor General. "If questioned why the money was spent, with due authority, in one way rather than another, the

⁶⁶ Ibid., p. 105.

⁶⁷ Ibid., p. 106, quoted from United Kingdom, Epitome of the Reports from the Committee of Public Accounts, 1857-1925, p. 207.

Department may refuse to answer the question. But it, of course, must be prepared to justify such refusal to Parliament, if necessary."⁶⁸ The discretionary powers of the Comptroller and Auditor General have become more entrenched over the years since 1866. All attempts, particularly by the military, to interfere with the legislative audit, have been thwarted either by the Treasury or the Public Accounts Committee. The Comptroller and Auditor General, as parliamentary officer and chief witness of the Public Accounts Committee, therefore perpetuated the office of state audit as a permanent institution of the British system of financial control, thereby completing the Gladstonian 'circle of control'.

The success of the British Public Accounts Committee has been due to many factors and most have been cited by various scholars of British financial administration.⁶⁹ The author, however, has found the following statement of Professor Chubb most fitting in describing the success of this important Committee of Parliament:

The history of parliamentary control of expenditure makes clear that a simple and formal type of control, via professionally audited accounts, has been successfully achieved, while the description and analysis of this system, devised under Gladstone and developed empirically since, makes plain the reasons for that success. The functions of the Public Accounts Committee are clear. The Committee itself is but one link

⁶⁸ Ibid., p. 106.

⁶⁹ See Balls, "The Public Accounts Committee, pp. 27-28 for list of references.

in a closely integrated chain of investigation and control. It does not conduct its own preliminary research, for it is not competent to do so. Nor does it attempt to interfere directly with the administration, for that is neither constitutionally proper nor, more significantly, is it necessary. The agreed rights and duties of the House of Commons in financial affairs and the identity of the aims of the House and the Treasury have enabled the Accounts Committee both to make effective and extend a statutory audit and investigation and to have its recommendations implemented.⁷⁰

⁷⁰Chubb, Control of Public Expenditure, p. 240.

III: DEVELOPMENTAL ASPECTS OF LEGISLATIVE AUDIT
IN CANADA - BRITISH INFLUENCE

Responsibility is null when
nobody knows who is responsible.

John Stuart Mill,
Responsible Government

The British North American colonies - namely, Nova Scotia, Prince Edward Island, New Brunswick, and the two Canadas (Upper and Lower) - adopted the British principle of responsible government in developing their parliamentary institutions. The creation of representative assemblies was the first major step toward full financial control over the public purse. The colonial administrators, in order to correct the inherent weakness of financial administration in the colonies, introduced the British concept of responsible government based on the principles of legislative supremacy and executive responsibility. Financial control of public expenditure was developed on these principles. The principle of legislative supremacy was paraphrased by Gladstone in the British House of Commons: "It is undoubtedly the business of the House of Commons to be responsible, not only for the inception of all public expenditure, but also to follow money

raised by taxation until the last farthing is accounted for."¹
The second principle, that of executive responsibility, implies that the executive having been granted authority by Parliament to spend public money is therefore responsible to the legislature for the expenditure of appropriated funds.

The development of financial control in each province progressed at a different pace and details of adopting the British model of control differed. The principle of executive responsibility was not an inherent factor of pre-Confederation financial administration. The colonial administration, which was to be later phased out, was represented by governors and their councils in each of the colonies. The administrative structure was not conducive to adopting the British system of financial control. "The executive in each colony was without responsibility for its acts, and the Assembly had no voice in choosing the members of executive and legislative councils, or of the public service."²

Lord Durham had recognized the difficulty of introducing the British model in the colonies because of the vast differences between the structure of British public

¹Herbert R. Balls, "The Development of Government Expenditure Control: The Issue and Audit Phases", Canadian Journal of Economics and Political Science, Vol. 10, 1944, footnote, p. 466, see also W.E. Gladstone, Hansard series 3, Vol. CXCVII, p. 633.

²Norman Ward, The Public Purse: A Study in Canadian Democracy, University of Toronto Press, (Toronto, 1964); p. 12.

administration and that of the colonies. "It is difficult," he said, "to conceive what could have been their theory of government who imagined that in any colony of England a body invested with the name and character of a representative Assembly, could be deprived of any of those powers which, in the opinion of Englishmen, are inherent in a popular legislature."³ But granting responsible government to the colonies did not automatically circumscribe parliamentary or legislative control of the public purse. As we shall see later, the process of establishing a financial control system, based on the British model, involved a series of reforms and political tactics within the colonies. Needless to say, the accounting and audit procedures which were typical of the British system did not begin to find expression in the financial systems of Canadian provinces before Confederation in 1867.

The public accounts of the colonies were examined by a Legislative Council before sending them on to the British Treasury in England for further scrutiny. The earliest form of legislative financial control to be established in any of the colonies was by the Quebec civil government, which was proclaimed in 1763. The Governor of Québec, General James Murray, in his instructions from Britain was told "that the

³ Lucas, Sir C.P., ed., Lord Durham's Report, II, p. 76., quoted also in Ward, Ibid., p. 12.

Council have the like Power of framing Money Bills as the Assembly."⁴ He was instructed to keep "fair books of accounts"⁵ of all money raised or expended and have the public accounts audited and attested by the office of Auditor General of the Plantations.

The public accounts were, for the first time, subjected to systematic and periodic reviews. A Grand Jury expressed, at its meeting in Quebec in 1764, their concern for the resistance to adopting the British system of laying the public accounts before the legislature for examination.

9. We represent that as the Grand Jury must be considered at present as the only body representative of the Colony, they, as British subjects, have a right to be consulted before any ordinance that may affect the body that they represent, be passed into a law, and as it must happen that taxes be levy'd for the necessary expenses or improvement of the Colony in order to prevent all abuses and embezlements or wrong application of the publick [public] money.
10. We propose that the publick [public] accounts be laid before the Grand Jury, at least twice a year to be examined and checked by them, and that they may be regularly settled every six months before them, which practice strictly adhered to, will very much prevent the abuses and confusion, too common in the matters.⁶

There was no positive response or action to the Grand

⁴ Instruction to Governor Murray, Dec. 7, 1763; quoted in Kennedy, Statutes, Treaties and Documents, p. 46. See also Norman Ward, Public Purse, p. 12.

⁵ Adam Shortt and Arthur G. Doughty, Documents Relating to the Constitutional History of Canada, 1759-1791; (Ottawa) 1918, Vol. 1, p. 187. H.R. Balls, "Quebec 1763-1774: The Financial Administration", Canadian Historical Review, September, 1960; pp. 203-14.

⁶ Ibid., p. 213.

Jury's statements as resistance to British public administration continued for more than thirty years. Between the years 1764 and 1791 when the Constitutional Act established the provinces of Upper and Lower Canada, the Legislative Council continued for part of that time to scrutinize the public accounts prior to submitting them to the Treasury in London. The office of the Auditor General of the Plantations carried out audits of the public accounts during the later part of that period, but the audits were never submitted to a legislative body for scrutiny. Thus in Gladstonian terms the 'circle of control' was not complete; and therefore was not representative of the British model. On this point the Governor of Quebec, Lord Dorchester, was instructed by the British authorities in London as follows:

...to give warrants under your hand for the Public Services, and we particularly require you to take care that regular accounts of all receipts and payments of public moneys be duly kept, that the same from time to time be audited by our Executive Council and that copies thereof attested by you be transmitted every half year or oftener if there should be occasion to our commissioner of the Treasury or to our Lord High Treasurer for the time being and duplicates thereof by the next conveyance, in which accounts shall be specified every particular sum raised or disposed of to the end that we may take such measures as we may deem necessary for the examination of the said accounts and that we may be satisfied of the right and due application of the moneys of our said province of Lower Canada and with the probability of the increase or diminution of it under every head and article thereof.

⁷Public Archives of Canada, Chisholm Papers, pp. 143-156. Instructions to Lord Dorchester, September 16, 1791. See H.R. Balls, "The Public Accounts Committee", Canadian Public Administration, Vol. 6, 1963, p. 21.

It was not until 1795, however, that any recognition was given to the importance of examining the public accounts by a legislative body, in this respect the Assembly. Once recognition was partially realized the adoption of the British model of financial control began to take form. But as cautioned by Villard and Willoughby, "The system that produced such favourable results in Great Britain has failed to yield similar fruits when planted in Canadian soil."⁸ The authors gave their reasons for the less satisfactory performance of the British model in Canada as "partly in the failure of Canada to adopt certain of the essential features of the British political system, [and] partly to the fact that in England certain standards and fixed customs have grown up which have not developed in the Dominion."⁹ Nevertheless, an attempt was made to have a financial control system modelled as closely as possible on the British system. In 1796 an Inspector General of Public Accounts was appointed in Quebec and was instructed by the Governor:

...to examine and sign all accounts submitted to your inspection previous to their being transmitted to the Lords Commissioners of His Majesty's Treasury, or laid before the Executive and Legislative Councils, or House of Assembly by the Governor or person administering the government, and to take care that the same as far as possible be correct; and when required to prepare and report statements of the public revenue and expenditure.¹⁰

⁸ Harold G. Villard and W.W. Willoughby, The Canadian Budgetary System, D. Appleton and Company, (New York, 1918); p. 234.

⁹ Ibid., p. 14.

¹⁰ Journals of the Legislative Assembly of Lower Canada 1824, Appendix S. Schedule I. See also H.R. Balls, "Public Accounts Committee", p. 21.

Financial control in the other colonies had also begun to take on significant importance. As responsible government was won in the colonies, the machinery of government in each colony developed in a specific way and at a different pace. For example, although Nova Scotia was the first of the four original provinces to be granted an Assembly in 1758, it was the last to establish full responsible government based on the British model in financial matters.¹¹ Nova Scotia and New Brunswick were the first to initiate an audit in 1776, by passing "an act for taking, examining, and stating the public accounts."¹² The audit of public accounts was seen as an executive function, an idea which later became a matter of controversy in the other colonies. The concept of an audit being a legislative or an executive function is significant to the developmental process that led to establishing legislative audit in the Dominion in 1879. The concept is important mainly because the Dominion inherited not only the British model of financial control but a conglomeration of models as well, made up of earlier attempts to pattern the British system. The inheritance of various political traditions, therefore, influenced the later development of a Canadian system of financial administration.

The provinces were very actively involved in trying to

¹¹The other provinces, Prince Edward Island, New Brunswick and Upper and Lower Canada were granted assemblies in 1773, 1784 and 1791, respectively. For a thorough analysis of their financial development see Norman Ward, Public Purse, Chapter 2.

¹²Norman Ward, Public Purse, p. 14.

establish legislative supremacy regarding all financial matters. In Nova Scotia and New Brunswick, for instance, their respective Assemblies established committees on public accounts. The Nova Scotia committee was created by statute,¹³ and not House rules. This was not the case in New Brunswick. These two provinces were constantly pursuing vigorous legislations to free themselves from the dominance of the imperial executives and to gain legislative control of the public purse. Writing on the activities regarding the control of public funds in Nova Scotia, Professor Beck states: "In its early years it [Nova Scotia] sought to make the elementary point that no expenditure should be authorized by the executive which had not been previously voted by the General Assembly. The outcome was that by 1766 a half conscious compromise had been reached whereby the Governor and Council had obliquely conceded its constitutional claims."¹⁴

In the eastern provinces and in Upper and Lower Canada there was a struggle between the legislature and the executive for control of the public purse. The line of battle between the legislature and the executive, however, was more clearly drawn in the two Canadas than was the case in the eastern provinces. The executive in Upper and Lower Canada had taken on the control of financial matters, leaving the respective

¹³ Statutes of Nova Scotia, 16, Geo. III, C3.

¹⁴ J.M. Beck, The Government of Nova Scotia, (Toronto, 1957), p. 56.

Assemblies helpless. The British House of Commons in responding to several petitions in 1828 from the Canadian Assemblies, reversed earlier established imperial policies to give the Assemblies more control over public money. A British select committee of Lower Canada stated that although "the legal right of appropriating the revenues from the Act of 1774 is vested in the Crown, they are prepared to say that the real interests of the province would be best promoted by placing the receipts and expenditure of the whole public revenue under the superintendence and control of the House of Assembly."¹⁵

A Similar concern regarding imperial legislation existed in Upper Canada and was presented in a statement by the chairman of the Select Committee on Grievances, William Lyon Mackenzie:

The present system is altogether insufficient for ensuring the application of the revenue to the purposes for which it is intended to be applied. The House of Assembly, acting by one or more of its committees in a session cannot examine the accounts and vouchers of the several public accountants, owing to the very complex, obscure and unsatisfactory manner in which they are furnished, and as for the Executive Council, the law recognizes them not as auditors of the revenue, nor do they merit the public confidence as a board of audit.... The remedy would be a Board of Audit, the proceedings of which to be regulated by a well considered statute under a responsible government, such a Board might save the country many thousands each year, but it is difficult to believe that any efficient means of auditing the

¹⁵ Norman Ward, Public Purse, p. 18.

whole provincial revenue can be provided by Legislative enactment, while the Legislative Council is constituted at present.¹⁶

The problems which plagued Upper Canada were stated clearly and forcefully by the chairman. Nevertheless, imperial legislation and practices continued to protect the executive government up to the Act of the Union in 1840.¹⁷ The Act recognized the principle of legislative supremacy in matters of financial administration and placed the authorization of audit within the jurisdiction of Parliament. But it is beyond the writer's imagination to visualize or explain why an audit Act was not passed at this important point in the development of legislative control of the public purse. The Act of the Union, however, brought responsible government to the new Province of Canada, as well as creating a consolidated revenue fund to be appropriated for the public service. The expenditures from the fund were "to be reviewed and audited in such a manner as shall be directed by any act of the legislature of the Province of Canada."¹⁸ There was no audit legislation until 1855; and the Public Accounts Committee had often expressed the view that irregular administrative practices often frustrated the maintenance of effective legislative control. The Committee stated that "...it is scarcely possible to imagine a more imperfect financial system than we are

¹⁶Upper Canada House of Assembly, Seventh Report on Grievances, 1835; quoted by Norman Ward, Ibid., pp. 19-20. (My emphasis).

¹⁷Revised Statutes of Canada, 1952, The Union Act, 1840.

¹⁸Ibid., The Union Act of 1840, Sec. LI., also quoted in Herbert R. Balls, "The Public Accounts Committee", p. 22.

describing."¹⁹ The chairman of the Public Accounts Committee, William Lyon Mackenzie, had always been an active advocate for liberalizing financial control and administrative reform, and having returned to active politics in 1851 as a member of the Opposition, he tried to have his former proposals for administrative reform since 1835 implemented.²⁰ His appointment to the chairmanship of the Public Accounts Committee while a member of the Opposition was to follow a long established British tradition, which believed that the Opposition's main role in responsible government was to criticize the activities of the government of the day. Mackenzie's zeal and vigor certainly demonstrated that role, and were responsible for the introduction of new legislation which created a statutory Board of Audit in 1855. In a bold and direct statement denouncing the irregularities of government departments in the financial administration of the public purse he stated: "If the Governor and Council can arrest the public treasure on its way to the Treasury, and expend what is in the Treasury by their own votes, 'all aids and supplies' from the House become a mere nullity."²¹

This statement forced the government to act swiftly; and John A. Macdonald, who was prime minister, found it politically expedient to give serious legislative attention

¹⁹ Herbert R. Balls, "John Langton and the Canadian Audit Office", The Canadian Historical Review, Vol. XXI, No. 2, 1940, p. 151.

²⁰ William Lyon Mackenzie was the chairman of the Select Committee on Grievance in 1835.

²¹ Journals of the Legislative Assembly, 1854-5, Appendix JJ.

to Mackenzie's statement, which had become generally popular with the public. The statement was a clever political manoeuvre on the part of Mackenzie to bring attention to his statement of 1835, when he requested a Board of Audit to control irregularities of public expenditure. "The remedy would be a Board of Audit, the proceedings of which to be regulated by a well considered statute under a responsible government...."²²

Macdonald, acting on the concern of the Public Accounts Committee and the political significance of such a financial reform stated that: "It is very fortunate for Cayley [Minister of Finance] that Mackenzie had made such an opportune exposé of the way affairs have been conducted in the different public departments. He is now called upon, without an insidious prying into the affairs of the other departments, to institute a searching enquiry into the management and accounts of all the Bureaux."²³ In his decision to introduce special legislation in recognition of a Board of Audit, with an Auditor endowed with statutory powers and not merely authority provided by an order in Council, Macdonald was quite forward in his assessment of the situation. There was of course the question of what should be the political status

²²Supra., p. 65.

²³W.A. Langton (ed.), Early Days in Upper Canada: Letters of John Langton from the Backwoods of Upper Canada and the Audit Office of the Province of Canada, (Toronto, 1926), p. 214.

of the Auditor. Macdonald chose John Langton, a government representative of the Provincial Legislature, as the man for the position, without fully deciding on whether or not Langton would be eligible to serve on the Assembly or the Council of the Provincial government. In a letter to Langton, Macdonald attempted to give some information on what the political status of the position would be.

If he is, and has in fact a seat, he becomes a political personage, and is subject to change on every change of government. This as far as you are concerned, I think would be no objection. Then a question arises whether a political officer's report would have the same weight as that of a non-political person. Cayley [Minister of Finance] thinks not, I differ. Under the principles of responsibility some members of the Government must produce under his responsibility the reports of the Audit Office. In fact the report must be that of the Inspector General and therefore must be political. It seems to me that it would be well to have the audit officer in Parliament, ready to answer all questions and debate all matters relative to the public accounts, - just as in England the Secretary of the Treasury is always in Parliament acting as efficient aid to the Chancellor of the Exchequer.²⁴

A Bill was presented and passed in 1855, "to secure the more effective auditing of the public accounts."²⁵ A Board of Audit was established under the new legislation. The membership of the Board consisted of the Deputy Inspector General as chairman, the Commissioner of Customs and an Auditor appointed by the Governor and responsible to the Inspector General.²⁶ It is important to note that the Auditor was installed as an executive officer and not as an independent

²⁴ Ibid., p. 215.

²⁵ Statutes of the Province of Canada, 1855, C. 28.

²⁶ Office of the Inspector General was changed to Minister of Finance in 1859 by Statutes of the Province of Canada, 1859, C.14.

legislative officer. The statute directed that the Auditor should not be eligible to serve in Parliament, as Macdonald would have preferred. The Board of Audit had the duties of its members defined. The Deputy-Inspector General was responsible for controlling the issue of public money from the Treasury, thereby carrying out a pre-audit function on public expenditure. The Commissioner of Customs was responsible for checking and examining the customs and excise returns and the revenue of his department. The Auditor was directed to examine and audit all expenditures of the other government departments and of all institutions that were publicly funded.

The three-man Audit Board created by the 1855 Audit Act, although it was a major improvement in financial control, nevertheless had some significant weaknesses which impeded effective legislative control of public expenditure.²⁷ The Act made all three Board members responsible for the audit. The status of the Auditor was the same as that of the other two executive officers of the same department. The necessary change came with the new Act of 1864. According to Professor Hodgetts, "Not only did this raise the status of the Auditor but the final examination of departmental expenditures was no longer a family affair in which three permanent officials in the department of Finance placed their

²⁷ See Thomas D'Arcy McGee, "Report on the Origin and Organization of the Public Departments", in Public Archives of Canada, M. 837, 1863, section on financial departments.

imprimateur on the accounts submitted by other departments."²⁸

The Board of Audit was enlarged in 1864²⁹ to seven members, and the Auditor became chairman with the authority for final verification and review of public accounts, a function which was held previously by the Inspector General. Following Confederation in 1867 the Board of Audit expanded its membership with the Auditor still as chairman but remaining an executive officer. Under new legislation³⁰ in 1867, the deputy heads of departments who were members of the Board were made responsible for the audit of their individual departmental accounts. The Auditor examined all other public accounts and was responsible for the preparation and submission of the public accounts to the Minister of Finance for presentation to Parliament annually. The Auditor was authorized to report any illegal money warrants, that is, a procedure which was in practice prior to the passing of the Act, that allowed for the voting of all appropriations one year in advance. A standard was finally established by which the Auditor could test the legality of the issue and expenditure of public funds. The emphasis was on improving the public accounts so that they could be readily examined, and providing an adequate system of public accounting. The first statutory request for an accurate financial statement was

²⁸ J.E. Hodgetts, Pioneer Public Service, Toronto: University of Toronto Press, 1955, p. 104.

²⁹ Statutes of the Province of Canada, 1864, C. 6.

³⁰ Statutes of Canada, 1867.

expressed in the Consolidated Revenue and Audit Act of 1868.

The Public Accounts of the Dominion shall be kept by double entry in the Office of the Receiver General and the Minister of Finance; and an annual statement shall be prepared as soon as possible after the termination of each fiscal year exhibiting the state of the Public Debt and the amount chargeable against each of the Public Works for which any part of the debt has been contracted, also the state of the Consolidated Revenue Fund and of the various Trusts and special Funds under the management of the Government of the Dominion, and such other accounts and matters as may be required to show what the liabilities and assets of the Dominion really are at the date of such statement.³¹

The directive was aimed at correcting irregularities in the public accounts by attempting to make the entire accounting system uniform. Establishing a unified financial year, for instance, created a planning device and a control mechanism for all departments to follow in reporting procedures of the public accounts. For example, the Department of Finance was formally established in 1869 with its principal officers being the Auditor and Deputy Inspector General. The Department's functions were "the supervision, control and direction of all matters relating to the financial affairs and public accounts, revenue and expenditure of the Dominion."³² The Board of Audit, however, remained under the Minister's jurisdiction, which made the Board subject to political influence. The Auditor for instance became an administrative officer when the position of Deputy Inspector General was abolished in 1870 by Statute³³ for the new position

³¹ Statutes of Canada, 1868, C. 32.

³² Ibid., 1869, C. 4.

³³ Ibid., 1870, C. 7.

of Deputy Minister of Finance, which incorporated the duties of the Auditor. This dual relationship of the Auditor's duties and those of the Deputy Minister of Finance was abolished with the passage of the Consolidated Revenue and Audit Act in 1878.³⁴

The Consolidated Revenue and Audit Act was modelled on the British Exchequer and Audit Departments Act of 1866, and like the British Act, created the position of Auditor General. He was given the authority to control the issue of money to government departments and to audit public expenditures. As a legislative parliamentary officer his reports were made available to the House of Commons through the Public Accounts Committee. Following the abolition of the original Board of Audit by the Act of 1878, the Auditor General was made an independent officer of Parliament, who would be free from political and administrative influence. By separating the duties of Auditor and Deputy Minister of Finance, the two officials became responsible for submitting two separate financial reports to Parliament. The Deputy Minister of Finance had the responsibility for keeping the general accounts of the Dominion and for preparing the public accounts report which is tabled in the House of Commons by the Minister of Finance. The Auditor General's function, basically, was to carry out a complete examination of the public accounts, to regulate the issues of money from the public Treasury and

³⁴Ibid., 1878, C.7.

to report to the House of Commons, through the Public Accounts Committee. By modeling the Consolidated Revenue and Audit Act of 1878 on the United Kingdom Exchequer and Audit Departments Act of 1866, expression was given to the theory of legislative sovereignty in financial matters. The Auditor General, as an officer of the legislature, was endowed with wide powers of inquiry and investigation to detect if departmental expenditures were in accordance with legislative directives. He was also given authority by Parliament to control the issue of appropriations, which "served as a more or less effective restraint on executive disobedience to parliamentary directions."³⁵

The effectiveness of the 1878 Audit Act, however, was weakened with time, as departmental services expanded and more and more organizational functions were decentralized. "The decentralization of the departmental disbursements system caused delays in bringing the expenditures to account, permitted credits to be overdrawn, and provided no way of ascertaining the total obligations incurred."³⁶ Although the Act directed the Auditor General to control all issue of public money, and not to give sanction to any issue which was not provided for by Parliament, it was impossible for the Auditor to perform any control of the issuing of cheques by departments under the letter-of-credit system. Under this system departments were given the authority to draw on public

³⁵Herbert Balls, "The Legislative Audit", Public Administration, Vol. XXV, No. 3, Autumn, 1947.

³⁶H.R. Balls, "The Development of Government Expenditure Control: the Issue and Audit Phases", The Canadian Journal of Economics and Political Science, Vol. 10, No. 4, November, 1944, p. 469.

funds through the commercial banks, which would later be reimbursed by the government for credits extended to the departments. Requests for payment of departmental credits were usually presented to the Auditor General only after spending had occurred. Appropriations, therefore, were frequently overdrawn as the Auditor General had no means of controlling such practice. As one Auditor General stated:

I have no direct control over the issue of cheques under these letters of credit. They come to my office for the first time when I receive from the departments the monthly statements of the cheques issued during the previous month accompanied by applications to repay the bank upon which they had been drawn, the total amount of the cheque so issued. The departments concerned must assume full responsibility for the issue of these cheques and for the expenditure in connection therewith.³⁷

The system of disbursing cheques under the letter-of-credit system was basically inefficient because there was no provision for central executive control. To remedy the situation the Audit Act was repealed and replaced by the Consolidated Revenue and Audit Act of 1931.³⁸ The new Act created the office of Comptroller of the Treasury with responsibilities for cheque issue, accounting and pre-audit of expenditures. The main objective of the legislation was to centralize executive control in the office of the Comptroller of the Treasury. The Comptroller was given authority for the direction and control of all issues of public money from the Consolidated Revenue Fund. The letter-

³⁷ Report of the Auditor General for the Fiscal Year ended March 31, 1924, p. XVII.

³⁸ Statutes of Canada, 1931, C. 27.

of-credit system, which formerly handled the bulk of departmental expenditures, was abolished under the Act, and a new method for dealing with expenditures was devised. Under the new system no funds could be issued to departments in excess of any appropriation authorized by Parliament or without the Comptroller certifying the payment. It was also required under the Act that the Auditor General examine all vouchers supporting payments which were then compared with expenditure records of the Comptroller. This stringent practice of control was to ascertain that public funds were applied to the purposes intended by Parliament.

The introduction of a unified and centralized accounting system under the new Act was aimed primarily at achieving and maintaining the principle of executive responsibility for public expenditures. According to Herbert Balls the "early reporting [of expenditures] has tightened the reins of control and today the executive assumes its liability to answer for all expenditures with a full and current knowledge of the nature and amount of payments made."³⁹

To transfer the regulation of issue from the Auditor General, a legislative officer of Parliament, to an executive officer was to acknowledge that the legislative control of issue under the 1878 Audit Act was "unworkable. A centralized accounting system under direct executive

³⁹Balls, "The Development of Government Expenditure Control", p. 472.

supervision was found to be the only solution to increasing administrative problems in dealing with issues and disbursements. The Act provided for a control of the issue of funds by the Auditor General, but did not provide for executive supervision of the expenditures for which it was responsible. Therefore, it was within the jurisdiction of Parliament to transfer its delegated authority for pre-audit control from the Auditor General to the Comptroller of the Treasury, an executive officer, to deal with the question of issue and pre-audit of expenditures. To transfer delegated control functions from a legislative officer to an executive officer was to emphasize the principle of accountability; that is, all appropriations of public funds must be used for the purposes intended by Parliament. Although full executive responsibility was intended under the Act the functions of the Auditor General were not made less effective. "Sovereignty was not lost nor was accountability sacrificed. The executive became answerable for its newly delegated powers, not only to the questions of Parliament, but also to the objections of an informed Auditor duly reporting to the House."⁴⁰

Under the 1878 Audit Act only in certain cases could the Treasury Board overrule the Auditor General's refusal to sanction issues of expenditures. For example, the Auditor's decision could be overruled by the Board, in instances where issue was withheld on the grounds that money was not justly

⁴⁰ Ibid., p. 474.

due or that it exceeded the amount authorized by the Governor in Council. But if issue was refused because there was no parliamentary authority for the appropriation of funds and the "Law officer of the Crown" (Minister of Justice) agreed with the Auditor General's decision, then such a decision was final and not subject to Treasury Board appeal.

The new legislation of 1931, however, changed the situation to make the Treasury Board a court of appeal for both the Comptroller of the Treasury and the Auditor General. If the Comptroller refused to sanction an issue, his decision was subject to appeal to the Board, which could overrule or sustain the decision. Similarly, any objection of the Auditor General was subject to appeal, and if the Board overruled the Auditor General's decision this would be reported to Parliament, which made the final decision. In this respect the Auditor General not only retained his audit powers under the new Act, but also increased his audit authority. The removing of issue control from the Auditor General's functions to the Comptroller's office in fact left the Auditor more time to specialize. The Audit Act of 1931 actually gave the Auditor General more legislative freedom and an independence from executive domination previously unknown to this official in Canada. The new legislation, therefore, enhanced the legislative functions of the Auditor General and at the same time created a balance between legislative sovereignty and executive responsibility, the fundamental principles on which

financial control is based. The new situation is eloquently summarized by Herbert Balls:

Recalling the two fundamentals upon which the expenditure control was based, it is evident that executive responsibility has not been reduced under the new legislation. To the contrary, it has been fortified by the assignment of new spending functions to the executive agencies. The responsibility postulated in theory is unqualified in practice. The authority formerly delegated to an independent Auditor has been assumed by a dependent Comptroller who, in effect, is an auditor of expenditure before payment. Decentralized disbursement has been succeeded by concentrated control,....

Legislative sovereignty has been affected in a different way. In bolstering the power of the executive, Parliament has relieved its Auditor of a traditional duty and has deprived him of a salutary and early sanction to enforce reforms and to prevent irregularities. After appropriating moneys for the public service, Parliament maintains no further supervision thereover and only through the Auditor General's report on his examination is it informed of the extent to which its directions have been followed.⁴¹

⁴¹Ibid., pp. 473-74.

IV: CANADA'S INHERITANCE AND DIVERGENCIES:

A BACKGROUND ANALYSIS

Britain's introduction of responsible government in the British North American colonies laid the foundation on which a Canadian model of financial administration, based on the principles of British parliamentary institutions, administrative practice and customs, could be constructed. The concept of responsible government is based on two main principles: the principle of legislative supremacy and the principle of executive responsibility. The former dictates that Parliament has supreme authority over the public purse. It is therefore the prerogative of Parliament to appropriate public funds and to apply legislative control to expenditures in accordance with the terms of the appropriations. The terms and conditions governing public expenditures by the spending departments would have been spelt out in detail of course by the Committee of Supply at the time when departments presented their estimates for approval by Parliament. The second principle of responsible government - executive responsibility - implies that the executive branch of government, having accepted the delegated authority of Parliament to administer the expenditure of public funds, is responsible and accountable to Parliament for the financial administration of the public purse.

With the evolution of public administration in Canada, the separation of legislative power from administrative action

became the underlying principle in developing legislative financial controls of public expenditures. The interrelationship between these two forces, as observed by Professor Ward, is based primarily on two principles:

- (i) The executive should have no income which is not granted to it, or otherwise sanctioned by Parliament, and
- (ii) The executive should make no expenditures except those approved by Parliament, in ways approved by Parliament.¹

The practice had its origin in medieval England, when as early as the fourteenth century the House of Commons demonstrated its sovereign right in levying taxes. But the control of spending the revenue from taxes did not evolve before the enactment of the Bill of Rights in 1689, which required that all public expenditures must have Parliament's approval. The method of appropriation of public funds by Parliament was developed as a control mechanism, whereby public money was directed by Parliament to be spent for specific purposes. The reformers were particularly instrumental in the enactment of the Comptroller and Auditor General Act of 1866 under the leadership of Gladstone, who presented and piloted the Bill through Parliament. The Act made the Auditor an officer of Parliament and completely independent of executive influence. He would report annually to Parliament on the state of the public accounts and whether the intentions of Parliament had been met by the spending departments in the expenditure of public funds.

¹ Norman Ward, The Public Purse: A Study in Canadian Democracy, (Toronto: University Press, 1962), p. 3.

The cycle of public expenditures begins when each spending department submits its estimates of expenditures (a financial plan) to the Treasury Board through the Minister of Finance, who is secretary to the Board, for presentation to the Governor-in-Council (The Cabinet) and ultimately for approval by Parliament following the examination and verification of the items of expenditure. To each spending department, Parliament, which has the right to debate the budget fully, allocates a specified sum of money, to be spent for a specific purpose governed by what is termed a vote. The executive is delegated the authority, by Parliament, to spend the money according to the dictates of Parliament. Each departmental minister is accountable and responsible to Parliament for the administration of public expenditures. Next is parliamentary audit of the expenditures to verify whether the money was spent in accordance with the intent of Parliament. This is the function of the Auditor General, who reports his findings to the Public Accounts Committee - the so-called Auditing Committee of Parliament. Gladstone refers to the Public Accounts Committee as the mechanism that closes the 'circle of control' in financial administration. This Committee will be discussed in detail in another chapter.

Although the Canadian system of financial control inherited the British concept of legislative audit, actually a model based on British practice was not developed before 1878, when the first system of legislative audit was

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introduced to replace an executive audit, which had been in existence since the early days of pre-Confederation.² The Auditor General, before the Audit Act of 1878, had been a member of the spending executive in the Department of Finance and, as an administrative officer, was responsible primarily to the executive branch of government. Since 1878, however, Canadian Auditors General had crusaded to be independent of executive influence. The result was that a number of reforms were made to the various audit acts to widen and strengthen the authority of the Auditor General as an independent parliamentary officer. But even when there were innovative changes that resulted in productive developments, there were weaknesses to be rectified, because of the many interpretations that could be given to financial legislation and regulations.

The statutory discretionary powers of the Auditor General were never fully recognized or accepted by the executive. The general interpretation of the functions of audit was one of regularity control only; that is, dealing specifically with the legal interpretation of rules which applied to the expenditure of public funds. The irrationality of regularity control was that it did not view the public interest as a concern of the audit. For example, money appropriated by Parliament could be spent within the strict

²For an enlightening discussion see Herbert R. Balls, "John Langton and the Canadian Office", The Canadian Historical Review, Vol. XXI, No. 2, June 1940, p. 150 ff.

interpretation of the rules and direction stipulated - in other words, just 'following regulations' - but without due care for preventing or controlling what Auditors General have termed 'unproductive expenditures', which provided no benefit to the taxpayer. These unproductive expenditures have been a source of embarrassment for governments when publicly disclosed in the Auditor General's report. This reporting on 'non-productive expenditures' has been an area of controversy between the Auditor General and the spending executive, in terms of whether the Auditor General was intruding in the area of government policy, which is excluded from the purview of his functions. The view of the executive was that the functions of the Auditor General were simply 'regularity control', which implied 'following the rules' in the strictest sense. Therefore, the way in which money was disbursed by a spending department would come under the jurisdiction of departmental policy and administrative action, which were beyond the purview of the Auditor General. If, for example, the government decided to conduct a study for construction of a public work - say a bridge or highway - and after the study had been in progress for some time decided to abandon the idea, possibly because of improper planning or for some other reason that should have been examined before the study commenced, the public expenditures incurred would be regarded by the Auditor General as 'unproductive expenditures' - the taxpayer received no benefit and public funds

were wasted. The spending executive (ministers of departments) have held that the decision to undertake the study for construction of the project was a 'political' one, and since the funds were allotted and spent for that purpose "with prudence and probity", the Auditor General would have exceeded his authority to report on this matter in the category of so-called 'unproductive expenditures'.

This inquiry will isolate and examine what may be considered to be the principal reasons for differences between the control practices of British and Canadian financial administration.

First, Canada at the time of Confederation did not adopt certain essentials of the British political and administrative systems, because certain established British customs and conventions had not yet been planted in the Dominion. A fundamental principle of the British Constitution, for example, was that all expenditures must be made in pursuance only of appropriations by Parliament. Broadly, this principle affirmed that no expenditure of public funds should be made without the express authorization of the House of Commons. The British House of Commons has rigidly enforced this rule. It was the duty of the Crown to declare the financial needs; how these needs should be met were expressed through the ministers of the Crown.

Canada did not adopt this principle in full. In Canada there has been, traditionally, an executive privilege of using Governor-General's warrants, a practice that does not

require the legislature's approval, for spending public funds for special purposes. The practice, however, is not illegal as its statutory authority states that:

If, when Parliament is not in session, any accident happens to public works or building that requires an immediate outlay for the repair thereof, or any other occasion arises when any expenditure not foreseen or provided for by Parliament is urgently and immediately required for the public good, then upon the report of the Minister of Finance and Receiver General that there is no parliamentary provision, and of the Minister having charge of the service in question, the necessity is urgent, the Governor-in-Council may order a special warrant to be prepared, to be signed by the Governor-General for the issue of the amount estimated to be required.³

This practice is a major divergence from British custom, which disallows any expenditures of public funds by the executive that had not had prior approval by Parliament. A Canadian parliamentarian noting the differences in appropriating funds in Canada stated:

We alone, I believe, of all English-speaking Communities that have self-government, have given to the Executive this power of obtaining money by means of Governor's warrants. So far as my research has gone, there is no such authority in England.... Our case is one in which we have thought fit to delegate to the Executive, under exigencies mentioned under the Act of Parliament, the power to get money which the people had not thought fit to vote.⁴

The use of Governor-General's warrants was a common practice in the British North American colonies and thus

³ Revised Statutes of Canada, Vic., Chapter 29, Sec. 49.

⁴ Canada, (Mr. McCarthy), 1896, Second Session, p. 735, House of Commons Debates (Debates).

continued into Confederation. It was not a new invention, nor did the politicians see fit to change this practice for the more rigid British rule, whereby all public expenditures must have prior approval by the House of Commons.

These warrants were politically significant, because they served to meet all sorts of situations in a political constituency. The act allowing for Governor-General's warrants was interpreted so as to meet occasions as they arose. With the development of public works in an expanding new nation, it cannot be seriously said that the warrant system was consistently abused and funds were wasted for the sake of meeting political ends. There were, however, concerns regarding the unchecked use of Governor-General's warrants. The following observations express the degree of concern regarding such practice.

If you are going to allow the Government to spend millions [dollars] of the public money without the slightest reference to Parliament..., I say there is an end to all proper parliamentary control over expenditure.⁵

The executive's influence and power over the legislature ran contrary to the principle of responsible government whereby parliamentary control of public expenditures is supreme. With the introduction of responsible government in Canada the right to introduce bills calling for expenditure of public funds was taken away from the individual members of the House of Commons, which was forbidden to pass votes appropriating any part of the public revenue, unless these had been first recommended

⁵Ibid., (Sir Richard Cartwright), 1896, p. 629.

by the responsible ministers of government. But the overriding power of the executive over the legislature was still noticeable many years later. It was noted that "...up to 1864 in Old Canada, there had been abuses, these had been expenditures without parliamentary sanction, and the public mind was stirred in regard to these governing irregularities in connection with expenditures of public money."⁶

Canadian financial administration, therefore, was still disorganized even after the introduction of responsible government. The laissez-faire philosophy of Adam Smith, whereby every man was for himself, was much the motto of the executive, influenced of course by the politics of free trade and economic development as well as political patronage. The strong-handed tactics of the executive over the legislature were brought to the attention of the House as late as 1896 by a Member of Parliament.

What [he said] is the first precedent which we are establishing? The precedent is this, that the Executive can take power to themselves to expend the public money even though Parliament has deliberately refused to grant the money.... The Executive can sit in judgement upon the expenditure of public money, can determine that this House has improperly withheld supplies in the Council Chamber, and with a strong hand, by means of Governor-General's warrants, can take money which this house has refused.⁷

The laissez-faire philosophy of individualism

⁶Ibid., (Cartwright) Second Session, 1880, p. 545.

⁷Ibid., (Mr. McNeil) Second Session, 1896, p. 833.

is that the individual is a self-reliant independent person, who does not believe that the state and its bureaucracy should be obliged to meet individual needs. A frontier community, therefore, provides a perfect environment for the doctrine of laissez-faire; self-help rather than state-help became the motto. The concept of self-help was linked to the ideology of liberalism and was later transformed into political action, whereby the state was obliged to act for the interests of the "natural" rights of individuals. Thus what we see here is the frontier spirit of self-help, through political action, being transformed into state-help, as members of Parliament, as well as ministers of the Crown, became politically oriented in spending public funds to suit local interests and the needs of specific areas or political constituencies. The most convenient and prompt way of looking after the "public good" - local interests - was by the use of Governor-General's warrants, which did not require parliamentary authority or approval. The regular and frequent use of Governor-General's warrants did of course lead to abuse. The British Parliament had refrained from using Governor-General's warrants. Why, then, did Canada continue to use them? The answer may lie in the fact that in a developing country many public works had to be carried out, and many of these were probably unforeseen and therefore could not be planned in time to meet the needs of the people. The idea of pioneering and developing a new country was

already erased from British culture by its centuries of political, social and economic development. Therefore, in the eyes of the British, theories of financial administration and responsible government overruled the practical necessity of issuing special warrants to conform to social conditions. A Canadian member of Parliament explains the seriousness of the British view:

You may have in your mind the case of the army and navy and the government of a great empire and the contingencies unforeseen and unprovided for nearly every session, but Parliament has considered and that in the Government of the Mother Country and Parliament there has declared that notwithstanding all that there shall not be taken one farthing for any of these expenditures if the Appropriation Act does not make provision for these very purposes. And they take civil contingencies and the army and navy contingencies, and after having put in a list of the principal items that they can foresee, they put in a liberal amount for unforeseen or unprovided expenditures in connection with these important services and the money is taken from no other sources and in no other way.⁸

In the light of various reforms to Canadian financial administration since Confederation, there is no doubt that there has been less abuse of Governor-General's warrants; however, the situation still exists whereby the abuse of public expenditures could be encouraged or harboured. Unlike in the British system of financial administration, the executive in the Canadian system can spend money that was not appropriated by Parliament because the power to grant warrants by the

⁸ Ibid., (Sir Charles Hibbert Tupper), "Second Session, p. 692.

Governor-General for expenditure was never revoked.

Secondly, Canada in the beginning also failed to adopt another essential feature of the British financial model, namely, the executive control of public expenditures by the Treasury. The British Treasury carries out a day-to-day supervision of departmental expenditures in addition to its wider function of formulating annual budgets and estimates for each spending department. The Canadian Treasury Board, unlike the British Treasury, was not vested with adequate control over the preparation of departmental estimates and the expenditure of public funds. The day-to-day supervision of spending departments was never established as a confirmed function of the Canadian Treasury. The Minister of Finance was never given supervisory power over the estimates, which were subject to the influence of Members of Parliament, who solicited funds through their Ministers with the express interest of maintaining or gaining political recognition in a particular constituency. Sir George Murray in his report - "The Organization of the Public Service of Canada" - noted the need for improving control of the estimates:

The system under which the estimates are at present framed, criticized and presented does not appear to me calculated to promote economical administration. They are drawn up, in the first instance, by individual Ministers who are likely to be influenced largely by their own prepossessions, and by the pressure put upon them by Members of Parliament.⁹

⁹ Sir George Murray Report, "The Organization of the Public Service of Canada, Sessional Papers, No. 57a, 1912, p. 10.

This type of individualism had developed prior to Confederation, and through practice had become a part of Canadian politics. The motto, 'each man for himself', expressed under laissez-faire philosophy, and the Lockian ideology of individual freedom and "natural rights", have influenced the way in which a legislative apparatus for controlling public expenditures was developed. Defects in the mechanism resulted, as an observer explains:

In theory the control of Parliament over expenditure is complete, in practice it is of little value. This is partly due to the fact that, as the Government must necessarily command a majority in the House of Commons, it can generally secure the passing of its own estimates, ...members will generally be found demanding increased expenditure for purposes in which their constituents are interested, rather than reductions on items which do not fall under this category.¹⁰

Thirdly, the British executive, unlike the Canadian, had a controlling influence in Parliament over all matters of financial legislation. The British doctrine that no money must be granted to the Crown except upon recommendation of the executive was very rigidly applied in all cases of appropriations of public funds. There was much less opportunity in Britain than in Canada, therefore, for padding the estimates, particularly with items influenced primarily by local interests. There were, therefore, more of these 'pork barrel' items to be found in Canadian Estimates because the Canadian Member of Parliament had more freedom than his

¹⁰ Ibid.

British counterpart in manipulating legislative favours for his constituency through a cabinet minister. This kind of political maneuvering was discouraged in Britain in that any measures introduced in the House for the purpose of benefiting a special locality or political constituency must be introduced as a private bill which would then follow special procedure in the House debates. An independent study of British and Canadian financial administration stated that:

So great is the detachment of the private member from the particularistic interests of his own constituency that it is considered a gross impropriety for him to attempt to bring personal influence or other pressure to bear upon the Government in order to secure favourable action upon a measure in which the district which he represents is primarily and financially interested. It is of course proper for him to call attention to the manner in which his constituents would be affected, favourably or unfavourably by a proposed public law, but not that he should seek to obtain for them special favours.¹¹

Comparing conditions that existed in Canada with those in Britain the same study found "a far different state of affairs" in Canada.

It is recognized that members of Canadian Parliament may with propriety importune the members of the Cabinet to have inserted in the Estimates items of expenditures which they especially deserve and there is a tolerance of the practice upon the part of the ministers to yield to these solicitations. Here it is evident that there is no question of law or legislative standing order, but merely one of political morality. Because of the more abundant opportunity, the pressure upon Cabinet members is greater than it is in England, but the chief determining element is one of what has been termed 'treasury conscience'. This conscience is one which for its development to its present sensitiveness in England required several centuries, and it is not a matter of surprise that it should not operate so effectively in a new country like Canada.¹²

¹¹Villard and Willoughby, The Canadian Budgetary System, p. 236. ¹²Ibid., p. 237.

The estimates, as we observed earlier had "pork barrel" items built in for purposes of political favours in particular localities. The budget plan for the year, however, because of uncertainties about the form of the total expenditures, contained more items than actually would be expended. This was not a practice in Britain, as items of expenditure were stated in the estimates with the intention of spending such funds in the new fiscal year. A British Select Committee on Public Expenditure reported in 1828 that:

...no government is justified in taking even the smallest sum of money from the people unless a case can be clearly established to show that it will be productive of some essential advantage to them and of one that cannot be obtained by a similar service.... Nothing requires more wisdom and prudence than to fix public expenditures at such an amount that the real wants of the people shall not be made to give way to the imaginary wants of the state.¹³

These "imaginary wants" did provide the fuel for "pork barrel" items of expenditure to flourish. These could be easily concealed because lump sum appropriations did not provide detailed financial information to Parliament. The House of Commons therefore, had no way of verifying whether the appropriations were really required, other than the assurance of the minister responsible for that particular

¹³Quoted by Sir Edmund Compton, in "Control of Public Expenditure", an address to the annual conference of the Institute of Municipal Treasurers and Accountants, London, June 15, 1960. See H.R. Balls, Canadian Tax Journal, (Feb. 1956) p. 164.

spending. This type of budgetary practice was criticized by some parliamentarians for its departure from the British method of budgetary preparation which takes into account each item of expenditure before receiving Treasury approval.

If the budget system has any virtues, estimates should only contain actual necessities and should represent actual intentions.¹⁴

In all these items there is evidence of a practice which has grown up of voting a sum of money year after year without its being spent. I have said before, and I repeat, that I do not think it is a proper practice to continue voting money without a serious intention of spending it. If it is needed and we vote it, it ought to be spent. If it is not needed, this House should not be called upon to vote it.¹⁵

Is it businesslike to take a lump sum of \$200,000, \$300,000, or \$400,000, covering a dozen different things, and put that through without any itemizing at all, a portion of it for other things and no division at all as to that amount which is properly for salaries or as to the amount which is properly referable to other operations and other things?... The ministers are not to have too much power. It is a great temptation. If your backbencher comes to you and wants something and you can show him you have a special vote for that and you will not allow it you have an answer, but if he shows you have a vote of \$400,000 out of which you can take whatever you like for any purpose you are in for an argument....¹⁶

¹⁴ House of Commons Debates, (Mr. A.K. MacLean) 1916, p. 936.

¹⁵ Ibid., (Mr. Foster) 1902, p. 1002.

¹⁶ Ibid., (Mr. Foster) 1909, p. 969.

Quoted in Villard and Willoughby, The Canadian Budgetary System, Chap. 10.

The Estimates which have been brought down provide for an expenditure on consolidated fund account of \$158,958,730.50. In the budget speech the Minister of Finance stated that he did not contemplate expending \$158,000,000, but only \$125,000,000, if I understand him right [sic]. Therefore to provide in the Estimate for \$33,000,000 more than you intend to expend is a very wrong practice.¹⁷

The Canadian method of budgetary preparation, that is the non-itemization of expenditures and the overestimate of appropriations in the Estimates, must be viewed as contrary to the principle of financial accountability as a parliamentary control of public expenditures. A minister of a department delegates authority to the permanent head of the department for the administration of public funds. The Auditor General of Canada is given statutory authority to examine all accounts of Canada, and report his findings to the House of Commons. Under this method it is the Minister who is accountable to Parliament, and not the departments, for public expenditures. The main question to be answered then is, how can there be executive accountability when information or the purpose of the expenditure is lacking for many items, which are usually unidentifiable and therefore are not accounted for at the end of the year. This does not allow for audit scrutiny so as to determine if money was spent as intended by Parliament.

The disguise of items of expenditure was deliberate and influenced by the laissez-faire doctrine of economic

¹⁷ Ibid., (Hon. Sir. Wilfrid Laurier) 1916, p. 854.
Quoted in Ibid; Chap. 10.

individual determinism as was prevalent in the early partisan politics of Canada. As early as 1839 Lord Durham was critical of a similar situation that existed then, when he stated that "...as long as any member of the Assembly [Upper] Canada may without restriction, propose a vote of public money, so long will the Assembly retain in its hands the powers which it everywhere abuses, of misapplying that money. [Such a system] "...gave undue influence to particular individuals or parties."¹⁸

This practice would appear to have been encouraged throughout the years of Canada's development, and the British method of framing the Estimates and making the spending department accountable to Parliament rather than the Minister, who is responsible for that development, seems to have been ignored. Sir Thomas Tribe, a former British Comptroller and Auditor General, noted of the British system:

In all Civil Estimates presented to Parliament there are set out in Part II the heads or sub-heads under which the Vote will be accounted for and a statement of who will account for them. From this it follows that the Appropriation Account presented after the end of the year will and has to follow precisely the same form, sub-head by sub-head, as the Estimate, thereby

¹⁸R. Coupland, (ed) The Durham Report, abridged, O.U.P., (1945), p. 148.

enabling Parliament to ascertain, ...how far the actual expenditure has conformed to estimate, item by item, and how far savings on one sub-head have been used to meet excesses on others.¹⁹

Fourthly, cabinet government in Canada - although patterned on the Westminster model - was never as politically disciplined as in Britain. For example, from what has been said above regarding the difficulty in estimating the aggregate yearly expenditures because of the lack of a classification system for public expenditures, the Canadian government in the early years did not establish a definite financial policy to which each minister would conform. We also noted that regional interest was an influential factor in this regard, a situation which was never significant in Britain. Unity of policy therefore was not always attained in Canada as we will observe from the evidence that follows.

On the question of transport you have the Minister of Public Works working, building harbours and dredging. You have the Minister of Railways and Minister of Marine doing other portions of the work. And you will find the officers of these Ministers working upon the same area and with regard to the same object but in entirely different ways. And so you have confusion, lack of system lack of continuity.²⁰

¹⁹Sir Thomas Tribe, "Parliamentary Control of Public Expenditure", Public Administration, Vol. XXXII, No. 4, (1954), p. 376.

²⁰House of Commons Debates, (Mr. Foster) 1910-11, p. 6605.

The Minister of Finance says that much of the total sum voted will not be expended. My reply is that he has apparently no control over the Minister of Public Works or any other Minister with respect to expenditures. The Minister of Finance should inform other Ministers what he can permit them to spend each year. The reverse is the practice. That is part of the duties of the Minister of Finance. He is not merely a tax collector.²¹

The following quotation - extract from the correspondence between the Minister of Militia and the Prime Minister - illustrates an incident when a cabinet minister acted contrary to rules whereby an order-in-council was required before any payment could be made of a special appropriation of \$50M to the department of Militia. Without obtaining any orders-in-council the Minister of Militia authorized spending of a portion of the amount appropriated for defense purposes.²²

I do remember your asking me on one occasion to submit Orders-in-Council when possible, before increasing large expenditures, but the reason you assigned was not protest from my colleagues over my action, but that it was to set an example so as to assist to control others. You instanced the Post Office Department, the Railway Department, and the Public Works Department, when projects had been undertaken without Orders-in-Council and I remember distinctly you stated that some boats had been purchased and other large expenditures incurred without your knowing anything about it, and without any Order-in-Council.²³

Finally the question of political patronage had been

²¹Ibid., Mr. A.K. MacLean 1916, p. 939.

²²See Dominion House of Commons Journals, Vol. LI, Part 2, p. 15, et seq.

²³See Letter of Sir Sam Hughes to Sir Robert Borden Nov. 11, 1916, quoted in Montreal Daily Star, Nov. 15, 1916.

less of an influential factor in the British political system than in the Canadian. The reason is that the British Member of Parliament was not always strongly politically identifiable with a specific constituency as was the case with the Canadian Member of Parliament - who was nominated by a constituency and therefore was expected to reside within the area and defend its political and economic interests. Thereby, local or parochial interests in Canada often override national interests in regard to public expenditures. Government members, of course, were always in a better position than opposition members to advance the economic conditions in their political ridings through political patronage and the use of government contracts. As Villard and Willoughby observed in their study of Canadian financial administration, "...both official positions and government contracts are often bestowed...with the primary object of advancing the interests of the party in power. In planning these, [expenditures for public improvements] partisan considerations have come to hold the first place rather than the general needs of the country's development."²⁴ Other evidences indicate that political patronage and local interests had been laissez-faire in character and became a dominant part of the Canadian political system. A parliamentarian commenting on the patronage system in Canada stated:

²⁴ Villard and Willoughby, The Canadian Budgetary System, p. 210.

At Confederation we started out perhaps with the idea that we would not have a political patronage system at all, but in two or three years the Government, under the leadership of Sir John Macdonald, abandoned these early ideals and adopted a patronage system applicable to both Government contracts and supplies of goods to the Government and to appointments to public office. That system was certainly continued by the Mackenzie administration.²⁵

We have, in the twelve years we have been in office [the Liberal Party] accepted the system, which has been in existence since Confederation, of making appointments on party lines. In this we followed the example set by our predecessors.²⁶

The following quotation illustrates the freedom with which cabinet members make accommodations regarding the spending of public funds in the interests of partisan politics.

On both sides [of the House] we have been going on the idea that money we get into the public treasury is to be used for party advantage. What did the Minister of Railways boldly say the other night? He said: 'If I have advertising to give or supplies to buy, I will deal with a friend of the party'.... It means that the money of this country is for the party and the Government to do what it likes with; doing fairly well if possible by the country, but taking mighty good care always to help the party.²⁷

The mechanism of government contracts was frequently used by government members to create public works in their constituencies so as to continue their political prowess. The following observations by parliamentarians themselves are evidence to the fact.

²⁵ House of Commons Debates, (Mr. Guthrie), 1909-10, p. 2453.

²⁶ Ibid., (Sir Wilfrid Laurier) 1907-08, p. 9201.

²⁷ Ibid., (Mr. Foster) 1916, p. 417.

Quoted in Ibid, Chap. 10.

Now that the honourable gentlemen on the other side [of the House] have supplied all their ridings with public buildings, they must not be surprised if we, on coming into power, pay some attention to ours. That is the position I take without hesitation.... Of course we must not squander public money on useless buildings - we all agree to that. I do not object to being criticized, I do not object to the brake of the opposition being put upon any minister - far from it. But there is reason in all things. The Liberal Party has been long in opposition and ridings that have been so long neglected by the Government have rights that I, for one, will endeavour not to forget.²⁸

The influence of local interests, as well as the ambitions of local politicians, on public expenditures evolved in relation to the frontier spirit of Canada as a developing nation. The individualism expressed by the politician in his scramble for public funds for the benefit of a special locality is a representation of the collective interests of that community. The idea of local economic and political interests always had precedence over the national interest. This idea had its origin in laissez-faire liberalism, that is, freedom of individual economic determinism. The political expression of these interests therefore followed an organized system, as the following quotation explains:

²⁸ Ibid., (Hon. Mr. Tarte, Minister of Public Works) 1902, p. 659.

Quoted in Ibid, Chap. 10.

The premier and his selected councillors make up the Ministry, that is the first; after that comes the caucus and its elected components; after that comes the local candidate in his district, with his circle of party supporters; and lower down in the scale come the district committee with their control of the petty patronage which has to be dispensed within the purview of their own jurisdiction. That makes a complete chain. * * * This is a wonderfully concentrated and correlated system. There is not a section of the country from one end to the other which is not under its influence and which today is not throbbing and pulsating with the stimulus derived from the party patronage system.²⁹

As was noted earlier in this discussion, the patronage system as existed in England, through the use of sinecures on the Civil List, was purged and later abolished following the 1688 Revolution and finally by the 1866 Audit Act. The British Member of Parliament therefore, unlike his Canadian counterpart, was not regarded as a conveyance or protector of local interests primarily; his role was to function as a promoter of national interest. An authority on British politics states:

The national party organizations have never attempted to dictate the choice of candidates to the local bodies, and although the central office recommends names, it never attempts to force its favourites upon the constituencies.³⁰

²⁹ Ibid., (Mr. Hazen) 1914, p. 415. Quoted in Ibid.

³⁰ A. Lawrence Lowell, The Government of England, Vol. II (New York: The Macmillan Co., 1970), p. 20.

The voters are chiefly interested in the victory of the party to which they belong, in the accession to power of a ministry professing the principles in which they believe. The particular person who sits as their representative on a bench behind those ministers, though by no means a matter of indifference to them, is of less importance; and this is true not only of the voters at large, but also the small group of men who take an active part in politics. They are not bands of liegemen following their chief in hope of personal profit. He has no patronage in his gift, no favours from the Government that he can distribute among them. He cannot even do much to promote the special interest of his constituency, because except for such things as dockyards and barracks, the national treasury spends no money for local improvements, and private bill legislation is almost wholly removed from his control.³¹

...the member of the British House of Commons occupies a peculiar position with regard to the district which he represents. He is not necessarily a resident of his district; in many cases he does not owe his nomination to those who are to vote for him, nor does he need to look to them for renomination.

...because of his status there has been made possible the development of an effective tradition or understanding that a member of the Commons is elected, not in order that he may represent the selfish interests of the peculiar locality which elects him but to support the national party to which he belongs...to advance the general interests of the Kingdom and Empire.³²

From the above observations it is clear that the influence of the British Member of Parliament, unlike his Canadian counterpart, on any public expenditure for local purposes was very restrictive and well controlled since all public expenditures had to undergo parliamentary scrutiny and

³¹ Ibid., p. 47.

³² Villard and Willoughby, The Canadian Budgetary System, p. 236

approval. Therefore, inserting "pork barrel" items of expenditures in the British estimates was not only discouraged but also impossible, because each item of expenditure required a detailed explanation as to its purpose; also, items of expenditure had to be comparable to those of the previous year. It was noted that:

"In Britain this problem of harmonizing legislative control over expenditures with administrative discretion is admirably met through the groupings of items in the appropriation acts under large heads termed 'Votes', and subordinate divisions termed 'subheads' under which 'Votes' must be accounted to Parliament."³³

This system of control did not exist in Canada as we observed in the foregoing discussions. The spending executive, for example, had control over financial reform and legislation, but accountability for political actions to Parliament was usually thwarted by partisan politics. This is illustrated in the discussions surrounding the Public Accounts Committee and its relation to the Auditor General, in chapters V, VI and VII.

³³Ibid., p. 263.

V: THE CANADIAN PUBLIC ACCOUNTS COMMITTEE

A select committee to review the public accounts was appointed by the Dominion House of Commons at Confederation in 1867. This route toward legislative financial control followed the path of an established British precedent. The committee was basically the continuation of a similar committee, modeled on the British system in the old Assembly of the Province of Canada.

The Canadian House of Commons, however, although adopting the British model did not follow exactly the pattern and structure of the British Public Accounts Committee. For instance, the number of members in the British Committee was statutorily declared at fifteen, the majority of which, as well as the chairman, were chosen from the Opposition. The political reasoning underlying such a structure was that since the role of the Opposition was to criticize the government it also had the right, therefore, to investigate the expenditure of public funds. It would be politically sound, then, for the Opposition to be able to initiate, as well as control, any inquiry into public expenditure by the administration which it opposed.

The Public Accounts Committee of the Canadian House of Commons at the time of Confederation in 1867 had a complement of twenty-one members, which increased to twenty-nine by the

end of the first session of the first Parliament. Unlike the British Committee the members were usually selected on a partisan basis and from the more influential politicians, who were mostly front-benchers. Likewise, the chairman of the Committee was always a member of the ruling political party. The appointment of Ministers of the Crown to the Public Accounts Committee was not uncommon; for example, at one time or another Sir John A. Macdonald (leader of the Conservative Party) and Alexander Mackenzie (leader of the Liberal Party) took part in proceedings of the Committee. The appointment of government ministers to the Committee was surely direct partisanship intervention or an uninspired sense of morality in governmental matters. The partisan attitude of the Committee provoked Richard Cartwright to comment in the House:

I believe it is a mistake, I believe it is contrary to the spirit of the Public Accounts Committee and the object of which it is formed, that a large number of Ministers should have seats there. I admit the wisdom and propriety of allowing the Ministers to be heard before the Public Accounts Committee when the expenditures of their several departments are under consideration by the Committee. That can be done, I think, and done in accordance with our rules, but I do say that it cannot but strike the public at large as a very unfair and a very improper thing that we should bring up questions for investigation into the spending departments, and that, again and again, investigation should be refused by majority composed, as I have said of the chief of these very spending departments.¹

Until 1878 the chairman of the Public Accounts Committee was usually the Minister of Finance. Since then an ordinary

¹Canada, House of Commons Debates, (Cartwright) 1894, p. 1878.

Quoted in Villard and Willoughby, The Canadian Budgetary System, p. 165.

member from the ranks of the ruling party has been the choice. Proportional representation of party members on the Committee roughly corresponded to that of the House. One would find therefore that the Conservatives in 1873 were in the majority, but in 1874 the Liberals after winning the election increased their representation on the Committee to almost twice that of the Conservatives. This type of partisan practice was primarily responsible for the remarkable growth of the Committee to eighty-one members by 1878, and to a high of ninety-seven in 1882. It was difficult for such a large Committee to carry on effective and continuous deliberations. In fact its size impeded its efficiency and effectiveness. The frequent absence of many Committee members resulted in infrequent sessions, as some members would appear only when discussion on a particular subject was in their favour.

A member of the House pointed to the problem: "The practice has been that the public accounts committee is not called together until some member brings a matter before the committee."² The Prime Minister also had cause to comment in 1883: "it is a working committee and its membership is too large. We have not had the same numbers in attendance de die in diem, and there was no certainty that members present one day would be present at the next setting, and that members keep up a continuous attention to the business before committee."³ A similar observation was made in 1894 by Sir Richard Cartwright:

²Ibid., (Middleboro) 1916, p. 842, Villard and Willoughby, p. 172

³Ibid., (Sir John A. Macdonald) 1883, p. 37, Villard and Willoughby, loc. cit. p. 166.

This [public accounts] committee is one which it is not convenient to call together very often. We have now been five weeks in session, and we have not yet examined a single witness.... As a rule the committee is hardly called together more than once a week.... We do not know how many weeks it may be our fate to spend here, but at the average rate of proceeding we would not be able to have more than seventeen or eighteen meetings, and it is very doubtful if we would succeed in getting this number.⁴

The size of the Committee as well as its partisan makeup created unnecessary and unprofitable wrangling among members taking a party stance. One Committee member commented on these obstructions as late as 1902, thirty-five years after the Dominion Public Accounts Committee was established.

The public accounts committee is appointed, in theory, to revise the public accounts to suggest improvements and to correct errors. But any one who has attended the meetings of the public accounts committee knows that this is how its machinery works. Those who are opposed to the Government go into an examination of an account, they are never assisted by the supporters of the government, but in ninety-nine cases out of a hundred they are opposed by the supporters of the Government, either by every circumstance that can mitigate unfavourable criticism being suggested or by obstacles being actually thrown in the way to prevent a successful issue of the contention of the Opposition.⁵

Another member stated a similar observation in 1906: "The whole work of the committee seems to be this; one side, the Opposition wants to investigate, and the other side wants to obstruct."⁶ The fact that the Committee was controlled by the political party that formed the government by having a

⁴ Ibid., (Cartwright), 1894, p. 1706.

⁵ Ibid., (Fraser), 1902, p. 1894.

⁶ Ibid., 1906-07, p. 5853.

Quoted by Villard and Willoughby, Chap. 10.

Cabinet Minister (usually the Minister of Finance) as Chairman prevented it from effectively carrying out its inquiry function. As a Standing Committee of the House of Commons its mandate was to "examine and inquire into all such matters and things as may be referred to them by the House, and to report from time to time their observations and opinions thereon; with power to send for persons, papers and records."⁷ But an examination of its reports and unpublished material - stenographic transcripts and monographs - of its meetings will show the failure of the Committee in fulfilling its mandate.

The discretionary powers given to the Committee were considerable, and with the establishment of the Auditor General's office in 1878 these powers were further enhanced. The audit of public accounts, which originally was a requirement of the Committee, became the function of the Auditor General. This gave the Committee more time to carry out its examination and inquiries based primarily on the reports of the Auditor General. The legislative body and the legislative officer were to form a symbiotic relationship. As one member of the House remarked:

Everything between the lids of the Auditor General's report is referred to the committee. It is the right of members there to move that accounts, letters, papers, correspondence and vouchers be laid before the committee - not copies, but the documents themselves, and we have a right to examine these to our hearts content. And, if we are not satisfied, we have the right to

⁷ Statutes of Canada, 1867.

ask the committee to subpoena those who can give us information concerning the matters in question. They may be private citizens; they may be officials in the departments; they may be contractors or even ministers of the Crown; and when these parties come before us we have the right to question and cross-question them like witnesses before a court, and to have the original documents in our hands to guide us in that examination. So we have the right to make inquiry along those lines: first, by moving the documents; second, by examining original documents in the departments of the Government; third, by asking to have documents submitted to committee or public accounts; and, fourth, by asking to have parties brought before that committee for examination.⁸

The party politics of the Committee influenced its decision making powers, thus rendering it less effective as an instrument of financial control than its British prototype. The government members were always, because of partisan guidelines, ready to limit or oppose any Opposition inquiries. The frustration created for Opposition members through muzzling by the party in power evoked criticism from members of both sides of the House, as can be observed in Canadian Hansard over a period of years.

In Canada, during the present session, at the first meeting of the public accounts committee, six members moved for 41 sets of papers. There is no doubt whatever that all these papers moved for are demanded for party purposes and in the expectation that campaign literature may be derived therefrom. Of course, it is needless to say that the six members are all opposition members.⁹

The public accounts committee is appointed, in theory, to revise the public accounts, to suggest improvements, to correct errors. But anyone who

⁸Canada, House of Commons Debates, (Sproule), 1907-8, p. 1783, Villard and Willoughby, loc. cit. p. 168.

⁹Footnote - "Report of Commission on the Civil Service", Canadian Sessional Papers, Vol. XLII, No. 15, p. 23.

has attended the meetings of the public accounts committee knows that this is how its machinery works: Those who are opposed to the Government go into an examination of the account; they are never assisted by the supporters of the Government; but in ninety-nine cases out of one hundred they are opposed by the supporters of Government, either by every circumstance that can mitigate unfavourable criticism being suggested or by obstacles being actually thrown in the way to prevent a successful issue of the contention of the Opposition.¹⁰

The whole of the committee [public accounts] seems to be this: One side, the Opposition wants to investigate, and the other side wants to obstruct.¹¹

Let a member of Parliament endeavour to ascertain what has been done with the people's money, and the very gentlemen who should assist us in doing so take no interest or part in it, except to block any investigation that may be attempted by gentlemen on this side of the House.¹²

It is well known that for years the principle has been applied, and is daily being applied more frequently, that Government majority can control what investigations shall be held, what evidence shall be taken, what questions shall be asked, and what answers given, even by witnesses brought down by the Opposition.¹³

When we go to the public accounts committee and summon parties before us, and have them sworn to tell the truth and when we put a question, some member of the Government says: Don't answer that question. Then we appeal to the Chairman of the committee to know if the witness is not obliged to answer the question, and he says: No, he need not answer it if he does not wish. Then we appeal to the committee over the head of the Chairman, and by a partisan majority the committee votes almost every time to sustain the ruling of the chair.¹⁴

¹⁰Canada, House of Commons Debates, (Fraser), 1902, p. 1894.

¹¹Ibid., (Baker), 1906-07, p. 5853.

¹²Ibid., (Northrup), 1906-07, p. 5837.

¹³Ibid., 1906-07, p. 5836.

¹⁴Ibid., (Sproule), 1907-08, p. 1785.

Quoted in Villard and Willoughby, The Canadian Budgetary System, pp. 108-169.

The usual custom in the public accounts committee is for Ministers of the Crown to attend that committee, and whenever a witness is called to give evidence which they fear, they are the first to say to the witness: It is not necessary for you to answer that question.¹⁵

Is this the duty of a member of the committee? He abandons his place and becomes a counsel for the witness rather than a member of the committee.¹⁶

They [witnesses] appear before the committee; the important question is asked and there is an absolute refusal to answer. The Chairman is again appealed to. He sustains the witness in his refusal. The committee is again appealed to, to do what? Order the witness to answer? No, but simply to report the matter to this House that we may find out on the floor of Parliament whether the question is germane and ought to be answered. That obedient Chairman and that obedient majority of the committee refused to allow the evidence to be reported to this House.¹⁷

Time and time again, when questions have been asked in that committee [on public accounts] with regards to public expenditure, the Chairman, without waiting for objection to be raised, tells the witness that he has no right to answer the question. It is for the committee to decide whether the question should be answered or not. But the Chairman does not wait for any objection from members of the committee. He even goes so far as to say, before witness is brought in, he will not allow him to answer. Is that partisanship or is it not? I say that the arm of parliament is paralyzed in that committee, and the representatives of the people cannot get the information they ought to have to lay before this House that the public may be able to judge whether there has been a proper expenditure of public money or not.¹⁸

The Public Accounts Committee despite its partisanship continued to be of significant importance in the machinery of

¹⁵ Ibid., (Ingram), 1904, p. 1945.

¹⁶ Ibid., (Sproule), 1902, p. 3260.

¹⁷ Ibid., (Foster), 1906, p. 3633.

¹⁸ Ibid., (Sproule), 1906-07, p. 5794.

Quoted in Villard and Willoughby, The Canadian Budgetary System, Chap. 10.

legislative financial control. Even though the Committee may have been at times awkward in its deliberations mainly because of its size, wrangling among members, and irregular sessions, there was a positive side to its existence. The fact that any expenditure of public funds could be referred to it for examination and criticism, and the findings of the Committee made public, had a deterrent effect on improper expenditures. The investigative powers of the Committee, although carried out in the partisan atmosphere of the governing party, constituted essentially the link in the Gladstonian 'circle of control'. A statement by Durell regarding the British system is relevant to this discussion:

The admitted influence of the Committee and the important position it has obtained form therefore a striking comment on the way in which it has performed its work during the past half century, achieving its results in spite of the absence of direct powers of enforcing its reports or recommendations. It has no power, even after the most minute examination and on the clearest evidence, to disallow any item. It can only call attention to it, and express its opinion that it should be disallowed. It has been stated, indeed, that nothing has a greater deterrent effect on a department than the fear of having to go before the Public Accounts Committee, and that the account department stands more in awe of this Committee than the House of Commons itself, probably because there is less chance of escaping its close scrutiny.¹⁹

The semi-judicial procedure of the Committee, and its statutory power to inquire into and examine departmental accounts, did in fact have a significant influence in

¹⁹ A.J.V. Durell, The Principles and Practice of the System of Control Over Parliamentary Grants, (London, 1917), p. 112.

strengthening financial accountability for public expenditures, because in addition to its scrutiny of public accounts on the Auditor General's recommendation, the Committee has the power "to send for persons, papers and records" for purposes of inquiry and examination. It therefore could investigate any item, subject or policy as it saw fit. It should be also noted that no person or department was considered immune from the summons of the Committee. Government members such as the Prime Minister, cabinet ministers, the Leader of the Opposition, members of parliament in general, as well as any public servant who may have an interest in the Committee's hearings on a particular matter could be summoned by the Committee. A witness who when called before the Committee but failed to appear, or refused to answer its questions, could be arraigned before the Bar of the House of Commons. The Committee did not have the power before 1876, however, to examine witnesses under oath. There was also no case of a witness appearing before the Bar of the House of Commons before 1878.²⁰

Therefore, although the Committee in its earlier years tended to be dominated by partisanship, as it grew to recognize its more useful purpose as a statutory scrutinizing body, party politics began to be confined to its proper place, the House of

²⁰ Norman Ward, "Call to the Bar of the House of Commons", Canadian Bar Review, (May 1957), pp. 529-46.

Commons. An interesting and noteworthy incident was a case in 1877, when a Liberal member of the House refused to follow the party line on a piece of legislation put forth to the House by his minister. The member wanted the legislation examined first by the Committee on the presumption that its findings would be non-partisan, thus making the Bill of advantage to all concerned. The member stated, "that it could be carefully considered before the Public Accounts Committee. It is a non-partisan matter."²¹

The evidence of political confidence emerging within the Committee whereby it could be non-partisan in its judgement had demonstrated an ability on part of the Committee to move closer to the British model. A British member of Parliament described the British Committee in terms of its non-partisan procedures. "It [Public Accounts Committee] is the only Committee of the House of Commons on which I have ever sat, where there has been no party feeling. Members of the House apparently drop their partisan feeling the moment they enter the Committee."²² But even as late as 1871 the political attitude toward the Canadian Public Accounts Committee was still very partisan, and was mostly viewed as a place for the theatrical drama of party politics. This view

²¹House of Commons, Debates, 1877, p. 1824.

²²Captain Jessel - Hansard's Parliamentary Debates, 4th Series, Vol. 179; quoted by Harold G. Villard and W.W. Willoughby, The Canadian Budgetary System, (New York, 1918), p. 265.

is expressed in a request made by a party member of his Prime Minister: "There are many persons who think I should...be on the Committee on Public Accounts. Blake [an Opposition member] last session had everything pretty much his own way in that Committee and it was felt that there should be some other Upper Canada lawyers...."²³ This partisan request was of course supported by the Prime Minister.

Although the Committee was at times divided into opposing camps, it still managed to carry out some of its statutory powers with minimal interference by party politics. The Auditor John Langton, as one of the chief players on the Committee in the early years of Confederation, advocated that exclusive power be given to the Committee to examine the public accounts and that it be kept fully informed of all financial matters relating to public expenditure. From the fact that the Committee's hearings were subject to public scrutiny through the press, politicians as well as the Auditor himself used it as a sounding board for their views, which of course had to be made impressive for the public. As one writer noted of the British Committee, "The fear of the Public Accounts Committee, and the very searching examination that takes place there, does a great deal to keep in the path of rectitude the members of civil service."²⁴

²³R.A. Harrison to Macdonald, February 11, 1871, P.A.C. Macdonald Papers, Vol. 15.

²⁴Durell, Parliamentary Grants, p. 112.

This statement reflects the effects of the Committee's inquiry as an effective instrument of financial control, and a deterrent to unsound administrative practices and political wrangling. Sir George Benson, a former chairman of the British Committee, noted the importance of those inquiries:

Members of the Public Accounts Committee are only human, and our meetings give ample material for headlines, which in the presence of the press might be exploited by some smart, slick question. Under such circumstances it might not take long before the Committee was divided into opposing camps, one seeking to move points against the Government and the other seeking to defend it. Gresham's Law can be as true of politics as it is of currency.²⁵

Government members in the House of Commons are under severe scrutiny and criticism by members of the Opposition. According to professor Ward, "...the Public Accounts Committee [in Canada] tended to be the Opposition's committee, the Government being on the defensive while its leading critics prosecute case after case. For the particular uses of which the committee was put, the Opposition was probably in a stronger position than it would have been had it provided the chairman from among its own members."²⁶

Moreover, since the Committee rarely confined itself to an ex post facto analysis of the public accounts but generally strayed, almost instinctively, into the discussion of contemporary policies, it made a number of intangible contributions to the workings of the parliamentary system. Apart from its duties as a watchdog set over the executive, its hearings played a significant role in initiating members,

²⁵ Sir George Benson, Letter to Montreal Gazette, November 10, 1958.

²⁶ Norman Ward, Public Purse, p. 68.

and particularly Opposition members, into the mysteries of government.²⁷

Although the Public Accounts Committee may have been more partisan than its British counterpart, there is sufficient evidence to suggest that it has made good progress since Confederation in taking a more positive and constructive approach to its inquiry on public expenditure. It was because of the Committee's usually constructive criticisms on public expenditure during its hearings that a statutory change in auditing procedures found expression in the Audit Act of 1878, and established the position of Auditor General. The inquiry of the Committee is based primarily on two reports - the Auditor General's Report and the Public Accounts report. These two documents are presented to the Committee at the end of each fiscal year for study, which gives the Committee an opportunity to examine all aspects of financial administration. Under the 1878 Act the Auditor General became an invaluable official both to the Public Accounts Committee and the House of Commons.

The power of the Public Accounts Committee was undoubtedly stronger after the Audit Act of 1878. More information on financial matters was made more readily available to members of Parliament than in the earlier years of Confederation. The Committee had also grown to establish a closer working relationship with the Auditor General than

²⁷ Ibid., p. 67.

it had in earlier years. It also brought the two basic principles of responsible government - legislative supremacy and executive responsibility - closer to achieving a balance in their respective areas of jurisdiction. The creation of the Auditor General's position also relieved the Committee of its audit functions and the detailed inquiries that went with them. In the words of one parliamentarian, the office of the Auditor General "... took off the shoulders of the Committee the case of examining into the minute details of those comparatively formal inquiries, which, in other days, used to occupy a considerable portion of the time of the Committee on Public Accounts."²⁸

It was noted earlier in this discussion that the large size of the Public Accounts Committee was in many respects detrimental to its functions. Although the number of members had climbed to ninety-seven in 1882, this figure was reduced to fifty in 1928. The present membership stands at twenty. This number is still larger than the British Public Accounts Committee of fifteen members, a size which has been effective in carrying out the Committee's mandate. The Canadian Committee differs in other respects from its British counterpart, although it was patterned on that model. For example, the Canadian Public Accounts Committee holds public hearings, a practice which is unlike that of the British Committee which usually meets in camera. Unlike the British Committee, the

²⁸ Debates, (Cartwright), 1891, p. 4090.
Quoted in Villard and Willoughby, loc. cit., Chap. 10.

chairman of the Canadian Public Accounts Committee since Confederation was always a member of the government, until this practice was changed in 1958 to follow the British tradition of appointing an Opposition member to the Committee's chair. An important difference also between the two systems is that in the Canadian system there is no provision for a departmental accounting officer as there is in Britain. The minister of a department is responsible for all departmental activities, but authority is delegated to the deputy minister, who usually answers to the Committee's inquiry and examination on financial matters.

But even with these differences the Canadian model is still essentially British in character. Like its British counterpart, the audit function of the Canadian Public Accounts Committee is specifically the prerogative of the House of Commons. The Senate in Canada and the House of Lords in Britain are excluded from the activities of legislative audit. The Canadian Auditor General and his British counterpart - the Comptroller and Auditor General - are the chief witnesses of their respective Public Accounts Committees.

VI: RELATIONS BETWEEN THE AUDITOR GENERAL
AND THE PUBLIC ACCOUNTS COMMITTEE

Some officials handle large sums of public money; it is therefore necessary to have other officials to receive and examine the accounts. These inspectors must administer no funds themselves. Different cities call them examiners, auditors, scrutineers and public advocates.

Aristotle, The Politics

The Canadian Auditor General is a state auditor who acts on behalf of the Canadian Parliament. By state law he must have access to everything pertaining to the public purse. His duties are of a legal and not of a political character. He is a legislative officer of Parliament who is endowed with statutory inquisitional powers to determine that public funds are spent according to the directions of Parliament. It is not his function to render advice on the administration and policy of government departments or the executive branch of government. He may, however, report to Parliament, through the Public Accounts Committee, his observations on any administrative actions which in his view were not in the interest of controlling the expenditure of public funds.

The functions of the comparable British auditor have been described eloquently by D.C. Richmond, a former British Comptroller and Auditor General:

I am a parliamentary officer whose duty it is not only to certify to the correctness of the accounts, as rendered, but, further, I am directed to report to Parliament. As regards to reporting, I conceive I have something of a free hand. There are some points which I am obviously to report such as any excess over a grant of Parliament, any clear irregularity, and so forth, but I have also a duty to report on the accounts and availing myself of that opportunity. I think it my duty to report anything which in my judgement, following within my proper functions, it concerns the House of Commons to know. In the first instance, my object is to report in such a way as to assist the House of Commons in making its way through what may be a very bulky volume of accounts; but beyond that I do not feel myself debarred from calling attention to anything which has occurred in the course of my audit during the year which indicates loss or waste, or anything of that kind, which I think it is well that Parliament should know. Of course, in doing so, I have to act with great care and discretion. It is not for me to criticize administrative action as such; the departments are responsible for their own actions as regards general administration; but if I find the result of administrative action has been a loss or wastefulness of public money, then I think it is not going beyond my duty of reporting as an officer of the House of Commons, if I call specific attention to matters of that kind, even though the account itself would not disclose the facts.¹

Although the Canadian system of financial control, and particularly the Office of the Auditor General, was modeled on the British system, Canadian Auditors General did not find their

¹ Audit Office Guide, p. 6., see also Treasury Manual of Financial Authorities and Procedures; United Kingdom, Report of the Committee on National Expenditure, Vol. II, Report and Evidence 1903, p. 756.

mandate for reporting on public expenditures as clearly stated as that of their British counterpart. Canadian Auditors General had never been able to convince the executive that the function of legislative audit went beyond the regularity control of public accounts. Therefore reporting on the ineffectiveness or inefficiency of the administrative system which could lead to waste of public funds would be, in the executive's or department's view, an overstep of the Auditor General's legal terms of reference. The partisan characteristics of executive influence on the office of the Auditor General have been shamefully noticeable throughout the history of the office. Canadian Auditors General fought an uphill battle with the executive of each administration in attempting to bring reform to the statutory function of the Auditor General.

The Canadian system, unlike the British system, had not adopted the established convention of giving the Auditor General a free hand in reporting. As we will see further on in this chapter, the statutes outlining the duties and powers of the Auditor General have been subject to different interpretations which curtailed the Auditor's discretionary powers. The British practice of free reporting, which developed not solely from statutory regulations, but also through usage and conventions, had influenced the development of the Auditor General's Office in Canada but the practice was never fully adopted. The power of the executive to overrule the Auditor General, as well as the interpretation of his

statutory authority by the Minister of Justice, are two main examples of the divergence of the Canadian system of control from that of the British.

The first Canadian Auditor General,² John Lorn McDougall, from the commencement of his duties in 1878 sought to defend his office in every way possible. He guarded against all executive intrusions, in some respects unnecessarily. He usually insisted on his interpretation of the law. He believed in the British system, which guaranteed legislative independence to the parliamentary auditor. In 1879 an incident occurred which involved the executive's interpretation of the duties of the Auditor General. This was McDougall's first and major encounter with the Minister of Justice who questioned the Auditor General's right to examine matters pertaining to administration. Although the matter that brought about this test of the Auditor General's statutory powers was a simple one involving a salary increase for a clerk in the Public Works Department, the

² John Langton was the first Auditor of Public Accounts for the Province of Canada beginning in 1855 and continued through Confederation until his retirement in 1878.

For a comprehensive and thorough discussion see H.R. Balls, "John Langton and the Canadian Audit Office", The Canadian Historical Review, Vol. XXI, No. 2, June 1940.

The Auditors General of Canada since 1878:

John Lorn McDougall	1878-1905
John Fraser	1905-1919
Major E.D. Sutherland	1919-1923
Georges Gonthier	1924-1940
Watson Sellar	1940-1960
A. Maxwell Henderson	1960-1973
J.J. Macdonell	Present Incumbent since 1973.

Minister of Justice felt that it was significant enough for a debate in the House. He expressed his views thus:

The broad question is whether you should, or indeed whether you have the right, to enquire into the right of the government to pass an order-in-council authorizing the expenditure of public money, or whether your duty and power as Auditor General is limited to seeing that any moneys, the expenditure of which has been authorized by order-in-council, or departmentally, according to circumstances, have been voted by Parliament to be used for the purposes intended.

I have given the matter very serious consideration, and am satisfied that your duties and powers as Auditor General are confined to seeing that any moneys which the government seeks to expend have been voted to Her Majesty for the purpose and that you have no right to enquire into the legal right of the government to do that for which they seek to expend the money which has been voted to them by Parliament.

The question is one of principle and not of degree. If you have a right to enquire into the legal right of the government to do something which may appear to you to be clearly beyond their powers as a government, then you would have an equal right, and it would be your duty, to enquire into the validity, in a legal point of view, of every act done by the government involving the expenditure of money.

It is out of the question that any such responsibility should be cast upon you. Parliament never intended to make you the judge in the first instance of the validity of all the executive acts of the Crown. It must be remembered that the government is responsible to Parliament and to the people for their acts. It is for them to satisfy Parliament and the people that they did not exceed their authority, or to justify any excess of authority on their part, and when necessary to ask Parliament to confirm their actions. Once it were admitted that the government had to satisfy the Auditor General, or any person outside of Parliament, as to the legal validity of any proposed action on their part before such action could be taken, it is not difficult to imagine that the consequences might be disastrous....

... if you find that moneys have been voted applicable to a certain purpose, and if the government authorizes the expenditure of such money for a purpose coming within that for which they were voted, it is your duty to authorize the issue of the necessary cheque

I suppose that you have hitherto been under the impression that your duties and responsibilities were greater than they are, and I feel sure you will be glad to learn that they are defined within the limits above explained.³

In McDougall's view this was unacceptable to an independent parliamentary auditor. He insisted that the Auditor General can not at all times be in agreement with the executive if he is to exercise his duties as a parliamentary officer responsible for protecting the public purse. McDougall wanted a free hand in reporting, without taking special care to distinguish between administration and audit. He was bent on preventing irregularities, which in his view involved 'all matters' pertaining to public money. As he wrote in his report:

Whether for the purpose of preventing irregularities in making payments, or of reporting them to Parliament, if they have occurred in the disbursement of accountable moneys, it is the duty of the undersigned to be fully informed as to all the brakes which have been put by Parliament or the government on the expenditure of the public funds. The undersigned should possess more information on such subjects than any other official. The information should, no doubt, be used in reporting infringements of the rules laid down by Parliament, if the rules have been broken; but it seems more in the public interest that the Auditor General of the time being should do what he can to prevent the illegality, than that he should take part in making payments contrary to acts of Parliament without

³ Report of the Auditor General for the Fiscal Year ended June 30, 1879, pp. XXII-XXV.

drawing the attention of those who have ordered the illegal payments, and who would not have done so had their attention been drawn to the legal or other sound objections.⁴

Another incident occurred in 1881 which caused him to forcefully challenge the Treasury Board's interpretation of his powers.⁵ McDougall was known to disagree vehemently not only with the executive but equally with parliamentarians and even the Public Accounts Committee, of which he was supposed to be chief witness on the state of the public accounts. In 1889 he wrote to the Deputy Minister of Justice, who did not always willingly give information requested by the Auditor General. McDougall wrote:

I assume that this office was not established with the expectation that each spending department is to put in the way of the office every obstacle that has noth [sic] been forbidden by Act of Parliament; but to afford every assistance that can be given in saving the people's money. It seems unreasonable to suppose that Parliament intended, in establishing the Audit Office, to test the skill and ingenuity of the office by deliberately confining it to certain information."⁶

McDougall also felt obliged to report on the inefficient use of public funds or property. Needless to say, this was construed by departmental officials or the executive as an involvement in policy. The Deputy Minister of Justice, with his Minister's support, rebuked the Auditor General with regard to such practice, which was felt to be a breach of privilege. He argued that McDougall had "no right to enquire

⁴ Ibid., p. XXV.

⁵ Auditor General's Report, 1881, p. XVIII.

⁶ Ibid., 1889, p. C-118. The letter is misdated 1886.

into the legal right of the Government to do that for which they seek to expend the money which has been voted to them by Parliament."⁷

John Langton, whom McDougall succeeded, also expressed his stern views on the objectives of audit to executive as well as departmental personnel. He viewed the governmental auditor's principal functions as incorporating accountancy audit, the appropriation audit and the administrative audit or the audit of authority. Langton's conception of his official duties is probably best understood in the way Professor Chubb describes these different but interrelated audit functions:

The machinery was accounting machinery and the operator was an auditor. He was, however, an auditor with a difference. His audit, and hence the Committee's [Public Accounts] scrutiny was directed to checking not only accountancy, that is, fraud, technical and computative errors, or errors in accounting principle; but also appropriation, the strictness of which was considered the essence of parliamentary control; and also authority, which the Committee in 1877 regarded as 'the essential part of the whole system'. (P.A.C.R. 1877, 99). By an audit directed towards checking 'authority' is meant a check to ensure that only those departments and men who are authorized to spend funds do so and that no one acts ultra vires.

⁷ Ibid., 1879, pp. XXIII-XXVI.

⁸ Basil Chubb, Control of Public Expenditure, p. 53.

Accounts Committee, however, tended to influence any support the Committee might have been willing to give the Auditor General.

Professor Ward felt that the Public Accounts Committee actually went into a "period of decline in its first decade of collaboration with the new Auditor General",¹⁵ and gave the reason as due to party politics and the change of parties in that period.

The continuance in office of a single party after 1878, as compared with the turnovers before, was of course a factor in this, [decline of collaboration with the Auditor General] for until Macdonald's death in 1891, when the Conservatives in Parliament lost control of the Public Accounts Committee, the party showed a growing disinclination to have its affairs studied by parliamentary bodies. Part of the decline, too can be traced to the Audit Act of 1878, for it not only gave members of Parliament a number of assurances in regard to public expenditure that had not existed before, Considering that in some ways the Public Accounts Committee was peculiarly an instrument used by the Opposition, part of the decline is no doubt due also to the complete confidence which the Liberals had in the Auditor General, for he was their choice, and working under their legislation."¹⁶

The Committee had become noticeably partisan during the 1880s. But as the years went by, party lines became more clearly drawn, and opposing camps developed, not only in the House of Commons where it would be regarded as proper, but also in the Public Accounts Committee. As Norman Ward wrote in describing the partisan ~~and~~ interplay of the Public

¹⁵ Norman Ward, The Public Purse, p. 76.

¹⁶ Ibid., p. 76.

reporting usually took place in the Public Accounts Committee, where there was much less display of partisanship than there was in the Canadian Public Accounts Committee. The view that was generally held, however, was that a parliamentary auditor should not consider administrative action as a reporting subject per se, as such practice may prejudice the independence of his legislative functions. The Secretary of the British Board of Audit cautioned that:

The whole of our experience as appropriation auditors tends to satisfy us that we ought to have no further communication with the executive departments than may be necessary for the purpose of obtaining information. Whatever tends to associate us, either directly or indirectly, with the pecuniary transactions of the government cannot but tend to damage the credit of the reports in which we are required to submit these transactions to the judgement of Parliament. We conceive, therefore, that we should never be required to advise, to control, or to demonstrate.¹⁰

This suggested that the Auditor General should not confine the audit function only to the regularity of accounts. As John Langton also mentioned: "It is not enough to know whether a man has drawn what he is entitled to on the one hand, or whether he has spent what he had drawn on the other, but whether he has spent it for the purpose for which he was entitled to draw it."¹¹ This requirement covered the appropriation audit as well as the administrative audit, but retained the distinction between audit in general and

¹⁰United Kingdom, Report of the Public Accounts Committee, 1865, Appendix 1, p. 48. See also Durell, Parliamentary Grants, p. 194.

¹¹W.A. Langton (ed.), Early Days in Upper Canada, p. 241.

departmental administrative matters. The practice would be of even greater significance if the Auditor General had the dual office of comptroller of issue and auditor of expenditures as in the case of Britain with the Comptroller and Auditor General's Office.

Canadian Auditors General, beginning with Langton before Confederation to the time of passing the Audit Act of 1878, have mostly held the view that the British model should be adopted as closely as possible. The Minister of Finance's statement in introducing the Audit Bill in the House of Commons in 1878 pointed to this fact:

For some considerable time [he told the House], it had been apparent ... that it would be desirable to have a perfect division, whereby the task of auditing the public accounts should be kept as much as possible quite distinct from any interference on the part of an officer charged with administrative duties of any kind whatever The main object of the bill was to carry that out, and inspire the public with confidence in the public accounts. It was deemed expedient, therefore, to adopt the British practice, and to create an officer, who should hold the appointment during good behaviour, and be removable, as judges are, on an address of both Houses of Parliament.¹² That was the fundamental principle of the bill.¹²

¹² House of Commons Debates, April 2, 1878, pp. 1624-25.

McDougall, unlike Langton, who actually laid the foundation for legislative audit, inherited a system of control, which although giving recognition to the Auditor General as a legislative officer responsible only to Parliament, was not free from executive influence. To overcome this impediment to the audit function, McDougall sought to work closely with the Public Accounts Committee. Full support of the Committee was imperative in performing an audit on the public accounts. The support of this parliamentary officer by the Public Accounts Committee has been one of the strong features of the British system. Unfortunately this has not always been the case in the Canadian system. McDougall in his first annual report as Auditor General in 1878,¹³ which also marked the commencement of legislative audit in Canada, requested the Committee's support. "The undersigned", he wrote, "while expressing the necessary novel functions of a newly-created office, has in all probability in some instances, either exceeded or fallen short of the powers granted him by Parliament. He trusts that any points on which he should receive directions from the Public Accounts Committee will be early taken up."¹⁴ Partisan politics within the Public

¹³ Prior to 1878 the Auditor General carried out an executive audit as he was actually an executive attached to the Department of Finance. The audit therefore was not independent of executive influence.

¹⁴ Auditor General's Report, 1879, p. XXVI.

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¹⁵ Norman Ward, The Public Purse, p. 76.

¹⁶ Ibid., p. 76.

Accounts Committee:

After 1878, with the continuous domination of the House by one party, the continued domination of the Public Accounts Committee by the majority party became more marked. Ministerial influence in the committee has always been present, for, as has been shown, ministers were always present in quantity on the committee's list of members, and for a few years ministers had acted as chairmen. Though Sir John A. Macdonald conceded in 1880 that 'the committee was a serviceable institution, inasmuch as it is a very considerable check on the Government of the day', the evidence is clear that as the decade wore on the check worked increasingly in the opposite direction."¹⁷

The relationship between the Auditor General and the Public Accounts Committee became closer in the late 1880s, and McDougall used this opportunity to voice his opinion on many aspects of his work. His report of 1879, for example, listed many subjects that he wanted studied and examined. The Committee, having been convinced by McDougall of the importance and urgency of the subjects to be studied, appointed a sub-committee for that purpose. The Auditor General's report gave in detail the changes that were necessary to reform the estimates, the legislation needed to ensure more stringent control of expenditure, and more powers in auditing. He continued to point out weaknesses in the present system of control by citing references and requested that the Audit Act be reviewed. A particular weakness that he pointed out was the three-month period whereby funds, which were voted for a specific fiscal year, could be carried over for an extra three months in the next fiscal year. The Auditor General took the

¹⁷ Ibid., p. 82.

view that such a practice was not only complicated but very confusing, since the fiscal year for the public accounts could be fifteen months, while the reporting period would be only twelve. The Public Accounts Committee concurred with the Auditor General's concern and so did the House. But McDougall's recommendations were not implemented, and he commented on this in his report for 1890. He hoped "that it may be possible during the Parliamentary term in which we are about to enter for members to systematize the estimates, to determine the amount of detail that should be given in them, and apply the principle uniformly to the Departments; and to define each subhead of appropriation so that there may be no doubt as to the one against which each item of expenditure is to be charged."¹⁸

The detailed and systematic review of accounts that the Auditor General recommended was beyond the means of the Public Accounts Committee. As Norman Ward observed: "The Opposition was not strong enough through the 1880s to use the Public Accounts Committee to its fullest extent while attending to other parliamentary duties, ... neither political party, nor the Public Accounts Committee had any traditions that would have led the committee members into a methodical and judicious appraisal of public affairs every session. It was in the decade of the 1880s, indeed, that the Public Accounts

¹⁸Quoted in Norman Ward, Public Purse, p. 80.

Committee became more, not less, partisan."¹⁹ Partisanship was one of the main causes of the irregular meetings of the Public Accounts Committee during this period when cabinet influence on Committee proceedings was quite strong.²⁰

Government supporters used delay tactics either in the form of legal and technical details surrounding expenditures or obstructions similar to a filibuster in the House of Commons. The irregular meetings and the opposing camps formed by government supporters and Opposition members undoubtedly prevented an annual systematic review of executive spending as requested by the Auditor General. Also, the antiquated accounting system of 1878 remained essentially the same, a concern that prompted the Auditor General to recommend changes to the system, as it did not allow for adequate examination and reporting of the public accounts.

In addition to the generous interpretation that the Auditor General had given to his powers, he also held the view that the Public Accounts Committee should throw its fullest support behind his demands as well as strengthen his powers of inquiry and examination. One member of Parliament, Sir Richard Cartwright, in support of McDougall's views in this respect, stated in the House that: "It is the undoubted right

¹⁹ Ibid., p. 81.

²⁰ See Debates, 1880, pp. 1144, 1514; 1889, pp. 500-1; 1890, p. 2596.

of the Committee on Public Accounts to investigate all circumstances connected with the payment of any of the several sums of public moneys referred to that Committee, and that in the course of such investigation no evidence should be refused on the ground that it may disclose improper conduct or relations on the part of the Minister of the Crown or of any other party in connection with such payment."²¹

But partisanship within the ranks of the Committee did not always make it easy to investigate all circumstances, and getting evidence of matters surrounding public financial matters was almost impossible. The Opposition members of the Committee, being always in the minority in relation to government supporters, were ineffective against the dominance of cabinet ministers, as were ordinary government supporters, who at all times protected government policy and prevented any likely embarrassment from questions the Opposition may have raised. Sir Richard Cartwright, who was strongly opposed to any executive influence on legislative audit and the functions of Committees pointed out that such habitual practice was "contrary to the spirit of the Public Accounts Committee and the object for which it is formed, that a large number of Ministers should have seats there."²² Cartwright felt, and correctly so, that the presence of a minister influenced the

²¹Debates, 1891, pp. 4088-91.

²²Debates, 1894.

quality of testimony given at Committee hearings by witnesses who could be civil servants or other subordinates to the Minister of a Department. The witnesses could be intimidated in stating their facts.

This of course raised the question of the powers of the Public Accounts Committee, and how much support the Auditor General could expect from this body of political opponents. It was felt that in order for the Committee to render the support needed by the Auditor General, the correspondence between the Audit Office and government departments, especially in cases where the Auditor General was overruled by the Treasury Board, should be referred to the Public Accounts Committee for review. This was proposed in the form of a motion put forward in the House in 1894 by Louis Davies, who was later to become Minister of Justice. But the Prime Minister took a different view: "it is not properly a charge upon the Committee on Public Accounts to investigate those matters in which the Auditor General is overruled by the Treasury Board."²³ In his view this was the prerogative of the House of Commons.

But in 1898, for the first time in his twenty-seven years of office, the Auditor General initiated an inquiry whereby the Public Accounts Committee would examine an overruling of his decision by the executive. An Opposition

²³Debates, 1894, pp. 2486 ff., 2625 ff.

member, Mr. G. Taylor, in a motion supporting a statement by the Auditor General regarding a spending department stated in the House of Commons:

That in the opinion of this committee the Auditor General is to be supported in his contention that the sum of \$8,000, paid to the Lake St. John Railway out of the general vote for immigration purposes, should not have been made, but was made solely on account of his having been overruled by the Treasury Board, although after the payment was made the Minister of Justice gave it as his opinion that the Government could construe the law to cover the case; and that in future, if such a case should arise, he be authorized not to make any such payment until after it had been submitted to Parliament.²⁴

The principle basic to the motion was whether money that was voted for a particular purpose by Parliament could legally be used for an unspecified purpose even though that purpose may be construed as related to Parliament's original intention. In this case, could money be used to defray the cost of moving persons who had immigrated to Canada to other parts of the country. The Auditor General took the view that the votes did not allow for such spending and therefore it was contrary to what Parliament had intended. The Minister of Justice on the other hand disagreed on a point of law. It is important to note the discussions surrounding the decision that overruled the Auditor General as well as the political interplay which justified spending as a matter of administrative activity, an area which was outside the jurisdiction of the

²⁴Quoted in Norman Ward, Public Purse, p. 108.

Auditor General according to the executive.

The discussion proceeded as:

Sir Louis Davies (Minister of Marine and Fisheries): I would just like to call attention to the very irregular manner in which we are proceeding here. Here is a gentleman, Mr. Taylor, who may be an excellent authority on many questions but is not considered an authority on law or on constitutional law and he asks a committee of laymen to override the decision of the Department of Justice. Here is a case where a disagreement occurs between the Auditor General and a department and it goes to the Department of Justice. The Department of Justice always have decided in the case of a vote made by the House whether the expenditure is within the vote or not. The Minister of Justice had decided it here....The Minister gave it as his opinion explicitly that the government might expend this money as they think best, that is the opinion of the Minister of Justice. That is the law by which the government is bound and by it the Auditor General is bound.

The Auditor General: Oh, no, I beg pardon.

The Minister of Marine and Fisheries: The Auditor General is no more superior to the law than the Minister of the Interior, and the sooner he and the members of this committee understand that they must keep within the law the better. The House votes a sum of money. The question very properly arises, is this within the law? The Auditor General says one thing, the department says another. It is left to the Minister of Justice to decide. The Minister decides the expenditure is within the Law. The question then becomes one for the government as to policy....I have no hesitation in saying here when a matter is referred to the Department of Justice and it overrules the Auditor General, he is just as much bound as I am, as Minister of Marine and Fisheries, because the Auditor General cannot be allowed to be superior to the law of the land and there must be someone to decide what the law of the land is and the Ministers must stand by the Minister of Justice even though they do not agree with him. He may be right or he may be wrong and we must be bound by his decision, and so must the Auditor General.

The Auditor General: I would like to explain what Sir Louis Davies and I take different views of, and explain what I conceive to be the line of procedure. I have no right to shield myself behind the opinion of the Minister of Justice, though he is a distinguished lawyer and I am not. Under the Audit Act, I have to say whether in my opinion a certain payment is a proper payment or not, unless there is an appeal to the Treasury Board. If there is the Treasury Board can get the opinion of the Minister of Justice, but the Treasury Board is not bound to follow him. They can either sustain me or overrule me....I have no right to give up my opinion because the Minister of Justice has a different opinion. Ministers of Justice before this have told me: "Why come to me? You have no right to an opinion from me." But when it goes to the Treasury Board they ask the opinion of the Minister of Justice, and they have a right to follow it or not as they think best.

The Minister of the Interior: The Auditor General has proved what I say. He is liable to be overruled or not, and the Treasury Board will submit to the Minister of Justice. In the last resort the opinion of the Auditor General, however honestly formed, and even if correct - the Minister of Justice may be wrong and the Auditor General right - does not rule, but there must be someone to express a decision on points of law, and his decision as to legal questions must prevail.²⁵

Between 1875 when McDougall became Auditor General to 1905 when he retired, twenty-six of his decisions were overruled compared with only seven that were sustained, in a one-year stretch from 1898 to 1899. There was no doubt that McDougall and the Liberal administration were very much opposed to each other. One Liberal member for instance stated that if the government were to continue its work the Auditor General had to be overruled.²⁶ The Auditor General

²⁵ Journals, 1898, App. 2g, pp. 2-4.

²⁶ See Letter, McDougall to Laurier, May 23, 1899, Laurier Papers, No. 33830.

was mostly dissatisfied with the 'narrow' legal interpretation of the audit legislation usually given by the Minister of Justice. McDougall, who was known for making blunt and indiscrete statements, remarked that the Minister knew "no more about the rules which should govern the auditing of accounts than the first man you may chance to meet."²⁷ The Public Accounts Committee was criticized by McDougall. The Canadian Committee, unlike the British, did not review all overruling of the Auditor General's decisions. In the British system "there seems to be no pretence ... that the rulings given out by the Treasury are governed by law."²⁸ The British model had always been a point of reference for McDougall. Speaking of the British Public Accounts Committee he remarked in 1887 that "the reports of the similar Committee of the Imperial Government have been useful to me."²⁹ A few years later, following his return from Britain where he had gone to observe the Public Accounts Committee of that country, he remarked that the proceedings were "absolutely perfect". "The Committee is comprised of a few members of experience who confine their committee work to the one subject, who deal with principles, to a great extent differences between the

²⁷ Auditor General's Report, 1905, p. 5.

²⁸ Ibid., p. 5.

²⁹ Ibid., 1897, p. IV.

executive and Audit Office, and who settle the practice for similar points when they may arise."³⁰

The Public Accounts Committee in the Canadian system gave all the indications of being a sounding board for both Government supporters and the Opposition, which in the Auditor General's opinion bore no resemblance to the British model. McDougall in a letter to Laurier, who was then Leader of the Opposition, hoped that the British model would come to be more fully accepted in Canada. He had this to say about the Canadian Public Accounts Committee:

They take the last report of the Auditor General and go regularly through it discussing every point of difference between him and the departments, examine witnesses, hear all that can be said and make reports from time to time. Here if there is any point on which a temporary charge of favoritism against the gov't. can be made to hand it is taken up greedily particularly if the amount is small, but everything else in the report is ignored. If after an appeal from my view is taken to the Treasury Board, I am overruled and no notice is taken of the matter when my report comes down to the House, I am justified on general principles in supposing that Parliament, the final court of appeal, agrees with the Treasury Board and decides that my opinion is wrong. A result of the neglect of Parliament to do its duty is that the government will go on having less and less hesitancy in overruling my decisions when political pressure is exerted. If as a matter of routine the legal opinions of the dept. of Justice, on which the Treasury Board bases its overrulings of my decisions, and which I am obliged to include in my following report, were taken up seriatim by a Committee with complete knowledge of the principles which should underlie

³⁰ Ibid., 1901, p. 5.

governmental expenditure and with time to hear all that could be said on both sides, I do not say that the Liberal party would receive any great addition to its numerical strength from the operation but I am sure that Canada would derive much advantage from it. To carry out my view it would be necessary from some lawyer with a turn for business to devote a large part of his time not merely during session but in the recess to studying carefully what has been the practice in Canada, what are the provisions of the various acts which authorize or control expenditure, the similar features of the American and French systems, and particularly everything English of the kind.

That I may be self respecting and that the Audit Office may be self respecting, the attention of no one outside of the Departments is drawn to matters in the report which should be investigated, but it is a great pity that an investigation is not systematically made....

Might you not, without reference to me, allude at your convention to this matter as a subject which should engage the attention of your party.³¹

When the Liberals formed the government in 1896 McDougall, being a Liberal himself, thought that his colleagues in the Public Accounts Committee would give him the support he always wanted. But partisan politics did not work in McDougall's favour as it did for some other Committee members, possibly because of the tactless manner in which he approached the duties of his office. Toward the end of his tenure the relationship between his office and the government departments depreciated to the extent where the Audit Act was felt by some departments to be against departmental administration, because of McDougall's own interpretation of his statutory powers. He tried to interpret every word of the Audit Act and to exercise

³¹ June 6, 1893; P.A.C. Laurier Papers, No. 2509, quoted in Norman Ward, Public Purse, p. 97.

his discretionary powers accordingly. As he told the Public Works Department in 1883, "Taking it for granted forms no part of the system of this office."³² His persistent obsession with detail caused one member of the executive, the Commissioner of Internal Revenue, to respond: "I cannot accept the conclusion that in passing the Audit Act Parliament intended to destroy the individuality of all other departments - or reduce their disputes to the rank of ordinary clerks - and must until this question has been fully submitted to the government and their ruling obtained, respectfully decline to have the judgement of the department duly arraigned - when that judgement is exercised within the limits assigned to the departments by the Act"³³

The Auditor General lamented in his report of 1902:

I complain again as I have complained before that the Opposition of the day seems to think that no risk is run in allowing the government to do as it is greatly tempted to do by the demands of its funds and by the ill-informed opinions of the Department of Justice, there being nothing more in its way than the slight obstacle of an unsupported Auditor. Talk of the Opposition being weak in numbers and without experience! One member, even if he had never been in the House before, but had once grasped the view that the money with which we all deal is no more the property of the government than it is that of the humblist tax payer in the land, would have no difficulty in making it clear to Parliament and the people that not a dollar should be allowed to a claimant in the same way that money is earned from a private individual.³⁴

³² Ibid., 1893, p. 332.

³³ Auditor General's Report, 1896, Part T. p. 130.

³⁴ Auditor General's Report, 1902.

McDougall retired as Auditor General in 1905. His Auditor Generalship, although it was very controversial throughout the years since his commencement in 1875, paved the way for more efficient and effective legislative control of public money. Political pressure played an important part in his resignation. W.S. Fielding, Minister of Finance, advised the Prime Minister two years before McDougall resigned in 1904, "that it is not our intention to adopt the amendments which he [McDougall] has sought. If we 'stand pat' ... I think Mr. McDougall will quietly resign at the end of the session."³⁵ The Minister of Finance was also influential in the appointment of McDougall's successor, John Fraser, in 1905. He mentioned in his letter to Prime Minister Laurier, after realizing that McDougall would in fact resign, that he had plans for appointing a successor. "I have some plans regarding the filling of his [McDougall's] place which I think will be found generally satisfactory."³⁶

John Fraser inherited McDougall's legacy of hard work and devotion in legislative audit. McDougall had worked diligently on improving the system of financial control and undoubtedly laid the foundation on which further improvement was to be made and developed. Fraser was not unaware of the persistent confrontations between his predecessor and the

³⁵Fielding to Laurier, Dec. 7, 1904, Laurier Papers, No. 92734.

³⁶Ibid., Debates, 1909-10, pp. 309-10.

spending executive. He also was not unaware of the financial irregularities in government spending and the lack of adequate support from the Public Accounts Committee for the Auditor General, as well as the Opposition's failure because of opposition from the Treasury Board and even the Department of Finance, where Fraser previously worked as a Dominion Book-keeper. Fraser, therefore, did not enter a completely strange environment. He must have been aware that the professed statutory independence from executive powers of his office was more sound in theory than in practice, and that political influence directed the course of events.

Fraser, although continuing in the path that McDougall had paved, did not exactly follow his footsteps. He was much more tactful than McDougall, and to many departments, and particularly the Department of Justice, was a relief from the overzealous McDougall, who would not accept that his "office should be guided in its legal views by those of any executive department."³⁷ He did not confine himself to the letter of the law but insisted on the Auditor General's discretionary power of review.

It is not the intention of this work to compare Auditors General, but the high profile of the McDougall era was of significant importance in shaping the duties of future Auditors General. His methods may have been rigid and

³⁷ Auditor General's Report, 1905.

exacting at times but they certainly were not antiquated or out-moded, and in many respects they were in fact innovative.

In describing Fraser's arrival on the financial scene as Auditor General, and the overall reaction of the spending departments, a journalist said: "One finds impressions as of an executive tranquility, a curious aura of quietude that seems to defy rather than invite interruption. The atmosphere of the room breaths a peace not like any other peace and its occupant fairly radiates it."³⁸

There may have been a general feeling of peace, or more correctly a truce because, like McDougall, Fraser had difficulty influencing the Public Accounts Committee to undertake corrective measures in reforming the audit system. Professor Ward observed that: "By 1911 the Public Accounts Committee had failed with Fraser as with McDougall to establish a system in which Parliament examined the affairs of the executive on behalf of the public, as distinct from a system in which the Opposition examined the government's affairs for its own purposes."³⁹ "The committee had never been noted for taking a high-minded stand on behalf of Parliament, against the executive,"⁴⁰ The Public Accounts Committee, nevertheless, had begun to take the Auditor General's investigations more seriously and positively, and had started to place more emphasis on

³⁸ Auditor General's Report, 1905, Part Y, p. 13.

³⁹ Norman Ward, Public Purse, p. 142.

⁴⁰ Ibid., p. 147.

departmental accountability for the expenditure of public funds. However, the right of the Public Accounts Committee to review Treasury Board overrulings of the Auditor General's decisions continued to be challenged, as in previous years. As the Minister of Finance said in 1907, "The people of Canada are reasonable in all these things; the people of Canada know that in the transaction of vast business ... with thousands of officials employed, where the public business can be carried on by giving a large measure of confidence to the men placed in authority in the various departments, it is utterly impossible that every dollar of expenditure can be closely scanned."⁴¹

But as a parliamentarian and an influential member of the Public Accounts Committee mentioned in the House of Commons, the Committee must consider all inquiries in the light of what's best for the country as a whole and not only to please private and government interests. Mr. Foster said: "In the end nearly every government comes to its defeat not so much through mistaken policies as through that dead weight growing every year of bad or foolish or corrupt expenditures ..." The Public Accounts Committee, he felt, needed to be salvaged "from the intolerable and mainly useless position in which it has been placed during these many years past. It has not done the work it should have done. It never will under its present constitution."⁴²

⁴¹Debates, 1906-07, p. 7858.

⁴²Ibid., 1909-10, pp. 602 ff.

This observation was similar to McDougall's, who always looked to the British model for perfection. But the Public Accounts Committee, according to Professor Ward "... could hardly recommend with a straight face, as did a select committee of the British House of Commons, that 'even more than in the past [the Public Accounts Committee] encourage the Comptroller and Auditor General to scrutinize and criticize improper or wasteful expenditure and to indicate where censure is in his opinion required'."⁴³ Fraser's auditor generalship, which ran from 1905 to 1919, was not as eventful as McDougall's, and like his predecessor, Fraser was unable to obtain the support of the Public Accounts Committee because of its partisan atmosphere.

Fraser's successor was E. Sutherland, a former employee of the Audit Office. He held the position of Auditor General from 1919 to 1923. Like his predecessor he walked the line of auditor generalship cautiously but followed the pattern laid down by McDougall. There were no significant changes made to the audit system during the time Sutherland was in office. The Audit Office continued to rely on the executive branch of government, particularly the Department of Justice, for guidance and interpretation of the Auditor General's statutory duties.

⁴³ Ibid., p. 104; quoted from Journals, 1905, App. 3g, pp. 73-4.

Georges Gonthier succeeded Sutherland in 1924, following a year without an Auditor General in Canada. During this year the vacancy was filled mainly for housekeeping purposes by a senior staff member in the Audit Office, Mr. William Kearns. Like his predecessors Gonthier had to deal with imperfections in the financial control system and for about one half of his tenure there were no significant improvements beyond the days of McDougall. The steady increase in the volume of financial transactions and the demand that was placed on an insufficient and inadequate system were a matter of grave concern. The Audit Office began to show a steady decline in its functions after McDougall had left office, as confidence between the Auditor General's Office and the Government and the Opposition had weakened considerably. The audit process obviously needed improvement if confidence was to be restored. As Sir Henry Drayton mentioned, in discussing a government proposal for improving the audit, "I am perfectly free to confess in view of past performances that unless he [the Minister of Finance] is intending to bring in new blood I would hesitate to say that the Auditor General should be the chairman of the Board of Audit."⁴⁴ Over the objections of the Auditor General, who was Sutherland at the time, expert advice was sought by the government from outside consultants, whose terms of reference were to investigate and examine departmental financial administration.

⁴⁴ Debates, 1923, p. 4356; Ibid., 1925, p. 4516.

As Auditor General, Gonthier was quick to learn that the system of control was deficient and in his very first report warned:

I find that a systematic and continuing audit... has not been applied to the revenue collections heretofore, largely, I understand, for the reasons that the office did not have sufficient qualified members on its staff to undertake this work and at the same time to supervise the examination and audit of the appropriation accounts of the fiscal year in preparation for the annual report to the House of Commons...No regular or systematic audit of stores at the various departmental depots either in Ottawa or at the outside points, with the exception of the Stationery Office and Ottawa Branch of the Royal Mint, has been carried out heretofore by this Department on account of insufficient staff....⁴⁵

Like McDougall, Gonthier in his later years was conscious of the fact that the Audit Act of 1878 had outlived its usefulness. The British Act of 1866, which created the office of Comptroller and Auditor General, had been revised as late as 1921.⁴⁶ As an admirer of the British model he, like McDougall, tried to copy the system as much as executive pressure and resentment would allow. According to Professor Ward, "Throughout the 1920s a growing agreement could be found in the Commons, the Audit Office, and the executive, on the need for change. There was general agreement on the two chief requirements: a standardized accounting system applicable to all departments, and a better system of more closely estimating what each department should ask from

⁴⁵ Auditor General's Report, 1923-24, p. iii.

⁴⁶ See U.K. Statutes, 11 and 12 Geo. V, C 52.

Parliament each year, so that both over-estimating and over-expenditure should be as nearly as possible eliminated."⁴⁷

The Auditor General found the Audit Act of 1878 outdated particularly in relation to the letter-of-credit system. Departments in most cases overspent their appropriations before the Auditor General could check if the money was spent as intended and directed by Parliament. The Act directed that the Auditor General 'should see that no cheque was issued for the payment of any public money for which there was no parliamentary appropriation'. But as the Auditor General pointed out in his report for 1924, there could be no control of the letter-of-credit system under that Act:

I have no control over the issue of cheques under these letters of credit. They come to my notice for the first time when I receive from the departments the monthly statements of the cheques issued during the previous month accompanied by applications to repay the bank upon which they had been drawn, the total amount of the cheques so issued. The departments concerned must assume full responsibility for the issue of these cheques and for the expenditure in connection therewith.⁴⁸

A systematic direction of expenditure was required to maintain a system whereby departmental accountability of public funds could easily be checked and controlled. Under

⁴⁷ Norman Ward, Public Purse, p. 166.

⁴⁸ Report of the Auditor General for the Fiscal Year ended March 31, 1924, p. XVII.

the letter-of-credit system an accounting officer could spend the credit at pleasure without a check made by any centralized accounting system. Each department would adopt an accounting system that suited its purpose. Control therefore was not centralized, and unauthorized spending of public funds continued 'legally', that is, according to the rules, but without regard for efficiency and economy until the Consolidated Revenue and Audit Act was passed in 1931.⁴⁹

Under the new Act the Auditor General was relieved of his control function for parliamentary appropriations, as this went over to the newly created office of Comptroller of the Treasury. The Comptroller was officially responsible to the Minister of Finance; he had the statutory power to direct and control the issue of public moneys according to the amount appropriated by Parliament. The Comptroller had the power also to refuse sanctioning an issue on the grounds that (a) money was not justly due, (b) the amount exceeded that granted by the Governor-in-Council, (c) Parliament did not authorize the appropriation, and (d) he was not satisfied with a department's encumbered balance of an appropriation. The Treasury Board, however, had the power to overrule or sustain the Auditor General's objections. To summarize, a former Deputy Minister of Finance, W.C. Clark, wrote that: "The essential function of the Comptroller is to see that the moneys voted by Parliament are used for the purposes for which

⁴⁹ Statutes of Canada, 1931, C 27.

they were intended, and that no vote for a specific service is exceeded."⁵⁰

The new Act replaced the ill-fated accounting system and auditing procedures with a more centralized control system. The problems created by the letter-of-credit system were now to be rectified by centralizing the control of all issues as well as carrying out a pre-audit function before expenditure occurred. No cheques could be issued by any department, or contracts and other commitments entered into without the sanction of the Comptroller or his designated officer. The accounting officers for the departments were responsible directly to the Comptroller, thus effecting a tightly centralized control system. These changes in the new Audit Act of 1931 reflected the mood of the 1920s, especially during Gonthier's tenure as Auditor General, when the need for a centralized control system was expressed with more vigor than in the earlier times of McDougall. It should be noted though, that as early as 1861 John Langton, the Auditor of Public Accounts, requested a similar control system.⁵¹ Speaking of the new legislation, Norman Ward pointed out that the need for such legislation nurtured hearty discussions and approval by both sides of the House. "Although [he said]

⁵⁰W.C. Clark, "Financial Administration of the Government of Canada", Canadian Journal of Economics and Political Science, IV (1938), p. 404.

⁵¹For a full discussion see Herbert R. Balls, "John Langton and the Canadian Audit Office", The Canadian Historical Review, Vol. XXI, No. 2, (June 1940), pp. 150-176.

both major parties showed when in opposition a tender solicitude for principle which they did not always reveal when in power, the most interested members in Parliament gave active support to the reorganization and extension of the scope of the audit and the stiffening of centralized executive control over expenditures that feature the inter-war period."⁵²

How was the Auditor General's role as an independent legislative officer affected by the Audit Act of 1931? According to one observer, "The Auditor General's independence was maintained and his areas of investigation were substantially broadened The accounts, which under the former Act [1878] he was required to audit only if and when requested to do so by the Minister of Finance, were to be examined regularly by him."⁵³ Professor Ward expressed a similar view: "The area of his audit was augmented, for after 1931 he needed no fiat from the Minister of Finance to investigate various accounts set apart from the main body of public accounts; all financial statements in the public accounts became his domain." But Ward also pointed to an important curtailment: "The grounds on which his [the Auditor General's] decisions could be overruled were materially

⁵²Norman Ward, Public Purse, p. 171.

⁵³Herbert R. Balls, "The Watchdog of Parliament: the Centenary of the Legislative Audit", Canadian Public Administration, Vol. 21, No. 4, (Winter 1978), pp. 598-9.

enlarged, for whereas before 1931 his decision that there was no parliamentary authority for any particular expenditure was, if supported by the Department of Justice, final, after 1931 such a decision lost its immunity from Treasury Board authority."⁵⁴ The incumbent Auditor General at the time felt that the new legislation was inadequate in many respects regarding his duties as an independent officer of Parliament. He was overruled more than once in his decisions by the Treasury Board, even when the Department of Justice supported him. Section 48 of the Act was interpreted as giving the Auditor General the power to pre-audit certain accounts; whereby, without his certificate of their correctness no payment should be made, unless his objections were overruled by the Treasury Board.

The Auditor General, who did not hold the view that Parliament intended the Treasury Board to have powers of appropriation, brought the matter to the attention of the Board as well as the House of Commons following his objection to certifying a payment. He emphasized that:

...had this case arisen prior to April 1st last, the Treasury Board could not have overruled my objection and this payment could not have been made without a vote of Parliament. The decision of the Treasury Board in this case would imply that it considers a payment may be made upon its direction notwithstanding the contention of the Auditor General and the opinion of the Justice Department that there is no parliamentary authority therefore. In overruling my objection supported as it was by the opinion of the Government's legal adviser and in ordering that payment be made, the Treasury Board has, in effect,

⁵⁴ Norman Ward, Public Purse, p. 170.

expressed powers of appropriation which, in my opinion, are not conferred on the Treasury Board by the Act.⁵⁵

A question that may be asked is what support if any was the Public Accounts Committee capable of giving to the Auditor General under the new legislation? Throughout the 1920s, as well as the McDougall years, the Public Accounts Committee was not very supportive of the Auditor General, even when those who succeeded McDougall were seen to be far less abrasive in their method of auditing. According to Professor Ward, "the statutory powers of the Audit Office were sharply reduced in 1931, partly because the office had not yet recovered from the low state to which it had sunk in the 1920s".⁵⁶ Another observation by Ward is that: "The Canadian Committee could not be relied on to do anything and by maintaining a total silence in 1931 permitted the ultimate transfer to centralized executive control of a number of functions which in Britain were discharged by the Public Accounts Committee, working either alone or with the co-operation of the Treasury."⁵⁷

The partisan atmosphere of the Committee, as was noted earlier in this discussion, seemed to have been the major

⁵⁵ Report of the Auditor General for the Fiscal Year ended March 31, 1932, Vol. 1, pp. liii, 263.

See Ibid., 1933, Vol. 1, p. liii, for the Auditor General's Report of this case to the House of Commons; and Ibid., 1935, Vol. 1, p. liv, for two similar cases in which his decisions, although supported by the Minister of Justice, were overruled by the Treasury Board.

⁵⁶ Norman Ward, Public Purse, p. 170.

⁵⁷ Ibid., pp. 169-170.

cause of its weakness as well as its negative attitude toward Committee meetings and procedures. Members would be conveniently absent for reasons dictated by party politics. As late as 1925 a chairman of the Public Accounts Committee spoke of the difficulty of getting the Committee to meet. "The difficulty of securing a quorum in the committees of this House, [he said] has become a scandal. Last year we called this Committee four times in succession, but were not able to secure the quorum of twenty-one. This year we have had the same experience, and this morning we had to wait nearly an hour to secure a quorum. We were able to secure it only after sending to all parts of the building and trying to get members out of other Committees."⁵⁸ The Committee was not functioning as intended by legislation and in fact had failed to complete the 'circle of control' that Gladstone spoke of in the 1860s. Before becoming Prime Minister, R.B. Bennett criticised the Public Accounts Committee in the House of Commons: "... the greatest service that could be rendered ... would be to take an active interest in the public accounts committee, not swayed by the desire to protect ministerial responsibility, but for the purpose of ensuring the greatest possible efficiency in the discharge of the obligations that rest upon the government in regard to the expenditure of public revenues."⁵⁹

⁵⁸ Debates, 1925, p. 1779.

⁵⁹ Debates, 1930, p. 537.

The more important improvements to the audit began during the tenure of Watson Sellar, who was appointed Auditor General in 1940. He worked previously in the Department of Finance and later was made Comptroller of the Treasury when that office was created in 1931. More importantly though, he was one of the draftsmen who authored the Audit Act of 1931 and he knew its shortcomings. His credentials were as impressive as his performance. As Auditor General he "was destined" according to Professor Ward, "to restore to his office the prestige and distinction, though not the public wrangling, that it had known under the first of his predecessors."⁶⁰

Sellar criticized the Consolidated Revenue and Audit Act of 1931 for its ineffectiveness in controlling post-war expenditures with regard to economy. He insisted that the Act be revised. He told the Public Accounts Committee that from the beginning the Act was never given the proper study it deserved because of the short time in which it was put together to meet an upcoming parliamentary session. He expressed his dissatisfaction with it and claimed to have had a draft on his desk ever since, hoping to have it rewritten.⁶¹ Sellar's views were reported to the House of Commons by the Committee, a support that was very much needed by the Auditor

⁶⁰Norman Ward, Public Purse, p. 195.

⁶¹See Public Accounts Committee, Minutes of Proceedings and Evidence, 1947, p. 462; also Norman Ward, Public Purse, p. 202.

General. Of the important changes which Sellar proposed soon after taking office, the following may be his most important, as stated in a joint memorandum between himself, the Deputy Minister of Finance, and the Comptroller of the Treasury.

Prior to the war, the audit of accounts was carried out by the Treasury and departments periodically transmitting records, statements and duplicate sets of vouchers to the Audit Office for examination. The tremendous increase, due to the war, in the volume of transactions made this practice undesirable for various reasons, the more important being (1) cost; (2) the risk of long delay in the uncovering of errors, etc., and (3) the desirability of a frequent and direct examination being made of the work of new staffs. Consequently, in large departments the audit is now made by officers of the Auditor General continuously examining working records immediately following the charging of payments to appropriations. As this has proven to be more efficient than the old practice, it is now a settled procedure of the Audit Office and is being extended to all accounts.⁶²

The pre-audit of expenditures was gradually discontinued by Sellar, thus leaving this function solely to the Comptroller of the Treasury who, under the new Act, had the exclusive power to pre-audit all issues of public money. The Auditor General also drastically reduced the voluminous paper flow that went through the Audit Office. For instance, departmental vouchers were no longer submitted to the Audit Office for detailed examination; instead departments were responsible for their own internal control. Details of a government's

⁶²Memorandum to the Minister of Finance by Deputy Minister of Finance, Comptroller of the Treasury, and Auditor General, July 28, 1942, p. ii, quoted in Norman Ward, Ibid., p. 196.

financial transactions, previously a part of the Auditor General's Report, were transferred to an annual document called Public Accounts. The Auditor General's Report and the Public Accounts were now two separate documents. The preparation of expenditure details became a function of the Comptroller of the Treasury.

The Auditor General was thus able to devote more time to his post-audit function of detecting fraud and error of a technical and an accounting nature, to verifying that grants made by Parliament were spent for the purpose for which they were intended and not overspent, and to examining expenditures to verify the authority for spending. The responsibility of the Auditor General was clear to Sellar as he noted: "The responsibility is on the Auditor General to decide what is to be drawn to the notice of Parliament, Absolute accuracy and fair statement are imperative because the obligation is to call attention to the facts, not to pass judgement."⁶³

The Auditor General's persistence and systematic approach in getting the Government to review the Consolidated Revenue and Audit Act of 1931 culminated in its repeal and replacement by the Financial Administration Act in 1951.⁶⁴ The new Act reaffirmed the basic principles of public financial control and gave a clearer description and a more concise definition of the functions of the chief control

⁶³ Audit Office Guide, 1954, p. 13.

⁶⁴ Statutes of Canada, 1951, C 12.

agencies, namely, the Audit Office, the Treasury Board, the Comptroller of the Treasury and the (Cabinet) Governor-in-Council. The House of Commons and the Public Accounts Committee, as part of the financial control system, were not included possibly because they are elective bodies and therefore a responsibility of the legislature.

The Act confirmed the independence of the Auditor General as a parliamentary officer responsible primarily for the post-audit of expenditures. The Act also gave the Treasury Board and the Comptroller of the Treasury wider statutory powers. The role of the Treasury Board was clarified to ensure the power of its jurisdiction in the financial administration and policy of government departments. As the so called 'inner cabinet', the Board was conferred with certain powers which were previously the responsibilities of the Cabinet. The Cabinet, however, reserved the right to check the decisions of the Treasury Board. Part I of the Financial Administration Act states:

The Treasury Board shall act as a committee of the Queen's Privy Council for Canada on all matters relating to finance revenues, estimates, expenditures and financial commitments, accounts, establishments, the terms and conditions of employment of persons in the public service, and general administrative policy in the public service referred to the Board by the Governor-in-Council or on which the Board considers it necessary to act under powers conferred by this or any other act.

The Financial Administration Act of 1951 also provided for the financial control of Crown Corporations as well as

more stringent control of public stores. The Auditor General had argued strongly since 1947 for parliamentary control over public property, when his observations gave him reason to point out the weakness of the control system under the Audit Act of 1931. The "worst defect", he said, "is that you have not got legislation to control stores and equipment."⁶⁵

There were also inconsistencies in the Act of 1931 that had to be cleared up under the Financial Administration Act. An example was the generally accepted principle that no Auditor General had jurisdiction in the administrative matters of the accounts he audited. But under the Act of 1931 the Auditor General audited the accounts of his own office. This continued until 1951, when the Financial Administration Act terminated such practice.

Significant progress was made during the Sellar era, much of which was due to the quality of cooperation he received from the Public Accounts Committee beginning in the early 1940s. The image of the Committee had also improved beyond the rigid partisanship that had caused it earlier to be an ineffective parliamentary control agent. The years that followed with the successive Auditors General were to be guided by Sellar's work, which took up where McDougall had left off - the struggle to establish parliamentary control above executive dominance and beyond regularity control.

⁶⁵ Standing Committee on Public Accounts, Minutes of Proceedings and Evidence, 1943, p. 187.

VII: THE ADVANCE BEYOND REGULARITY CONTROL

A. Maxwell Henderson succeeded Sellar in 1959 as Auditor General. Until his resignation in 1973, he worked within the concepts of a new philosophy of management in the public service. A Royal Commission was appointed in 1960, under the chairmanship of J. Grant Glassco, to examine and report on organization structure and management of government departments and agencies in terms of efficiency and economy. The Commission reported in 1962 to Parliament, and recommended that the existing financial administration could be improved by decentralizing control to the departments. This was a radical departure from the statutory recognition of centralized control since the enactment of the Consolidated Revenue and Audit Act of 1931. The recommendations in summary were:

1. that departments and agencies be given the necessary financial authority and be held accountable for the effective management of the financial resources placed at their disposal;
2. that they be responsible for designing and maintaining the accounting records necessary to meet their requirements;
3. that they be responsible for establishing and maintaining a proper system of internal audit;
4. that responsibility be placed on them for certifying to the Comptroller of the Treasury that expenditures would be lawful charges and that funds were available; and
5. that the Comptroller be responsible, inter alia, for:

- (a) issuing cheques, managing government bank accounts and cash funds; and
- (b) maintaining the central fiscal accounts for government, preparing periodic financial statements on an overall basis, and compiling the Public Accounts.¹

These recommendations were officially accepted by the government in 1968 and given statutory recognition in the establishment of the Government Organization Act in 1969². The new legislation established the Department of Supply and Services, abolished the office of Comptroller of the Treasury through amendments to the Financial Administration Act, and made the issue of payment a responsibility of the Receiver General for Canada (Minister of Supply and Services), which previously came under the portfolio of the Minister of Finance. The style of management that evolved from the Glassco Commission Report³ has been generally described as 'let the managers manage'. Under the decentralized system of financial control managers were given more authority and responsibility for spending program funds.

The Auditor General, unlike his predecessor, had several serious confrontations with the government regarding the interpretation of his duties. His tenure could be likened to that of his first predecessor, John Lorn McDougall, who

¹Herbert R. Balls, "The Watchdog of Government", pp. 604-5.

²Statutes of Canada, 1968-69, C 28.

³Report of the Royal Commission on Government Organization, Management of the Public Service, Vol. 1, 1962.

had quarreled persistently with the administration of his day. Henderson practised as a chartered accountant previously in the private sector, and brought to government his skills for maintaining efficiency and economy. Henderson stressed the importance of having an effective and efficient staff, which was to be his main tool in doing the job as Auditor General.⁴ He wanted his office to be completely autonomous in staff selection, training and other personnel requirements, and not subject to control by the Public Service Commission.⁴ Henderson took the view that, if the professional independence of the Auditor General was to be observed, he should not be placed in a position of having to rely on an agency which he audits to supply him with staff to do the work. This conflict was never resolved between Henderson and the Public Service Commission. The Commission did agree to delegate the authority for selection of staff to the Audit Office, but subject to monitoring by the Commission, and this was rejected by Henderson.

Parliament instructed the Public Accounts Committee in March 1972 to prepare a draft Bill concerning the office functions and powers of the Auditor General. The resolution of the Committee stated:

⁴For discussions surrounding this conflict see Anna Maria Magnifico, "Office of the Auditor General of Canada: Staffing Question 1968-1973", (Unpublished M.A. Thesis, McGill University, 1975), Chapters IV, V.

That the Chairman of the Committee be authorized to seek assistance from the Auditor General of Canada, Department of Justice and both Houses of Parliament to prepare a draft Bill concerning the office, functions and powers of the Auditor General, such draft Bill to be presented to this Committee by October 1, 1972 or at the earliest opportunity thereafter if the Committee is not then sitting.⁵

The Bill was never presented to the Public Accounts Committee because Parliament had recessed in July, and following the general election in October 1972 Parliament did not reconvene until January 4th the following year. Henderson's observation at the time of his retirement was that legislation was needed to free the Auditor General from central agency control. The legislation he said:

...should be enacted promptly so as to enable the Auditor General to make much needed changes in the organization of his Office. Such legislation is of vital importance to the Auditor General and to the future of his work for Parliament. If the Auditor General of Canada is to be truly independent, he must be free to recruit the staff he needs and to determine their salary classifications within the framework of the public service of Canada.⁶

The other major area of controversy between the Auditor General and the administration was Henderson's system of reporting on 'non-productive expenditures'. This term had never been given a clear operational definition. Actually the term was developed in the 1950s under the previous Auditor General, Watson Sellar, who at first used the term "nugatory payments." He instructed his staff that charges such as

⁵Quoted by A. Maxwell Henderson in "Officer of Parliament", Canadian Chartered Accountant, April 1973, p. 45.

⁶Ibid.

settlements associated with the cancellation of an agreement or contract before the purpose is fully implemented were subject to audit scrutiny.⁷

Unproductive expenditures generally have been regarded as transactions which conformed technically to applicable expenditure regulations, but from which no benefit resulted. Henderson insisted on reporting unproductive expenditures in detail, and was rebuked by the executive. Ministers protested on the ground that the Auditor General was exceeding his authority by getting involved in policy matters. This clearly was not the case, and there were established precedents from the former Auditor General's time that supported Henderson's practice of reporting all unproductive expenditures. The executive's objection was due mainly to the embarrassment caused to certain ministers by the Auditor General's report on unproductive expenditures and also the ammunition it gave the Opposition against the Government.

In his report of 1969, the Auditor General classified almost forty million dollars of government expenditure as 'non-productive'; of this amount one-half were expenditures for the Northumberland Causeway project in Prince Edward Island, which was never completed. Special mention was also made of the tariff concessions given by the Canadian Government to automotive manufacturing companies in the United

⁷ See Audit Office Guide, Ottawa; Queens Printer, (1954), p. 77.

States. The Liberal administration, feeling uncomfortable and embarrassed by the Auditor General's report, as well as by the press coverage and publicity of these examples of the wanton waste of public money, retaliated forcefully through the voices of top echelons of the Cabinet, with the concurrence of the Prime Minister.

The President of the Treasury Board, Mr. Charles (Bud) Drury, expressed his objections in the House of Commons to what he saw as the Auditor General's intrusion and interference in government policy beyond the purview of his legal authority. He argued in the House that:

He [the Auditor General] has expressed his view as to the appropriateness of some government policies. Now in this sense he is pitting his judgement as to sound business practice, sound governmental policy, against the government, and not unnaturally, you would not expect a government in every instance to agree with his judgement. I wonder myself whether the Auditor General should cast himself in this role or whether we should look for really another kind of person to be Auditor General.⁸

The President of the Privy Council, Mr. Donald Macdonald, in an equally forceful manner expressed his objections to the Auditor General's interpretation of his audit duties. He told the House that:

...we don't regard it as being his responsibility to criticize the underlying policy involved in certain decisions. It is Parliament's responsibility and the government as approved by

⁸ Debates, April 13, 1970, p. 5755.

Parliament for deciding on the policy. We don't think it is the Auditor General's prerogative to comment on that.⁹

The Prime Minister, Mr. Pierre Trudeau, concurred and in defending his government's action told the House that the Auditor General's inquiries had intruded on "an area of government policy", and that the dispute between the Auditor General and the executive was "an example when there is a criticism of government policy."¹⁰

The debates prompted the Leader of the Opposition, Mr. Robert Stanfield, to introduce a motion of non-confidence in the government for attempting to muzzle the Auditor General "by criticizing [him] ...for carrying out his duties according to law...."¹¹ The argument of the Leader of the Opposition was that:

The government knows that if it is going to close the door on the Auditor General with regards to questions involving policy decisions, it is virtually closing the door completely. After all, this distinction between policy and non-policy from this point of view is not really a distinction at all; it is a dodge that is designed to strip the Auditor General of power without appearing to have moved his power.¹²

The motion, naturally, was defeated by the majority government. The counter argument raised by the President of the Treasury Board against the statement of the Leader of the Opposition was that:

⁹ Ibid.
¹⁰ Ibid.
¹¹ Ibid., April 21, 1970, p. 6109.
¹² Ibid.

If the Auditor General comments on, or is expected to comment on, policy questions, sooner or later he will, by inference, become engaged in partisan differences. He will appear sooner or later to be taking sides in matters which are the subject of political debate. If the Auditor General is cast in this role by the duties Parliament imposes on him, his independence and his effectiveness will have been endangered.¹³

The Auditor General, in addressing the Public Accounts Committee on the question of his propriety in reporting unproductive expenditures, stated that "...it was not an easy problem.... It boils down to a question of value for money."¹⁴ But the discretionary powers of the Auditor General are very much within the purview of his responsibilities when applied to non-productive expenditures. Section 61 (1) of the Financial Administration Act states that: "The Auditor General shall report annually to the House of Commons the results of his examinations and shall call attention to...and to any other case that the Auditor General considers should be brought to the notice of the House of Commons."¹⁵ This clause was mostly responsible for the introduction of Bill C-190 in 1970 by the President of the Treasury Board in the House of Commons, based on a report of the Public Accounts Committee earlier that year.

Basically, Bill C-190 was intended to review and amend the existing legislation in light of the Auditor General's reporting duties and discretionary powers. The Bill was very

¹³ Ibid., pp. 6120-21.

¹⁴ Standing Committee on Public Accounts, Minutes of Proceedings and Evidence, 1960-61, p. 523.

¹⁵ Financial Administrative Act, R.S., 1970, Section 61 (1).

controversial and eventually had to be withdrawn shortly after it was introduced, because of the severe criticism it received from some members of the House, the Auditor General and the press. The general reaction of its critics was that it limited drastically the reporting role of the Auditor General. The Auditor General after retiring wrote: "that harrassment [by the administration] reached its peak in November 1970, when the government Bill C-190 landed in the House of Commons, the effect of which would have been to rob the office of the Auditor General of much of its power."¹⁶ Henderson's persistent and mostly unresolved confrontations with the executive made him very unpopular with the government throughout the greater part of his tenure. Like his first predecessor, McDougall, he left office in a stormy mood, but upheld the principle of independent audit, which was to be later accepted and enforced by his successor. Reflecting on the days of his auditor generalship, he wrote in 1973 that: "The Auditor General will know if he is doing his job efficiently, if he finds himself loved by the Parliamentary Opposition of the day, and just as thoroughly disliked by the Government."¹⁷

James J. Macdonell, the incumbent Auditor General, succeeded Henderson in July 1973. Macdonell and Henderson once worked for the same firm of chartered accountants, Price

¹⁶ A. Maxwell Henderson, "My War with the Government", McLeans, July 1973, p. 63.

¹⁷ _____, "Officer of Parliament", p. 40.

Waterhouse and Co. The new Auditor General was not unfamiliar with the problems that his predecessor had had in defending the independence of his office. Shortly after assuming office Macdonell saw fit to end the controversial arguments as to what was, or was not, the propriety of the Auditor General's function as an independent legislative officer of Parliament. He wanted a clearer definition of his role, and on addressing the Public Accounts Committee, about three months after his appointment, stated his request as follows:

Because the terms of reference of the drafting committee did not include a study of the functions of the Office of the Auditor General, I am under the impression that no study was made of his duties and responsibilities, the scope of his examinations and the nature and content of his Report to the House of Commons, all of which have remained substantially unchanged for many years. I am aware that there are significant differences between the duties and responsibilities of the Auditor General of Canada and the scope and nature of his work as compared with his counterparts in other countries.¹⁸

To carry out the inquiry the Auditor General, on consultation with the Public Accounts Committee, appointed an Independent Review Committee on the Office of the Auditor General. The terms of reference read:

The Review Committee shall inquire into and report upon what should be the responsibilities, relationships with the government departments and agencies, and reporting procedures of the Office of the Auditor General of Canada and what should be

¹⁸ Standing Committee on Public Accounts, Minutes of Proceedings and Evidence, October 30, 1973, p. 11:7.

the statutory and other requirements to ensure that he can meet such responsibilities with the necessary degree of independence.¹⁹

Essentially, the Committee was required to review:

- . the responsibilities that should be carried out by the Auditor General, including the scope of his audits and the nature of his reports; and
- . the independence of the Auditor General and the nature of the relationships he should maintain within and outside the Government.²⁰

During the auditor generalship of Mr. Maxwell Henderson, the controversial question concerning the authority of the Auditor General to report on non-productive expenditures, under the "any case" clause of the Financial Administration Act, actually laid the course on which the inquiry was to be embarked in redefining the role and functions of the Auditor General. As Henderson had stated in replying to questions on non-productive expenditures, it was a question of "value for money". The items which were generally reported as non-productive expenditures were usually based on the Auditor General's discretionary judgement, as to whether or not appropriated public funds were economically and efficiently used for the purpose intended by Parliament. This discretionary power is an indisputable fact, particularly when exercised by the Auditor General for purposes of reporting to Parliament on the economy and efficiency of public

¹⁹ Canada, Report of the Independent Review Committee on the Office of the Auditor General of Canada, Ottawa, (March 1975), p. VII.

²⁰ Ibid., p. 3.

expenditures. Section 58 of the Financial Administration Act gives such authority to the Auditor General:

"The Auditor General...shall ascertain whether in his opinion...

(c) money has been expended for the purposes for which it was appropriated by Parliament, and the expenditures have been made as authorised."²¹

The general interpretation of this clause by the executive was much narrower and more restricting than the clause implied. It was the view of the executive that the Auditor General in reporting on such matters as non-productive expenditures was showing a personal interest in government policy, an area which was beyond his legal authority. His role was viewed primarily as performing an accounting and a regulatory function; therefore he should have nothing to say officially on whether public funds were spent economically and efficiently. Maxwell Henderson had never been able to resolve this conflicting point of view, and in describing what he termed government harassment of the Auditor General, he wrote:

It seemed to me that Macdonald [President of the Privy Council], Drury [President of the Treasury Board] and other ministers such as Judy LaMarsh [Minister of Health and Welfare] (who once called me "an Opposition Peeping Tom"), completely misconstrued my role. They seemed to feel it was my job merely to see that the books balanced, and then sit down and shut up. But, of course those were not my instructions, and I did not intend to behave that way, however much I was harassed.²²

²¹Financial Administration Act, R.S. 1970, Section 58.

²²A. Maxwell Henderson, "My War with the Government", p. 63.

Although this statement, may have been made in anger, it was later endorsed strongly by the Independent Review Committee, which stated in one of its observations:

The role of the Auditor General is still widely perceived in the context of the regularity and propriety that were the administrator's principal financial preoccupations up to the 1960s. Attempts at redefinition through new legislation have produced much debate but no consensus. Moreover, the present legislation contains a number of ambiguities regarding the Auditor General's responsibilities. It seems reasonable to assume that as long as this legislation remains in force, seeds of controversy will continue to exist.²³

The narrower interpretation given to the Auditor General's authority by the executive was unacceptable and contrary to the views held by the Committee - that Parliament intended appropriations to be spent "prudently", that is, "it surely imposes a trust on the administration...with a view to economy and efficiency. In other words, the administration is expected to ensure that value for money will be obtained."²⁴ The Committee's inquiry and its recommendations were therefore centred around the definition of "value for money" as it relates to the expenditure of public money appropriated by Parliament for a specific purpose. The purview of the Auditor General's authority therefore went beyond the regularity of accounts, because his duties required him to determine whether value was received for money spent by the government on all items ("any case") of expenditures. The Committee in its

²³ Independent Review Committee, pp. 23-24.

²⁴ Ibid., p. 33.

definition of "value for money" emphasized three factors underlying this concept - economy, efficiency and effectiveness. The definition reads:

Value for money, as a concept, is complex and poses problems of judgment for the person making its evaluation. It encompasses three inter-related components: whether the money is expended economically and efficiently and whether the program on which it is expended is effective in meeting its objectives. The first two components, economy and efficiency, are susceptible to reasonably objective definition and measurement, and there should be no discrepancy between a policy approved by Parliament and the carrying out of this policy by the administration in an economic and efficient manner.²⁵

This definition played a central part in the recommendations of the Committee; but the Committee was also careful in mentioning that the existing financial system could not readily accommodate the systematic evaluation of effectiveness until the system was improved. The development of an efficient control system, that could measure the benefits received from government programs, would allow the Auditor General to perform an audit of effectiveness relating to such programs. The Committee reported its recommendations to the House on March 30th, 1975.²⁶ The Auditor General's independence was given paramount importance throughout the recommendations, as was the widening of his discretionary powers to report on 'any case' he felt should be brought to

²⁵ Ibid.

²⁶ For an abridgement of these recommendations see Appendix II, p. 188 ff.

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the attention of the House of Commons. To guarantee this independence and to guard against executive dominance, or 'harrassment', to use Henderson's term, the Committee felt that special legislation was imperative and so stated:

Recommendation I

Separate legislation should be enacted concerning the role, responsibilities and relationships of the Auditor General and the Audit Office. The present Financial Administration Act should be amended accordingly.²⁷

The government accepted the Committee's recommendations which were later introduced in the House of Commons on November 1, 1976, as Bill C-20, "An act respecting the Office of the Auditor General of Canada and matters related or incidental thereto". The Bill became law on July 14, 1977. The new legislation enhanced the powers of the Auditor General by strengthening his authority to report if:

- 1/ accounts had not been faithfully and properly maintained or public money had not been fully accounted for;
- 2/ essential records had not been maintained or the rules and procedures applied had been insufficient to safeguard and control public property, to secure an effective check on the assessment, collection and proper allocation of the revenue and to ensure that expenditures had been made only as authorized; or
- 3/ money had been expended other than for the purpose for which it was appropriated by Parliament. In addition, the Auditor General was directed to report any case in which he had observed that:

²⁷ Ibid., p. 24.

- 4/ money had been expended without due regard to economy or efficiency; or
- 5/ satisfactory procedures had not been established to measure and report the effectiveness of programs, where such procedures could appropriately and reasonably be implemented.²⁸

While the Independent Review Committee was busy developing its recommendations for change to the Auditor General's Office another study was also in progress, the Financial Management and Control Study.²⁹ The study group was established by the Auditor General in 1974 to examine the financial management and control systems of government departments and agencies. The study was directed to report on:

- 1/ the statutes and Treasury Board regulations, policies, directives and guidelines relevant to financial management and control, and the extent of compliance therewith in departments and agencies;
- 2/ financial systems and procedures in departments and agencies, including budgetary controls, accounting for revenues, expenditures, assets, liabilities, commitments, and financial reporting systems;
- 3/ the integration of the departmental and agency accounting processes within the central system;
- 4/ the extent to which the financial systems and procedures were monitored and audited by internal or operational audit groups;

²⁸ Quoted in Herbert R. Balls, "The Watchdog of Parliament", Canadian Public Administration, Vol. 21, No. 4, Winter, 1978, p. 609.

²⁹ For detailed findings of the Study see Supplement to the Auditor General Report for the Fiscal Year ended March 31, 1975.

- 5/ the type, accuracy, timeliness, purpose and use of financial information and reports currently prepared;
- 6/ the extent of decentralization following on the recommendation of the Royal Commission on Government Organization and its impact on overall financial control; and
- 7/ the duties, responsibilities and functions of financial and accounting managers and staff with special reference to the system of financial and accounting control and the relationships of their functions with central financial and accounting agencies.³⁰

The Study Group reported several weaknesses in the financial management control systems throughout the central control agencies and government departments and agencies. The Treasury Board, for example, was reported as having an inadequate system without the capacity to discharge effectively its statutory responsibilities. On the other hand, decentralization of financial control to the departments, as recommended by the Glassco Commission and enacted in the Financial Administration Act of 1969, was not being carried out effectively by the departments owing to severe weaknesses in their accounting and reporting systems. Accurate information on financial matters in general, and particularly through the estimates and public accounts reports, needed much improvement for reporting accurate data. These and other weaknesses found by the Control Study were summarized by the Auditor General: "The study leads to one clear conclusion": "the present state of the financial management

³⁰ Report of the Auditor General for the Fiscal Year ended March 31, 1974, p. 68.

and control systems of the departments and agencies of the Government of Canada is significantly below acceptable standards of quality and effectiveness."³¹

The Auditor General on the basis of the findings of the Control Study stated:

All the recommendations in this report have as their objective the improvement of financial controls. The more significant ones, either specifically or by implication, recognize the need for a central agency to supply overall direction. It is clear that if controls are to be coordinated and are to operate effectively, responsibility for the following activities should be clarified and unified wherever possible:

- recommending government policies, directives and guidelines in the area of financial management and control, and providing interpretations thereof;
- advising on the form of the Estimates and Public Accounts;
- assessing departmental program and activity structures, and cost and other measurement systems in support of them;
- approving and monitoring departmental budgetary control, financial reporting and financial control systems;
- providing analyses of variance between planned and actual financial performance;
- establishing standards for and monitoring internal audit practices within departments and agencies;
- establishing the accounting practices governing the financial statements and Public Accounts of Canada; and

³¹ Ibid., March 31, 1975, p. 4.

- assisting the Public Service Commission in the selection, training and career development of financial staff.³²

He again expressed his concern a year later in 1976, for the "major deficiencies" and "unsatisfactory conditions" of the financial control system, as his recommendations were not being expedited quickly enough to rectify substantial weaknesses:

I am deeply concerned that Parliament - and indeed the Government - has lost, or is close to losing, effective control of the public purse...

Our follow-up reviews in the Treasury Board, Secretariat and in departments and agencies, conducted more than a year after most of the situations were brought to the attention of the government officials directly concerned, suggest in some cases a failure to grasp fully the significance of the major deficiencies and to identify effective ways to remedy the unsatisfactory conditions. Most disturbing of all: at the central level only a relatively minor organizational change has been made and additional man-years commensurate with the needs have not yet been allocated to ensure the restoration as soon as possible of adequate financial management and prudent and effective control of public funds throughout government.³³

He concluded:

The full results of the two-year study lead me inescapably to the opinion that: Based on the study of the systems of departments, agencies and Crown corporations audited by the Auditor General, financial management and control in the Government of Canada is grossly inadequate. Furthermore, it is likely to remain so until the Government takes strong, appropriate and effective measures to rectify this critically serious situation.³⁴

³² Ibid., pp. 108-109.

³³ Ibid., March 31, 1976, pp. 9-10.

³⁴ Ibid., p. 9.

The proposals developed by the Auditor General's Office for efficient and effective control of public expenditures were based on the concept of a centralized financial control system. This concept was also a return to the pre-Glassco era, when control of public finance was strongly centralized under the Comptroller of the Treasury, who carried out a pre-audit of the issue of money to the department, while the Auditor General performed a post-audit function. The office to be created for regulating all functions of financial management and control was that of the Comptroller General of Canada.

The Comptroller would ensure that public money and assets were effectively controlled, and that expenditures were in accordance with the 'value for money' concept, that is, with due regard for economy, efficiency and effectiveness. The audit of value for money was to be based on the assessment of these three key components. The following definitions of these terms were developed by the Audit Office:

Economy refers to the terms and conditions under which the Government acquires human and material resources. An economical operation acquires these resources in appropriate quality and quantity at the lowest cost. If control mechanisms are not in place, programs may be overstaffed or understaffed, or inappropriately equipped in other ways to deliver the expected results.

- Efficiency refers to the relationship between goods or services produced and resources used to produce them. An efficient operation produces the maximum output for any given set of resource

inputs; or, it has minimum inputs for any given quantity and quality of service provided. Efficiency is obviously more measurable and more controllable in some situations than in others. The underlying management objective is increased productivity.

Effectiveness concerns the extent to which a program achieves its goals or other intended effects. For example: to increase income in a particular area, a program might be devised to create jobs. The jobs created would be program output. This contributes to the desired program effect of increased income which can be measured to assess program effectiveness. Of course, not all programs are equally evaluable. Also, management procedures for measuring and reporting effectiveness will differ between programs.³⁵

The Auditor General would assess value for money by auditing the systems of control in respect of these three components, but would not audit results of government programs although this was recommended by the Independent Review Commission.

After reviewing the Auditor General's proposals, the government felt that they needed further study. The President of the Treasury Board, Mr. Robert Andras, therefore appointed a Royal Commission on Financial Organization and Accountability³⁶ in November 1976, presumably to verify the Auditor General's proposals. The rationale given by Mr. Andras for appointing the Royal Commission was that the proposals raised numerous questions that required answers other than those of the Auditor General. He stated that:

³⁵ Report of the Auditor General for the Fiscal Year ended March 31, 1978, pp. 34-35.

³⁶ Was later renamed the Royal Commission on Financial Management and Accountability.

The main reason for this is quite straightforward and will be easily grasped by all Parliamentarians: the appointment of a 'Comptroller General' as a sort of 'umpire', to quote the Auditor General himself, calls into question not only fundamental aspects of government organization, but also some basic tenets of our parliamentary system of government.³⁷

The President of the Treasury Board in an effort to further strengthen his argument for a review of the Auditor General's recommendations cited the Glassco Commission, which earlier in the 1960s had recommended a decentralized system of financial control. This was a direct contrast to the centralized system proposed by the Auditor General. The compromise was that the Comptroller General would provide direction to the departments in maintaining the decentralized management that was already in progress in accordance with recommendations of the Glassco Commission. To assure the public that the government was not acting in undue haste by appointing the Royal Commission, the President gave the following reasons:

An unwillingness, dictated by prudence and experience to introduce untried and unprecedented changes in the overall government system which has emerged from the Glassco Commission and which, despite its occasional failings, is considered to be one of the most advanced in the world;

The need to give due consideration to the necessary and unavoidable interrelationships between financial management and control, on the one hand, and other equally important dimensions of management, such as resource allocation, personnel management, performance evaluation and the wide range of other administrative functions, on the other;

³⁷ Treasury Board News Release; November 19, 1976 (Memo).

A determination to avoid the re-centralization of management in government, in the guise of a tightening of monitoring and control by the Treasury Board;

The need to take fully into account the specificity of the government environment in any review of present structure, policies, systems and procedures for financial management and control; and so on.³⁸

The Commission was directed to:

...examine and report on the management system required in the interrelated areas of:

- (i) financial management and control;
- (ii) accountability of deputy ministers and heads of Crown agencies relative to the administration of their operations; and
- (iii) the evaluation of the administrative performance of deputy ministers and heads of Crown agencies;

and the interdepartmental structure, organization and process applicable thereto, including in particular;

- (a) the development, promulgation and application of financial management policy, regulation and guidelines by central agencies;
- (b) procedures to ensure that
 - (1) necessary changes in policy, regulations and guidelines are identified, and
 - (2) policy, regulations and guidelines are adhered to;
- (c) systems and procedures to ensure effective accountability to government and, where appropriate to Parliament, of the administration of government departments and agencies; and
- (d) the organization necessary in central agencies, government departments and Crown agencies to achieve the foregoing.³⁹

³⁸ Ibid.

³⁹ Royal Commission on Financial Management and Accountability, Progress Report, 1977, pp. VI-VII.

While the Commission was in the process of carrying out its study, the government suddenly decided to accept the Auditor General's proposals and to create the position of Comptroller General of Canada. Whatever made the government move so quickly against its previous decision, and without even receiving the views of the Royal Commission will probably remain a political secret. The explanation given by the President of the Treasury Board should be viewed according to its political rhetoric, and craftsmanship for retreat in disguise. He told the House of Commons that:

...the government was both puzzled and concerned by the Auditor General's description on several occasions of this proposed official as being the 'chief financial officer' and 'umpire' of the government. The ramifications of that concept would have impacted on many other facets of management beyond the financial administration function per se. Because of the complex issues that it raised and the numerous questions related to it, the government felt that a thorough review of the proposal was required before any organizational changes necessary to its implementation were made.

I am pleased to report, Mr. Speaker, that after a long and detailed series of constructive discussions that I have held with the Auditor General, we have been able to clarify the intent of his recommendation and to reach a clear understanding of the duties, responsibilities and reporting relationships for the Comptroller General. I am reassured to find, Mr. Speaker, that there never has been any real difference between the views and opinions of the Auditor General and the government's declared objective to further strengthen administrative controls and to eliminate inefficiencies and waste.⁴⁰

⁴⁰Treasury Board, Note for a Statement by the Honourable Robert Andras, President of the Treasury Board in the House of Commons on Second Reading of Bill C-20, April 25, 1977, pp. 13-14.

In order to implement the proposals of the Auditor General, and to create the position of Comptroller General, the Financial Administration Act of 1951 first had to be amended. Bill C-10 was therefore introduced in the House of Commons on October 31, 1977, by the President of the Treasury Board. The Comptroller General of Canada was "to hold office during pleasure and to perform such duties and functions as may be assigned to him by the Treasury Board, and the Comptroller General shall rank as and have all the powers of a deputy head of a Department."⁴¹ This officer was to report directly to the President of the Treasury Board and would be responsible for the expenditure control system and direction of resource allocation. As an executive officer, the Comptroller General was given the authority to examine administrative practices and procedures for the use of resources authorized by the government and Parliament, and to design, develop and implement adequate control systems, where these were either lacking or inefficient, ineffective or uneconomical. The concept of value for money was to be the basic underlying principle on which control systems would be judged for their accuracy and usefulness in assessing the cost of programs in relation to the benefits received. The Auditor General's function therefore had become more concerned with systems audit, and had less to do with the regularity of accounts according to the terms of parliamentary appropriations.

⁴¹House of Commons of Canada, Bill C-10.

The audit of value for money was a direct shift from regularity control and transaction auditing to one of auditing the systems of control. Canadian Auditors General had always felt restricted, cramped and limited by the narrow interpretation that was usually given the audit function in the financial control system. Regularity audit was concerned primarily with enforcing the rules and reporting on infringements of government regulations and the detection of accounting errors. There was no particular interest in efficiency or the economy of administrative action. The Auditor General Act of 1977 changed the concept of legislative audit to include the examination of administrative activities, through 'value for money' auditing. This was given legislative recognition under Section 7 (2) of the Act which states that:

Each report of the Auditor General under subsection (1) shall call attention to anything that he considers to be of significance and of a nature that should be brought to the attention of the House of Commons, including any cases in which he has observed that...

- (d) money has been expended without due regard to economy or efficiency; or
- (e) satisfactory procedures have not been established to measure and report the effectiveness of programs, where such procedures could appropriately and reasonably be implemented.⁴²

The Auditor General, in order to fulfil his mandate for reporting to Parliament on value for money must now rely on an

⁴² Auditor General Act, 1977, p. 25-26, Elizabeth II.

effective and a reliable operating system to report on the absence of satisfactory procedures for measuring and reporting the effectiveness of programs. This was explained by the Auditor General in 1975, prior to the establishment of the Act:

In determining the nature and extent of his audit examinations and tests, an auditor is entitled to rely on a well-designed and effective operating system of internal accounting controls. When undertaking responsibility for auditing the accounts of an organization as immense and complex as the Government of Canada with professional resources of relatively modest proportions, it is evident that the quality of the financial and accounting systems will play a large and important part in determining the size and nature of the professional audit resources needed - and where and how they should be applied.

This year, through the Financial Management and Control Study and the support of the public accounting profession, it has been possible to conduct quite an extensive evaluation of the financial control system. On the basis of the results...it is clear that this shift in emphasis from transaction auditing to system auditing has been worth while and productive. Accordingly, in devising future audit programs, an appropriate balance will be planned to give due weight and proportion to evaluating the adequacy and the effectiveness of financial management and control systems throughout Government.⁴³

To ensure that the audit of value for money is effectively applied to the administrative activities of the Public Service of Canada, the Auditor General established a study group - Study of Procedures in Cost Effectiveness (SPICE) - to develop a systematic approach to auditing. In

⁴³Report of the Auditor General for the Fiscal Year ended March 31, 1975, p. 13.

his report of 1977 the Auditor General stated the purpose of this special project group:

Recognizing the imminence of the introduction of the Auditor General Act and, consequently, the pressing need to prepare my Office for its new responsibility, in September 1976 I initiated the Study of Procedures in Cost Effectiveness with the following objectives:

- to compile information on the 'state of the art' of management control systems in the public sector, in terms of economy, efficiency and effectiveness;
- to assess and report on existing procedures for planning, measuring and controlling activities in Canada's public service (in the interests of economy, efficiency and effectiveness); and
- to recommend to the Office of the Auditor General how this new mandate should be exercised in the future.⁴⁴

The evolutionary development of Canadian legislative audit had finally reached beyond the traditional concept of regularity audit as the primary function of Canadian Auditors General. The incumbent Auditor General, James J. Macdonell, did not exactly take the bull by the horns in achieving more recognition and wider powers for the Audit Office through the establishment of the Act of the Auditor General. He continued instead a persistent attitude for reform of the audit, which his predecessors had fought for, in spite of constant suppression by executive dominance. The narrow interpretation of the audit function and the lack of clear meaning and precise wording

⁴⁴ Ibid., 1977, paragraph 19.14.

in audit legislation denied the Auditors General the control authority of their discretionary powers. Now that these powers have been restored and greatly strengthened under the new legislation, the interest will lie less in the area of regularity control, although this traditional function of the audit is essential for maintaining order and discipline in the administration of financial matters. A modern concept of audit has evolved to meet the needs of a more developed administrative state, which is concerned with the expression of the liberal ideology that money spent should correspond to its value in benefits received. This was an original idea of the economical and administrative reformers of the eighteenth century, discussed in an earlier chapter of this work. The advance beyond regularity has established a hallmark in the Canadian legislative audit system, one that must be regarded as equally significant as the British Audit Act of 1866, which established the Office of the Comptroller and Auditor General as an independent parliamentary officer responsible for protecting the public purse.

It should be of interest to watch for future innovative changes as the Auditor General's SPICE project continues its study for improvements to the functions of the Audit Office and submits recommendations to the Auditor General for his action.

VIII: CONCLUSION

The Auditor General has never been a popular officer, and he never will be a popular officer, because his duties make him unpopular.

Sir Hecter Langevin,
House of Commons,
Debates, 1889

The preceding commentaries and discussions have brought us to a point whereby a conclusion must pull together the main issues surrounding the thesis of the inquiry. A conclusion is often considered by the non-serious reader to be an abridgement of the text and therefore reading is not devoted entirely to the text. This creates a problem for both the writer and the reader. According to E.L. Normanton the conclusion of a study

... is a hazard for both the reader and the writer. For the reader because he may be solely tempted to read this chapter alone in the hope that it will tell him everything of importance which has gone before, as though an academic study were the same sort of thing as the report of a commission appointed to make practical recommendations upon a specific problem. A hazard also for the writer because foreseeing the temptation to which his reader will be exposed, he may produce a final chapter which summarizes the rest of his book and might at a pinch serve as a substitute for it.¹

¹E.L. Normanton, The Accountability and Audit of Government, (Manchester, University Press, 1966), p. 407.

This final chapter, however, is not an abridgement of the study, neither does it provide any recommendations. It merely summarizes the historical situations - political, economic and social - which were found by this inquiry to have influenced the development of legislative financial control and the office of the Canadian Auditor General.

In order to understand the development of Canadian financial administration it was necessary that the study examine the evolution and development of British financial administration which formed the model for the Canadian system. Nineteenth-century liberalism was responsible for many social, administrative and financial reforms in British and Canadian financial administration. The Lockian liberal ideology found expression in social protest organizations such as the Economical and Administrative Reform movements which advocated protection of the tax payer from arbitrary government restraints. There were social pressures which demanded equitable services for the expenditure of public funds, and reform of financial legislation to ensure public accountability of government expenditures.

The most significant reform legislation was the Exchequer and Audit Departments Act of 1866, which created and established an audit office with a Comptroller and Auditor General acting as an independent officer of Parliament. This landmark in the development and reform of financial legislation was the result of the liberal ideologies

voiced by parliamentarians such as Edmund Burke and William E. Gladstone. The British office of Comptroller and Auditor General became the model on which modern Canadian financial administration developed. Canada's financial system, like the British, is based on the two cardinal principles of responsible government, namely, legislative supremacy and executive responsibility.

The British model of financial administration was adopted by Canada more in theory than in practice. Canadian financial administration showed marked divergencies from the British system, particularly in the area of executive accountability for public expenditures. The study cited various reasons for this, but the most important were the differences between British political, economic and social institutions and those of Canadian society. Britain had a long history compared with Canada's, stretching over many centuries. During this time it developed well-disciplined political, economic and social structures. The main objective of the social structures was to preserve and continue British traditions without divergency from established patterns. By 1866, therefore, when Britain's modern system of financial administration was introduced, the liberal ideology of social reform was already implied. The new financial legislation therefore was congenial with British society.

Canada, on the other hand, was essentially a frontier developing country and unlike Britain was preoccupied more

with regional interests than with national interests. The rapid economic development that characterized frontier Canadian society was not adaptable to the traditionally established British customs of a developed society. Liberalism as expressed in Britain, for example, was Lockian in principle even when influenced by the laissez-faire economic philosophy of Adam Smith. The liberal ideology of social reform was further developed by the Benthamite school of thought, which argued for collective interests over individual interests - 'the most happiness for the most people'. Canadian liberalism, unlike the British, continued to be basically Lockian but was practised in an atmosphere of laissez-faire doctrine, whereby freedom of contract and of expression epitomized the frontier spirit of Canadian political, economic and social conditions.

The study drew attention to the transference of individual-help, as practised under laissez-faire doctrine, to a larger scale into state-help but, with retention of the original liberal concept of individualism. The liberal ideology of individual freedom from arbitrary government actions and restraints found expressions in local political constituencies, which were usually the conveyances of local and individual interests. The debate of these local interests in the House of Commons, by members of the government in particular, was staged for political dividend.

When we examined the circumstances surrounding the

development of legislative financial control in Canada it was observed that each audit law was designed to protect the tax payer from government overspending of public funds. Underlying these audit laws and their reforms was the liberal concept of "value for money" - did the tax payer receive equitable value in relationship to government expenditures? With the rapid growth in government expenditures and increase in size of the bureaucracy, the scrutiny of public expenditures by an independent body - the Audit Office - was necessary if the 'national rights' of the tax payer were to be enforced. The Lockian ideology of 'national rights' included 'property' - everything concerning the well-being of the individual - which therefore, applied to taxes or the public purse in general. The British Exchequer and Audit Departments Act of 1866 created a comprehensive financial system whereby all government spending became subject to public audit. This Act made the executive accountable to Parliament for public funds.

The independence of the Canadian Auditor General has been an issue of controversy since the early years of Confederation. The question of how free and independent the Auditor General should be in exercising his functions without interference from the executive was for many years a moot point. The audit legislation of 1878 made the Auditor General an independent officer of Parliament - independent in the sense that he was free to carry out his duties without

interference from the executive branch of government. The Auditor General was also given wide discretionary powers for reporting to Parliament on 'all matters and cases' relating to public expenditures. The annual reporting of these cases by the Auditor General has often been embarrassing to the government in power. An example was the reporting of those items of expenditure which the Auditor General referred to as "non-productive expenditures" - meaning that technically they conformed to regulations, but no 'value' was received for the money that had been spent. The controversy, over the years, concerning the Auditor General's authority in reporting non-productive expenditures was finally put to rest in 1977. The newly established Auditor General Act widened and clarified the functions of the Auditor General in this respect. The Act also brought the interest of the public within the realm of legislative financial audit. For the first time in the history of Canadian legislative audit reform it was stated clearly that the Auditor General's authority went beyond the traditional concept of regularity audit control to include an audit system of "value for money". Although this concept was used in the earlier years of audit reform, it was not until 1977 that it was given a statutory meaning by the Auditor General Act. The concept involves an audit of economy, efficiency and effectiveness in relation to government programs and their cost in relation to their value to the public. This type of audit will require the systematic

measuring and monitoring of programs as well as of their administrative and operational systems. The aim, of course, is to develop procedures to ensure a process of financial accountability whereby Parliament can scrutinize effectively the management of public expenditures.

The appointment of a Comptroller General under the Auditor General Act - on the recommendation of the Auditor General - meant the creation of a highly centralized financial control system with emphasis on executive accountability for public expenditures. Under the Auditor General Act the executive and spending departments must grant full access to the Auditor General in all matters relating to public expenditures. No longer can any item of expenditure be shielded by the executive umbrellas of 'government policy' and 'administrative activity' - two areas which traditionally have been excluded from scrutiny by the Auditor General.

The traditional understanding that the Auditor General would not intervene in areas pertaining to government policy and administrative activities was based on the concept of neutrality and independence of the Auditor General from influence by the legislative or the executive branch of government. This understanding was based on custom and convention. There was no statutory expression to the effect that it was beyond the authority of the Auditor General to report to Parliament ineffective and uneconomical administrative practices that could lead ultimately to waste or misuse of

public funds. Reporting on such matters was of course within the discretionary powers of the Auditor General. Custom and convention implied that the Auditor General would not interfere in areas of 'government policy', which should be respected on the presumption that the executive was fair and prudent in the spending of public funds. But if in the Auditor General's view this faith had not been demonstrated by the executive, then it was within his discretionary powers to examine and report on 'all matters or cases' of public expenditures.

A central theme of this study is that the executive branch of government should be accountable to Parliament for public expenditures. Executive accountability is viewed as a liberal parliamentary principle - Gladstonian in practice - which advocates protecting the individual's 'property' (the tax dollar or public purse) from arbitrary government action. The importance of having an independent scrutiny of public accounts cannot be overemphasized. The state auditor must have a free hand in reporting his findings to Parliament. If Canada is to develop and maintain an audit system for the purpose of ensuring economy, efficiency and effectiveness then such a system must be independent of executive influence.

The delicate balance between legislative supremacy and executive responsibility, however, must be maintained, if an effective audit is to be achieved. The executive should not be discouraged from establishing a close, but non-influential,

relationship with the new audit system, Without independence the Auditor General cannot be impartial to the dictates of party politics. E.L. Normanton observed that "no [public] auditor can afford to be without independence, he needs it as a judge needs it, in order to be impartial and fearless in criticism. He also needs it in order to be able to publicize his criticism in an open report."² This paper takes the view that the Canadian Auditor General has achieved this independence. These developments were the culmination of nineteenth-century liberalism, which brought social and legislative reforms to British and Canadian financial administration with a focus on protecting the natural rights of the tax payer. In Lockian ideology these rights include the right to protect the individual's property (tax dollar) from arbitrary government action. With the continuous growth in government bureaucracy and increases in public expenditures, the 'man on the street' looks to the Auditor General for information on his tax dollar. The Canadian Auditor General, in the view of this study, has achieved what could be considered the ultimate expression of Canadian liberalism in legislative audit control of the public purse.

- In concluding, it should be noted that this work was not intended to be a comparative study of the British and

² Ibid., p. 298.

RECOMMENDATION 17

The Auditor General should have the right of access to the financial records and documents of all Crown corporations of which he is not the auditor, as he deems necessary to the fulfilment of his responsibilities as auditor of the accounts of Canada.

RECOMMENDATION 18

The board of directors of every commercially oriented and financially self-sufficient Crown corporation should appoint an audit committee.

RECOMMENDATION 19

In appointing auditors to a commercially oriented and financially self-sufficient Crown corporation, account should be taken of the recommendation of its board of directors and audit committee.

RECOMMENDATION 20

The Auditor General should charge professional fees for audit services, as would be done by accounting firms, to the commercially oriented and financially self-sufficient Crown corporations of which he is the auditor.

RECOMMENDATION 21

The Governor in Council should nominate or approve the appointment of the Auditor General to the Board of Auditors of the United Nations and to the audit of international organizations. Such an appointment should be made only after consulting with him as to whether it would be compatible with the performance of his national responsibilities.

RECOMMENDATION 22

The Auditor General should not be restrained in his authority to advise appropriate officials of the public service of matters discovered in his examinations; he should in particular have the right to draw problems to the attention of the Treasury Board Secretariat at his own discretion.

LIST OF APPENDICES

- I SEATING ARRANGEMENT OF THE BRITISH PUBLIC
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- III EXTRACTS FROM THE FINANCIAL ADMINISTRATION ACT
- IV THE AUDITOR GENERAL ACT
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GENERAL OF CANADA, OCTOBER 1978

The Public Accounts Committee in Session

Source: Basil Chubb, The Control of Public Expenditure, p. 268.

APPENDICES

APPENDIX II

AN ABRIDGEMENT OF THE RECOMMENDATIONS

OF THE INDEPENDENT REVIEW COMMITTEE

ON THE OFFICE OF THE

AUDITOR GENERAL OF CANADA, 1975

Source: Independent Review
Committee on the Office
of the Auditor General
of Canada, 1975.

RECOMMENDATION 1

Separate legislation should be enacted concerning the role, responsibilities and relationships of the Auditor General and the Audit Office. The present Financial Administration Act should be amended accordingly.

RECOMMENDATION 2

The Summary of Appropriations, Expenditures and Unexpended Balances by Departments included in the Public Accounts should be expanded to include non-budgetary appropriations and expenditures. In reporting on this statement, the Auditor General should say whether or not any individual appropriation has been overexpended and, if any has, he should identify the appropriation and the amount of the overexpenditure.

RECOMMENDATION 3

- (1) The Auditor General should report annually to the House of Commons

- (a) on the work of his Office and

- (b) whether he has received all the information and explanations he required

and he should call attention to anything resulting from his examination that he considers should be brought to the attention of the House of Commons, including any cases where he has observed that

- (i) accounts have not been faithfully and properly kept or public money has not been fully accounted for;

- (ii) essential records have not been maintained or the rules and procedures applied have been insufficient to safeguard and control public property, to secure an effective check on the assessment, collection and proper allocation of the revenue and to ensure that expenditures have been made only as authorized; or

- (iii) money has been expended other than for purposes for which it was appropriated by Parliament or value for money has not been obtained for any expenditure or expenditures,

provided that he should not be required to report on matters that, in his opinion, are not significant in the circumstances.

- (2) The Auditor General should examine, in such manner as he deems necessary, the accounts and records of the administration.

RECOMMENDATION 4

The Auditor General should continue to use an annual report as his primary reporting vehicle. This report should be issued not later than the end of each calendar year.

RECOMMENDATION 5

The Auditor General should have the authority to issue a special report to the House of Commons on any matter of pressing importance or urgency that, in his opinion, should not be deferred until the issue of his annual report.

RECOMMENDATION 6

The Public Accounts should include among the main financial statements of Canada a new statement showing changes in financial position during the fiscal year and the causes of such changes.

RECOMMENDATION 7

The three main financial statements of Canada should appear together in the Public Accounts along with such notes and explanations as may be necessary.

RECOMMENDATION 8

The Auditor General should set out concisely in his reports attached to financial statements appearing in the Public Accounts any reservations he may have and qualify his opinion accordingly.

RECOMMENDATION 9

The Auditor General should discuss with the appropriate deputy minister and minister any matters in the financial statements of Canada that he thinks should be changed before they are signed and advise them of the qualifications he proposes to make in his opinion on the statements if such changes are not made.

RECOMMENDATION 10

The Auditor General should continue to comment in his annual report to the House of Commons on matters included in the financial statements of Canada and be free to expand on the reasons for any qualification to his opinion that he found necessary to make.

RECOMMENDATION 11

When the financial statements are presented together in the Public Accounts, complete with such notes and explanations as may be necessary, the Auditor General should express his opinion on all such statements in one report.

RECOMMENDATION 12

- The Auditor General should participate in studies of accounting principles for government, whether initiated by the accounting profession or by the Government itself.

RECOMMENDATION 13

In reporting on the financial statements of Canada, the Auditor General should express his opinion as to whether they present fairly information in accordance with the stated accounting policies and on a basis consistent with that of the preceding year.

RECOMMENDATION 14

The Government should consider the possibility of having one minister responsible for the preparation and the form and content of the Public Accounts.

RECOMMENDATION 15

The Auditor General should audit the financial accounts of all Crown corporations whose expenditures directly affect the budgetary accounts of Canada.

RECOMMENDATION 16

The audit of commercially oriented and financially self-sufficient Crown corporations should be conducted either by the Auditor General or by accounting firms, as deemed appropriate in each case.

RECOMMENDATION 17

The Auditor General should have the right of access to the financial records and documents of all Crown corporations of which he is not the auditor, as he deems necessary to the fulfilment of his responsibilities as auditor of the accounts of Canada.

RECOMMENDATION 18

The board of directors of every commercially oriented and financially self-sufficient Crown corporation should appoint an audit committee.

RECOMMENDATION 19

In appointing auditors to a commercially oriented and financially self-sufficient Crown corporation, account should be taken of the recommendation of its board of directors and audit committee.

RECOMMENDATION 20

The Auditor General should charge professional fees for audit services, as would be done by accounting firms, to the commercially oriented and financially self-sufficient Crown corporations of which he is the auditor.

RECOMMENDATION 21

The Governor in Council should nominate or approve the appointment of the Auditor General to the Board of Auditors of the United Nations and to the audit of international organizations. Such an appointment should be made only after consulting with him as to whether it would be compatible with the performance of his national responsibilities.

RECOMMENDATION 22

The Auditor General should not be restrained in his authority to advise appropriate officials of the public service of matters discovered in his examinations; he should in particular have the right to draw problems to the attention of the Treasury Board Secretariat at his own discretion.

RECOMMENDATION 23

The Secretary of the Treasury Board should continue to provide the Standing Committee on Public Accounts with a formal response to matters raised in the annual report of the Auditor General.

RECOMMENDATION 24

Consideration should be given to changing the Standing Orders of the House of Commons to provide that the annual report of the Auditor General tabled in the House shall be automatically referred to the Standing Committee on Public Accounts and that, if this Committee has not already been organized, it must be so within a reasonable period, say thirty days, after such referral.

RECOMMENDATION 25

The Government should give consideration to the appointment, for each appropriation, of an accounting officer who would be accountable for the proper accounting and administration of expenditures made thereunder.

RECOMMENDATION 26

The Auditor General should, if the Standing Committee on Public Accounts requests him to do so, lend staff to the Committee to assist it in reviewing his report and in dealing with such other matters as may be referred to it.

RECOMMENDATION 27

The Auditor General should continue to play an active role in the International Organization of Supreme Audit Institutions and other bodies of a similar nature.

RECOMMENDATION 28

The Auditor General should continue to participate in conferences of Canadian legislative auditors, and should take an active interest in the development of nationally accepted governmental auditing principles and standards.

RECOMMENDATION 29

The Auditor General should maintain close relationships with the principal accounting bodies in Canada.

RECOMMENDATION 30

Except for his reports to the House of Commons and his report on the financial statements of Canada, the Auditor General should be empowered to designate a senior member of his staff to sign on his behalf any report or opinion that he is required to give. Such member should indicate beneath his signature his position in the Office and the fact that he is signing on behalf of the Auditor General.

RECOMMENDATION 31

The Audit Office should develop and maintain a high quality professional development program for its personnel.

RECOMMENDATION 32

Separate classification and selection standards should be prepared for the professional and paraprofessional staff of the Audit Office to conform with the classifications that the Office recognizes for its own purposes, with broad and overlapping salary ranges.

RECOMMENDATION 33

The Auditor General should have the flexibility to retain, on the basis he considers appropriate, whatever types of competence he requires to discharge his responsibilities effectively.

RECOMMENDATION 34

The appointment of the Auditor General and the appointment of a person temporarily to perform his duties during a vacancy in the office should continue to be made by the Governor in Council. Provision should also be made for the appointment by the Governor in Council of a person to perform the duties of the Auditor General in the event of his temporary incapacity.

RECOMMENDATION 35

The Auditor General should continue to be appointed to hold office during good behaviour until he attains the age of sixty-five years, and he should continue to be removable by the Governor General on address of the Senate and House of Commons.

RECOMMENDATION 36

The Auditor General's salary should be fixed by statute at a level equivalent to the mid-point of the highest range of salaries paid to persons in the deputy minister classification within the public service.

RECOMMENDATION 37

An Auditor General appointed from outside the public service should be given the option of choosing to participate in the pension plan provided for in the Public Service Superannuation Act or in another plan designed for short-service appointees such as the Diplomatic Service (Special) Superannuation Act.

RECOMMENDATION 38

The Auditor General should have the right to make a special report to the House of Commons in the event that amounts provided for the Audit Office in the Estimates are, in his opinion, inadequate to enable him to fulfil his responsibilities.

RECOMMENDATION 39

The Auditor General should have the authority, within the total dollar limitations established for the Audit Office in appropriation acts, to contract for professional services without the prior approval of the Treasury Board.

RECOMMENDATION 40

The Office of the Auditor General should be specifically exempted from the provisions of the Financial Administration Act with respect to the division of appropriations into allotments.

RECOMMENDATION 41

An officer of the public service, who is a professionally qualified auditor and who is not engaged in the financial administration of the Government, should be appointed by the Treasury Board as auditor of the Audit Office. In the event that such a person is not available, the services of an accounting firm should be sought.

RECOMMENDATION 42

Employees of the Audit Office should continue to be appointed and promoted under the Public Service Employment Act, provided that the Public Service Commission continues to delegate to the Auditor General its authority under the Act, subject to its right to monitor the use made of this delegated authority.

RECOMMENDATION 43

The Auditor General should be a separate employer as defined in the Public Service Staff Relations Act.

RECOMMENDATION 44

Legislation establishing the Auditor General as a separate employer should contain transitional provisions for the continuation of existing collective agreements applicable to staff of the Audit Office until such time as the staff have taken the necessary votes and a bargaining agent can be certified under the Public Service Staff Relations Act.

RECOMMENDATION 45

The Auditor General's right of access to information should be defined, not in relation to the Government's accounts, but in relation to the responsibilities assigned to him.

RECOMMENDATION 46

The Auditor General should continue to be empowered to undertake special assignments at the request of the Governor in Council, but should be under no obligation to perform such assignments if they would interfere with his primary responsibilities.

RECOMMENDATION 47

The Auditor General should present his reports to the House of Commons through the Minister of Finance who should be required to lay each report before the House within fifteen days of its receipt or, if Parliament is not then in session, within fifteen days after the start of the next session. If the Minister fails to do so, the Auditor General should transmit the report to the Speaker for tabling in the House of Commons.

Extracts from the Financial Administration Act¹

The Public Accounts

Accounts of Canada

54. (1) Subject to regulations of the Treasury Board, the Receiver General shall cause accounts to be kept in such manner as to show

- (a) the expenditures made under each appropriation;
- (b) the revenues of Canada; and
- (c) the other payments into and out of the Consolidated Revenue Fund.

Assets and liabilities

(2) The Receiver General

- (a) shall cause accounts to be kept to show such of the assets and direct and contingent liabilities of Canada, and
- (b) shall establish such reserves with respect to the assets and liabilities,

as, in the opinion of the Minister², are required to give a true and fair view of the financial position of Canada.

How Kept

(3) The accounts of Canada shall be kept in the currency of Canada. 1966-67, c. 74, s. 10; 1968-69, c. 27, s. 16.

¹ *Financial Administration Act*, R.S., 1970, c. F-10 as amended by 1970-71, cc. 42, 55.

² Throughout the *Financial Administration Act* the word "Minister" refers to the Minister of Finance.

**Submission of
Public Accounts
to Parliament**

55. (1) A report, called the Public Accounts, shall be prepared by the Receiver General for each fiscal year and shall be laid before the House of Commons by the Minister on or before the 31st day of December next following the end of that year, or if Parliament is not then sitting, within any of the first fifteen days next thereafter that Parliament is sitting.

**Contents of
Public Accounts**

(2) The Public Accounts shall be in such form as the Minister may direct, and shall include

- (a) a report on the financial transactions of the fiscal year,
- (b) a statement, certified by the Auditor General of Canada, of the expenditures and revenues of Canada for the fiscal year,
- (c) a statement, certified by the Auditor General, of such of the assets and liabilities of Canada as in the opinion of the Minister are required to show the financial position of Canada as at the termination of the fiscal year,
- (d) the contingent liabilities of Canada, and
- (e) such other accounts and information as are necessary to show, with respect to the fiscal year, the financial transactions and financial position of Canada, or are required by any Act to be shown in the Public Accounts R.S., c. 116, s. 64, 1968-69, c. 27, s. 16.

The Auditor General of Canada

Auditor General

56. (1) The Governor in Council shall by commission under the Great Seal appoint an officer called the Auditor General of Canada to hold office during good behaviour until he attains the age of sixty-five years, but he is removable by the Governor General on address of the Senate and House of Commons.

Salary

(2) The Auditor General shall be paid a salary equal to the salary of the Chief Justice of the Federal Court of Canada, including any additional salary authorized by section 20 of the *Judges Act*

**Public Service
Superannuation
Act**

(3) The provisions of the *Public Service Superannuation Act*, except those relating to tenure of office, apply to the Auditor General

Officers, etc

(4) Such officers and employees as are necessary to enable the Auditor General to perform his duties shall be appointed in accordance with the *Public Service Employment Act*

**Acting Auditor
General**

(5) The Governor in Council may appoint a person temporarily to perform the duties of the Auditor General during a vacancy in the office of Auditor General. R.S., c. 116, s. 65; 1955, c. 3, s. 1; 1963, c. 41, s. 2; 1966-67, c. 84, s. 3; 1970-71, c. 55, s. 13(1).

**Access to books,
files, etc**

57. (1) Notwithstanding any Act, the Auditor General is entitled to free access at all convenient times to all files, documents and other records relating to the accounts of every department, and he is also entitled to require and receive from members of the public service of Canada such information, reports and explanations as he may deem necessary for the proper performance of his duties.

**Stationing of
officers in other
departments**

(2) The Auditor General may station in any department any person employed in his office to enable him more effectively to carry out his duties, and the department shall provide the necessary office accommodation for any officer so stationed.

Oath of secrecy

(3) The Auditor General shall require every person employed in his office who is to examine the accounts of a department pursuant to this Act to comply with any security requirements applicable to, and to take any oath of secrecy required to be taken by persons employed in that department.

Suspension

(4) The Auditor General may suspend from the performance of his duty any person employed in his office. R.S., c. 116, s. 66.

**Accounts
relating to
C R F**

58. The Auditor General shall examine in such manner as he may deem necessary the accounts relating to the Consolidated Revenue Fund and to public property and shall ascertain whether in his opinion

(a) the accounts have been faithfully and properly kept,

(b) all public money has been fully accounted for, and the rules and procedures applied are sufficient to secure an effective check on the assessment, collection and proper allocation of the revenue,

(c) money has been expended for the purpose for which it was appropriated by Parliament, and the expenditures have been made as authorized; and

(d) essential records are maintained and the rules and procedures applied are sufficient to safeguard and control public property. R.S., c. 116, s. 67.

Other duties

59. The Auditor General shall

(a) make such examination of the accounts and records of each registrar³ as he deems necessary, and such other examinations of a registrar's transactions as the Minister may require, and

(b) when and to the extent required by the Minister, participate in the destruction of any redeemed or cancelled securities or unissued reserves of securities, authorized to be destroyed under this Act,

and he may, by arrangement with the registrar, maintain custody and control, jointly with the registrar, of cancelled and unissued securities R.S., c. 116, s. 68

Certificates

60 The Auditor General shall examine and certify in accordance with the outcome of his examinations the several statements required by section 55 to be included in the Public Accounts, and any other statement that the Minister may present for audit certificate. R.S., c. 116, s. 69.

Report to House of Commons

61. (1) The Auditor General shall report annually to the House of Commons the results of his examinations and shall call attention to every case in which he has observed that

(a) any officer or employee has wilfully or negligently omitted to collect or receive any money belonging to Canada,

(b) any public money was not duly accounted for and paid into the Consolidated Revenue Fund,

(c) any appropriation was exceeded or was applied to a purpose or in a manner not authorized by Parliament,

(d) an expenditure was not authorized or was not properly vouched or certified,

(e) there has been a deficiency or loss through the fraud, default or mistake of any person, or

(f) a special warrant authorized the payment of any money,

and to any other case that the Auditor General considers should be brought to the notice of the House of Commons.

³ Registrars are appointed by the Governor in Council to perform services in connection with the registration of loans. The principal registrar of the Government is the Bank of Canada

When report
to be tabled

(2) The report of the Auditor General shall be laid before the House of Commons by the Minister on or before the 31st day of December, or, if Parliament is then not in session, within fifteen days after the commencement of the next ensuing session and if the Minister does not, within the time prescribed by this section, present the report to the House of Commons, the Auditor General shall transmit the report to the Speaker for tabling in the House of Commons R.S., c. 116, s. 70.

Inquiry and
report

62 The Auditor General shall, whenever the Governor in Council or the Treasury Board directs, inquire into and report on any matter relating to the financial affairs of Canada or to public property and on any person or organization that has received financial aid from the Government of Canada or in respect of which financial aid from the Government of Canada is sought. 1966-67, c. 74, s. 11.

Improper
retention of
public money

63. Whenever it appears to the Auditor General that any public money has been improperly retained by any person, he shall forthwith report the circumstances of such cases to the President of the Treasury Board 1966-67, c. 74, s. 13

Inquiries

64 The Auditor General may examine any person on oath on any matter pertaining to any account subject to audit by him and for the purposes of any such examination the Auditor General may exercise all the powers of a commissioner under Part I of the *Inquiries Act* R.S., c. 116, s. 74

Audit of office
of Auditor
General

65. An officer of the public service of Canada nominated by the Treasury Board shall examine and certify to the House of Commons in accordance with the outcome of his examinations the receipts and disbursements of the office of the Auditor General R.S., c. 116, s. 75.

APPENDICES

APPENDIX IV

AUDITOR GENERAL ACT

25-26 ELIZABETH II

CHAPTER 34

An Act respecting the office of the Auditor General of Canada and matters related or incidental thereto

[Assented to 14th July, 1977]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows

PART I

SHORT TITLE

Short title	1. This Part may be cited as the <i>Auditor General Act</i>	(3) Once having served as the Auditor General, a person is not eligible for re-appointment to that office	Re-appoint- ment
INTERPRETATION			
Definitions	2. In this Act,	(4) In the event of the absence or incapacity of the Auditor General or if the office of Auditor General is vacant, the Governor in Council may appoint a person temporarily to perform the duties of Auditor General	Vacancy
"Auditor General"	"Auditor General" means the Auditor General of Canada appointed pursuant to subsection 3(1);		
"Crown corporation"	"Crown corporation" has the meaning assigned to that expression by subsection 66(1) of the <i>Financial Administration Act</i>	4. (1) The Auditor General shall be paid a salary equal to the salary of the Chief Justice of the Federal Court of Canada, including any additional salary authorized by section 20 of the <i>Judges Act</i>	Salary
"department"	"department" has the meaning assigned to that term by section 2 of the <i>Financial Administration Act</i> .	(2) The provisions of the <i>Public Service Superannuation Act</i> , other than those relating to tenure of office, apply to the Auditor General except that a person appointed as Auditor General from outside the Public Service may, by notice in writing given to the President of the Treasury Board not more than sixty days after the date of his appointment as Auditor General, elect to participate in the pension plan provided for in the <i>Diplomatic Service (Special) Superannuation Act</i> in which case the provisions of that Act, other than those relating to tenure of office, apply to him and the provisions of the <i>Public Service Superannuation Act</i> do not apply to him.	Pension benefits
"registrar"	"registrar" means the Bank of Canada and a registrar appointed under Part IV of the <i>Financial Administration Act</i>		
AUDITOR GENERAL OF CANADA			
Appointment and tenure of office	3. (1) The Governor in Council shall, by commission under the Great Seal, appoint a qualified auditor to be the officer called the Auditor General of Canada to hold office during good behaviour for a term of ten years, but the Auditor General may be removed by the Governor in Council on address of the Senate and House of Commons		
Mem	(2) Notwithstanding subsection (1), the Auditor General ceases to hold office on attaining the age of sixty-five years	5. The Auditor General is the auditor of the accounts of Canada, including those relating to the Consolidated Revenue Fund	Examination
DUTIES			

and as such shall make such examinations and inquiries as he considers necessary to enable him to report as required by this Act

Idem 6. The Auditor General shall examine the several financial statements required by section 55 of the *Financial Administration Act* to be included in the Public Accounts, and any other statement that the Minister of Finance may present for audit and shall express his opinion as to whether they present fairly information in accordance with stated accounting policies of the federal government and on a basis consistent with that of the preceding year together with any reservations he may have

Report to House of Commons 7. (1) The Auditor General shall report annually to the House of Commons
(a) on the work of his office, and
(b) on whether, in carrying on the work of his office, he received all the information and explanations he required

Idem 7 (2) Each report of the Auditor General under subsection (1) shall call attention to anything that he considers to be of significance and of a nature that should be brought to the attention of the House of Commons, including any cases in which he has observed that

(a) accounts have not been faithfully and properly maintained or public money has not been fully accounted for or paid, where so required by law, into the Consolidated Revenue Fund

(b) essential records have not been maintained or the rules and procedures applied have been insufficient to safeguard and control public property, to secure an effective check on the assessment, collection and proper allocation of the revenue and to ensure that expenditures have been made only as authorized,

(c) money has been expended other than for purposes for which it was appropriated by Parliament,

(d) money has been expended without due regard to economy or efficiency, or

(e) satisfactory procedures have not been established to measure and report the

effectiveness of programs, where such procedures could appropriately and reasonably be implemented

(3) Each annual report by the Auditor General to the House of Commons shall be submitted to the Speaker of the House of Commons on or before the 31st day of December in the year to which the report relates and the Speaker of the House of Commons shall lay each such report before the House of Commons forthwith after receipt thereof by him or, if that House is not then sitting, on the first day next thereafter that the House of Commons is sitting

Submission of report to Speaker and tabling in the House of Commons

8. (1) The Auditor General may make a special report to the House of Commons on any matter of pressing importance or urgency that, in his opinion, should not be deferred until the presentation of his annual report

Special report

(2) Each special report of the Auditor General to the House of Commons made under subsection (1) or 20(2) shall be submitted to the Speaker of the House of Commons and shall be laid before the House of Commons by the Speaker of the House of Commons forthwith after receipt thereof by him, or if that House is not then sitting, on the first day next thereafter that the House of Commons is sitting

Submission of reports to Speaker and tabling in the House of Commons

9. The Auditor General shall

Idem

(a) make such examination of the accounts and records of each registrar as he deems necessary, and such other examinations of a registrar's transactions as the Minister of Finance may require, and

(b) when and to the extent required by the Minister of Finance, participate in the destruction of any redeemed or cancelled securities or unissued reserves of securities authorized to be destroyed under the *Financial Administration Act*,

and he may, by arrangement with a registrar, maintain custody and control, jointly with that registrar, of cancelled and unissued securities

10. Whenever it appears to the Auditor General that any public money has been improperly retained by any person, he shall forthwith report the circumstances of the case to the President of the Treasury Board

Improper retention of public money

Inquiry and report

11. The Auditor General may, if in his opinion such an assignment does not interfere with his primary responsibilities, whenever the Governor in Council so requests, inquire into and report on any matter relating to the financial affairs of Canada or to public property or inquire into and report on any person or organization that has received financial aid from the Government of Canada or in respect of which financial aid from the Government of Canada is sought

Advisory powers

12 The Auditor General may advise appropriate officers and employees in the public service of Canada of matters discovered in his examinations and, in particular, may draw any such matter to the attention of officers and employees engaged in the conduct of the business of the Treasury Board

ACCESS TO INFORMATION

Access to information

13. (1) Except as provided by any other Act of Parliament that expressly refers to this subsection, the Auditor General is entitled to free access at all convenient times to information that relates to the fulfilment of his responsibilities and he is also entitled to require and receive from members of the public service of Canada such information, reports and explanations as he deems necessary for that purpose

Stationing of officers in departments

(2) In order to carry out his duties more effectively, the Auditor General may station in any department any person employed in his office, and the department shall provide the necessary office accommodation for any person so stationed.

Oath of secrecy

(3) The Auditor General shall require every person employed in his office who is to examine the accounts of a department or of a Crown corporation pursuant to this Act to comply with any security requirements applicable to, and to take any oath of secrecy required to be taken by, persons employed in that department or Crown corporation

Inquiry

(4) The Auditor General may examine any person on oath on any matter pertaining to any account subject to audit by him and for

the purposes of any such examination the Auditor General may exercise all the powers of a commissioner under Part I of the *Inquiries Act*.

14. (1) Notwithstanding subsections (2) and (3), in order to fulfil his responsibilities as the auditor of the accounts of Canada, the Auditor General may rely on the report of the duly appointed auditor of a Crown corporation or of any subsidiary of a Crown corporation

Reliance on audit report of Crown corporations

(2) The Auditor General may request a Crown corporation to obtain and furnish to him such information and explanations from its present or former directors, officers, employees, agents and auditors or those of any of its subsidiaries as are, in his opinion, necessary to enable him to fulfil his responsibilities as the auditor of the accounts of Canada

Auditor General may request information

(3) If, in the opinion of the Auditor General, a Crown corporation, in response to a request made under subsection (2), fails to provide any or sufficient information or explanations, he may so advise the Governor in Council, who may thereupon direct the officers of the corporation to furnish the Auditor General with such information and explanations and to give him access to those records, documents, books, accounts and vouchers of the corporation or any of its subsidiaries-access to which is, in the opinion of the Auditor General, necessary for him to fulfil his responsibilities as the auditor of the accounts of Canada

Direction of the Governor in Council

STAFF OF THE AUDITOR GENERAL

15. (1) Such officers and employees as are necessary to enable the Auditor General to perform his duties shall be appointed in accordance with the *Public Service Employment Act*

Officers etc

(2) Subject to any other Act of Parliament or regulations made thereunder, but without the approval of the Treasury Board, the Auditor General may, within the total dollar limitations established for his office in *Appropriation Acts*, contract for professional services.

Contract for professional services

(3) The Auditor General may exercise and perform, in such manner and subject to such terms and conditions as the Public Service Commission directs, the powers, duties and functions of the Public Service Commission under the *Public Service Employment Act*.

Delegation to Auditor General

other than the powers, duties and functions of the Commission in relation to appeals under sections 21 and 31 of that Act and inquiries under section 32 of that Act

Suspension

(4) The Auditor General may suspend from the performance of his duty any person employed in his office

Responsibility for personnel management

16. In respect of persons employed in his office, the Auditor General is authorized to exercise the powers and perform the duties and functions of the Treasury Board under the *Financial Administration Act* that relate to personnel management including the determination of terms and conditions of employment and the responsibility for employer and employee relations, within the meaning of paragraph 5(1)(e) and section 7 of that Act

Collective agreements

17. Any collective agreement affecting persons employed in the office of the Auditor General entered into before the coming into force of this Act remains in force and binds the Auditor General as employer of such persons until the expiry of that agreement

Classification standards

18. Classification standards may be prepared for persons employed in the office of the Auditor General to conform with the classifications that the Auditor General recognizes for the purposes of that office

Delegation

19. The Auditor General may designate a senior member of his staff to sign on his behalf any opinion that he is required to give and any report, other than his annual report on the financial statements of Canada made pursuant to section 55 of the *Financial Administration Act* and his reports to the House of Commons under this Act and any member so signing an opinion or report shall indicate beneath his signature his position in the office of the Auditor General and the fact that he is signing on behalf of the Auditor General

ESTIMATES

20. (1) The Auditor General shall annually prepare an estimate of the sums that will be required to be provided by Parliament for the payment of the salaries, allowances and expenses of his office during the next ensuing fiscal year

Estimates

(2) The Auditor General may make a special report to the House of Commons in the event that amounts provided for his office in the estimates submitted to Parliament are, in his opinion, inadequate to enable him to fulfil the responsibilities of his office

Special report

21. The provisions of the *Financial Administration Act* with respect to the division of appropriations into allotments do not apply in respect of appropriations for the office of the Auditor General

Appropriation allotments

AUDIT OF THE OFFICE OF THE AUDITOR GENERAL

22. (1) A qualified auditor nominated by the Treasury Board shall examine the receipts and disbursements of the office of the Auditor General and shall report annually the outcome of his examinations to the House of Commons

Audit of office of the Auditor General

(2) Each report referred to in subsection (1) shall be submitted to the President of the Treasury Board on or before the 31st day of December in the year to which the report relates and the President of the Treasury Board shall lay each such report before the House of Commons within fifteen days after receipt thereof by him or, if that House is not then sitting, on any of the first fifteen days next thereafter that the House of Commons is sitting

Submission of reports and tabling

PART II

CONSEQUENTIAL AND RELATED AMENDMENTS

RS c F 10 23. Part VII of the *Financial Administration Act* is repealed

RS c P 35 24. (1) Part I of Schedule I to the *Public Service Staff Relations Act* is amended by deleting therefrom the words "Office of the Auditor General of Canada"

(2) Part II of Schedule I to the *Public Service Staff Relations Act* is amended by adding thereto the words "Office of the Auditor General of Canada"

RS c E 8 25. Section 16 of the *Established Programs (Interim Arrangements) Act* is repealed and the following substituted therefor

"16. Nothing in this Act shall be construed to restrict the powers of the Auditor General of Canada under the *Auditor General Act*"

1970 c 122 s 52 26. Section 27 of the French version of the *Pilotage Act* is repealed and the following substituted therefor

"27. Le vérificateur général vérifie chaque année la comptabilité et les opérations financières de chaque Administration et en fait rapport au Ministre"

RS c N 22 27. Subsection 23(5) of the *Northwest*

Territories Act is repealed and the following substituted therefor

"(5) The Auditor General has, in connection with his examination of the accounts of the Territories, all the powers that he has under the *Auditor General Act* in connection with the examination of the accounts of Canada."

28. Subsection 26(5) of the *Yukon Act* is repealed and the following substituted therefor.

"(5) The Auditor General has, in connection with his examination of the accounts of the Territory, all the powers that he has under the *Auditor General Act* in connection with the examination of the accounts of Canada"

29. Section 15 of the French version of the *Unemployment Insurance Act, 1971* is repealed and the following substituted therefor.

"15. Le vérificateur général vérifie chaque année la comptabilité et les opérations financières de la Commission et en fait rapport au Ministre"

30. Whenever, in the French version, the expression "auditeur général" appears in any provision of an Act listed in the schedule to this Act, there shall in every case, unless the context otherwise requires, be substituted the expression "vérificateur général"

PART III

COMMENCEMENT

Coming into force 31. This Act shall come into force on a day to be fixed by proclamation

(The Act came into force August 1, 1977)

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APPENDIX V

ORGANIZATION OF THE OFFICE OF THE AUDITOR GENERAL OF CANADA OCTOBER 1978

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