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INTEREST GROUPS AND
THE CANADIAN BROADCASTING SYSTEM

by

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A thesis submitted to the Faculty of
Graduate Studies in partial fulfilment
of the requirements for the degree of
Master of Arts

Department of Political Science

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ABSTRACT

The study concentrates on that period of Canadian broadcasting between the Fowler Committee's Report in 1965 and the passing of the Broadcasting Act of 1968. The Committee's recommendations are traced through to the Act, with reasons for the various changes. The actions and reactions of seven interest groups are outlined for the different stages, and an attempt is made to assess their relative strength. To familiarize the reader with previous legislation and events in broadcasting, a brief history is presented. The writings of a number of pressure group theorists are examined as a basis for discussion of the seven groups. The conclusion is reached that although pressure group activity was an important cause for differences between the recommendations and the Act, a number of other factors also had importance. Among these were party loyalties of the legislators, a mild rise in nationalist sentiment during the period, the background and character of some of the main actors, and a desire for administrative efficiency.

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INTRODUCTION

The object of this study is to trace the recommendations in the Report¹ of the 1965 Fowler Committee through to the Broadcasting Act of 1968² with the aim of finding the reasons for the differences. In order fully to appreciate the structure of the broadcasting system in Canada and the problems faced by the Committee, it was necessary to trace the growth of broadcasting and its regulation from its earliest days, even though the period of direct concern is only something over three years.

The study was begun with some assumptions. The primary one was that pressure group activity would be found to be the major contributor to the changes between Fowler and Act. A chapter is devoted to the examination of the writings of some pressure group theorists in order to provide a background for examining the organizations which publicly played some role in the various stages between the Report and the 1968 Act, to ascertain whether or not these organizations could properly be considered pressure groups.

Another assumption was that the interest group which exerted the greatest and most successful influence was the Canadian Association of Broadcasters, which represents the private station owners. This was made largely because of the highly commercial state of Canadian Broadcasting at present. The

¹Canada, Parliament, House of Commons, Report of the Committee on Broadcasting, 1965.

²Can. Statutes, 16-17 Elizabeth II, 1968, c.25, "An Act to implement a broadcasting policy for Canada, to amend the Radio Act in consequence thereof and to enact other consequential and related provisions".

positions the C.A.B. took on many broadcasting questions, along with those of six other groups, will be examined. This process is lengthy, but it is necessary in order accurately to establish the differences between Fowler and Act.

The writer was aware that people do not ordinarily admit trying to exert pressure for their own ends and that government officials are equally reluctant to confess, or even to realize, that pressure has been successful. Stemming from this was the assumption that a great deal of the pressure exerted was done in secret, and would be difficult to trace.

It was assumed that, in addition to pressure group activity, other factors might be turned up which contributed to the final form of the 1968 Broadcasting Act. The assumption proved well founded.

CHAPTER 1

A BRIEF HISTORY OF CANADIAN BROADCASTING

The Fowler Committee was by no means the first body to investigate Canadian broadcasting. Since the first licenced radio station went on the air in Canada in 1919,³ broadcasting has received the attention of two full-fledged royal commissions (Aird in 1929⁴ and Fowler in 1957),⁵ one royal commission part of whose charge was broadcasting (Massey in 1951),⁶ and parliamentary committees too numerous to list by date, the first in 1932 and the most recent in 1967, all in addition to the Fowler Committee. Before examining the findings of the first royal commission, conditions leading to its appointment must be described.

The charge given the Aird Commission was "to examine into the broadcasting situation in the Dominion of Canada and to make recommendations to the government as to the future administration, management, control and financing thereof."⁷ The "broadcasting situation" was somewhat chaotic, and many problems had to be faced. There follow some of the major considerations.⁸ First, much of

³XWA, now CFCF, in Montreal, owned by the Canadian Marconi Company.

⁴The Royal Commission on Radio Broadcasting, 1929, Sir John Aird, Chairman.

⁵Royal Commission on Broadcasting, 1955-1957, Robert M. Fowler, Chairman.

⁶Royal Commission on National Development in the Arts, Letters and Sciences, 1949-1951, Rt. Hon. Vincent Massey, Chairman.

⁷Canada, Report of the Royal Commission on Radio Broadcasting (Ottawa, 1929) 5.

⁸Easily the best book available on the development of Broadcasting in Canada, including its early history, is Frank Peers, The Politics of Canadian Broadcasting (Toronto, 1969). Also useful is Austin Weir, The Struggle for National Broadcasting in Canada (Toronto, 1965).

the population of Canada could receive radio programs directly from the United States, while at the time of the Aird Investigation only something over half the people could hear Canadian stations. Second, since all the stations but two⁹ were privately owned and most of them financed by advertising, they tended to be in cities where business was concentrated. The rural areas were thus badly served. Third, several Canadian stations were affiliated with U.S. networks, and carried a large proportion of American programs, and with them American advertising. Original Canadian programs were scarce. Fourth, since the American broadcasters had appropriated to themselves nearly all available clear channels in 1923, a great number of Canadian stations could not be heard without interference from U.S. signals on the same frequency. Fifth, there was dissatisfaction among broadcasters over seeming partisanship in the granting of licences by the Department of Marine and Fisheries. Between 1921 and 1930, it appeared to be a good deal easier for a Liberal to get a licence to broadcast than for a Conservative. Sixth, in a similar vein, the power of the Minister of Marine over licences came under public discussion and protest with the refusal to renew four licences for stations belonging to the religious group generally called Jehovah's Witnesses in 1928. Seventh, and perhaps most important of all, was the rising feeling of Canadian nationalism following the First World War, which was becoming stronger during every year of the nineteen twenties. During these years were formed many groups which were expressions of this nationalism, such as the Canadian

⁹These were owned by the Manitoba Government.

Chambers of Commerce, the Canadian Institute of International Affairs, the Canadian Authors' Association, the United Church of Canada, the Canadian League, and the Association of Canadian Clubs, to name only some of the better known ones. The desire for national expression which led to the formation of such groups could not be reconciled with the fact that a large proportion of the available radio programs originated in the United States, and that an instrument with such potential for national unity and the expression of a Canadian sense of identity was to a great extent under foreign control.

On December 6, 1928, Prime Minister King appointed a royal commission to investigate broadcasting and make recommendations. The Chairman was Sir John Aird, President of the Canadian Bank of Commerce. The other two members were Charles Bowman, Editor of the Ottawa Citizen, and Dr. Augustin Frigon, Director-General of Technical Education for Quebec. After a nine-month study of broadcasting in England (where they were very favourably impressed), New York (where the idea that Canada was just a northern extension of the American networks impressed them not at all) and other countries, consultation with the provinces, and hearings in various cities, they submitted their twenty-nine-page report. The principal recommendations were as follows: broadcasting should be a public service, owned and operated by one national company similar to a public utility; there should be a twelve-member board with at least one member from each province, and each province should have control over the programs heard within its boundaries; high-power radio stations should be built to cover the country, with a few local stations to fill in;

all others were to be shut down, with compensation given for expropriated equipment; revenue should be derived from licence fees, indirect advertising, and Dominion subsidy; and licencing should continue under the authority of the Minister of Marine and Fisheries.

The Aird Commission Report was presented September 11, 1929, only a few weeks before the stock market crash. When Parliament met early in 1930, the consideration of broadcasting was over-shadowed by economic depression. Consideration was further delayed by a general election in the summer, and by the change-over to a new administration when Mackenzie King was defeated and R.B. Bennett came to power. It was in this interim period that two important pressure groups began work. They were the Canadian Association of Broadcasters and the Canadian Radio League.

The Canadian Association of Broadcasters (C.A.B.) had been formed in 1926. It was an association of radio station owners whose purpose was to fight demands being made on them by the Canadian Performing Rights Society, who wanted compensation for the right to play music recordings on the air. The C.A.B. now lists as its aims:

To foster and promote development of the art of aural and visual broadcasting in all its forms, to protect the members of the Corporation in every lawful and proper manner from injustices and unjust exactions and to do all things necessary and proper to encourage and promote customs and practices which will strengthen and maintain the broadcasting industry to the end that it may best serve the public. ¹⁰

The "unjust exactions" no doubt refer to performing rights.

Another interesting phrase should be pointed out: "strengthen

¹⁰ Unsigned pamphlet, "The Canadian Association of Broadcasters", 1.

and maintain the broadcasting industry". There was no doubt in the beginning, and still none, that to the C.A.B. broadcasting is a business: a commercial, profit-making enterprise. The threat of expropriation and the recommendation of a publicly-owned service contained in the Aird Report changed the direction of the C.A.B. from fighting copyrights to fighting for survival. Among its member-stations, probably CKGW (the GW stands for Gooderham and Worts, the distillers) in Toronto was the most active. It was a powerful, clear-channel station in a lucrative market, backed financially by the parent company, having close connections with the Toronto Telegram,¹¹ and affiliated with the National Broadcasting Company in New York. CKGW's manager, R.W. Ashcroft, was engaged in several activities against public broadcasting and its proponents. In a debate with Graham Spry of the Canadian Radio League in Saturday Night¹² he suggested a broadcasting system consisting of two elements: one part would be publicly owned, under the direction of the Canadian National Railways, and would produce mostly non-commercial public service programs; the other element (and much the larger) would be under the direction of the C.P.R., and would be commercial. Although Spry easily put down the argument at the time, the idea of the "double system" was not to die in the minds of the C.A.B. members, and would eventually be realized, although not in the form put

¹¹The Telegram, with La Presse in Montreal which owned a powerful radio station affiliated with the Columbia Broadcasting System, was strongly opposed to the recommendations of the Aird Report.

¹²January 24, 1931. Much of the detail here on the C.R.L. and the early activities of the C.A.B. is taken from John E. O'Brien, A History of the Canadian Radio League: 1930-1936 (Unpublished Doctoral Thesis), University Microfilms, 1964; and, Margaret Prang, "The Origins of Public Broadcasting in Canada", Canadian Historical Review, XLVI (March, 1965), 1-31.

forward by Ashcroft. Another C.A.B. activity was pamphleteering. In the spring of 1931, the C.A.B. appointed a committee of three to prepare a pamphlet for wide public distribution. The members were Ashcroft, J.O. Apps, General Executive Assistant of the C.P.R., and J.A. Dupont of La Presse. It was entitled "Radio Broadcasting Under Private Enterprise", and roundly attacked the C.R.L., the Aird Report, the British Broadcasting Corporation (which Aird had used as a model), and public ownership in general.¹³

As well as pamphleteering and press debates, the C.A.B. stations propagandized on their own air time. They editorialized against "civil service radio" which they told the public would mean either an annual licence fee of \$30 (instead of the then current \$1) and a tax of \$10 per radio tube, or a government subsidy of \$15 million per year. Other activities and methods of operation will be described further on.

The Canadian Radio League (C.R.L.) was quite a different kind of organization from the C.A.B. It was started by two men: Graham Spry, who was the National Secretary of the Association of Canadian Clubs, and Alan Plaunt, who had just graduated from Oxford and was working for Charles Bowman at The Citizen. These two, like many other nationalist-minded people of the time, were afraid that the combination of the depression, pressure by private interests, and a suspected sympathy of the new conservative government for private ownership of broadcasting would lead to the pigeon-holing or even abandonment of the Aird recommendations. With Spry as Chairman and Plaunt as Secretary, the C.R.L. began with the aim ". . . to organize Canadian public opinion in favour

¹³With its publication, the member stations of the C.N.R., the Manitoba Government and a number of others withdrew from the C.A.B.

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of a national broadcasting company."¹⁴ The main motive force appears to have been nationalism - the desire for the control of Canadian programs by Canadians. The League was financed initially by Plaunt, who was wealthy, and later by donation from the members. Its organization was quite straightforward: an honorary executive graced by well-known names with a wide geographical representation; an active, working executive; and a membership of individuals and organizations willing to write letters, lend their names, and try to influence the press. A sampling of the names in the League is impressive: Brooke Claxton, Father Henri St. Denis, George Pelletier, E.A. Corbett, R.K. Finlayson, Norman Smith, N.W. Rowell, Augustin Frigon, Canon Emile Chartier, Dr. Edouard Monpetit, J.A. Corry, W.M. Birks, Louis St. Laurent, General Sir Arthur Currie, and Dr. Stanley MacKenzie, to name only some. A few of the organizations lending their support were these: Royal Society of Canada, Professional Institute of the Civil Service, Canadian Legion, Women's Institutes of Canada, United Farmers of Alberta, Canadian Congress of Labour, Hadassah of Canada, the Vancouver, Ottawa, and Victoria Boards of Trade, Imperial Order Daughters of the Empire, Trades and Labour Congress. These people and organizations worked hard and effectively for their ideal of publicly-owned, national broadcasting. Unlike the members of the C.A.B., whose basic aim was a system which would be profit-oriented; League members stood to gain only what they believed to be best for Canada. This is not to say that all pleaders for public broadcasting were completely pure in their motives. Most of the newspapers who supported the

¹⁴O'Brien, History, F.N., 101.

League (nearly all but the Toronto Telegram, La Presse, and the Edmonton Journal) had a second motive: to reduce competition for the advertising dollar. Nationalistic idealism was uppermost with the majority of supporters, however.

The C.R.L. used various methods to further its cause, most of them effective, and some of them shrewd. They made excellent use of the press. As mentioned, they had a good deal of editorial support anyway, but the League did not confine itself to press handouts and the odd interview. One example will suffice. In 1931, J.M. Gibbon, The General Publicity Manager of the C.P.R., wrote an article in the Canadian Forum¹⁵ in which he viciously attacked the C.R.L., the B.B.C., the Radio Times, and everything else to do with public broadcasting. The Forum sent a copy of the article to Spry before publication date; asking him to prepare a reply. Writing to a friend that "the Lord has delivered the enemy into our hands",¹⁶ Spry sent the article to the B.B.C. whose reaction was so strong the Corporation got a public apology from the C.P.R. (who insisted Gibbon had not written the story as their representative) and almost got Gibbon fired. As well, Spry sent annotated copies of the Gibbon article to friendly newspapers suggesting they might wish to comment on the day the story was to come out in the Canadian Forum. This they did, which resulted in absolute disaster for the credibility of the article. Then, as the coup de grace, Spry wrote a very strong article in reply, which appeared in the Forum's next issue.

¹⁵J.M. Gibbon, "Radio as a Fine Art", Canadian Forum, XI (March, 1935), 212-214.

¹⁶O'Brien, History, 206.

The Canadian Radio League made excellent use of its network of personal contacts. Spry and Plaunt were tireless in travelling the country making use of friends, 'fraternity brothers, names recommended by other names, and most especially friendly Cabinet Ministers and people close to the Prime Minister. Plaunt had worked with N.W. Rowell at a conference in 1929, an acquaintanceship which gained him support and access to many prominent people. A C.R.L. delegation called on three Cabinet members while Prime Minister Bennett was in London at the Imperial Conference of 1930, and got their support. Spry wrote to members of the London delegation urging them to try to influence Bennett. The exact correlation is unknown, but the Prime Minister cabled Ottawa that there were to be no radio licenses issued until his return. Later on, Spry worked very closely with his friend, Bennett's brother-in-law, the Hon. W.D. Herridge, who was sympathetic and whose influence on Bennett was thought to be considerable. These examples are by no means exhaustive. "In retrospect, the League's moving spirits had no doubt that personal channels such as these . . . were at least as important as the League's formal activities in shaping government policy."¹⁷

In addition to economic depression and the other factors mentioned earlier which contributed to the delay of radio legislation, there was a jurisdictional dispute between Ottawa on the one side and Quebec supported by New Brunswick, Ontario and Manitoba on the other, which had to be resolved. The C.R.L. played a role in this dispute as well. Here again, the League's motives mixed nationalism with broadcasting idealism: they

¹⁷Prang, Origins, 14.

supported the central government. Spry and Brooke Claxton wrote a "factum" in support of the Dominion's case, which was heard May 6, 1931. The Supreme Court ruled in favour of Ottawa. When Quebec appealed to the judicial Committee of the Privy Council, the League sent Claxton to London, where his appeal to the Committee was most influential. On February 9, 1932, the case¹⁸ was decided in favour of the Dominion. Exactly one week later, Prime Minister Bennett announced a Special Committee on Radio Broadcasting. The move toward a new government policy was again underway.

The Canadian Radio League and the Canadian Association of Broadcasters were both very active in the Committee's hearings, and outside them. Some of Spry's activities were: to work very closely with the Committee chairman on the C.R.L.'s brief; to travel to Western Canada to stir up public opinion, while Plaunt did the same in the east; to have Gladstone Murray, Deputy Director of the B.B.C. brought over as a witness; to have Dr. Joy E. Morgan of the National Committee on Radio brought up from the U.S. to testify on the state of broadcasting there; to invite as witnesses in support of the League proposals Bowman, Frigon, Claxton, Aird, and Rowell. The League's brief was essentially the Aird recommendations, only worked out in greater detail.

The opposition to the C.R.L. was not well-organized, and the various plans presented to the Committee, while all opposed to public broadcasting, differed in various ways. Some of the witnesses of the C.A.B. persuasion were J.E. Walsh of the Canadian Manufacturers Association, K.S. Rogers of Rogers-Majestic

¹⁸In Re Regulation and Control of Radio Communication in Canada, (1932), A.C. 304.

and CFRB, A. Dupont of La Presse and CKAC, E.W. Beatty, President of the C.P.R., H.S. Moore, President of the C.A.B., and R.W. Ashcroft of CKGW. In brief, they wanted the status quo. Probably the greatest weakness in their position was their admission under questioning that broadcasting was by nature a monopoly (a point Spry had made) and that if the monopoly were given the private owners they would need a government subsidy on transmission lines and some programs. Committee members could see no point in giving public funds to a private company.

On May 9, 1932, the Committee sent its unanimous recommendations to the House. They were, briefly: the appointment of a three-man commission with complete broadcasting control to own and operate stations, expropriate existing stations, grant licenses, and produce programs; the building of high-power stations to cover the country, with coverage to be filled in with low-power, privately-owned local stations under commission control; and, that broadcasting should be self-sustaining financially, with revenue from indirect advertising and license fees (the amount of the fees to be left to Cabinet).

The new Broadcasting Act,¹⁹ introduced May 18, 1932, and assented to May 26, 1932, contained only one major difference from the Committee recommendations: the three-man commission, the Canadian Radio Broadcasting Commission (C.R.B.C.) appointed by the Governor in Council, was made a department of government. All personnel were subject to the Civil Service Act.

The provisions of the 1932 Act presaged several problems

¹⁹Can. Statutes, 22-23 George V, 1932, c. 51, "An Act respecting Radio Broadcasting".

which were to recur in Canadian broadcasting through the years. Some of these are worth noting. Both Aird and the C.R.L. had recommended a strong, autonomous broadcasting corporation, independent of government, with a large board having members drawn from several geographic and other areas to be responsible for policy, and a general manager and professional staff responsible for operations. This was not the form of the C.R.B.C.²⁰ It was too small a body to carry the great load of responsibility placed on it, i.e., to establish new stations, expropriate others, set up a network, develop policy, and produce programs with low-paid civil service staff. In a Parliamentary Committee review of the C.R.B.C. in 1934, the Commission Chairman, Hector Charlesworth, made a plea for the functions of regulation and policy-making to be separated, and the Committee so recommended, but nothing was done at that time. A second major problem combined with this first one to produce a situation which both Aird and the C.R.L. had feared and sought to avoid. The problem was lack of revenue. The situation was the continuing dependence of the C.R.B.C. on the privately-owned stations, which thus gained a foot-hold, and whose power would grow. Aird had recommended revenue from licenses, advertising, and government grant. The C.R.L. had advocated a three-dollar license fee, and indirect advertising. The Act of 1932 established a self-sustaining system with indirect advertising and no government grants, and the Cabinet set the license fee at only two dollars. As a result, the C.R.B.C. could not fully carry out its instructions to set up a national, publicly-owned system. It could not afford to

²⁰Detailed and harsh criticisms of the operations and structure of the C.R.B.C. can be found in Weir, The Struggle, especially 154-160.

build the high-power transmitters called for in the Act, and as a result privately-owned transmitters, instead of gradually disappearing as envisioned by Aird, the C.R.L., and even the 1932 Act, grew in numbers and power, both electrical and political.

The Canadian Radio Broadcasting Commission was not a satisfactory organization. Under it, public broadcasting in Canada got off to a rather shaky start. The Canadian Radio League, while happy with the 1932 Act as far as it went, continued to work for a new Act which they hoped would set up a better financed organization, and one having a board separate from a general manager, and independent of the government. Immediately after MacKenzie King returned to power in the election of 1935, Alan Plaunt, then Chairman of the C.R.L., presented these ideas to King and to C.D. Howe, the new Minister of Marine, and both were impressed, and accepted them. King is reported to have said "We want the Aird Report, and this is the Aird Report brought up to date".²¹ Howe, however, wavered after visits from the C.N.R., the C.P.R., Bell Telephone, the Canadian Daily Newspapers Association, Canadian Press, and the Canadian Association of Broadcasters. Plaunt had seen Howe on December 27, 1935, at which time he and Brooke Claxton had been invited to prepare a draft act. By January 20, Plaunt was informed that current thinking was that the private broadcasters should have a separate regulatory board. He and Plaunt were sent a new draft act containing this provision, one which they criticized strongly, and which Gladstone Murray and Vincent Massey, the Canadian High Commissioner in London, also criticized in a cable they sent Howe. At this, Howe withdrew

²¹Ibid., 203.

his draft, and in March, 1936, a Parliamentary Committee was appointed to inquire into the workings of the C.R.B.C., and recommend changes if it thought they were needed.

Before this committee, Plaunt, Claxton, and Father St. Denis appeared for the C.R.L. The C.A.B. was also heard, and the recommendations in its brief are interesting, as follows: the C.R.B.C. should produce programmes for distribution by private stations, and no more than that; the C.R.B.C.'s operations functions should be given to a new body, which would not own stations; the regulatory function should be given the Department of Transport; the C.R.B.C. should have a general manager; the C.R.B.C. should not compete with the privates for commercial business; the Commission should subsidize transmission lines; the members of the new board should be men who know broadcasting; commercial and sustaining programs should be scheduled at different times so as not to compete with each other. Judging from these recommendations, it appears that the private station owners had decided nationalization was not inevitable, and that even though some kind of public agency seemed necessary they would do their very best to turn it to their advantage and maintain or increase their profit-making potential. The Committee reported May 26, 1936. There is no need to summarize their recommendations here, except to say that they were very similar to the C.R.L.'s ideas, and were all contained in the Act which was assented to June 23, 1936.²² These were some of the main provisions of the act: the Canadian Broadcasting Corporation was established with a board of nine governors appointed by Cabinet from different parts of Canada;

²² Can. Statutes, 1 Edward VIII, 1936, c. 24, "An Act Respecting Broadcasting".

the position of General Manager was created, to be chief executive of the Corporation; the C.B.C. was to carry on a national broadcasting service, to own and operate stations, originate programs, acquire private stations either by lease or purchase, or if necessary by expropriation with compensation for equipment and property only; employees would not come under the Civil Service Act; finance was to be from licence fees²³ and advertising revenue; licensing would come under the Minister of Transport, on the recommendation of the C.B.C. Board of Governors; the Corporation was to control all aspects of Canadian broadcasting, public and private.

In short, the Corporation was almost exactly what Aird had recommended. There was a difference in the size of the Board, and (since the Privy Council Decision intervened) the idea of provincial control of programs was a dead issue, but in the main the ideas were the same. Broadcasting in Canada was now a publicly-controlled national institution. Local, privately-owned stations were to remain at the discretion of the C.B.C. Board, but they were to be controlled absolutely by the public corporation. Similar as the new act was to Aird's recommendations, it was even closer to the wishes and views of the Canadian Radio League, which had taken the Aird Report as its basis, and refined and detailed it in the draft act it submitted, most of which appeared in the 1936 act.

Immediately the Canadian Broadcasting Act was passed, the two major pressure groups, the C.A.B. and the C.R.L., began

²³The fee was later established by Cabinet at \$2.00, and raised in 1938 to \$2.50.

work to influence the Cabinet in its choice of a General Manager. Once again, their methods differed, and once again the League won. The League wanted Gladstone Murray, then Deputy Director of the B.B.C.; the private stations wanted Reginald Brophy, a former sales manager for Marconi in Montreal, and then Director of Station Relations for N.B.C. in New York. The method of the C.R.L. was once again to enlist influential people (Vincent Massey, John W. Dafoe, Paul Martin, and several M.P.'s) to concentrate their persuasion on the Prime Minister and the Cabinet. As well, Plaunt attacked the C.A.B. in a very nationalistic news release, which several newspapers used. The C.A.B., on the other hand, sent out a letter to all M.P.'s and tried to influence government officials. The only Cabinet Ministers who agreed with their stand were C.D. Howe and C.A. Dunning. In the end, the C.R.L., with its seemingly greater finesse, wider network of influential people, better use of the press, and more reasoned approach, and perhaps above all its appeal to Canadian nationalism, carried the day. Some examples: the new General Manager appointed was Gladstone Murray; the Assistant General Manager was Augustin Frigon, one of the Aird Commissioners; two of the members of the nine-member Board of Governors were strong C.R.L. supporters; and Alan Plaunt himself was appointed a Governor. It had been a very hard fight, with both sides carrying on as strong a battle as each knew how, working for the system each believed in. The motive force of one side was, to reduce it to a word, nationalism; of the other, profit. Nationalism won in 1936 but the issue was not permanently settled. With the above-mentioned appointments, the C.R.L. was disbanded, its work

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done. The C.A.B., on the other hand, settled in for a long war.

The 1936 Broadcasting Act stood for twenty-two years, with amendments in 1944, 1947, 1950 and 1951. The first made the Chairman of the C.B.C. Board of Governors a full-time salaried position. The 1951 amendment will be mentioned further on. The others were minor. The period between the 1936 act and the 1944 amendment can be summarized very quickly. In a sentence, the growth of public broadcasting grew more or less as planned. The Parliamentary Committees of 1938, 1939, 1942 and 1944 all re-affirmed the principles laid down in the 1936 act. This is not to say that the private station owners quietly accepted these principles, however. Those most concerned owned high-power transmitters. The 1936 Act clearly established a place in the system for small, local community stations to supplement the C.B.C.'s wide-area transmitters, but big operations like CFRB in Toronto and CKAC in Montreal felt threatened. From 1942 on, their representations to the various Parliamentary Committees, through the C.A.B., became stronger and more insistent. Their cause was helped considerably by the Hon. Joseph Thorson who, before a Parliamentary Committee in 1942, referred to the C.B.C. and the private stations as "competitors".²⁴ Although the private stations had often thought of the C.B.C. in this light, no person in such surroundings had ever articulated the idea before. The C.A.B. now took it up, and enlarged and expanded it. Where they had suggested earlier that they should have some means of appeal from the decisions of the C.B.C. Board of Governors, now before

²⁴Peers, Politics, 352

the 1942 Committee they began the long haul which resulted in victory in 1958: the demand for a separate regulatory agency. The demand became more strident through the years, with charges that the C.B.C. Board was both judge and executioner, competitor and controller of the private segment. These views raised a quandary in many minds because of what has been called the "dilemma in Canadian broadcasting".²⁵ There is in Canada a nationalist desire to be free of American domination, including broadcast programs, and at the same time a propensity to favour the use of free enterprise unless circumstances absolutely demand government action. There was no doubt that in the early days of broadcasting nationalization was essential to escape domination from the U.S. But still, in many minds, it seemed wrong to be so hard on these businessmen who had pioneered broadcasting in Canada, and who now were under the threat of losing their livelihood. One of the main functions of the C.A.B. has been to play on these feelings; emphasize their members' plight, and demand "fairer" treatment. In 1947, the C.A.B. adopted for the first time some of the methods of the then-defunct Canadian Radio League. The brief it had presented to the Parliamentary Committee of that year was circulated very widely, through the friendly press, on Association radio stations, and in paid advertisements, in an attempt to gain public support. There is little evidence, however, that the C.R.L.'s major weapon, prestigious personal contact, was yet open to the C.A.B. It would be later.

In April of 1949, a Royal Commission on National Development in the Arts, Letters and Sciences was appointed, with the

²⁵See Frank Peers, "The Nationalist Dilemma in Canadian Broadcasting", in Peter Russell, Ed., Nationalism in Canada (Toronto, 1966), 252-267.

Rt. Hon. Vincent Massey as Chairman. It was charged to look into various matters, but in broadcasting it was "to examine and make recommendations upon . . . the principles upon which the policy of Canada should be based, in the fields of radio and television broadcasting . . .".²⁶ This it did two years later. Although the Canadian Association of Broadcasters and several individual radio stations made representations to the Commission urging a separate regulatory board, saying that the C.B.C. was "at one and the same time competitor, regulator, prosecutor, jury and judge",²⁷ the Commission rejected the idea absolutely. The principles laid down in the Aird Report and the 1936 Broadcasting Act were upheld. The main Massey recommendations were briefly as follows: that the C.B.C. continue in its role as developer of a national system, responsible to Parliament; that the Board of Governors be enlarged; that there be no private networks; the right to a public hearing in matters involving the C.B.C. Board, and the right of appeal to a federal court; that licences be extended from one to five years, but that they still be non-transferable and without property value; that C.B.C. stations refuse local commercials, and that they generally cut down on commercial programming; that C.B.C. revenue be from a continued licence fee, from commercial revenue, and from statutory grant making up an amount equal to one dollar per head of population; that broadcasting in French be expanded; that the Board of Governors ensure a greater use of Canadian talent by private

²⁶Canada, Report of the Royal Commission on National Development in the Arts, Letters and Sciences (Ottawa, 1951), xii.

²⁷Ibid., 282.

broadcasters; that the C.B.C. develop television broadcasting on the same basis as radio had been; that no commercial T.V. licences be granted until the C.B.C. was ready to provide programs; and "that the whole subject of television broadcasting in Canada be reconsidered by an independent investigating body not later than three years after the commencement of regular Canadian television broadcasting".²⁸

It is important to note that, even though the Massey Commission strongly favoured national broadcasting, gave the C.B.C. great praise, criticized the private stations heavily for lack of program quality, and rejected absolutely the idea that broadcasting in Canada is an industry, they did give way to the demands of the private owners in certain small but important ways. First, the right to appeal the C.B.C. Board of Governors' decisions to a court would for the first time introduce a second party into the system. It would make the Board no longer supreme over all broadcasting matters, and would raise the status of the private broadcasters. Second, the recommendation to extend licences from one to five years would give the private stations far greater security, especially in view of the fact that the C.B.C. Board had never revoked a licence. If they had not done so on a one-year basis, extending it to five would be close to a guarantee of perpetual existence for the privates. Third, requiring the C.B.C. to cut down on commercial activity would accomplish two things. It would make the private stations richer, and it would make the C.B.C. either poorer, thus slowing expansion, or more dependent on Parliament for its funds,

²⁸Ibid., 305.

thus increasing the potential for political interference. Fourth, the introduction of statutory grants to the C.B.C. would decrease the C.B.C.'s independence from Parliament. None of these four points is large in itself, and obviously Mr. Massey, tireless worker for the Canadian Radio League and staunch defender of national broadcasting though he was, thought it necessary to make some concessions to the private operators; but encouraged by these concessions, the members of the C.A.B. have quite naturally continued to press their point of view with vigour.

The Broadcasting Committee of 1951 gave general approval to the Massey Report, and on December 21, the Broadcasting Act was amended. These Massey recommendations were included: the C.B.C. Board was increased from nine to eleven; public hearings on licences were established, and appeal to the Exchequer Court was provided; annual grants to the C.B.C. were established for the period 1951 to 1956; and, greater use of Canadian talent was required. The Massey recommendations on commercialism and the extension of licences were not included, but were accomplished later by government directive.

The 1951 amendments made no mention of television, yet that medium was then well established in the U.S., and was a problem of high priority in Canada. In 1949, while the Massey Commission was sitting, the government made its first policy statement on the subject. In brief, it stated that the C.B.C. should establish a production centre in Montreal and Toronto and that television should follow the pattern of development that radio had, with a mixture of public and private stations under the general direction of the C.B.C. It should be noted that

development was to be as it had been in radio, not as it was intended to have been by Aird, the 1936 Broadcasting Act, and the numerous Parliamentary Committees over the years. Section three of the 1949 directive said in part: "In any city or area in Canada including Montreal and Toronto, a licence to establish one private station will be granted to a private organization giving adequate assurance of financial means and of service."²⁹ It was in reaction to this that Massey recommended no private station be licenced until the C.B.C. could provide programs.

The government's next policy statement came in December, 1952, shortly after the C.B.C.'s Montreal and Toronto television stations went on the air. Its general tenor was that television should now be developed as quickly as possible. The C.B.C. was authorized to build stations in Vancouver, Winnipeg and Halifax. A station had already been started in Ottawa. Applications for private stations were invited for other cities. This last provision again eroded somewhat the idea of national broadcasting. Television stations in six of the ten provincial capitals were to be in private hands, carrying some C.B.C. programs.

In 1953, the government abolished the \$2.50 radio licence fee, which had always been unpopular, and instead based the financing of the C.B.C. on a fifteen per cent excise tax on radio and television receivers. This gained two ends: it was a popular move for the government to make in view of the election coming up shortly; and it provided a good deal of money to the C.B.C., because of the tremendous volume of sales of TV sets at that time, just when the Corporation needed revenue for the expansion the

²⁹"A Brief History of Broadcasting in Canada", Appendix II in Canada, Report of the Royal Commission on Broadcasting, Vol. 1 (Ottawa, 1957), 313.

government called for. This same high cost of expansion also provided the private broadcasters with a ready argument for private development. Their very reasonable-sounding position ran something like this: Why burden the taxpayer with such great cost when private industry is willing and able to develop television for nothing? Such an argument had great appeal, and added to the "dilemma" of Canadian broadcasting mentioned earlier. Indeed, the increase in activity by the private broadcasters at this time led to a resuscitation of the old Canadian Radio League, with a name more in tune with the times: The Canadian Radio and Television League. Plaunt was dead and Spry was living in England, so the revival was conducted by two former C.R.L. members of some influence: Vincent Massey and E.A. Corbett, Massey staying behind the scenes. The new League had about one hundred members, and was poorly financed. Its one major action was to make a submission to the Fowler Commission in April of 1956, but even that was presented by A.R.M. Lower, its author, as a private citizen, not as a representative of the C.R.T.L., and not at a public hearing. It seemed the rallying to the cause by the numbers of influential people that had occurred in the old days of the C.R.L. did not happen to the extent it had formerly. Prestigious names were associated with the New League, but the drive provided earlier by Spry and Plaunt was not there, nor, it seems, was the nationalist sentiment as strong as it had been. The C.R.T.L. ceased to function as a body after only thirteen months. The C.A.B.³⁰ carried on, stronger than ever, and because

³⁰ Between 1953 and 1958 this organization was called The Canadian Association of Radio and Television Broadcasters. For purposes of clarity, the initials C.A.B. will be used throughout this study.

the government insisted that the C.B.C. withdraw from local and national radio spot advertising in the 1950's, richer than ever.³¹

It was suggested in the Massey Report that three years after the commencement of television in Canada, broadcasting should be reviewed. In December 1955, three years after CBFT in Montreal began operation, Prime Minister St. Laurent appointed a Royal Commission of three: Robert M. Fowler, lawyer and businessman; Edmond Turcotte, diplomat; and James Stewart, President of the Canadian Bank of Commerce (as Sir John Aird had been 26 years earlier). They were given a broad charge, to examine and make recommendations on the following: C.B.C. television policy; "the measures necessary to provide an adequate proportion of Canadian programmes for both public and private television broadcasting";³² C.B.C. financial requirements in both radio and television and how to provide them; "the licensing and control of private television and sound broadcasting stations in the public interest";³³ and related matters. After fourteen months, during which the Commission held forty-seven hearings, received six hundred letters, and were presented with two hundred and seventy-six briefs, mostly from organizations, they submitted their large report on March 15, 1957.³⁴

³¹Graham Spry, in "The Decline and Fall of Canadian Broadcasting", *Queen's Quarterly*, LXVIII (Summer, 1961), 222, points out that revenue from spot advertising on radio in the years 1956-1958 ran to over fifty million dollars a year, of which the C.B.C. got none.

³²Canada, (Fowler) Report, 293.

³³Ibid., 294.

³⁴Some non-academic comparisons are interesting. The Aird Report, which set the basis of the Canadian system, contained a total of 29 pages; Volume One alone of the Fowler Report ran to 518 pages. Yet, from appointment to submission Aird took one year; Fowler only three months longer. Aird, English and French in one volume: 25 cents; Fowler, Volume I, English only: \$4.50.

As noted earlier, the Canadian Radio and Television League did not make a submission to the Fowler Commission, but the Lower submission represented the views of the League, which were the usual support of a single, national system of public broadcasting, with private elements. The Canadian Association of Broadcasters,³⁵ on the other hand, made strong representations, twice as an organization and several times in submission by individual stations. Their major plea was for a separate regulatory body. The legislative path becomes a bit circular here: what the C.A.B. wanted, Fowler did not recommend; what Fowler recommended, Parliament did not enact; what Parliament did enact looked rather like what the Commission wanted, but was actually much closer to the C.A.B.'s desires. It got what amounted to a separate board. The C.A.B.'s submissions were not altogether clear, but what emerged with force was that the private broadcasters resented being regulated by the C.B.C., whom they regarded as their competitor. Their arguments consisted of institutional and other generalities: a body being both regulator and competitor is against "democratic principles"; the "constitution" calls for separation of judicial, legislative, and executive functions (which, of course, is not so in any specific way); it just did not seem right; and so on. To have a board of their own would make them "feel better".³⁶ What they did not mention was the fact that through the years private stations had become more and more profitable, and represented larger and larger investments.

³⁵Supported by several Chambers of Commerce.

³⁶Fowler's reply to this was "We were unable to see why an expenditure of the taxpayer's money should be undertaken merely in order to make the private broadcasters feel better." Report, 131.

Looked at purely as a business, which the private owners had always done (but no government or Royal Commission had ever done), a broadcasting station operating under legislation which provided control by another group in the same "business", and indeed even containing the provision that the station could be expropriated by its "competitor" with no compensation except for land and equipment, was in an intolerable position. But the private broadcasters dared not use such an argument because time after time it had been made clear by governments that broadcasting was not to be considered only as business. Therefore, since they could not produce a single case of unfairness in a decision by the C.B.C. Board of Governors, they had to resort to rather frail generalities. Fowler, like Massey before him and Aird before him, was unimpressed, although since the private owners spent so much time on the matter the Fowler Report devoted considerable space to the subject of a regulatory board, and explained the Commission's position very clearly.

What conclusions did the Fowler Commission reach? In general terms, the following:

"We have a good broadcasting system. The joining together in one system of public and private ownership suits Canada and serves Canadians well . . . and we would be wise to keep it very much as it is but improved, strengthened and tidied up where possible This is one (task) we had better work at, for it is really important if we are to keep a Canadian identity and culture To do this we must be prepared to spend public money in quite large quantities. The Canadian economy is just not big enough to support a broadcasting system on commercial revenues alone The central factor in a Canadian system is the CBC, supported by money out of the public treasury for both its capital and operating needs We suggest there should be a Board of Broadcast Governors, representing a broad public interest and experience, which would be responsible for control and

"supervision not only of the public broadcasting agency but of all private broadcasters as well. And beyond these special agencies there remains the continuing supervision of Parliament making sure that these powerful media of influence in our daily lives do not get out of control. We think this is a system that will meet Canadian needs."³⁷

The key recommendation was the creation of a Board of Broadcast Governors (B.B.G.). This Board was to be appointed by Cabinet, responsible to Parliament, and to be charged with the "supervision, regulation and control of all broadcasting in Canada in the public interest",³⁸ taking the place of the C.B.C. Board of Governors. Licencing of stations would continue to be through the Minister of Transport, but on the recommendation of the Board. There would be a C.B.C. with a President and General Manager appointed by the B.B.G., with no separate Board of its own, responsible to the B.B.G. "for carrying on a national broadcasting service within Canada".³⁹ The capital expenditures of the C.B.C. should be met by carefully predicted annual Parliamentary grants; the operations revenue should come from a rather complicated system based on a five-year forecast and tied to the Gross National Product, and from commercial revenue, the pursuit of which was to be stepped up.

The Fowler Commission took great pains to make clear its intentions about the Board of Broadcast Governors. The Commission did not think that the establishment of such a board would make any radical change in the Canadian broadcasting system. They

³⁷Canada, (Fowler) Report, 287.

³⁸Ibid., 412.

³⁹Ibid., 418.

were simply trying to "tidy up". Under the 1936 Act, the executive of the Corporation was the C.B.C. Board of Broadcast Governors. Fowler would abolish the Board and make the chief executive of the Corporation a President appointed by the B.B.G. This change, and the delegation to the B.B.G. by Parliament of responsibility for the regulation of all broadcasting, would accomplish two things, in Fowler's view. First, the source of the private owners' complaint about being regulated by a "competitor" would be removed (although not granting them a separate board), and, second, the B.B.G. would have removed from it the responsibility for the operation of the national system. This would rest with the President and General Manager of the C.B.C. The Board could then properly regulate all broadcasting, instead of doing the rather poor, overly lenient job of regulating the private stations that the C.B.C. Board of Governors had done in the past. The Commission felt that the regulation of broadcasting would still be similar in principle to what it had been previously, i.e., Parliamentary delegation to a Board made up of carefully chosen citizens appointed from various representative regions and walks of life. Again and again the Report refers to a "single system" of broadcasting, a national one, with public and private elements. It is difficult to know whether implementation of the Fowler recommendations would have resulted in the double system that actually emerged. It can be argued that taking away the power of regulation from the C.B.C. altered the notion of chosen instrument and created instead an arbiter, which of course would not have the interest in the C.B.C. that the former board had. It would change the vector of forces involved

in the struggle for control of Canadian broadcasting. But Fowler would argue that the single system would be intact. The Commission's view clearly was that the C.B.C. had in fact not regulated the privates well, and could not do so for fear of the charge of bias towards its own operating agency. He would also be likely to argue that the "chosen instrument" idea was largely intact, because the new Board would be responsible for the policy of the C.B.C., its finance, the appointment of its President, and so on, similar, as the Report pointed out, to a Board of directors for any company. It will never be known, however, who was right, because the Board established by the 1958 Act was not the board Fowler had called for.

The Fowler Commission was appointed by, and reported to, a Liberal government. The report was acted upon by a Conservative one. A few of the events in the interim period are worth noting. The first was the revival of the Canadian Radio League, now with its third name, the Canadian Broadcasting League (C.B.L.). Graham Spry was in London at this time as Agent-General for Saskatchewan. In his own words: "In 1957, after discussions with Brooke Claxton and Father St. Denis of some of the emerging dangers to the C.B.C., it was decided to revive the League and in 1958, the present writer, on a leave of absence, returned to Ottawa and formed the Canadian Broadcasting League. It was not as easy as in 1930 but much the same voluntary organizations lent their support and I formed the customary relationships with the Prime Minister's staff and with the Minister responsible, the Hon. G. W. Nowlan."⁴⁰ The aims were stated as support for

⁴⁰Graham Spry, "The Origins of Public Broadcasting in Canada: A Comment", Canadian Historical Review, XLVI (June, 1965), F.N.140.

the C.B.C., the continued private operation of private stations; a single system; a board of governors responsible to Parliament; long-term finance for the C.B.C.; and high program standards for both public and private stations. This was a far cry from the original, strongly nationalistic, aggressive aims of the League. But the methods were the same, if less effective. On July 13, 1958, a delegation of twenty-seven went to see Prime Minister Diefenbaker. The Prime Minister had said, in a campaign speech in March:

"That the time was long overdue to assure private stations competing with the public broadcasting system that they would be judged by an independent body as the need arose, they should not be judged by those who are in competition with them and are, in fact, their judge and jury The next Parliament would be asked to approve the appointment of a semi-judicial body similar to the Board of Transport Commissioners to assure that the development of radio and television in Canada would proceed with 'that justice which is the essence of our way of life'".⁴¹

The delegation's purpose was to wean him away from such views. Spry, being an ex-Liberal and then C.C.F. party member, assumedly thought it better if Donald Creighton, the Conservative historian, lead the group. Some other members were Marius Barbeau of Laval, Rev. W.A. Beecroft of the United Church, H.H. Hannam of the Canadian Federation of Agriculture, Claude Jodoin of the Canadian Labour Congress, David Kirk of the Canadian Federation of Agriculture, E.A. Corbett of the Canadian Association for Adult Education, and W.L. Morton of the University of Manitoba. The Prime Minister was said to have received them graciously, and listened to their explanations carefully. But judging from the

⁴¹Weir, Struggle, 351.

1958 Act, they were entirely unsuccessful. Of course, they came at an unfortunate time. One month earlier had occurred the broadcast which touched off "the Preview Commentary affair",⁴² a program and a series of events which convinced Diefenbaker and most of his Cabinet colleagues that the C.B.C. was a hopelessly Liberal organization which would have to be put in its place. The Cabinet and M.P.'s, whose party had been so long out of power, seemed anxious to control the state-owned Corporation which they were convinced had been Liberal-dominated for many years.⁴³ If public opinion would not let them control the C.B.C., it would not hinder them from raising the status of the private broadcasters.

The new Broadcasting Act⁴⁴ was given Royal Assent on September 6, 1958. It went against many of the principles Massey and Fowler had held, and changed the basic structure of Canadian broadcasting. Part I of the Act established a Board of Broadcast Governors with three full-time and twelve part-time members, appointed by the Governor in Council. These were its objects and purposes:

⁴²It was alleged that a representative of the government telephoned a senior official of the C.B.C. to tell him if the program series were not cancelled immediately, because of supposed political imbalance in favour of the Liberals, "heads will roll". The C.B.C.'s Public Affairs Department made a stand on the issue, and won. The program continued.

⁴³During the 1963 election campaign, when I was a radio producer for the C.B.C., a Cabinet Minister who had come to the studio to be recorded became quite irate in giving me his views on radio commentators. His words were roughly that they had to be shut up. He said that although George Nowlan supported the C.B.C., none of the other Ministers did. He assured me that when he got back to Ottawa (the words have stayed in my mind) "we're god-damned well going to do something about it". This man was defeated, as was his party.

⁴⁴Can. Statutes, 7 Elizabeth II, 1958, c.22, "An Act Respecting Broadcasting".

"The Board shall, for the purpose of ensuring the continued existence and efficient operation of a national broadcasting system and the provision of a varied and comprehensive broadcasting service of a high standard that is basically Canadian in content and character, regulate the establishment and operation of networks of broadcasting stations, the activities of public and private broadcasting stations in Canada, and the relationship between them and provide for the final determination of all matters and questions in relation thereto."⁴⁵

Licences would continue to be issued by the Minister of Transport under the Radio Act, but the Board would hold hearings and make recommendations. New licences had to receive the approval of the Governor in Council. The Board was given authority to grant the establishment of new networks and to deal with all matters of the relationship between stations and networks. The Board could suspend licences, the licensee having appeal to the Exchequer Court.

Part II of the Act established the Canadian Broadcasting Corporation consisting of a President, a Vice-President and nine directors appointed by the Governor in Council. "The Corporation is established for the purpose of operating a national broadcasting service".⁴⁶ Both capital and operating budgets were to be presented by the C.B.C. to Parliament for approval annually. Parliament required an annual report on operations.

This Act differed in several important ways from the recommendations of the Fowler Commission. First and foremost was the regulatory body. The B.B.G. was not made entirely responsible for C.B.C. policy, whereas Fowler would have had it

⁴⁵Ibid., 140.

⁴⁶ibid., 147.

responsible for all broadcasting policy. The C.B.C. was given its own board, responsible in some ways to Parliament, in some ways to the B.B.G. The lines were not clearly drawn. A few moments reflection on the stated objects and purposes of the B.B.G. and the C.B.C. as set out in the Act (above) will reveal great overlaps and lack of clarity. It is interesting to note that Fowler predicted with astonishing accuracy what would happen if two boards were established. After listing details of the likely result, he concluded:

"As a practical matter, we do not believe you can have two administrative bodies, appointed by the same government and with similar personnel involved in the regulation of broadcasting, without having duplication of expense and effort, undesirable friction between the two, and a loss of efficiency."⁴⁷

Undesirable friction there most certainly was.⁴⁸ The C.B.C. stuck to its objects and purposes under the Act, the B.B.G. to theirs, and little agreement ensued.

The Fowler Commission recommended a President and General Manager for the C.B.C., with distinct duties and responsibilities, and appointed by the B.B.G. Instead, the C.B.C. got a President and Vice-President, (with no distinction in duties), no General Manager, and appointed by the Governor in Council. The system of finance was also different. The 1958 Act made both operating and capital finance a matter of annual grant by Parliament, a process which C.B.C. complained about loudly during the duration of the Act, saying that such a scheme did not permit it to do proper advance planning. All these provisions

⁴⁷Canada, (Fowler) Report, 134.

⁴⁸Details of the major disagreements between the two Boards may be found in Weir's book, 357-371.

were made using much of the same language contained in the Fowler Report, but the intent, and the result, was much different.

It is interesting to note that Fowler was not alone in the accuracy of his predictions. During the debate on the Bill, the Leader of the Opposition, Mr. Pearson, said:

"This new Board of Broadcast Governors, because C.B.C. program standards will likely be above the minimum prescribed, will tend to become a regulatory body for private stations only, influenced increasingly by the financial situation of these private stations. More and more, then, this Board may be concerned with private stations rather than the control and regulation of a national system."⁴⁹

Mr. Pearson's misgivings have turned out to be correct. The two boards rapidly drew apart, led by their Chairman and President respectively. The character of these two men, Andrew Stewart and Alphonse Ouimet, played some part in the separation. Ouimet was a very tough-minded man who immediately saw that the new legislation not only freed his board from the onerous responsibility for regulating the private broadcasters, but also gave him a clear route to by-pass the new Board and go directly to the Minister responsible. Stewart was not as strong as Ouimet, and tended to take a very legalistic view of the legislation, doing only what was precisely and safely spelled out in the Act, and that to him meant regulating the private broadcasters. It has been put strongly to me in private interviews that although the Hon. George Nowlan, who guided the 1958 Act through Parliament, and Robert Fowler both knew the Act was vague and not very concrete in its wording, they both thought that a sufficient

⁴⁹Canada, Parliament, House of Commons, Official Report of Debates, August 25, 1958, 4051.

grant of power had been given the B.B.G. for a strong Chairman to make it work much as Fowler had envisioned. After the first few encounters between Ouimet and Stewart, however, it became clear that Stewart was withdrawing to a position of standing on the letter of the Act, from which position he exerted very little influence over the C.B.C. The cause was therefore lost. But, leaving character aside, two boards had been created, and with their creation the "double system" was born with the result that the private broadcasters pretty well went their own way, more or less guided by a lenient B.B.G. acting as a kind of friendly policeman, and the C.B.C. went its way, with its own board freed of the responsibility of regulating the "competition", and with a direct appeal to Parliament available.⁵⁰

In 1961, Graham Spry wrote these words after surveying the various forces that had been at work on Canadian broadcasting over the years:

"What, over 30 years from 1932 to 1961, Parliament intended is clear. What we have is also clear. It is not a system of national public ownership with local private stations, but a system of local private stations with a lesser public sector serving and subsidizing private stations. The private advertising sector is the dominant sector. The public service sector is the subordinate The system of Canadian broadcasting which parliament placed upon the statute books has, in fact, not been brought into being."⁵¹

A year later, the Canadian Broadcasting League rose once again, this time under the Chairmanship of David Kirk of the Canadian

⁵⁰It is interesting to note that one former B.B.G. member I interviewed vehemently denied favouring the private broadcasters, insisting they had "bent over backwards" to be fair and that all members were really pro C.B.C. Another ex-member, however, had nothing but disgust for the easy way the Board dealt with the private owners.

⁵¹Spry, "Decline", 225.

Federation of Agriculture. The group is now reasonably well organized with a constitution, an executive committee, and twenty-one corporate members. It issues occasional policy statements, and was active during passage of the 1968 Act, which will be described later. But despite the League's organization and good intentions, the old power appears to be gone. Not so with the C.A.B.

Frank Peers puts it this way:

"Tactically, the system has been changed through the unrelenting pressure of interests which stood to benefit directly the more the pendulum swung away from the public authority. Their pressure was not adequately countered by the resistance of other groups which had a less direct interest and exerted themselves only sporadically."⁵²

Very shortly after the Liberals returned to power in 1963, the government announced the appointment of a committee popularly called "The Troika", which consisted of Dr. Stewart, Mr. Ouimet, and Don Jamieson, President of the C.A.B. The state of disagreement between the C.B.C. and the B.B.G. had reached the point where both bodies had asked for an investigation into the situation. The Troika was to submit a report setting out areas of agreement among the three groups. It is significant that they finally submitted three separate reports. Following this, on May 25, 1964, the Secretary of State appointed an advisory committee on Broadcasting, chaired once again by Robert Fowler, "to advise on the system of broadcasting in Canada". Before moving on to the work of that Committee, whose recommendations form the real beginning point of this study, it is

⁵²Peers, "Nationalist Dilemma", 258.

essential to establish a theoretical basis for the examination of interest groups and their activities.

CHAPTER 2

INTEREST GROUP THEORY AND THE GROUPS INVOLVED IN
CANADIAN BROADCASTING LEGISLATION

"What may be called public policy is actually the equilibrium reached in the group struggle at any given moment, and it represents a balance which the contending factions or groups constantly strive to weight in their favour."¹

There is a vast literature on interest group theory, especially in the United States, but also to some extent in Great Britain and Europe. It ranges from the early speculations of Arthur Bentley² to literally hundreds of monographs on individual groups and associations. It is not the purpose of this chapter to survey it in detail, nor to attempt a synthesis of it. It is rather to extract some essentials from the literature so as to provide a common base upon which to compare the groups involved in the formulation of the 1968 Act. The organizations actively involved in broadcasting legislation are known. It is necessary to find out whether or not they behaved as pressure groups. The road is rather long and complicated, and some signposts will be helpful. This is the format: to touch on the work of the major American writers Bentley, Herring, Key and Truman so as to establish the basis of discussion; to examine some criticisms of the theory; to look at some of the more recent and useful refinements of it; to point out some of the ways the

¹Earl Latham, "The Group Basis of Politics: Notes for a Theory", American Political Science Review, XLVI (June, 1952), 390.

²Arthur F. Bentley, The Process of Government (Evanston, 1908).

American-based theory is affected by a parliamentary form of government; and then briefly to describe the seven interest groups who acted publicly in the formulation of the 1968 Broadcasting Act, both in a descriptive way and in terms of interest group theory. The seven groups are the Canadian Broadcasting Corporation, the Canadian Association of Broadcasters, the Canadian Broadcasting League, the Board of Broadcast Governors, the Association of Canadian Television and Radio Artists, the Canadian Association for Adult Education, and the Canadian Cable Television Association.

A brief word on nomenclature: in the literature, there is great discussion over the use of the words "interest group", "pressure group", and "lobby". There are unquestionably differences between the first two and the last, but between "interest" and "pressure" the differences are not worth a lot of paper. I shall use the two pretty interchangeably, with "pressure group" implying a shade stronger activity than "interest group". The point is that, although all the seven groups mentioned above exert "pressure" in the political process, they are at the same time unquestionably groups built around mutual "interest".

Although the roots of interest group theory can be traced back well beyond 1908,³ Arthur F. Bentley is usually granted the honour of being the father of interest group theory. He was a philosopher and sociologist, writing in reaction to the legalism and institutionalism of his day. He rejected the idea of the

³Latham, "Group Basis", does this at some length.

individual in politics. For Bentley, group activity was the thing. The political process was to be understood in terms of competing groups. "We shall have to take all these political groups, and get them stated with their meaning, with their value, with their representative quality. We shall have to get hold of political institutions, legislatures, courts, executive officers, and get them stated as groups, and in terms of groups."⁴ It is a conflict theory, which holds that the political process consists of groups of people competing with other groups, reacting to other groups, pressing against and retreating from the pressure of other groups. There is no such thing as "the public interest" for Bentley because what one group gains, another loses. In modern terms, the political process might be called a "zero-sum game". Bentley's theory is a bit crude, with lots of rough edges and ideas that have not been all that well developed, but when his theories were taken up later, they set the world of political analysis off on a course that still persists. But that was later. For many years Bentley's work was pretty well ignored.

Pendleton Herring was the next important writer to think about groups in a theoretical way, in 1929⁵, but he almost totally ignored Bentley. He is listed in the bibliography of Herring's book as being "dissatisfied with the present state of affairs". Nothing more. From his classification and study of over one hundred formal pressure groups, Herring reached some

⁴Bentley, Process, 210.

⁵E. Pendleton Herring, Group Representation Before Congress (Baltimore, 1929).

interesting conclusions. He felt that political institutions on the one hand and political parties on the other were not enough to explain the participation of the citizen in the political process. The missing concept, which he called "new" at the time, was the organized group. Like Bentley, he said the individual does not play the role conventional democratic theory had cut out for him. But, unlike Bentley, he was concerned about this. "Where a special interest is involved, with none actively fighting on the other side of the question, it is rare indeed that so general a concept as the 'public interest' is sufficient to defeat the measure. The public has no lobby."⁶ This is a problem raised again and again in the literature. Herring's answer, however, is that interest groups arose according to need; and that with sufficient regulation there is little to fear from them. His book is much more specific than Bentley's, and the classifications of groups he set down are still used.

Pendleton Herring published a second important work in 1936. In Public Administration and the Public Interest⁷ he set out the thesis that government agencies set up to administer legislation enacted to regulate specific groups tend eventually to identify with these groups and finally become the captive of them, in a sense. There is little dispute in today's political science and public administration writings that the tendency is indeed true. V.O. Key agreed with the notion in his book Politics, Parties and Pressure Groups, which first appeared in

⁶Ibid., 263

⁷E. Pendleton Herring, Public Administration and the Public Interest, (New York, 1936).

1942, and which has had many revisions. In his words, "The prevailing practice is that the administrative agencies represent the interests they serve. Many of them owe their existence to the groups they serve Administrators tend to have a vested interest in the law they enforce."⁸ This theory's relation to the Board of Broadcast Governors will be discussed further on.⁹

Key did not dwell on the theoretical aspects of groups, but one conclusion is worth noting: ". . . a working conception of the political system must make a place for organized interest groups: they not only seek to exert influence; they are a part of the political system - elements quite as integral to the system as are political parties."¹⁰ Here, thirty-four years later, is a clear acceptance and expansion of Bentley's theory.

It was stated earlier that Bentley's theory was rather "crude". In 1951, in The Governmental Process,¹¹ David Truman refined it. He gave full and long-awaited credit to Arthur Bentley's pioneering work in a book that is now generally considered to be the definitive work on group process. His general theory is contained in Chapter 2. He begins with the assertion that men naturally associate in groups - man lives in society, and interdependent associations necessarily form, based on such factors as the division of labour and skills. He quotes

⁸V.O. Key, Politics, Parties and Pressure Groups, fifth edition (New York, 1964), 693, 694.

⁹Infra, 166.

¹⁰Ibid., 143.

¹¹David B. Truman, The Governmental Process (New York, 1951).

John Dewey: "The human being whom we fasten upon as individual par excellence is moved and regulated by his association with others; what he does and what the consequences of his behaviour are, what his experience consists of, cannot even be described, much less accounted for, in isolation."¹² Any one person can belong to only so many groups, a "cluster", and every individual will have differences. But "the uniformities consequent upon the behaviour of men in groups are the key to an understanding of human, including political behaviour"¹³ He states there must be interaction among the members before it can be called a group. All broadcasters, for example, share a characteristic, but unless they interact in some common way, they are not, for Truman's purposes, a group. From this point, Truman's next step is to institutionalized groups, those "characterized by a relatively high degree of stability, uniformity, formality, and generality" Behaviour patterns in such groups are normally in stable equilibrium. If the equilibrium is disturbed, attempts are made by the group to restore it. It will be easily seen this happens in broadcasting groups. If the disruption is too great, new groups will form to restore it.

What is an "interest group"? For Truman: "Any group that, on the basis of one or more shared attitudes, makes certain claims upon other groups in the society for the establishment, maintenance, or enhancement of forms of behaviour that are implied by the shared attitudes."¹⁴ "If and when it makes its claims

¹²Ibid., 17

¹³Ibid., 23

¹⁴Ibid., 33

"through or upon any of the institutions of government, it becomes a political interest group."¹⁵ To round out this greatly over-simplified description of Truman's theory of interest groups, there remains the matter of assessing the group's strength. His formula is simple: Strength is a function of the frequency and persistence of interactions within the group. This formula will be tested in this study.

Although Truman fully credits Bentley's work as the inspiration for his development of interest group theory, there are several differences between the two. For the purposes of this study, the main area of disagreement is over the role of institutions. Bentley felt they all must be re-interpreted in terms of groups. Truman recognizes the institutions as actors, and not simply passive pawns in the group struggle. It will emerge here that there is truth in both points of view.

Group theory has had many critics. One of them is Joseph LaPalombara, who attempted to use the theory in an analysis of Italian politics.¹⁶ He came to the conclusion that a general interest group theory does not exist, except at the level of abstraction. But he does concede this: "If . . . we conceive of the interest group approach as an analytical tool or as a system of describing certain (but not all) aspects of the political process, the approach has utility"¹⁷ For this

¹⁵Ibid., 37.

¹⁶ Joseph LaPalombara, "The Utility and Implications of Interest Group Theory in Non-American Field Situations", in Nelson W. Polsby, Robert A. Dentler and Paul A. Smith, eds. Politics and Social Life (Boston, 1963)

¹⁷Ibid., 647.

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¹⁷Ibid., 647.

study, this concession is all that is necessary. Oliver Garceau agrees¹⁸ that the group concept gives us a way to talk about and analyze the political process, and goes on to deal with the problem of the individual in group theory. He condemns as too extreme the theory which sees individuals as participating only through groups which in turn act autonomously. "The simple pressure group theory of politics is no more adequate than was the ideal of direct majoritarian democracy or the neatly-ordered responsible two-party system"¹⁹

In an article written in 1958,²⁰ Gabriel Almond raised a number of interesting critical questions as he considered the application of the theory. One of them needs mention.

"As Truman and other scholars have pointed out, interest groups may be articulate or inarticulate, manifest or latent, formally organized, or simply a condition of like-mindedness and informal communication about issues One of the central problems in interest group theory is the relation between manifest and latent interest. To what extent can organized, overt interests be taken as reflecting the interest tendencies of the general population?"²¹

Almond makes no attempt to answer. Neither will this study, in any serious way. It is not its purpose. Almond's criticism is included here only to indicate that interest group theory qua theory has some serious shortcomings. Its use as a

¹⁸Oliver Garceau, "Interest Group Theory in Political Research", The Annals of the American Academy of Political and Social Science, (September, 1958).

¹⁹Ibid., 106.

²⁰Gabriel A. Almond, "A Comparative Study of Interest Groups and the Political Process", American Political Science Review, LII (March, 1958).

²¹Ibid., 271, 273.

system of description is not seriously disputed, however.

The dispute between the theory-builders and the analysers receives an excellent short treatment in Harmon Zeigler's book Interest Groups in American Society. He thinks it is a mistake to try and explain all political activity in terms of group conflict. He believes it is a misinterpretation of group theory to think of it as establishing a "broad-guage theory of the political process in the manner of systems theory or structural-functional analysis of political society."²² Group theory stresses conflict, and thus neglects the "values, customs, and agencies of socialization that cement the society into a viable operating unit."²³ But the point is, says Zeigler, that a conflict model, on which his book is based, ". . . is intended to suggest not a theory of politics, but rather a theory of the role of organized groups in politics."²⁴ Such a model simply neglects the agencies of socialization, and looks at public policy in terms of competing pressures. It does not imply that pressure groups are the only factor in forming public policy. Indeed, Zeigler suggests at one point that we look at the legislature from a systems point of view, in the manner of David Easton. Pressure groups then become only one of four inputs, the other three being political parties, constituencies, and administrative agencies. (The outputs are, of course, decisions.) He has

²²Harmon Zeigler, Interest Groups in American Society (Englewood Cliffs, 1964), iii.

²³Ibid., iii.

²⁴Ibid., iv.

come a long way from Arthur Bentley, but whereas Bentley presented political science with an interesting idea to be explored, group theory in the hands of Zeigler and others like him has given the discipline a more useful framework than Bentley's, based on a continuation of his insights, the framework used here to examine the groups involved in Canadian broadcasting.

Nearly all of the books on pressure groups devote large sections to the problem of access to government. These have not been dealt with in this study so far for the reason that all the books looked at have been American, and deal with the American system of government. The Canadian system is, of course, quite different, but unfortunately the literature on Canadian pressure groups is minuscule. It is therefore useful to turn to some British works, keeping in mind the fact that in system of government Canada is similar to Britain, but in state of mind (especially in broadcasting) she has much in common with the United States.

How do groups influence legislation? In S.E. Finer's book Anonymous Empire, the author describes a cycle of legislation which goes briefly like this: the Ministry sounds out the lobby (he does not deal with "Pressure Groups" but rather their spokesmen) for opinions before preparing a bill; after the bill has been introduced, the lobby influences speeches made by M.P.'s on second reading: ". . . one important object of the Committee and Report stages is to provide interested groups with the opportunity to change the detailed provisions of the bill. As a result, it frequently staggers from Parliament substantially altered";²⁵

²⁵S.E. Finer, Anonymous Empire (London, 1958), 19.

next, after a time, the lobby turns to the administration, trying to work to its advantage any ambiguities and loopholes in the legislation; consultation over time between the administration and the lobby is continuous, until eventually the cycle is complete and it becomes obvious that new legislation is required. With variations in detail, the cycle can be applied very well to the period 1958-1968 in Canadian broadcasting legislation. But the point for now is access. Finer lists as pressure points the administration, (which includes the Ministry), Parliament, political parties, and the public in that descending order. If one fails, the lobby tries the next. This is fairly accurate for Canada, with one great alteration: the Cabinet is a point of access separate from the administration. There appears to be no doubt that the regulated broadcasters dealt most with the Board of Broadcast Governors (i.e., the administration). If they were getting nowhere there, they would go to Members of Parliament, but, at the same time, they do their very best to get the ear of a Cabinet Minister. Here is the one big difference, not only between the British and Canadian, but also the American and Canadian systems. Access to the U.S. Cabinet would be of little use, given its function of advisor rather than power centre. The American lobbyist must work a good deal harder than his Canadian or British counterpart, because there are so many pressure points, not only available but also necessary in order to gain anything. In Canada, access to the Cabinet is worth a very great deal, and many writers feel it is much easier to attain here than in Britain. The Canadian Cabinet seems to concern itself with matters on a much lower level of importance than the

British, and therefore is open to greater contact with powerful individuals, including lobbyists. Chapter One would lead one to this conclusion.

It was mentioned earlier that some of these writers would defend the pressure group system. Finer is one of them. He is not full of praise, by any means, but he does make one good point in defence. "This is an era of mass publics and intricate technologies. If parliamentary government has been able to adapt itself satisfactorily to these conditions, this is due solely to its simbiosis with the Lobby."²⁶ It may not be the best way, but it works. Another defence of groups is made by R.T. McKenzie, writing in an issue of the Political Quarterly,²⁷ the whole of which was devoted to pressure groups. Briefly, he argues that pressure groups act as channels of communication in bringing ideas to legislators; more important ones, in fact, than parties. There is no question that the groups to be discussed here do that.

Before attempting a description of the seven groups involved in the preparation of the 1968 Broadcasting Act, with the aim of establishing their pressure group status, some kind of guide is necessary for purposes of uniformity. In a paper used as a basis of reporting to a conference of the International Political Science Association in 1957, Henry W. Ehrmann suggested

²⁶Ibid., 107.

²⁷R.T. McKenzie, "Parties, Pressure Groups and the British Political Process", Political Quarterly (January, 1958).

six points under which to examine pressure groups.²⁸ First, under identification, consider: the interest represented, the membership, internal organization, finance, and purpose. Second, the group in the political process: how does the group transmit its demands? How win public approval? What about intergroup relationships? Third, the group and public opinion: what are its propaganda activities, aimed at what audiences? Fourth, what are the relationships with political parties? Fifth, the group in the legislative process: how does it get at Parliament? If pressure group officials are M.P.'s, what is their role in the party and in the legislative process? Are there parliamentary spokesmen? What form does lobbying take? Are there any subtle methods of influence, like helping draft bills or providing information? What is the role in Committee? Sixth, the group and the executive: what is the relation with the Cabinet? How neutral is the bureaucracy? Is there ideological and social affinity between the bureaucrats and the interest group officials? Obviously, a thorough examination of all seven groups under all six headings would be a book in itself. The questions can, however, be used as a rough guide.²⁹

The first group for consideration is the Canadian Broadcasting Corporation. The idea of a crown corporation exerting pressure on the government might seem odd, but a pressure group it certainly seems to be, or at least the management of it would

²⁸Henry W. Ehrmann, ed. Interest Groups on Four Continents, (Pittsburgh, 1953).

²⁹Writing in the same book as Ehrmann, Samuel Eldersveld, p.188, provides this warning: "Data collection is a singularly trying operation when it comes to interest groups."

appear to be. The C.B.C. was established by, and falls under the various broadcasting acts. The men who have to work within this legislation do not sit idly by as it is formulated. The Government has heard their views on many occasions in public and in private. The public declarations, keeping to the period 1958-1968, were to the Fowler Committee Report in 1964, in the report of the "Troika"³⁰ in 1964, on the Fowler Committee Report of 1965, on the White Paper on Broadcasting in 1966, in Committee on the C.B.C.'s Main Estimates yearly, and in most of the Corporation Annual Reports. This is by no means an exhaustive list. No concentrated attempt is made to win public approval for its views on government regulations, except for speaking engagements by the President, and minor activities of that sort. That it tries to win public approval of its programs goes without saying.

Its inter-group relationships with the other six groups are widely varied. As regards government regulation, the C.B.C. and the Canadian Association of Broadcasters are opposite poles, except that C.B.C. President Ouimet agreed with the C.A.B. in welcoming a separate regulatory board in 1958. The C.B.C. shares many beliefs with the Canadian Broadcasting League, but there is little overt cooperation between the two. Relations with the Board of Broadcast Governors were peculiar. They were not only those of regulator-regulated, but, because of separate mandates and reporting procedures, the two were in competition to some extent. On many fundamental matters, the two did not agree, and because of the rather vague legislation under which they operated, nothing was done to correct this until the 1968 legislation.

³⁰Supra, 38

This will be gone into in detail further on in this study. With the Association of Canadian Television and Radio Artists, again the relationship is two-fold. A.C.T.R.A. is a union representing the actors and many of the writers who work for the C.B.C. so here there is one kind of relationship. But, on the other hand, when appearing before, for example, the Broadcasting Committee, A.C.T.R.A. and the C.B.C. are often on the same side, against the C.A.B. which does not contribute to the union coffers to nearly the same extent. The C.B.C. has no quarrel with the Canadian Association for Adult Education, and indeed has had many loose programming arrangements with the organization in past years. Before Committee, they tend to present the same viewpoint, except most recently on educational television. Information on the relationship between the C.B.C. and the Canadian Cable Television Association is sparse because the latter is a fairly new group. The C.B.C. sees cable television as a threat to it in the long run, if the antenna systems are not closely controlled.

The C.B.C. has no group relations with political parties. In fact, C.B.C. management appears to be terrified of partisan politics. In the few areas where there is a programming connection between the two, a very careful attempt at balance is maintained. I believe it is largely successful, a view not generally shared by M.P.'s.

The C.B.C. has various ways of getting its views to Parliament. As mentioned earlier, there is an annual report, which is addressed to the Minister through whom the Corporation

reports to Parliament, currently the Secretary of State. Although much of it is strictly factual, it often contains the C.B.C.'s views on various matters. The major attempt at influence is before the Broadcasting Committee, when it examines estimates. Here it presents a brief on broadcasting and the C.B.C.'s role, and witnesses are called. As well, there is some contact with individual M.P.'s, although it seems rarely to be from Head Office. Some members of the corporation's News and Public Affairs Department have parliamentary contacts, and there are other random contacts at which points of view are pressed. No present M.P. is a former C.B.C. permanent employee, a disadvantage not shared by the private broadcasters. Too, the C.B.C. is often called upon to answer questions in the House, the replies to which are naturally drafted to favour the Corporation view, if possible. Further, the C.B.C.'s view on broadcasting matters is sometimes solicited by Parliament or the Minister, and this is, of course, provided. The C.B.C. President is free to seek a meeting at any time with the Minister through whom the Corporation reports. What is discussed there is not made public, but it can be assumed that the C.B.C. attitude is vigorously put forward. As well, there is always a certain small number of M.P.'s and Ministers who are generally favourably disposed toward publicly-owned broadcasting, and, although ordinarily Management does not actively seek them out, such people have no difficulty in obtaining any information they might wish in any controversy. The civil service bureaucracy, i.e., the Department of the Secretary of State and the Department of Transport (now the Department of Communications) appears to maintain strict

neutrality. The Board of Broadcast Governors was a somewhat different case, as will be discussed further on.

Turning now to the Canadian Association of Broadcasters, we find a quite different type of group. At the time of the 1967 Hearings, the C.A.B. represented 252 radio stations and 55 television stations, all privately owned, the CTV Network, and, as well, had 71 associate members. The investment capital represented was in the order of \$200,000,000.³¹ There is a board of twenty directors, elected at an annual meeting, which is the governing body of the Association. There is an Executive Vice-President, a Secretary-Treasurer, and permanent staff located not in the major broadcasting centres of Montreal or Toronto, but, significantly, in Ottawa. The C.A.B. is financed by the member stations. Fees range from a low of \$10.00 per month to a high of \$300.00 per month, depending on the size and profitability of the station.

The Association's purpose was stated in Chapter One.³² That statement is the icing, however. More interesting insights on how the C.A.B. sees its purpose can be seen in the following quotations taken from a C.A.B. General Newsletter dated January 20, 1969. It was sent to all member stations following the September Board of Directors' meeting. One infers that members had been complaining about high membership fees. The Newsletter was a summary of the advantages of membership in the Association, and,

³¹Canada, Parliament, House of Commons, Standing Committee on Broadcasting, Films and Assistance to the Arts, Minutes of Proceedings and Evidence, No. 33, January 9, 1967, 1450.

³²Supra, 6.

incidentally, a statement of what the C.A.B. considers to be its sphere of activity. It is also a practical confirmation of group theory. (The emphasis in what follows is mine.)

"It is becoming increasingly obvious in this curiously complex society of ours that not only is no man an island unto himself, but that we all need to be part of a strong and effective grouping in order to be heard, in order to obtain at least without trouble, or probably at all, basic rights to which we are in fact entitled; perhaps even to survive."

"Let us remember that just five years ago the Department of National Revenue decided that the placing of any material on a previously blank tape was considered to be an act of manufacture under the law, therefore taxable There are two important points involved here. In the first place it was due entirely to the efforts of your Association that we obtained the special ruling providing that broadcasting stations are classed as 'small manufacturers' and thus do not have to pay the sales tax every time they put something on tape, film or disc. What is probably more important is that an Association has working for it people who know where to go: know how these things work: are familiar with the appropriate legislation and regulations made under it and can study these carefully and consequently present intelligent and effective argument."

"There was a curious regulation at one time prohibiting the mention on air of price of goods or services. Oddly this was one of the longest and one of the most bitter fight waged by your Association which took fourteen years to win."

"Until very recently, spot announcements were prohibited on Sundays. Again, it was your Association which carried this battle."

"The Aird Commission Report of 1929 recommended the complete nationalization of all broadcasting stations in Canada. It took a very long involved effort on the part of this Association to have this recommendation seriously diluted. It can therefore be said that stations in business today exist only because there was a united Association to keep them there."

The C.A.B.'s main purpose might be simplified to read: to obtain broadcasting legislation and decisions that are favourable to its members.

The C.A.B. transmits its political demands in much the same way as the C.B.C. - it presented briefs and reactions to all the official bodies assembled in the 1958-1968 period - but it goes rather farther in its propaganda activities. The C.A.B. is fond of saying it represents the tastes and views of the common man, while trying to relegate the C.B.C. to a kind of ghetto of snobbery. Feeling among the run-of-the-mill private broadcaster against the tax-supported C.B.C. is often fairly high, and every opportunity is taken to enlist public support. Although the leadership is more genteel, the rank and file, especially the young broadcaster whose Mecca is the U.S., damns the C.B.C. at every possible turn, not on the air, of course, but in general public contact. I say this from personal experience, having worked for three different private stations.

The pattern of relationships with the other groups is considerably different from the C.B.C. It does not cooperate with the C.B.L. for the simple reason that the two disagree on the idea of public broadcasting. The relationship with the B.B.G. was important. As mentioned earlier, the relation between a pressure group and a regulatory commission can be close indeed, to the point where the latter can become captive of the former. This did not quite happen in Canada (evidence is strong that it has happened in the U.S.) but the C.A.B. did consider the B.B.G. "their board", and enforcement of some B.B.G. regulations was certainly soft. Because the B.B.G. and the C.B.C. drew apart, the B.B.G. tended to become the regulator only of the private broadcasters, instead of all broadcasters, as explained in Chapter One.

With A.C.T.R.A. there is little relationship. It is one of A.C.T.R.A.'s bitterest complaints that Canadian stations, especially private ones, do not employ nearly enough of its members. No representation before a Parliamentary committee fails to rail at the importation of U.S. programs and actors, to the detriment of Canadian writers, etc. In other words, A.C.T.R.A. would like a close relationship with the C.A.B.; the C.A.B. wants as little as possible to do with A.C.T.R.A.

There is little relationship between C.A.B. and C.A.A.E. although there is no antagonism. The C.A.A.E. tends to support the C.B.C., since the Corporation is much more interested in adult education, but would certainly welcome any outlet for its interests. C.A.B. stations generally broadcast just as little of that kind of programming as the regulations allow, however, since it is rarely sponsorable. Contact between the two groups is therefore slight. Intergroup relationships with the C.C.T.A. are apparently good, if rather uneasy. They have common cause in that both want a minimum of government regulation, and in this they generally see each other not as competitors but as mutually beneficial. The rampant growth of cable systems does cause the C.A.B. concern for the future, however, and some private broadcasters are buying into cable systems as a kind of insurance.

C.A.B. relationships with political parties are not well known, from a pressure group point of view. Public broadcasting was established under a Conservative government, but, in 1958, an Act very helpful to the private broadcasters was passed, again under a Conservative government. Although there is little

evidence either way, it would appear that the C.A.B. does not try to use the party structure in its pressure group activities, although it must be added that private broadcasters have been high party officials in both the Liberal and Conservative parties. In the matter of the legislative process, the C.A.B. has all the avenues open to it that the C.B.C. has, and more too. There were private broadcasters and a station owner in the 27th Parliament: Richard Berger, ex-broadcaster; Don Jamieson, station owner, past president of the C.A.B., member of the board of CTV, and in the present Parliament, Minister of Transport; Robert McCleave, ex-broadcaster; Bud Sherman, ex-broadcaster. As well, a number of Senators are owners or part-owners of stations, and there were other M.P.'s who were part-owners, but usually under arrangement with wives, trusts, and so on. All four of the above M.P.'s were very active members of the Broadcasting Committee, but of course only one of them, Jamieson, has been notably active in the C.A.B. In minutes of Broadcasting Committee meetings, it is clear where his sympathies and those of Sherman lie. It must be said, however, that, judging from interviews with members of the Broadcasting Committee, the C.A.B. did little overt lobbying among them. This is possibly due to the fact that the Association was reasonably happy with both the 1958 and 1968 bills, and that members were relying on Mr. Jamieson.³³

³³The Parliamentary Assistant to the Secretary of State, during passage of the 1968 Act, inferred to me that the Government relied heavily on Jamieson for his expertise, and that there was a certain amount of resentment of this by other Government Members. An N.D.P. member of the Broadcasting Committee told me the N.D.P. Caucus even considered raising the issue of conflict of interest regarding Jamieson because of his continuing ownership of CJON and CJON-TV in St. John's. They decided they had little chance of success and abandoned the idea.

C.A.B. relations with the Cabinet are unclear. One quotation from Don Jamieson's book is, however, worth repeating: "Private broadcasting in Canada has influential supporters . . . and an enormous and loyal audience - a combination that no government will willingly offend."³⁴ It would be difficult to dispute that.

The Canadian Broadcasting League is, again, a very different kind of group from either of the two already discussed. In 1968 the C.B.L. had about one hundred individual members and twenty corporate members which include unions, three of which represent workers in the C.B.C., cooperatives, agricultural organizations, the Canadian Jewish Congress, the Consumers Association of Canada, and so on. The President of the League was the President of Brandon College. Although its organization is rather more structured now than in the past, it still has very limited financial resources, donated by members. The C.B.L. is "interested in good broadcasting and effective public participation through proper agencies to ensure . . . good broadcasting in Canada."³⁵ It is a pressure group, pure and simple. As is evident in Chapter One, its predecessor, the Canadian Radio League, was instrumental in having public broadcasting established. The present league still favours the C.B.C. over the private broadcasters, and urges public control over both. Its activities are now rather limited compared with the early days, even though

³⁴Don Jamieson, The Troubled Air (Fredericton, 1966), 11.

³⁵Canada, Parliament, House of Commons, Standing Committee on Broadcasting, Films and Assistance to the Arts, Minutes of Proceedings and Evidence, No. 35, January 17, 1967, 1571.

Graham Spry has returned to it, and operates a small office in Ottawa. Its propaganda activities are sparse, compared with the use the old C.R.L. made of the press. Its major activity now is to rise up, when it feels the time is opportune, to defend its "baby", public broadcasting, through influencing legislation. The present League does not appear to use arcane or clandestine methods in any way - they seem to prefer the frontal attack on the centres of power. It should be pointed out, however, that many of the member organizations have offices in Ottawa, and, although each individual organization has its own priorities in its pressure groups activities, it is fair to say that a watchful eye is kept on opportunities to influence the course of broadcasting. Because the prime movers of the original Radio League were Liberals, either large or small "l", the organization was still viewed as being Liberal up to and including its delegation to Prime Minister Diefenbaker in 1958. It would be difficult to attach any official political stripe to it now, however. As for inter-group relationships, they are few, except that many of the organizations which back the C.B.L. are also participants in the activities of the C.A.A.E. This description of the C.B.L. as a pressure group is rather sketchy for the reason that the organization was gone into in considerable detail in Chapter One.

The Board of Broadcast Governors was yet another kind of pressure group. It was established by the Broadcasting Act of 1958, and consisted of three full-time members, and twelve part-time members. Its purpose was to regulate public and private broadcasting in Canada.³⁶ Its relationship to the C.B.C. and

³⁶Supra, 33.

the C.A.B. have been briefly described. It has no particular relationship with the others except as described further on. It has no direct links with political parties, except that the part-time members were appointed by the Governor in Council, and were therefore, for the most part, members of the same party as the government. It is generally charged that this fact had relevance, but it is awfully difficult to prove, and vehemently denied by some of the members themselves.

The main point of considering the B.B.G. as a pressure group here is in its relations with proceedings leading to the 1968 Broadcasting Act. The Board presented a brief to the Broadcasting Committee stating its position on the government White Paper. Without going into the details of that submission here (they will be dealt with further on), it can be stated that the Board's interest was in trying to clarify the government's intentions toward a new board. The members had had ten years of experience, and it was assumed that many of the members would carry over to a new board. They had definite views on how that agency should operate, judged from their own experience, and they did their best to make sure the government knew them.

The B.B.G.'s relations with the Cabinet are difficult to know. Several licences were granted in the Board's ten-year life which appeared to be politically influenced, beginning with the very first TV licence award to John Bassett, well-known Conservative owner of the Toronto Telegram; but, again, proof is most difficult. I talked with one Liberal-appointed ex-member who was quite willing to defend the decisions even of the Conservative-appointed Board.

The Association of Canadian Television and Radio Artists (A.C.T.R.A.) is a craft labour union, with a membership of about three thousand, representing a good proportion of the actors, singers, writers, researchers, interviewers, story editors and the like in Canadian English-language radio and television. It is financed by membership dues assessed on a sliding scale according to the member's income, contract service fees, service charges, work permits, etc. The union's main purpose, simply stated, is to press for conditions which provide work for its members. This means pressing for a high proportion of Canadian program content in radio and television, the limiting of imported films and actors, and the banning of foreign-made commercials, among other things. Relationships with other pressure groups have been covered, save the last two. There is little interaction with the C.A.A.E. A.C.T.R.A. is beginning to be concerned about the activities of the C.C.T.A., however. It takes the position that the C.C.T.A.'s snatching programs out of the air and feeding them into homes by cable is a copy-right infringement. A.C.T.R.A. feels its members should be paid for programs used on the cable which employ their members. The C.C.T.A. has successfully resisted this pressure so far.

A.C.T.R.A. has no overt ties with political parties, no member M.P.'s, no Parliamentary spokesmen (except that the N.D.P. tends to support it as a general principle), nor any special relationships in government bureaucracy. Its lobbying activity is with the Committee on Broadcasting and the regulatory agency. Before the former, it encourages, by means of briefs, legislation favouring more and more Canadian programming; before the latter,

it pleads for enforcement of regulations to the same end. The Association's president is a frequent visitor to Ottawa, where, as well as appearing before both the Committee and the agency, he has presented briefs to the Secretary of State, the Minister of Finance, the C.B.C. and others.

The Canadian Association for Adult Education is a voluntary body of individuals, organizations and educational institutions, which was founded in 1935. There is a Director and a permanent office, located in Toronto. The Director describes the C.A.A.E. as being "responsible for the development of educational television and the coordination of its activities in Canada".³⁷ That is a rather grand claim. Probably the word "interested" would be better substituted for "responsible". The C.A.A.E. is financed by contributions from the federal and provincial governments, from members, the C.B.C., the National Film Board, charitable foundations, and the sale of publications. The purpose of the Association has been stated this way:

"It has been more than merely a professional association, but rather it has been the Canadian focus of the adult education movement. Its role has been to promote interest in continuing education and to induce public awareness of the importance to society of this fundamental right."³⁸

The group among the other six with which it cooperates most is the C.B.C. There have almost always been series of programs produced in cooperation between the two, and there is some overlap in group memberships, although it is not extensive. The cooperative programs have provided some propaganda outlet for the C.A.A.E. by their very nature, but there has been

³⁷Ibid., No. 39, February 7, 1967, 1939

³⁸"Political Action and the C.A.A.E.", Continuous Learning, VII (July-August, 1968), 158.

little overt use of the C.B.C. for such purposes. The Association relies on conferences, briefs and the distribution of transcripts of programs to get their purpose across.

The C.A.A.E. is not affiliated with any political party, and classifies itself as non-partisan. In politics, it takes its cooperation where it can find it. The C.A.A.E. is an organization for which there is always a certain amount of sympathy and support. It is a "good thing" to favour, and one to which all M.P.'s give support, none particularly strongly.

Because of commercial demands made on the C.B.C. in recent years; and for other reasons, there has been less and less room in the schedule for programs in which the C.A.A.E. could play a part. The group is distressed about this, and as a result had its eye firmly fixed on the proposed system of educational television. It presented two briefs to the Broadcasting Committee in recent years, one when the Committee was considering the White Paper on Broadcasting, and one when it was on Educational Television. Both of these were in aid of a larger role for educational television, and thus a larger role for the C.A.A.E. Writing about the C.A.A.E.'s role in influencing the government on ETC, the Director wrote in the 1966-67 Annual Report: "Our belief is that this sort of direct political activity is likely to increase and become a much larger part of the Association's role."³⁹ In a letter from the C.A.A.E. Librarian, that larger role is clearly defined:

³⁹"Director's Report", Annual Report: Canadian Association for Adult Education, 1966-1967, 13.

"We . . . speak to government through briefs and in person via Royal Commissions, Task Forces, government officials, etc., in an attempt to affect legislation before it is finalized Our communications are in print or in person, or both We like to think we have had an effect and this impression has been supported by the fact that government people, officially or otherwise, have, and do request our help or advice."⁴⁰

The seventh and last pressure group to be described here is the Canadian Cable Television Association (C.C.T.A.). At the time of the 1967 Hearings, the Association, then known as the National Community Antenna Television Association of Canada, represented 150 members, which served over eighty per cent of Canadian dwellings connected to such systems.⁴¹ The C.C.T.A. has a board of directors, elected annually, and a full-time manager. Its headquarters is in Montreal. It is financed by membership dues. The Association was established because of a need felt "for recognition of and consultation with the industry by those in government or elsewhere who could in any way influence its development."⁴² The major purpose of the group was very simple: to press for as little government regulation as possible. The group dwells on the fact that theirs are receiving operations, not broadcasting ones. (In simplest terms, a community antenna system consists of a very good, very big receiving antenna, from which central point a signal is distributed to homes by cable.) Since they claimed they did not originate programs at that time, or send them through the air, they saw no reason why

⁴⁰Letter from Miss Anne Setchell, Librarian and Information Officer, C.A.A.E., to the author, 7 November, 1968.

⁴¹Minutes, No. 36, January 19, 1967, 1630.

⁴²Membership in NCATA, Pamphlet, May 1968, 1.

they should have any government regulation beyond a licence of technical competence.

The C.C.T.A. group is fairly new, and patterns of behaviour are not clearly established. Its one big effort so far has been before the Broadcasting Committee in 1967 when the White Paper was being considered. The Association presented a brief, and witnesses were examined. The group's executive tried direct, and, to some of the Committee members, very annoying lobbying tactics,⁴³ but with apparently little effect. The 1968 legislation does regulate cable television in much the same way as other "broadcasting undertakings". The group did have one very vocal representative on the Committee who pressed its point at length there and later in the House - Ralph Cowan. Since Mr. Cowan was in general disfavour with his party, and indeed with most of his fellow members, he would not appear to have been a wise choice. It should also be pointed out that at least one M.P. owns a community antenna system: Henry Latulippe, in Megantic, Quebec. Although he saw no reason to disqualify himself from taking an active part in the debate in Committee of the Whole, he appears to have made little impression.

Relations between C.C.T.A. and other groups have been covered.

"N.C.A.T.A., although not directly involved with the now defunct Board of Broadcast Governors, early established and to the end maintained effective lines of communication with principal officers and staff members of the B.B.G. This liaison became particularly effective during the Board's closing

⁴³From interviews with Committee members.

"days when licence applications were referred to it for informal opinion by the Department of Transport."⁴⁴

One is led to believe that a certain confusion existed in the minds of the Board as to what should be done about program distribution by cable. In any case, at the time referred to here, their recommendations were cautious, if anything tending to favour the private broadcasters. This is no doubt one reason for the cable owners wishing to be free of further regulations.

It appears clear that, in various different ways, all seven of the bodies and organizations examined above can reasonably be considered as pressure or interest groups. In the field of broadcasting, they are interacting and pressing their point of view. They are making claims on each other, on government, and on society. Consider a few of the points mentioned earlier. When a group's equilibrium is threatened, it acts to restore it. This fits especially well the C.B.C., the B.B.G., the C.A.A.E. and C.C.T.A. The strength of a group depends on the frequency and persistence of its interactions. On this basis, the C.B.C. and the C.A.B. come out strongest, and that will be confirmed. The C.B.L., in these terms, is almost an "ad hoc" group which lies fairly dormant most of the time, and revives when it sees cause. The idea of institutions as actors rather than passive pawns is pointed up by the actions of the Broadcasting Committee (who fairly largely ignored N.C.A.T.A. pressure), Parliament itself (where, as will be shown later, the bill as reported by Committee received numerous changes before being passed), and the

⁴⁴"Membership in NCATA", 3.

B.B.G. (whose rulings have often not seemed to reflect the obvious pressures exerted on it). In appearing before the Broadcasting Committee on the subject of the White Paper, the B.B.G. seems to confirm, in V.O. Key's words, "a vested interest in the laws they enforce", although more will be said on this later on.

Having reasonably well confirmed that each of the seven groups can be rightly considered to be a pressure group and having given a brief description of the groups this study involves in pressure group terms, the next task is to examine the Fowler Committee's recommendations for a Canadian broadcasting system.

CHAPTER 3

THE FOWLER COMMITTEE - 1965

1

Appendix B of the Fowler Report is a list of the fifty-seven individuals or groups which presented briefs to the Committee. Among the contributors were four of the seven groups this study is concerned with: the C.B.C. Board of Directors, the Canadian Association of Broadcasters, the Canadian Broadcasting League and Association of Canadian Television and Radio Artists. This chapter will consider these briefs, along with the separate report by the B.B.G. Chairman which accompanied the report of "The Troika" in May, 1964, and which is a full reflection of his views; then the recommendations of the Committee itself; and, in conclusion, reactions to the Report by the C.B.C. Board, the C.A.B. and A.C.T.R.A.

Before examining the briefs, a few details about the Fowler Committee and its members would be useful. In his announcement of the Committee's appointment, on May 25, 1964, Secretary of State Lamontagne gave these terms of reference:

"To study in the light of present and possible future conditions, the purposes and provisions of the Broadcasting Act and related statutes and to recommend what amendments, if any, should be made to the legislation; including an appraisal of the studies being made by the Canadian Broadcasting Corporation of its structural organization; and including an inquiry into the financing of the C.B.C., into C.B.C. consolidation projects, into the relationship between the government and the C.B.C. insofar as the administration and the financing of the corporation are concerned, into the international service of the C.B.C., and into the various means of providing alternative television services, excluding

"community antenna television systems; and to report their findings to the Secretary of State with their recommendations."²

Unlike Aird, Massey and Fowler 1957, this was not a Royal Commission, but rather an advisory committee to the Secretary of State. Besides Robert Fowler were appointed Marc Lalonde, a Montreal lawyer and constitutional expert, now Principal Secretary to the Prime Minister, and G.C.E. Steele, Under-Secretary of State, now in private industry. They held their first meeting just three days after their appointment, and submitted their report on September 1, 1965. They did not hold public hearings; rather, they invited briefs and submissions from all interested parties, commissioned some special studies, and examined at first hand some other countries' broadcasting systems.

It is to four of the submissions that this study will now turn, first that of the Canadian Broadcasting Corporation's Board of Directors. In order to keep this chapter to a manageable length, summaries of the briefs are presented in barest detail, extracting only the point of view pressed most strongly.

1. One of the most important recommendations was dealt with early in the brief: the Board wanted its role in relation to the B.B.C. clarified, but not subordinated. Whether it was to be a one-board system or a two-board one did not matter (at this time - this changed later), but "the Corporation strongly recommends: (a) the C.B.C. continue to report to Parliament through a board; (b) the board(s) be composed of outstanding Canadians . . ."³

²Ibid., vii.

³Canadian Broadcasting Corporation, Annual Report for the Year 1964-1965, 6.

What was being asked was that the ground which had been claimed, through the ambiguities of the 1958 Act, be legitimized. If it were to be two boards, the C.B.C. wanted it made clear that it was to be the authority for the public sector, reporting to Parliament, and the other board was to deal with the private section, reporting separately to Parliament. They were to be clearly separate, and independent from each other. To ensure this, the Corporation recommended: that technical matters be left with the Department of Transport; that each board be given a long-term charter; and "that broadcasting regulations (established by the B.B.G.) be abolished and replaced, in the case of C.B.C. by publicly announced policies, and in the case of private stations by terms of individual licences . . ."⁴ If a one-board system were chosen, the C.B.C. recommended something similar to the old C.B.C. Board of Governors, which existed under the 1936 Act, The Corporation would have a president and vice-president and management staff with full authority, reporting to the Board. For the privates was recommended an "Office of Private Broadcasting", responsible for the performance of that sector, reporting to the same Board. The Board would report to Parliament, and have wide powers, "but not to engage in the operational direction of either sector".⁵ It was emphasized again that the two sectors shall be kept clearly separate.

2. The C.B.C. suggested "consideration be given to the publication of a White Paper on Broadcasting at the earliest

⁴Ibid., 7

⁵Ibid., 7.

possible date."⁶ The Government had already indicated it intended to do this.

3. The Corporation recommended retention of the basis upon which it had so successfully stood up against the B.B.G., i.e., "The C.B.C. primary responsibility to the public is the provision of a national broadcasting service. It is so stated in the Broadcasting Act."⁷ The brief went on to describe the C.B.C. idea of such a service, concluding with the suggestion that "the needs of the Corporation be re-affirmed as predominant in the Broadcasting field."⁸

4. The wish was expressed that the C.B.C. participate in the growth of educational television.

5. The number of commercial programs should be reduced and replaced with "attractive and popular Canadian productions", given more money to do this.

6. The C.B.C. recommended that it be in a position to have one television production centre in each province, in the capital city, and that in all areas served solely by a private television station a C.B.C. station be built.

7. Expansion of C.B.C. AM radio should be continued with a reduction in commercials, and FM transmitters should be installed in all major cities.

8. There were a number of recommendations to do with finance: that money be made available on a long-term, five or ten year basis; that dependency on commercial revenue be cut back; that

⁶Ibid., 8.

⁷Ibid., 8.

⁸Ibid., 8.

capital funds be made as grants rather than loans; that sufficient funds be granted to expand service to areas not served, and to consolidate facilities in Toronto, Montreal and Vancouver; that surplus cash be allowed to be kept to establish a contingency reserve; that extra funds be granted to introduce a colour TV service, to cover Centennial celebrations, to establish operations at Expo 67, and to expand the Northern Service.

9. The final recommendation in the C.B.C. brief was for the establishment of new transmitters for the International Service, and a closer integration of the International and Domestic services. (I.S. was then still directed by the Department of External Affairs, the only C.B.C. service directly controlled by government.)

It will be seen later in this chapter how many of these recommendations Fowler endorsed.

Like the C.B.C., one of the areas concentrated upon by the Canadian Association of Broadcasters in its various submissions to the Fowler Committee was the matter of the regulatory agency.

1. The general position was that something like the B.B.G. be retained, with some "improvements", and that the C.B.C. continue to have its own separate board. "Certainly the 'two-board system' has not been a failure by any means The main consideration is that this C.B.C. group would remain separate from the Board which, in addition to governing private broadcasting, would exert control, in certain specified fields, over all broadcasting, both public and private."⁹

⁹Canadian Association of Broadcasters, Memorandum to the Committee on Broadcasting, 23 November 1964, 2,3.

Here we find the C.A.B. asking for rather more than the C.B.C. did, in that it not only wanted public and private broadcasting separately controlled, but it wanted the private board to have some control over their "competitor". They justified this by pointing out that many private stations are compelled to carry C.B.C. programs, and thus the system is a mixed one, rather than being either "single" or "double". The private board, therefore, must have some control over the C.B.C., ran the argument.

2. The C.A.B. recommended these powers for the B.B.G.: to grant licences; to deal with network affiliation agreements; to hear complaints about C.B.C. commercial policies; to enact certain regulations on advertising, political broadcasting, etc.; to assign channels and frequencies; to impose certain conditions of licence replacing many of the current Broadcasting Regulations. In addition, it recommended the Board contain one member with broadcasting experience, and that "to represent the viewpoint and interest of the public, we suggest the establishment of a representative Advisory Council."¹⁰

In these last suggestions, the C.A.B. introduced two ideas which would lend themselves nicely to group pressure. The first is the suggestion for a Board member with broadcasting experience, one the Association had made before the 1936 Act. It can be assumed the Association would have several suggestions for the Government as to who this member should be, and that he would not be from the public sector. Secondly, the advisory council. Very little detail is offered about this, but the key

¹⁰Ibid., 6

word appears to be "representative".

By any measurement, more people see and hear private broadcasting than the C.B.C.'s, and because of the privates' greater attempt at local identification and programming, more people feel closer to them than the C.B.C. The C.A.B. no doubt felt a citizen council would favour their cause.

3. The inference was made that the single system was dead, and that the mixed system was dying. It was recommended that alternate service be extended everywhere in Canada, by the growth of private stations, and "through repeaters owned by the Corporation". (Repeaters are unmanned, automatic stations which take their input from the network. They cannot originate local programming or commercials.)

4. The C.A.B. recommended the C.B.C. be financed by statutory grants, but at the same time the long-term commercial policies of the C.B.C. must be set out and observed so that the private broadcaster could compete.

5. In a long submission on Educational Television (ETV), the Association recommended that the provinces not own stations, and that the great proportion of ETV be produced and distributed by the C.B.C. It should be observed that the ETV is costly, and normally brings little financial return.

6. Another lengthy submission dealt with the introduction of colour telecasts. The C.A.B. quoted Fowler back at himself: "For the private television stations in Canada, we feel the timing and pace of introducing colour should be left to the individual decision of each station."¹¹

¹¹Canadian Association of Broadcasters, Submission to Mr. Robert Fowler, Chairman, Fowler Committee on the Subject of Colour Broadcasting in Canada, 26.

In its brief to the Fowler Committee, the Canadian Broadcasting League made nine recommendations, made a policy statement, and provided a number of "Observations". There was nothing new in the policy statement that has not been covered earlier, except for one specific concerning the B.B.G. The C.B.L. recommended the B.B.G. be given two major functions: "the regulation of private stations in their non-network activities", and "as a research agency in the field of broadcasting".¹² The first of these functions would be what remained to the Board after the single system were reinstated, giving major authority back to the C.B.C.

The nine recommendations can be summarized briefly.

1. "Operation of all national network broadcasting should be under public authority", one which would take over the Canadian Television Network (CTV).
2. "Wherever two television stations broadcasting in the same language in one location are to be established, one of these should be a C.B.C. station."¹³
3. The C.B.C.'s funds should be provided on a statutory basis. Although it is not clear, it appears a ten-year period was favoured. This, too, agrees with a C.B.C. proposal, and, in the first part, with the C.A.B.
4. The development of a non-commercial C.B.C. FM service was recommended.

¹²Canadian Broadcasting League, Submission by the Canadian Broadcasting League to the Broadcasting Committee, September, 1964, 3.

¹³Ibid., 5.

5. Legislation should be reviewed every ten years, and the establishment of a Standing Committee on Broadcasting was recommended.
6. There should be no political or governmental interference in public or private programming.
7. The use of Canadian talent must be ensured by requiring that a certain percentage of each station's income be spent on it.
8. "Financial difficulties should not be accepted as an excuse for failure to meet broadcasting responsibilities according to the terms of the licence of the private broadcaster."¹⁴
9. The final C.B.L. recommendation was that high quality broadcasting be encouraged by a system of awards of merit, rather than by regulation.

The "Observations" in the brief were largely elaboration on some of the recommendations, but one of them, which found its way into the White Paper and eventually into the 1968 Act and therefore worth pointing out, was the idea that where there was a conflict of interest between the C.B.C. and the private sector, the C.B.C. should prevail. Much of the rest of the paper was a detailed defence of "the single system", which the League felt was being lost sight of, and which should be reinstated. It is interesting to note, in conclusion, that of the twenty member organizations signing the brief six were labour unions or associations directly involved in broadcasting.

The Board of Broadcast Governors did not submit an official brief to the Fowler Committee, but in May of 1964 the Chairman, Dr. Andrew Stewart, attached a separate statement to the joint

¹⁴Ibid., 6.

report of "The Troika" to the Secretary of State, which strongly puts forward his views. They are not necessarily those of the Board.¹⁵ Before summarizing the recommendations in that statement, it would be well to make clear the difficulties the B.B.G. had been having with the C.B.C. and which lead to Dr. Stewart's major recommendations. In a speech to the Canadian Association of Broadcasters in May of 1963, the Chairman listed his problems. "I am bound to say that, as we understand the position of the Corporation, the essential meaning of the Act as I have described it, and the meaning of the words of the Act as I have given them, have not been concurred in by, or acceptable to, the Corporation. The position of the Corporation seems to have been that the Act doesn't mean what it says; or if it does, it shouldn't."¹⁶ As described in Chapter 1,¹⁷ Alphonse Ouimet, taking as his defence that the C.B.C. was "established for the purpose of operating a national broadcasting service", and ignoring the line in Section 29 (2) which says "The Corporation is bound by the provisions of Part I", that is, bound by the powers given the B.B.G. and insisting that the C.B.C. was responsible only to Parliament, played a brazen game with Andrew Stewart, and won. The entire speech, partly quoted above, was a rather pathetic cry to the C.A.B. which said, in effect, "The C.B.C. won't play fair".

¹⁵I am told by one who was there that Dr. Stewart submitted this paper to the Board at an in camera meeting, asking for comments. It became clear to him there was much dissatisfaction with parts of it, and, as a result, he did not call for a vote of approval.

¹⁶Andrew Stewart, Address by Dr. Andrew Stewart, Chairman, Board of Broadcast Governors, Annual Meeting, Canadian Association of Broadcasters, Toronto, May 3rd, 1963, 6.

¹⁷Supra, 36.

His solution was to call for a new Act, more clearly defining the two bodies, and correcting the fact that "the authority conferred on the Board is too wide", an apparent admission that he was incapable of utilizing the power given him.

The "Troika" statement covered four major areas: the role of the broadcaster (which in B.B.G. parlance meant the licensee or owner of a station, not the actual production people), the administration of public policy, the financing of broadcasting, and the extension of second television service. As well, there was an introduction in which Dr. Stewart outlined his understanding of Canada's system of broadcasting, and the relationship between the C.B.C. and the private broadcasters. This section is revealing. By this point in time he had completely accepted the position of the privates, and, possibly smarting from his encounters with Alphonse Ouimet, endorsed it. Quoting a few lines from the Introduction will clearly make the point.

"I recommend the arrangement of two broadcasting authorities. The Canadian Broadcasting Corporation should be the authority, accountable to Parliament, with respect to the public broadcasting operations. The authority accountable to Parliament for the operations of private broadcasting stations and networks should be given the name of "Independent Broadcasting Authority", or some other name which would help to distinguish its functions from those of the C.B.C. The private broadcasters are irrevocably opposed to being placed under the authority of a Board which is the "Board of the CBC", or might be the "Board of the CBC". Under the circumstances which seem likely to prevail, the position of the private broadcasters is understandable; and I am in sympathy with it . . . private stations are justified in the view that the CBC is competing with them and in resenting being "regulated" by their "competitor".¹⁸

¹⁸Andrew Stewart, Statement by Andrew Stewart (To Accompany "Troika" Report), "Introduction", 1.

Conversations with former employees of the B.B.G. have made it clear that Andrew Stewart's door was always open to the private broadcaster, and that it was common for the permanent staff to receive instructions after such visits to the effect that some kind of relaxation of a regulation had been granted, or some new procedure was to be adopted easing some requirement. These changes were usually made without consultation with the permanent staff, and have resulted in some rather bizarre precedents for the C.R.T.C.

As stated earlier, the paper was divided in four sections, the first of which was the role of the broadcaster. In this section, Andrew Stewart called for a Government White Paper, as had the C.B.C., clearly defining the roles of the public and private broadcasters, and recommended the legislation define some words he had been having trouble with in the Regulations inherited from the C.B.C. Board of Governors.

In the second section, The Administration of Public Policy, there are a number of specifics, which can be presented briefly. The first, and a strange one for a man who was largely apolitical (Carlyle Allison, the Vice-Chairman, was generally considered to be the political appointment of the two) was that the final approval of licences be left with Cabinet. The C.A.B. later argued for the same idea. Another concerned the licencing authority. Regardless of whether it remained with the Department of Transport or fell to the Board, he recommended that it be possible to attach non-technical conditions of licence. And concluding his views on licencing, he put the view that the C.B.C. should not be a licensee under new legislation. This would

further ensure his having as little to do with the Corporation as possible. Further, he recommended a role for Parliament, which should make policies on matters of extension of service, the C.B.C.'s commercial involvement, and the "blend of programming expected in the two services". These three things should be dealt with in the recommended White Paper. He asked for "clarification of authority and jurisdiction" in a number of areas. One was that any provisions in the Act which were to apply to both the C.B.C. and the privates should be clearly set out, with any regulations necessary to carry out such instructions to be made by the Board. Ending this section on public policy, Stewart made a very interesting recommendation:

"In my opinion, there should be provision in the legislation for continuing liaison between the Board and the Corporation on the one hand; and the Board and private broadcasters, through their Association, on the other hand."¹⁹

In that sentence, he does two rather incredible things. He equates the C.A.B., an interest group, with the C.B.C., a Crown corporation, and admits that the C.B.C., or at least Alphonse Ouimet, was too much for him to deal with without outside force.

Section three of the paper was devoted to finance, in three sections. First, the C.B.C. should be non-commercial, leaving all advertising revenue to the private broadcasters. This goes completely against Fowler's 1957 recommendation, and much further than the submission of either the C.B.C. or the C.B.L. Secondly, the White Paper should provide guidelines on profitability and multiple ownership of private stations. Thirdly, the C.B.C. should be financed on a long-term basis, but since public

¹⁹Ibid., "The Administration of Public Policy", 6.

broadcasting affects all broadcasting, the B.B.G. should "have an opportunity to advise on the effects on private broadcasting", not a dissimilar suggestion to one of the C.A.B.'s.

The last section of Stewart's paper has to do with the extension of second television service, and comes down to this: wherever there is now a C.B.C. station, there should be a private one; wherever there is a private one, carrying the C.B.C. service, a C.B.C. station should be built, and the private station released from carrying the network service. There is then an odd note: "A full service, public or private, does not necessarily include the provision of local programmes from local production facilities."² We have come a long way from the original idea of a national system augmented by local, private stations. Or is he simply saying the same thing the C.A.B. did (about C.B.C. repeaters) in a slightly less obvious way?

Only one other group of those being considered made a submission to the Fowler Committee: A.C.T.R.A. A good part of the paper consisted in proving that none of the private television stations had lived up to their promises in the matter of hiring Canadian talent. The recommendations can be dealt with in a short space. They were that: C.B.C. Head Office be moved back to Toronto; private radio must have some considerations other than commercial ones, and should offer more than just an "organized apotheosis of the juke-box"; C.B.C. radio must be given enough money to stop the decline in "creative sound broadcast production"; the "dumping" of foreign productions on the Canadian market must be stopped by regulation; C.T.V. must hire more live talent;

²⁰Ibid., "The Extension of Second Television Service", 1.

private broadcasters must be made to live up to the promises they made when applying for licences; there must be a strict application of the Canadian content regulations; "Practical incentives must be found to stimulate Canadian-based productions for both radio and television . . ."²¹; long-term financing should be provided for the C.B.C.; and, "The Board of Broadcast Governors should be reconstituted as a regulatory body, representative of the industry it regulates (with the) power . . . to impose adequate penalties on stations and/or networks who fail to perform in accordance with their licences to broadcast."²² The "representation" would include A.C.T.R.A.

Even though the above is much condensed, there is still repetition, coming down to this: force all broadcasters, public and private, radio and television, to hire more A.C.T.R.A. members.

How many of these many recommendations found their way into the four hundred-odd pages of Mr. Fowler's book? The answer is: several. It is time to examine the Report in detail.

The Report of the Fowler Committee is a big book, but, unlike many such reports, it reads easily, and indeed some of its lines have become widely quoted, notably the opening of the first chapter: "The only thing that really matters in broadcasting is program content; all the rest is housekeeping".²³ It is very logically presented in six parts, each with recommendations. The six are The Canadian Broadcasting System, Public Control, The Public Sector, The Private Sector, The Future, and

²¹Association of Canadian Television and Radio Artists, Memorandum to the Honourable Miss Judy LaMarsh, Secretary of State, Appendix I, "Brief to the Committee on Broadcasting", April, 1966, 27.

²²Ibid., 27

²³(Fowler) Report, 3.

Finance. In order to keep this present chapter to some kind of manageable length, and to preserve order, the recommendations in each part will be numbered (they are not in the Report), summarized briefly and in order, with comments on their similarity to recommendations made by the five groups.

Part I: The Canadian Broadcasting System

1. This and number 2 are not strictly in the form of recommendations, but they encompass a fundamental principle and an action requested by several groups. The first is that "in cases of fundamental conflict between the public and private sectors the interest of the C.B.C. must prevail".²⁴ The C.B.C. had acted as though this were in effect since 1958, and had requested it in its submission. So had the C.B.L. The C.A.B.'s recommendations would have had the reverse effect in some cases.
2. The government should issue a policy statement on broadcasting in the form of a white paper. This had been suggested by both the C.B.C. and the B.B.G.
3. At the end of the chapter on Programming, there are a number of recommendations. After each of them here is indicated in brackets the groups which had proposed a similar idea.²⁵ The first recommendation was for the establishment of a Canadian Broadcasting Authority "entrusted by Parliament with the supervision, control and direction of all broadcasting in Canada."²⁶

²⁴Ibid., 12.

²⁵It is not intended to mean that because a similar recommendation was made by Fowler it necessarily follows that it was done as a result of pressure. I simply wish to point out what could have been the successful result of interest group activity.

²⁶(Fowler) Report, 57.

(C.B.C., C.B.L.). It should have the power to grant licences (C.B.C., C.B.L., C.A.B., A.C.T.R.A.) and set terms for them; to make regulations on taste and advertising; to draw up specific conditions of licence when granting licences (C.B.C., C.A.B., A.C.T.R.A., B.B.G.). It should have the staff to examine program performance and do research (C.B.L.). It should define the objectives of both the public and private broadcasting service. It should specify general terms for programming the C.B.C. (C.A.B.). The C.B.A. should establish a system of annual awards for quality programming (C.B.L.). The Authority should require that all stations devote a certain number of hours per week to "public service broadcasting (information and education at large) between 6 and 11 in the evenings", ²⁷ that some kind of basic Canadian content regulations should be continued for TV and introduced for radio, (C.B.C., A.C.T.R.A.) and that all stations be required to spend a "fair proportion . . . of income . . . for truly artistic creation and interpretation".²⁸ (C.B.L., A.C.T.R.A.).

Not directly relating to the powers of the C.B.A., but in this same section, are recommendations that the television day not be increased, and that morning television be reserved for school programs; and that program exchange between stations, especially in English and French Canada, be increased.

The proposed C.B.A. begins to look remarkably like the Board of Governors of the C.B.C. as set up in 1936. But having changed ideas considerably in the intervening 28 years, not much

²⁷ Ibid., 63.

²⁸ Ibid., 66.

of the above was to the C.B.C.'s liking, even though the Corporation's brief expressed no preference for a two-board system.

4. Part I ends with three recommendations on facilities and coverage. They are: that in areas where C.B.C. service now exists, no new C.B.C. stations be opened; that C.B.C. service be accelerated in areas that have no service (C.B.C.); and that "a firm degree of restraint should be applied to the licencing of new private stations".²⁹

Part II: Public Control

5. In addition to the White Paper called for earlier, Parliament must state clearly, in a Broadcasting Act, what it expects of Canada's broadcasters (B.B.G.).

6. To administer that Act, a single, independent board must be set up.

7. The board, the Canadian Broadcasting Authority, would be annually accountable to Parliament, and would be fully responsible for finance, programming, and administration (C.B.L.).

8. In a long chapter on the C.B.A., several functions already stated were described in detail, and some new ones were added. One was a suggestion of Dr. Stewart's that, in the matter of licences, the Department of Transport should grant a technical licence before the C.B.A. ruled on "the acceptability of the applicant as a broadcaster".

9. A committee of the C.B.A. should be set up by statute to deal with licencing.

²⁹Ibid., 84.

10. It was proposed that "a performance-undertaking should be made a specific condition of the licences of all privately-owned radio and television stations".³⁰ (C.B.L., A.C.T.R.A., B.B.G.).

11. The makeup of the C.B.A. was detailed. It was recommended it have a full-time chairman and 14 part-time members, chosen on a basis of excellence rather than geography or language. They should represent various skills, including broadcasting (C.A.B.). The permanent staff was also proposed in detail, with the advice that it not be under the Civil Service Commission.

12. "The Authority should have the power to suspend and cancel licences." ³¹ (A.C.T.R.A.).

Part III: The Public Sector

13. Seven chapters were devoted to the C.B.C. The first of these, on the C.B.C. mandate, is short, and its conclusion succinct: "We recommend that the mandate of the public broadcasting agency should be clearly stated and defined as fully as possible by legislation, and should be expanded and specifically explained in a White Paper on Broadcasting."³² (C.B.C., B.B.G.).

14. C.B.C. Head Office should be moved to Montreal, to be in a bilingual, bicultural atmosphere, and close to one of the two major production centres (A.C.T.R.A. preferred Toronto).

15. The organization should be changed, to make the pyramid as flat as possible, and to change the titles and responsibilities of the senior officers from President and Vice-President to

³⁰Ibid., 106.

³¹Ibid., 118.

³²Ibid., 126.

Director-General, responsible for policy and accountable to the C.B.A., and General Manager, responsible to the Director-General for operations. Alphonse Ouimet wanted no such thing. The Committee's difficulties with senior C.B.C. management on this subject are detailed in the Report.³³

16. The Committee dwelt on some of the C.B.C.'s special services at some length. It was recommended that the International Service, whose status was somewhat obscure and whose programming was loosely directed by the Department of External Affairs, should be incorporated as a regular C.B.C. department (C.B.C.), although its operating revenue should be voted separately by Parliament, annually. The Committee also urged an improvement in technical facilities and an increase in broadcast time on the Northern Service and Armed Forces Broadcasts.

17. The C.B.C. should be permitted to consolidate its operations in Montreal and Toronto, but with different plans from those then being considered, and that consolidation in other cities proceed as funds permit.

18. The C.B.C. should strive for twenty-five per cent of the television advertising market, and four per cent of radio advertising.

19. When determining public funds to be made available to the C.B.C., account should be taken of the foregoing formula.

20. "That the recommended White Paper on broadcasting policy should include a directive on the commercial objectives of the public sector of the national broadcasting system (B.B.G.)."³⁴

³³Ibid., 147-148

³⁴Ibid., 226.

Part IV: The Private Sector

This section consisted of only one chapter, and that chapter contained only one major suggestion.

21. The CTV network should not be allowed to fall into the hands of the participating stations. The Committee felt they had not shown themselves capable of running it in the public interest.

Part V: The Future

22. The C.B.C. should limit its plans for colour television to one studio in Montreal and one in Toronto, Expo 67, a "reasonable amount" of mobile equipment, and the necessary network conversion.

23. Although specifically excluded from inquiring into Cable television, the Committee felt it necessary, after a brief examination of some of the problems involved, to recommend a full study of cable systems with a view to developing policy and controls.

24. The proposed C.B.A. must keep in close touch with the Department of Transport on developments in satellite technology.

25. A number of recommendations on educational broadcasting were contained in one chapter, and can be taken together: a federal-provincial study of the needs and facilities for specialized educational stations should be undertaken; the C.B.A. should reserve a number of UHF channels for eventual educational use; as long as they are free of political control, corporations and even provincial institutions should be granted broadcast licences; a "National Advisory Council for Scholastic Broadcasting" should be established to pool and coordinate all the various groups and institutions involved in educational broadcasting to make the best use of facilities.

Part VI: Finance

This final chapter contained several recommendations on a new formula for financing the C.B.C. They may be considered together.

26. There should be established for the C.B.C. a "general borrowing authority . . . with a ceiling of \$200 million to be drawn down only against capital budgets approved by the Broadcasting Authority";³⁵ International Service assets should be transferred to the C.B.C.; "we recommend that the financial requirements of the C.B.C., both capital and operating, should be provided by a statutory annual grant (C.B.C., C.A.B., C.B.L., A.C.T.R.A., B.B.G.) of \$25.00 for each television household in Canada".³⁶

A report of such size, containing so many clearly-stated ideas could be expected to draw reaction, and it did. Three of the groups which made submissions to the Committee: the C.B.C., the C.A.B. and A.C.T.R.A., reacted strongly to the Report. The Canadian Broadcasting League did not officially react, but was generally content with the recommendations made. The B.B.G. made no public reaction, although it is known that the Chairman disagreed with much of it. There is no record of the C.A.A.E. making any official reaction, and a letter I sent to them soliciting information brought no reply. The N.C.A.T.A. did not react in public, but they were most displeased that Fowler should have looked into cable at all. In a letter written by the Manager of the Association, Jacques Chevalier, it is stated: "The only comment which the Association might make in respect to the Fowler Committee was that in including cable in its Report it was being somewhat

³⁵ Ibid., 310.

³⁶ Ibid., 313.

gratuitous and was going beyond its terms of reference."³⁷ The only requirement for setting up a cable system was a technical licence from the Department of Transport, very easily obtained. It is understandable that members of the N.C.A.T.A. wanted no further regulation than that, and would have preferred the Committee to leave it that way.

Consider first the reaction by the C.B.C. It was immediate and strong. The Corporation had been stung in many ways, such as the rejection of its commercial proposals and the casting of aspersions on its management, and set about to put things right. The comments take up a long paper, published in the Annual Report,³⁸ and distributed earlier to the press. The order of the C.B.C.'s work has been changed here to conform with the Committee Report.

1. Not surprisingly, the C.B.C. agreed that it should be paramount in any dispute with the private sector.
2. The Corporation had suggested a White Paper earlier, so approved of this recommendation.
3. The C.B.C. disagreed completely with the idea of a C.B.A., which it termed "Czar-like", on practical grounds. It believed such a board simply wouldn't work. Although in its brief to Fowler the C.B.C. stated it could work under either a one or two-board system, under certain conditions, in this reaction it came out strongly for the latter. "The Corporation finds the several arguments advanced by the Committee in favour of the C.B.A. unconvincing."³⁹ It made the interesting point, essential to most

³⁷Jacques Chevalier, Letter to the author, 28 March 1969.

³⁸Canadian Broadcasting Corporation, Annual Report 1965-1966.

³⁹Ibid., "Comments by the Canadian Broadcasting Corporation on the Report of the Committee on Broadcasting 1965", VI.

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³⁸ Canadian Broadcasting Corporation, Annual Report 1965-1966.

³⁹ Ibid., "Comments by the Canadian Broadcasting Corporation on the Report of the Committee on Broadcasting 1965", VI.

arguments advanced by pressure groups, that it would be foolish for Parliament to establish a one-board system when neither of the major groups affected, C.B.C. and C.A.B., wanted it. "The Canadian Broadcasting Authority, as proposed by the Committee, was not discussed with the Corporation nor with the C.A.B.",⁴⁰ and that appeared to be that. The C.B.C. restated its belief that the D.O.T. should be the licencing authority. The Corporation agreed with the idea of annual awards, and chided the Committee for not stating that it had been a C.B.C. idea. The same applies for the requirement of more public service broadcasting in prime time. Neither of these ideas appears in the C.B.C.'s official brief, but it was claimed they had been put forward during the life of the Committee. The Committee's ideas on Canadian content and quality programming were endorsed, although in a way that appears rather petulant. The inference was that the C.B.C. was a past master in these fields, and needed no such advice. The C.B.C. felt morning programming should be continued until a new educational television formula could be worked out. There was agreement on increased programme exchange between regions.

4. The C.B.C. strongly opposed (as might be expected) the suggestion that there be no further expansion of C.B.C. stations where C.B.C. service then existed. They called this "discrimination" because no similar restraint was placed on the private broadcasters. There was agreement on expansion of service when none existed.

14. The recommendation that Head Office be moved to Toronto or Montreal was flatly rejected, giving as a reason that the "best perspective of Canada" can be had in Ottawa, and that it

⁴⁰ Ibid., VI

would be wrong to get too close to either major cultural centre.

15. The C.B.C. devoted a long section of its comment on the Fowler Report to organization. It is not necessary to detail the rebuttal here, except to say that the Corporation was obviously hurt by the criticism, and rejected most of it. What it accepted, it took pains to point out how far advanced such proposed changes already were.

16. The Corporation agreed with the proposals on the International Service, having suggested most of them.

17. Another long section was devoted to consolidation plans. It was made up primarily of a vigorous defence of the plans for Montreal consolidation, which contended that the Committee had not done its work well or fairly. The argument is convincing.

There is agreement on the recommendation for consolidation in other centres "as funds permit", wishing only that provision had been made for those funds.

18. On the percentage of the commercial market to be striven for, "the Corporation does not believe the Committee's views on commercial broadcasting are practical."⁴¹ The counter argument stated that radio should stop all advertising, and that to increase the amount of advertising on television and at the same time to improve quality was absurd.

22. There was general agreement on the Committee's proposals for colour conversion, but not in the matter of a "freeze". This was felt to be unfair and unrealistic.

25. There was agreement on educational television proposals, insofar as the recommendations directly concerned the C.B.C.

⁴¹ Ibid., XX.

26. On finance, the C.B.C. summed up by stating "The Committee does not provide enough money for the C.B.C. to do what the Committee wants done."⁴² The C.B.C. welcomed the Committee's recommendation of a five-year statutory grant system, and the general borrowing authority, but calculated that \$25.00 per household per year would not be nearly enough money for the many improvements the Committee wanted. They said \$30.00 or \$35.00 would be more realistic.⁴³

The C.B.C. document spends a good deal of space defending itself, rather than providing constructive comment on the Committee's recommendations. The tenor of the brief is that the Fowler Committee only drew attention to weaker aspects of the Corporation, and left out most of the good. In several instances, the C.B.C. takes credit for the good ideas Fowler published, and chides the Committee for not giving full credit.

The C.A.B. response is a different kind of paper. It was included as part of a larger document sent to the Secretary of State on January 13, 1966,⁴⁴ which contained as well a suggested draft Act, modifications to the 1958 Act, which the C.A.B. said would be a sufficient change, and some initial proposals for a White Paper. Unlike the C.B.C. reaction, the C.A.B. commented on only certain parts of the Report. Again, following the order of the Report:

⁴²Ibid., XIX.

⁴³A senior civil servant involved in the new legislation told me the C.B.C. exerted considerable pressure to have the formula changed to one based on population rather than households, because of greater and more immediate yield.

⁴⁴T.J. Allard, Letter (with attachments) to the Hon. Judy LaMarsh, January 13, 1966.

1. Rather than agree or disagree with the idea of the C.B.C. being paramount in a conflict, the C.A.B. seemed to pretend that there would be no conflicts. The tone was one of shock that the Committee could argue for "total destruction of the system", the C.A.B. description of the suggestion that the C.B.C. prevail in a dispute.
2. There is agreement with the proposal for a White Paper.
3. The C.A.B. disagreed entirely with the proposal for a single broadcasting authority, not unexpectedly. "We are convinced that only a similar system (to the B.B.G.-C.B.C.) will achieve desirable objectives and permit, indeed encourage, the full potential of broadcasting service in Canada."⁴⁵ This study has been through this argument before; there is no need to elaborate. The Association disagreed with the idea of the C.B.A. being the licencing authority, arguing that this should remain a Cabinet function, with the C.B.A. only recommending. (Such was not made clear in its earlier submission.) It was opposed to the C.B.A. setting conditions of licence in place of more general regulations. The stated reason was that "This creates the possibility that the Board, or individual members of it will, however unconsciously, bring their subjective preferences to bear."⁴⁶ This does not stand up, of course. Private broadcasters had resisted regulation of any kind, but had come to live with it. The prospect of having strong conditions attached to a licence which might, in extreme cases, be the cause of losing the licence,

⁴⁵Ibid., "Comments of the Canadian Association of Broadcasters on the Legislative and Structural Framework of Broadcasting in Canada", 1.

⁴⁶Ibid., 7.

was certainly not in their self-interest. They had suggested a system of conditions of licence in their submission, but had apparently meant a much weaker arrangement. A long section is devoted to the business of "Canadian talent". The Association was very unhappy about recommendations that the use of Canadian talent be increased. It went so far as to say: "We believe these passages would not have been written had more time been available to the Committee to sit down with the private broadcasting industry for detailed discussion and examination",⁴⁷ surely one of the more patronizing statements any group has made on the work of any investigative committee. It goes on at length about the basis of Fowler's figures being unfair, and that it was all a matter of semantics. One is tempted to be simplistic and say that this was all in aid of covering up the fact that playing free records and showing U.S. film is cheaper than paying musicians and actors.⁴⁸

The C.A.B. was strongly opposed to the recommendation that morning television be reserved for education. Among the reasons given was that "A general regulation of the type suggested impinges on the delicate field of federal-provincial relationships".⁴⁹ One might assume that the main interest in making such a statement was to save the government from trouble with the provinces, rather than to lead one off the scent, namely that there is little money in educational broadcasting. The Association

⁴⁷

Ibid., 3.

⁴⁸

I feel I must apologize at this point for appearing so critical of many of the C.A.B.'s points. The reason is that I cannot escape the judgment that these recommendations are hopelessly transparent.

⁴⁹

"Comments, C.A.B.", 15.

suggested as well that self-regulation voluntarily entered into is much better than external regulation, an argument not unfamiliar to students of interest groups.

4. On facilities and coverage, the C.A.B. reiterated its contention that the ideal system would be one where each centre that could afford it should have a C.B.C. and a private station.

11. The suggested makeup of the C.B.A. would, in the opinion of the C.A.B., constitute a "one man board", which it thought dictatorial. This is similar to the C.B.C.'s view. The C.A.B. preferred a three-man board, appointed by Cabinet.

12. The C.B.A. should only be able to recommend, not grant or cancel licences. Perhaps the C.A.B. thought more influence could be exerted over Cabinet than over an independent regulatory agency. This is an interesting preference, if true, since it had presumably had experience in attempting both.

18. On the recommendation that the C.B.C. strive to increase its advertising, the C.A.B. agreed with the C.B.C. whose Board felt otherwise. The statement is interesting: "We almost hesitate to agree with the Corporation's views lest we be accused of self-interest."⁵⁰ They take the risk anyway.

21. Strangely enough, the C.A.B. did not comment on this recommendation that the stations not be permitted to take over CTV. This is again a difference in approach from that of the C.B.C., which objected at length to any attack on its competence.

26. "We agree . . . that it seems to make sound sense that the Corporation be in a position where it can forecast its income

⁵⁰Ibid., 7.

for a five-year period in advance."⁵¹ It is simply a matter of good business technique.

The third group which reacted to the Fowler reports was A.C.T.R.A., the performers' union. To be more accurate, one should say that A.C.T.R.A. reacted to the reactions of the C.B.C. and the C.A.B. In the introduction of their Memorandum submitted to the Secretary of State in April 1966, it says "Now, however, it is necessary for us to respond to some of the critics of the Report as well as to reaffirm our support for the major recommendations of the Report itself."⁵² A.C.T.R.A.'s feeling was that Fowler had accepted many of their suggestions (and, at least in principle, he did), but the C.B.C. and the C.A.B. needed some scolding, and it proceeded to oblige. Much of this need not be gone into here, but one or two points are worth mentioning. First, on the C.B.C., to the Committee's charge of timidity, which the Corporation tried to pass off, A.C.T.R.A. added even more evidence than Fowler had. It blasted in detail the C.B.C.'s complaint that it could not make more money commercially, by setting out to prove the Corporation does not try hard enough to make successful Canadian commercial programs. A.C.T.R.A. very effectively demolished the C.B.C.'s defence of its management practices by showing that a very large segment of the C.B.C.'s own staff, namely most of the people working in the creative, programming end of it, agreed entirely with Fowler.⁵³ On the matters of

⁵¹Ibid., 14.

⁵²A.C.T.R.A., Memorandum, 1.

⁵³Myself included.

extended coverage and consolidation, A.C.T.R.A. felt the money could be far better spent on improved programming, i.e., on their members. It was agreed that Head Office should be moved, if not to Toronto as the Association's brief had suggested, then to Montreal, as Fowler contended. It disagreed with Fowler's financial plan for the C.B.C., saying it was not quite adequate.

On the C.A.B.'s rebuttal, A.C.T.R.A. came down even harder. They said the whole brief could be summed up this way: "retention of the status quo". A.C.T.R.A.'s view of the status quo was not overly high.

- "The record of the private radio stations, in placing the interest of the shareholders first, last and always, with the public, whose airwaves are being thus utilized for personal profit only, nowhere, has been repeatedly condemned by investigating bodies for many years. The privately owned television stations, particularly the so-called 'second stations' have an unmatched record for broken promises and a callous disregard of the public interest."⁵⁴

A.C.T.R.A. called the C.A.B.'s plea for all management to be considered "Canadian talent" "pointless" and damned the private stations' meagre use of talent in its terms. The idea of imposed conditions of licence was supported, and the C.A.B. rejection of it "a simple resentment of any form of control".

A.C.T.R.A. decried the objections of both the C.A.B. and C.B.C. to Fowler's C.B.A. It strongly put down the C.A.B.'s comparison of broadcasting regulation to railways and airlines: "Transport merely takes people and things from place to place, a necessary function admittedly, but hardly comparable to

⁵⁴A.C.T.R.A., Memorandum, 12.

broadcasting's incredible influence on the mind of men, women and children."⁵⁵ The B.B.G. was condemned as weak, and the hope that the new C.B.A. would be strong in regulating for the public good was expressed.

The last sentence in A.C.T.R.A.'s comments puts its position, which is really very simple, nicely: "The greatest incentive to the Canadian Broadcasting industry, however, would be a clear and unequivocal statement by the Government that Canadian broadcasting must be Canadian. From this all else will follow."⁵⁶ A student of Canadian broadcasting might say this was hardly an original thought, and one not much nearer to fulfilment in 1966 than it had been in 1929.

Fowler and a number of groups had called for a government White Paper, which the government indicated it intended to produce. It was tabled on July 4, 1966,⁵⁷ the first major indication of how much of the Fowler Committee's thought would be accepted. Chapter 4 will examine that document.

⁵⁵Ibid., 19.

⁵⁶Ibid., 23.

⁵⁷Canada, Broadcasting 1966 (Ottawa, 1966).

CHAPTER 4

THE WHITE PAPER ON BROADCASTING, 1966

On November 23, 1966, the White Paper on Broadcasting was referred by the House of Commons to its Committee on Broadcasting, Films and Assistance to the Arts. All seven of the interest groups being considered in this study came before the Committee to present their views. Having weighed these and others, the Committee reported its findings and comments on the White Paper back to the House on March 21, 1967. This chapter will cover the following: the ideas on a White Paper presented to the Secretary of State in January, 1966, by the C.A.B.; an examination of the White Paper, comparing it with Fowler's recommendations; the reactions before the Broadcasting Committee on the White Paper by (in order of appearance) the C.B.C., B.B.G., C.A.B., C.B.L., N.C.A.T.A., A.C.T.R.A., and the C.A.A.E.; and, finally, the recommendations of the Broadcasting Committee when it reported back to the House.¹

The Canadian Association of Broadcasters put forward its submission on the proposed White Paper in the same group of documents sent the Secretary of State in January of 1966.² The submission had four sections. In the first, concerned with the extension of television service, the C.A.B. suggested that, where a private station then existed, a second station, if needed,

¹In this chapter, as in chapters three and five, the study necessarily takes on a kind of "catalogue" appearance. It is regrettable but in order to keep group suggestions and pressures in a proper, chronological order, it is unavoidable.

²Supra, 85, F.N. 21.

should be a C.B.C. one, and vice versa. Toward this end, a committee consisting of representatives of the Department of Transport, the C.B.C., the B.B.G. and the C.A.B. should be set up to study and recommend allocation of frequencies to the appropriate Minister. Then when the time for an application arrived, the B.B.G. should determine whether it was economically desirable. The rationale behind these recommendations is easy to see. First, they would have made sure the C.A.B. had a strong say in channel allocation, rather than allowing the possibility of good channels automatically going to the C.B.C. Secondly, the B.B.G., which had always shown great sympathy for the economic position of the private stations, would be the agency to make the economic determinations. Only part of this recommendation was accepted.³

The second section of the C.A.B. submission is a kind of grab-bag, headed "General". "We believe it should be set forward that the general purpose of the Broadcasting Act is to ensure the efficient and orderly development of broadcasting services to Canadians by both the public and privately owned sectors." It then goes on to say that programming should be Canadian "to the degree and extent all circumstances of international competition and domestic financing will permit." This same section puts forward the belief that broadcasting is useful in reflecting languages and cultures, but makes no commitment to do so. Lastly, the submission says the B.B.G. should not have power to censor or interfere directly in programming content. Very little of this appeared in the White Paper.

³Infra, 107.

Section C makes two main suggestions on the B.B.G. The Board should encourage broadcasting in both languages; and, although it should have some authority over the C.B.C., "the jurisdiction of the Board of Broadcast Governors shall primarily be related to the privately owned sector". The White Paper generally states both of these.⁴

The last section of the C.A.B. submission is on the C.B.C. It contains four of the most obviously self-interest-oriented suggestions of the whole submission. First, private stations should be able, after six months, to use C.B.C.-produced programs at prices "mutually agreed upon". Second, exchange of programs between the C.B.C. and privates should be encouraged. Third, the C.B.C. should be encouraged to produce programs in conjunction with privately owned stations. Each of these three would help the privates greatly in attaining their Canadian content requirements. Fourth, the C.B.C. should sell commercials at more realistic rates; should concentrate on national sales; should not sell programs at less than cost; should set its commercial policies in consultation with the B.B.G. and the C.A.B. and should publish them in advance for a five-year period. Fifth, and of a different nature, C.B.C. finance should be on a five-year statutory basis. Only this last suggestion was accepted.⁵

What did the Liberal Government publish as broadcasting policy, and how closely did it agree with Fowler's suggestions? To answer the second question first, very closely. The Introduction

⁴Infra, 107.

⁵Infra, 111.

states "the Government has concluded that the comments and criticisms made by the Advisory Committee within its terms of reference are in many respects soundly based and generally valid, and that many of its recommendations should be implemented as soon as possible, in effect but not necessarily in every detail."⁶ So much for the general; now for the particular. The White Paper is divided into four chapters, made up of twenty-one sections. These section numbers are used here.

I Introduction

1. Objectives. The objective of the Paper is to provide an answer to this question: "How can the people of Canada retain a degree of collective control over the new techniques of electronic communication that will be sufficient to preserve and strengthen the political, social and economic fabric of Canada, which remains the most important objective of public policy?"⁷

Fowler's general aim was similar.

2. The Advisory Committee. The quotation above, from the Introduction, sums this up.

II Public Control of Broadcasting

3. General Principles. There must continue to be public and private elements, and the public one should predominate in matters of dispute (C.B.C., C.B.L.). Regulation of programming

⁶Of relevance to this study is one important reason why the similarities are so great which has nothing to do with group pressure. When G.G.E. Steele, who was one of the Fowler Committee members, and Henry Hindley, who acted as secretary to the Committee, finished their tasks, they returned to the Department of the Secretary of State, from where they had been borrowed, and immediately began work on the White Paper. They naturally took their ideas with them, when advising the government on the Bill.

⁷Broadcasting 1966 (White Paper), 5.

should be delegated to an independent authority, but authority over the whole structure of broadcasting must remain with Parliament (B.B.G.).

Fowler had affirmed both these principles.

4. The Regulatory Authority. "The Canadian Broadcasting system, comprising public and private sectors, must be regarded as a single system which should be regulated and controlled by a single independent authority."⁸ (C.A.B.). The B.B.G. shall be reconstituted to do this. Disagreement was stated with the Fowler recommendation that the public authority comprise the board of the C.B.C.⁹ The B.B.G. should have full licencing authority, with the Cabinet not being involved except for formal appeals of decisions (C.A.B., B.B.G.). The Board will have full authority over all matters of affiliation and constitution of networks (C.A.B.). The Board will be required to undertake broadcast research in cooperation with the C.B.C. (C.B.L.). The Board will be asked to look into the setting up of regional advisory councils on programming (C.A.B.). Makeup of the Board will be a Chairman, Vice-Chairman, three full-time members and up to seven part-time members, all appointed by the Governor in Council, with authority to rest in the full-time members.

⁸ Ibid., 8.

⁹ One of the drafters of the new Bill pointed out two good reasons why the single board idea was not included in the White Paper. Neither Steele nor Lalonde, the other two members of the Fowler Committee, was very enthusiastic about the idea, but went along with Fowler on it. Later, both played a role in the new legislation, Steele as described, Lalonde in the office of the Prime Minister. The second reason given was that "the C.A.B. was absolutely opposed to it".

Fowler had proposed a similar body, with the one great difference on the single board. Another difference, not so major, was in the actual makeup, Fowler having recommended one full-time member, the Chairman, and fourteen part-time members.

5. The Structure of the Broadcasting System. As money becomes available, all Canadians are entitled to service in "the Canadian official language that they habitually use"¹⁰ (C.B.C.). Therefore, study will be given to extending network service in both languages from coast to coast (C.B.C., C.A.B.). Alternative service should be extended (C.A.B., B.B.G.). To accomplish this, the B.B.G. has been ordered to consider private applications except in certain areas reserved for the C.B.C. In these areas, the C.B.C. presence should be first established by means of repeater stations, leaving affiliates free to join the CTV Network (C.A.B., B.B.G.).

Fowler had recommended the extension of French and English facilities, as soon as possible. But he had been restrained on the matter of alternative service. Indeed, he had specifically recommended the White Paper state that C.B.C. expansion, except as above, should be frozen for five years. He had said reservations on channels then held should be dropped. Finally, he had recommended "a firm degree of restraint" on "the licencing of new private stations."

¹⁰White Paper, 9.

6. New Television Channels. UHF channels will have to be used for educational and other special uses, because the VHF channels are nearly all in use, or reserved.

Fowler did not dwell on UHF except in passing.

7. Programming. There must be general regulations, but more too. Richer private stations must have more expected of them than poorer ones, through regulation and conditions of licence (C.B.C., B.B.G., A.C.T.R.A.). Such conditions should also be attached to C.B.C. stations. (A.C.T.R.A.). Public policy should require the use of Canadian talent, and although important programming from abroad should be broadcast, it should not be considered Canadian content. The B.B.G. should enforce these principles.

Fowler had proposed all of this.

8. "Parliament will be asked to authorize the Government to give guidance to the Board of Broadcast Governors aimed at preventing foreign control of broadcasting facilities, the domination of a local situation through multiple ownership, or the extension of ownership geographically in a manner that is not in the public interest."¹¹

Fowler had not covered this aspect.

9. Educational Broadcasting. A new federal agency will be set up to provide and operate "public service broadcasting facilities". In view of this, there will be no need to pre-empt morning television hours for education (C.B.C., C.A.B.).

Fowler had, of course, recommended the latter course.

¹¹ibid., 12.

10. Community-Antenna Television Systems. CATV will be considered part of the national broadcasting system, subject to the authority of the B.B.G.

CATV had not been in Fowler's terms of reference but he did raise questions which might lead one to the conclusion the Government did reach.

11. Penalties and Appeal Procedures. The B.B.G. will have power to fine, to suspend, and to revoke a licence. Board decisions may be appealed to the courts on matters of law, but not of fact.

This had been a Fowler recommendation.

III The Canadian Broadcasting Corporation

12. The National Broadcasting Service. The C.B.C. "will be subject to regulation and control by the Board of Broadcast¹² Governors", and will be required to obey the Board's directives.

In effect, this accomplished somewhat the same thing as Fowler had recommended, but the structure of Fowler's C.B.A. was different, as discussed many times in this study.

13. The Mandate of the Corporation. The C.B.C. had always been left to develop its own mandate. The White Paper now confirmed what had been developed, i.e., a complete and balanced service, development of Canadian talent and resources, service in two languages and in all regions, and a two-way flow between cultures and regions.

¹²

Ibid., 15.

Fowler had recommended that a clear mandate be set out both in a new Act and in the White Paper, and that it should not be left up to the C.B.C. to define its own. However, the Report did say "We are disposed to accept the mandate substantially as it has been defined by the C.B.C."

14. The Board of Directors. There should be a President "and a sufficient number of other directors to provide adequate representation, all to be appointed by the Governor in Council"¹³(C.B.C., C.A.B.). The Board should appoint a chief executive officer.

This goes against Fowler's recommendation of a single board responsible for both the C.B.C. and private broadcasters.

15. Financial Provision. "The Government accepts the recommendation of the Advisory Committee that the Corporation should be financed by means of a statutory five-year grant based on a formula related to television households, with a suitable borrowing authority for capital requirements"¹⁴ (C.B.C., C.A.B., C.B.L., B.B.G., A.C.T.R.A.).

16. Commercial Activities. The C.B.C. shall retain its present 25% share of the television market and 4% of the radio market.

This is as Fowler had recommended.

17. Headquarters and Consolidation Plans. Head Office should remain in Ottawa (C.B.C.). "The control of programming should be removed to the main production centres."¹⁵ Since approval had

¹³Ibid., 16.

¹⁴Ibid., 16.

¹⁵Ibid., 17.

already been given for Montreal consolidation, it should go ahead (C.B.C.), but the C.B.C. should review its plans. Consolidation elsewhere will need further discussion.

Fowler had recommended Head Office go to Montreal.

He had proposed the second point. Fowler had recommended the Montreal plan be seriously cut back and re-designed, and that Toronto be re-thought completely. He felt consolidation elsewhere should go forward as funds permit.

18. Colour Television. "The Corporation will therefore be required to limit its expenditures on conversion to colour through the fiscal year 1969-70 to plans already announced."¹⁶

This is exactly as Fowler had recommended.

19. The Northern Service and Armed Forces Service. Funds will be asked of Parliament to improve facilities and programming to the North and Military as recommended by the Advisory Committee. The Department of National Defence will continue to finance the Armed Forces service.

As indicated, these were Fowler recommendations.

20. The International Service. The physical plant should be renewed and improved, and the Service should be integrated into the C.B.C., as recommended by Fowler (C.B.C.). "Programming policy will be determined under the guidance of the Department of External Affairs."¹⁷

The second part is close to Fowler's recommendation, but he had recommended cooperation with other departments as well.

¹⁶ Ibid., 18.

¹⁷ Ibid., 18.

IV Conclusion

21. The Future of Canadian Broadcasting. "The new legislation that Parliament will be asked to enact will, the Government believes, have many beneficial effects. The responsibilities and authority of the Board of Broadcast Governors will be unequivocally established, in relation both to the private broadcasters and to the Canadian Broadcasting Corporation. Both sectors will be fully aware of what is expected of them, and will thus be able to plan confidently for the future."¹⁸

This latter point was emphasized again and again by the Advisory Committee.

As stated in the introduction to the White Paper, the Government had followed Fowler's recommendations reasonably closely, the major difference being the makeup of the Board of Broadcast Governors. Fowler had obviously hoped that, with this second chance he had been given to guide the future of Canadian broadcasting, the long discussed "single system" could be made to work, with one board of citizens controlling all broadcasting. It was not to be, but, all in all, his influence had been great, as witness most of the White Paper. What of the reactions of the seven interest groups? They were each invited before the Committee on Broadcasting, Films and Assistance to the Arts to express their views and be questioned. The first to appear was Alphonse Ouimet, President of the C.B.C. He made a number of appearances, the first being on December 1, 1966. Like the other groups, the C.B.C. presented a brief, and then officers of the Corporation answered questions by the Committee. The procedure to be followed here

¹⁸Ibid., 19.

will be to compare the briefs with the White Paper, and add any pertinent information which emerged from questioning.

The C.B.C.'s brief commented on the White Paper section by section, using the same numbering.

1. The C.B.C. agreed with the Objectives.
2. Although gently stated, the Corporation still had major disagreements with Fowler's recommendations.
3. (General principles of public control). Generally agreed.
4. "The Corporation is seriously concerned about the emphasis which the White Paper places on the 'single-system' concept. It believes that Canadian broadcasting today, the product of forty years' experience, is made up of two systems . . . and the two must be recognized as separate."¹⁹ The brief dealt with this misgiving further in sections 12 and 14. With the rest of the section it agreed, except for the idea of the authority of the B.B.G. resting with the full-time members.
5. (Structure of system). The C.B.C. devoted by far the most space to this section. There was general agreement with the White Paper, but clarification was asked for on a number of subjects. "It is the Corporation's view that some of the most important decisions of detail yet to be made pertain to the structure of the system."²⁰ On the matter of alternative service, it was once again urged that an orderly plan be put forward calling for the next station in an area then served by a private broadcaster to be a C.B.C. station, and vice versa. Again, too, it was urged

¹⁹The White Paper on Broadcasting Reviewed by the Canadian Broadcasting Corporation", Appendix 19 of The Broadcasting Committee Proceedings, No. 42, March 9 - March 16, 1967, 2108.

²⁰Ibid., 2108.

that a joint planning committee, consisting of the B.B.G., C.B.C., D.O.T. and C.A.B., be set up for the reservation of channels and frequencies, so that "the Cabinet would be relieved of the necessity of acting, in effect, as a third broadcasting Board."²¹ The point of this last suggestion would appear to be to get the B.B.G. and the Cabinet out of the position of being arbitrator between the C.B.C. and the privates. If a concrete plan were adopted, the C.B.C. would be much freer, and not dependent upon the decisions of another body. In this and in other actions by the C.B.C. to do with a new Broadcasting Act, it is truly remarkable how eager the C.B.C. appears to have been completely to jettison the idea of the single system in return for freedom from regulation by another body.

6. The C.B.C. once again urged its proposal for a joint committee on channel allocation.

7. (Programming). The brief agreed that private stations should be assigned individual conditions of licence, but argued strongly against them for the C.B.C.

8. (Control and Ownership). Agreed.

9. The C.B.C. agreed with the proposal that UHF be used for educational television, but argued strongly that the best group to operate the educational system would be the C.B.C. Their case was convincing, based on experience, avoidance of overlap, economy, and other factors.

10. (CATV). Agreed.

11. (Penalties and Appeal). Noted.

²¹
ibid., 2109.

12. The brief took strong exception to this section, and then did a surprising reversal. After arguing strongly that it would be quite wrong to have the B.B.G. in a position of any great authority over the C.B.C., and having argued again and again that the single system was dead, the Corporation ended its comments on the section this way: "However, should it be decided otherwise, the Corporation recommends that a single Board be given authority over all Canadian broadcasting, public and private, and that this Board be the Board of Broadcast Governors. The Corporation believes that such a one-board system, despite its shortcomings, would be preferable to major divisions of authority and responsibility for the policies and operations of the C.B.C. between two Boards."²² It amounts to saying "total independence or total submission", the logic of which escapes the writer.

13. (C.B.C. Mandate). Agreed.

14. (C.B.C. Board). Agreed, but the opportunity is taken once again to hammer away at the separation of the responsibilities of the two boards.

15. (C.B.C. Finance). Welcomed.

16. Total disagreement. "The conflicting objectives of widening the variety and improving the quality of C.B.C. programs and at the same time increasing C.B.C. commercial revenues cannot be achieved."²³

17. (Headquarters and Consolidation). This is the total comment: "The Corporation is taking necessary action, where possible, on the suggestions made in the White Paper."²⁴

²²Ibid., 2114.

²³Ibid., 2116.

²⁴Ibid., 2117.

18. The C.B.C. was unhappy about this statement, and in turn recommended an annual review of the colour situation.

19. (Northern and Armed Forces Broadcasting). Total comment: "The Corporation welcomes the improvements proposed in the White Paper."²⁵

20. Total comment: "The Corporation is taking action to achieve the recommended integration of the International and domestic services."²⁶

21. (The Future). No comment.

Nothing of any great import emerged from questioning Mr. Ouimet. The duties of the C.B.C. Board in relation to the B.B.G. were probed quite closely, as were the President's views on ETV. As is most common, however, when the C.B.C. is being heard before Committee, members kept straying into programming, asking questions about obscenity, bad taste, political commentaries, etc. One would have thought that, after spending several weeks earlier in 1966 airing the problems brought to a head by "the Seven Days Affair", under the guise of examining C.B.C. Main Estimates, the Committee would have had enough. This was not so, even though it was irrelevant to the White Paper.

The second group to be heard on the White Paper was the B.B.G., represented by the Chairman, Dr. Andrew Stewart, the Vice-Chairman, Pierre Juneau, and the third permanent member, Mr. David Sim. Mr. Stewart's statement did not follow the pattern of the White Paper, and, indeed, it mentioned very few of the particular

²⁵ Ibid., 2117.

²⁶ Ibid., 2117.

sections. The Chairman rather picked out several small sections of the White Paper which alluded to the same things, and then asked the Committee to clarify these areas. The first of these refers to the methods by which the Governor in Council would arrive at its decisions regarding directions to be given the B.B.G. on coverage patterns (refers to Section 3.). Then he asked how such directions would be given the Board (5.). How would such issues be discussed publicly (3.)? He asked clarification of the government's position on alternative service, maintaining that the references to the subject in section 5. are not clear. In the same general area of the structure of broadcasting, he questioned the idea that the government should control the expansion of the private stations, suggesting that "the growth of the private element could proceed on the basis of the capacity of private investors to provide this service subject always, of course, to the conditions and regulations of the board."²⁷ On programming (7.), he wished to make sure that the government really meant that control over programming were being given the B.B.G., with sufficient accompanying authority. He complained that the White Paper did not say nearly enough about networks, with only one brief mention in section 4. His final comment is one by now very familiar to the reader. "It appears to us that considerable clarification of the decision-making role of the Board of Broadcast Governors on the one hand, and of the directors of the Corporation on the other, is necessary in translating these general propositions into legislation which will avoid conflicts of jurisdiction between the two public agencies."²⁸

²⁷ Andrew Stewart in Broadcasting Committee Minutes, No. 31, December 15, 1966, 1405.

²⁸ Ibid. 1407

Although Committee members asked some probing questions about the performance of the B.B.G. in regulating private radio and television, the enforcement of regulations, the expansion of alternate television service, and especially about the relationship between the B.B.G. and the C.B.C. Board, no new principles emerged which would be of concern to this examination of the White Paper.

A third group to appear was the Canadian Association of Broadcasters, with most questions being answered by the President, Mr. J.A. Pouliot, and the Executive Vice-President, Mr. T.J. Allard.

The C.A.B. brief did not comment on all sections of the White Paper, but the ones covered referred directly to numbered sections.

1. (Objectives). Referring to "new techniques", the C.A.B. felt there was urgent need for international agreements to be made on satellites.

4. Although there was disagreement on some minor points, "This is the kind of impartial agency of regulation the C.A.B. has publicly advocated since 1949. We still agree that it is the most practical and effective system for achieving objectives of public policy sought by the White Paper." ²⁹

5. (Structure of the System). Agreed, albeit somewhat reluctantly.

7. The Association did not find the idea of licence conditions too distasteful, so long as full recognition was made of all the onerous and burdensome taxes they have to pay, of the fact that nobody really knows what "Canadian talent" is, and that

²⁹Re: The White Paper on Broadcasting 1966", Appendix 13 of The Broadcasting Committee Minutes, No. 34, January 10, 1967, 1544.

it is impossible to force programs upon the viewer or listener.

8. Rather than fix rules on ownership, the C.A.B. recommended that, at the time of licence renewal, "The board assess the station on the basis of its record."

9. (ETV). Agreed.

10. (CATV). Agreed.

11. The C.A.B. reaction to this section, dealing with penalties and appeal procedures, is most interesting. It is worth quoting a lengthy part of it.

"In many cases it is desirable that the Board should have some disciplinary power short of 'capital punishment', that is the suspension or revocation of licence.

At the same time, we find ourselves wondering about the advisability of placing any one group of people - no matter how wise or well intentioned - in a position where it writes the regulations, enforces them, decides when they have been breached and then on its own initiative levies and collects fines, - especially when the same body also issues licences, attaches conditions to these, and may suspend or revoke them, with no appeal to any other body save on questions of law.

Taken together, these add up to a very powerful authority indeed, especially in a field as sensitive and potentially controversial as communications.

In most cases the body or individual who lays the complaint must have its merit adjudicated by another body or individual; both complainant and defendant putting their respective cases to a neutral and disinterested party."³⁰

It is impossible not to notice the similarity of the complaint to the old "judge and jury" cry made against the C.B.C. Board of Governors for so many years. It is ironic that the forebodings listed above are being applied to the tribunal the C.A.B. had sought for so long.

12. (C.B.C. Subject to Regulatory Agency). Agreed.

13. (C.B.C. Mandate). Agreed.

³⁰Ibid., 1549.

14. (C.B.C. Board). Agreed.
15. (C.B.C. Finance). Agreed.
16. (C.B.C. Commercial Aims). The C.A.B. wanted clarification of the words "share of market". The comments are not clear, but generally emphasize that the Corporation should concentrate on network sales and leave local commercial activities to the privates. We have encountered this argument before. No comments were offered on the rest of the White Paper.

Questioning of the representatives of the C.A.B. went on for several hours, over two days. It appears from some of the questions that the Committee members were anxious to hear the views of these gentlemen not only as agents of their Association, but as citizens with experience in the mysteries of broadcasting. Dr. Brand of the Conservatives and Messrs. Cowan and Stafford of the Liberals were especially keen on this. It is interesting to note that, when questioned in this way, however, these men made it clear that they were there only to represent their group, and seemed incapable of expressing individual ideas. Other questions tried to clarify the C.A.B. position as expressed in their Brief, and the future Secretary of State, Gerard Pelletier, manoeuvred the President into a position of implying that he really considered broadcasting pretty much like any other business.³¹ It is interesting, as well, to note that the Committee members who know little or nothing about the actual mechanics and operations of broadcasting (and that is most of them) seem to feel far freer about asking questions seeking knowledge of the C.A.B. representatives than of either the C.B.C. or the B.B.G.

³¹ Minutes, No. 34, January 10, 1967, 1489.

In some ways, they seem to feel more at home with them than either of the other groups of public servants, and more disposed to accept their experience as concrete and valid.

The Canadian Broadcasting League sent a delegation of eleven to the Committee Hearings. The chief delegate, Mr. David Kirk, made a point of the fact that each person there represented, in turn, a very large number of people.

The C.B.L. brief was fairly short, and touched on only a few of the twenty-one sections of the White Paper.

3. No comment on the second part of the section (General Principles), but there was full agreement on the public element being predominant in matters of dispute.
4. (Establishment and Powers of Regulatory Agency). General support. The C.B.L. urged that the B.B.G. not be so objective and legalistic as in the past.
5. (Structure of the System). The League disagreed here, and repeated its support of the C.B.C. idea that there must be a C.B.C. station wherever there is a private one.
7. (Programming). Agreed.
8. (Control and Ownership). Agreed.
10. (CATV). Agreed.
12. Since it came close to the idea of the "single system", which the C.B.L. still preferred, approval was expressed on the idea of the B.B.G. having authority over the C.B.C.'s performance.
15. (C.B.C. Finance). Agreed.
16. The League strongly opposed the 25% - 4% provision, on the grounds that commercials are not good programming per se, and that such a requirement would make the Corporation much too

dependent on commercial programs, to the detriment of other programming.

18. The C.B.L. did not like to see the C.B.C. put at a disadvantage in relation to the private stations, which it was felt the White Paper would do in the case of colour extension.

19. (Northern and Armed Forces Broadcasting). Enthusiastically agreed.

20. (International Service). Strongly endorsed.

Questioning by the Committee members was quite lively, with a number of members taking positions very much as one might expect. For example, Mr. Jamieson, former C.A.B. president and radio and TV station owner, tried hard to get C.B.L. witnesses to admit they did not really represent a very large segment of the public. Mr. Sherman, a former private broadcaster in Winnipeg, stated quite clearly he disagreed with almost everything the C.B.L. said or stood for. Mr. Prittie of the N.D.P., on the other hand, made it clear he backed the League's views on public broadcasting, and their advocacy of strong disciplinary measures against erring private broadcasters, and even went so far as to support the position of the single system, which even the C.B.L. admitted was no longer tenable.

Next to appear were the representatives of the National Community Antenna Television Association of Canada. Naturally enough, they restricted themselves in their brief to the section of the White Paper which would put CATV under the authority of the B.B.G. Greatly condensed, their argument ran like this: Putting CATV operators under the B.B.G. would not be in the public interest, would not be in keeping with basic Canadian

rights, laws and traditions, would not achieve the intended goals because it is basically negative and restrictive in character, and, finally, the legislation is not necessary, because CATV is already regulated by the Department of Transport.

More than with any other witnesses, the Committee was interested in seeking information. CATV was an even more mysterious business to the members than television in general, and numbers of questions tried to sort this out. Probably the most important point to emerge from questioning was that, if a CATV operator began to originate programs himself, instead of simply receiving them out of the air, then the N.C.A.T.A. was willing for him to come under the jurisdiction of the B.B.G. The truth of the matter is that, even though the N.C.A.T.A. emphasized again and again that they were just simple receivers of programs, trying to make an honest dollar without too much regulation and government interference, many of their members were even at that time producing original programming,³² and would do more in the future.

The ubiquitous President of A.C.T.R.A., Henry Comor, appeared before the Broadcasting Committee on January 31, 1967, with a lengthy brief which made absolutely no mention of the White Paper. He did refer to a future Broadcasting Act, however, in terms briefly summarized as follows: the new Act must keep imported programs to a minimum; the Canadian content regulation should be increased to 65% for CTV and 75% for C.B.C.; the aim of broadcasting should be to relate Canadians to themselves and to the rest of the world; Canadian programs must be sold abroad;

³² Subsequent research by the Canadian Radio-Television Commission.

financing of the C.B.C. should be by five-year grants of \$10.00 per capita per annum; the transmission facilities of the private stations which make up the CTV network, and the network itself, should be bought by government, which, in turn, should issue franchises to program producers, resulting in strict control of the network by the B.B.G.;³³ board members of both the C.B.C. and B.B.G. should have some practical broadcasting experience; neither C.B.C. nor CTV should be made responsible for educational broadcasting.

Members of the Broadcasting Committee concentrated their questioning in a half-dozen areas of the brief. They were particularly interested in the idea of selling more Canadian programs abroad, and in Mr. Comor's ideas on how that should be done. Two of the members who were strongly in favour of the private broadcaster, Mr. Jamieson and Mr. Sherman, gave him quite a hard time over the brief's pro-C.B.C. slant, and Mr. Jamieson pressed him very hard on the idea of television stations limiting their operations to the hours from four to twelve, claiming it would be financial suicide for the private broadcasters. Members were very interested in Mr. Comor's views on CATV (he felt such operators should be made to obey copyright conventions) and on how he thought more realistic Canadian content regulations could be made to work. Most of all, they were concerned with the administration of any new Act which would attempt to strengthen the quality of Canadian broadcasting.

The last of the seven groups under consideration in this study, The Canadian Association for Adult Education, appeared

³³ Little detail was provided, but the system proposed would be similar to the Independent Television Authority in Great Britain.

early in February, 1967, represented by the Director, Dr. Alan Thomas, and two members of the Board of Directors. In his opening remarks, one of the Directors, Mr. Arthur Knowles, made it clear they would be "restricting our comments to those areas in which we feel we have some general competence" in dealing with the White Paper. As a result, the brief does not follow the form of the White Paper to any significant degree. It is summarized here in the form it was presented.

Regulations and Administration. It was urged that all broadcasting be under the authority of a single board, similar to the one recommended by the White Paper, but that the board's duties be greatly clarified. Regional councils of citizens should be set up to help get the people more directly involved in broadcasting affairs. The broadcasting authority should "stimulate and encourage major investment in communications research" in universities and elsewhere.

Channel Allocations. Educational and non-commercial use of television should not be confined to UHF. The use of UHF should be greatly expanded by the following means: all new sets should be manufactured, under government order, to receive both VHF and UHF; existing sets should be converted to UHF reception at government expense; to encourage the above two actions, commercial licences should be granted in the UHF band.

The Canadian Broadcasting Corporation. The C.B.C. should be provided with a five-year statutory grant, gradually increased to cut down the Corporation's dependence on commercial revenue. The training program recommended by Fowler should be implemented. There should be independent C.B.C. television service in every major market.

Ownership. There should be a fixed maximum number of stations that any one person or group could own. Foreign ownership should be restricted to 25% of any one agency.

Programming. Canadian content must be regulated. French language radio should be extended across Canada, and television should be provided where a sufficient population warrants it. The private broadcasters should do much more toward language instruction and familiarization. A great deal more local programming is required, if necessary by regulation. As well, experimentation with specialized radio stations should be carried out. In this vein, the proceedings in Parliament should be carried live on radio to all parts of the country.

The Northern Service. Extension of the Northern Service is encouraged, as well as much greater experimentation.

CATV. It is agreed that CATV is part of the national system, and must be regulated.

Public Affairs. "We are for a strong, united, independent C.B.C., able to engage in aggressive public affairs broadcasting independently and cooperatively with other agencies, but accessible, at least at the Board level, to public comment, without being over-thrown by it We believe, at the same time, that the private stations have a major responsibility for courageous and independent broadcasting, and that vigorous competition in attitude and point of view on specific issues is much to be desired."³⁴

Members of the Broadcasting Committee concentrated on three areas in the questioning of the C.A.A.E. witnesses. The

³⁴ Minutes, No. 39, February 7, 1967, 1944.

first was the idea of establishing "councils" to help get some kind of two-way flow of ideas in broadcasting. Second was the view of the Association on the relationship between the C.B.C. Board and the B.B.G., a subject upon which Committee members dwelt at length with several witnesses. Third, and most intense of all, was questioning on the extension of service in French, and particularly on the teaching of French on television. C.A.A.E. representatives described a scheme which had been developed between their group, the C.B.C. and Laval University which had fallen by the wayside because of (said the C.B.C.) lack of funds. There was a certain bitterness evident on the part of the C.A.A.E., and Committee members showed great interest in the plan.

Following the appearance of the C.A.A.E., the Committee had as witnesses the C.B.C. Board, and, at a subsequent meeting, the Secretary of State, Judy LaMarsh. Beginning on March 9, 1967, the Committee met in camera on eleven occasions to prepare its report. The White Paper was considered section by section, omitting only one, Section 2., in which the Government states essential agreement with much of the Fowler Report.³⁵ For the rest of the sections, the Committee's recommendations were as described below. But, before they began the section by section comments, they wrote a preamble. Although it is filled with generalities, one sentence appears in italics: "Fundamental to any consideration of broadcasting policy is the fact that the air-waves are public property, and the privilege of exclusive use of any channel or frequency must be subject to the clear responsibility of serving the public interest as expressed through

³⁵ When asked the reason for this omission, a number of the Broadcasting Committee members replied that it was a simple oversight.

national policy."³⁶ This might be described as a generality as well, but it does one important thing. It sets out clearly the fact that, through yet another investigation, the belief that broadcasting is not simply a business has emerged intact. Now for the other sections.

1. The Committee agreed with the Objectives of the White Paper, and made three specific recommendations: Canadian television should use more Canadian-made films; that government assistance to the arts be expanded so that broadcasting will have a larger body of Canadian talent to draw from; and that "urgent action" be taken to preserve Canadian films of "lasting value" in archives.

3. The general principles were agreed with, but it was proposed that the idea of the pre-eminence of the public sector be clearly set out in legislation. It was stated, as well, that the private sector must take more responsibility in serving the public interest, and it was hoped that the new responsibilities given the B.B.G. would end the necessity for the intervention of parliament in broadcasting matters.

4. (Establishment and Powers of Regulatory Agency). Comments on this section were lengthy. The Committee agreed with the proposed new Board, but emphasized that the relationship between the C.B.C. and the B.B.G. must be clearly defined. Again using italics, it was put this way:

"Although the ultimate authority and responsibility of Parliament is clear, it is equally clear that Parliament cannot administer or supervise broadcasting. Nor do we believe a Minister of the Crown

³⁶ Broadcasting Committee, Proceedings, No. 42, March 9 - March 16, 1967, 2088.

"should have such power. A reconstituted B.B.G. should provide an assessment of our broadcasting system. In order to do so, it must have clear-cut directives from Parliament as to how it will be expected to act on Parliament's behalf."³⁷

The Committee made some suggestions on how the B.B.G. should act, especially in relation to the C.B.C. Board. The C.B.C. must co-operate with the B.B.G. in the latter's role of overseer of the whole of broadcasting, but the B.B.G. must not get involved in day-to-day decision-making or policy-making of the Corporation. Both Boards should report annually to Parliament, and be available for Committee review. A major parliamentary inquiry of the Fowler variety should not be necessary more often than once every five years. Discussions should take place between the C.B.C. and the B.B.G. on the former's budget.

The Committee endorsed the idea of the private broadcasters cooperating with both the C.B.C. and the B.B.G. on research projects, and recommended one such project: "that a study be undertaken of the economic effects on Canadian broadcasting of advertising placed by Canadian firms with U.S. stations."³⁸

Although there was general agreement with the proposed makeup of the B.B.G. there were differences. It was recommended that the part-time members have the right to vote, and that the total number of members be eleven, five full-time and six part-time. The Committee's final recommendation was that consideration be given to the B.B.G. making public its reasons for decisions.

5. (Structure of System). There was complete agreement with this section. The recommendation was added (no doubt because the White Paper was a little vague) that, where a community is served only by a C.B.C. outlet, the next station be privately

³⁷Ibid., 2091.

³⁸Ibid., 2092.

owned and vice versa.

6. (New TV Channels). This section was "noted with approval". In addition, it was recommended that it be required of manufacturers that all new sets be able to receive both VHF and UHF.
7. (Programming). Agreed. In addition, there must be required more Canadian programming in prime time, especially public affairs programs.
8. (Control and Ownership). Agreed.
9. The Committee reserved comment on ETV pending further study. However, it emphasized that, if educational facilities had to be granted before full consideration could be undertaken, these must not be granted to governments or agencies under their direct control.
10. (CATV). Agreed.
11. (Penalties and Appeal). Agreed.
12. (C.B.C. Subject to Regulatory Agency). Agreed, subject to earlier comments about the B.B.G. directly interfering with programming.
13. (C.B.C. Mandate). Generally agreed, but the White Paper phrase "altogether praiseworthy" has been replaced by "by and large praiseworthy", and it was added that the C.B.C. "can and must achieve its objectives more adequately under the new conditions proposed in the White Paper".³⁹
14. The Committee made a number of recommendations regarding the C.B.C. Board of Directors. They were impressed with the relationship between the Chairman and the Director-General of the B.B.G. and recommended something the same for the C.B.C. They

³⁹Ibid., 2097.

recommended that, rather than President and Vice-President, the former be called Chairman, and the chief executive officer appointed by the Board be called General Manager. The former should be an outstanding Canadian, and the latter a highly respected person "experienced in program production administration and finance". The Committee reiterated its recommendation made after the "Seven Days Affair" that there be a senior executive in charge of English production and one for French, each reporting to the General Manager. And, finally, they recommended that the Directors not be exclusively "housekeepers". Some of them should have broadcasting experience.

15. (C.B.C. Finance). Agreed.

16. The Committee did not agree with the 25% - 4% target for C.B.C. advertising, agreeing with the C.B.C. Board that this could make the achieving of the target more important than programming. Instead, they proposed a formula which would allow a realistic target to be set each year.

17. (Headquarters and Consolidation). Agreed.

18. (Colour TV). Agreed, but the policy should be frequently reviewed so that the C.B.C. is not placed in a position inferior to the private sector.

19. (Northern and Armed Forces Broadcasting). Agreed.

20. (International Service). Agreed.

21. (Future). General agreement, with this italicized note:
 "We express our conviction that the primacy of the public sector should be the paramount and continuing objective of the new legislation; that we must make more effective, and not undermine, the main instrument by which 'national consciousness may be

fostered and sustained and national unity still further strengthened'." ⁴⁰

The Broadcasting Committee submitted its report on the White Paper to the House of Commons on March 21, 1967.

While preparing the research for this study, the writer interviewed six of the members of the Broadcasting Committee, ⁴¹ some of them at considerable length. One of the questions asked was for them to place in order of effectiveness the influence exerted on the Committee by all the seven groups under consideration, both in their appearances before it and outside. The result was revealing. Four of the six rated the C.B.C. as most influential, one said the B.B.G., and the sixth said A.C.T.R.A. It was unanimous that the C.A.A.T. carried the least weight, and the C.B.L. came in second last. Some of the M.P.'s said they had been prepared to be influenced by the C.B.L., but all agreed its presentations were too diffuse and it spoke with too many voices, and therefore lost effectiveness. There was also general agreement that the N.C.A.T.A. tried too hard, and only succeeded in annoying most members. The C.A.B., which one would have assumed

⁴⁰

Ibid., 2101.

⁴¹

A note on the choice of interviewees: the writer was aware, from several years of dealing with M.P.'s as a C.B.C. producer, that the majority of them are not really very interested in the principles of the Canadian broadcasting system. A random choice of Members was, therefore, ruled out. It was also apparent that, surprisingly enough, very few of the Members of the Broadcasting Committee had really given the system much deep thought. It was therefore necessary to make specific choices, acting on personal knowledge and recommendation, keeping a party balance in mind. Five members of the Committee were questioned in a systematic way (the sixth was a very early, unstructured interview, in which I asked only some of the questions which became standard): 2 Liberals, 2 Conservatives and 1 N.D.P. The total number on the Committee is 25. All the resulting information which seemed reliable has been incorporated into this study.

carried great weight, was rated by the Committee members interviewed as follows: second: two members; third: two; fourth: one; not specifically placed: one. The Committee's recommendations on the White Paper would appear to reflect the view that the C.B.C. had the most influence on members, endorsing as they did public broadcasting, pre-eminence of the public sector, second stations in any area being C.B.C. ones, C.B.C. programming, five-year finance, development of colour programming, and improvement in International and Northern broadcasting, among other things. A comparison between the members' stated judgments and apparent influence as reflected in the Committee's recommendations for the Act will be made further on.⁴² The significance of both these comparisons will be considered in Chapter 6.

⁴²Infra, 165.

CHAPTER 5

BILL C-163 AND THE BROADCASTING ACT OF 1968

Bill C-163 which, after long debate and some revision, emerged as the Broadcasting Act, 1968, received first reading in the House of Commons on October 17, 1967. In the words of the Secretary of State, before the Broadcasting Committee: "Your report (on the White Paper) contains some 26 main recommendations Of the 26, we have adopted, I think you might fairly say, 20. Of the six which we did not adopt, five are just matters of detail . . .".¹ By this stage in the long haul from Fowler to Act, most of the big guns on the part of the pressure groups had been fired, at least publicly. The C.A.B. did issue a paper suggesting changes in C-163, but otherwise, on the surface at least, the main scene of battle changed to the floor of the House. There, although it seems every M.P. managed to get his opinions on Canadian broadcasting on the record, C-163 came through the House relatively unscathed to be passed as the Broadcasting Act now in force.

The plan of this chapter is as follows. Those parts of Bill C-163 relevant to this study will be summarized or quoted. In order to make clear the changes made in the legislative process, each section will be compared with Fowler's recommendations, the aims of the White Paper and Broadcasting Committee recommendations on the White Paper, the Broadcasting Committee's proposed amendments to C-163, debate in Committee of the Whole, and finally the Act itself. In this process, it will be seen that

¹Broadcasting Committee, Minutes, No. 1, November 2, 1967, 2.

the essence of some of Fowler's recommendations made it intact through the entire struggle to the Act, some made it in modified form, some stopped with the White Paper, some were ignored or rejected from the beginning, and a number of matters in the Bill and the Act had not been Fowler's concern at all. Where information gleaned from a number of interviews with Parliamentarians, broadcasters (public and private), civil servants, and B.B.G. members casts light on any of these stages, especially as regards pressure group activity, it will be worked in. General conclusions on pressure group activity, as it applies to broadcasting in Canada, will be reserved for Chapter 6.

Bill C-163 is divided into five parts, one setting out a general broadcasting policy for Canada, one on the regulatory agency, one on the national service (the C.B.C.), one amending other acts in line with the new Broadcasting Act, and a fifth part dealing with transition and repeal. This study will not be concerned with the last two, since they are, in their separate ways, merely technical. Parts, sections and subsections will be numbered here as they are in C-163. In the few places where re-numbering took place for the Act, these will be noted.

Part I Broadcasting Policy for Canada

This part is the major structural difference between C-163 and the 1958 Act, which contained no such policy statement. It was generally felt by the B.B.G., the C.B.C. and other groups and individuals that many of the problems which arose between the Board and the Corporation were due to the lack of policy guidance in the 1958 Act. Fowler had called for the new Act

clearly to state what Parliament expected of broadcasters.

The White Paper, in section 21, promised this would be done.

The Broadcasting Committee endorsed the idea. In Part I, Canadian broadcasting was given a remarkably clear direction.

The Policy contains ten paragraphs, each of which received a good deal (in some cases a very great deal) of discussion in the Broadcasting Committee and in the House on second reading and Committee of the Whole. To cover it all, even in most condensed form, would be beyond the scope of this study. Some arbitrary decisions have had to be made on what was reasonable and useful for this chapter, to prevent its becoming a large book, and yet to preserve the essence of important points of view exhibited in the process of writing new legislation. It can only be hoped the choices were wise.

2. It is hereby declared that
 - (a) broadcasting undertakings in Canada make use of radio frequencies that are public property and such undertakings constitute a single system, herein referred to as the Canadian broadcasting system, comprising public and private elements;

This paragraph remained unchanged in the Act. It appears to have been designed to please everybody. It has the words "single system" to fend off attackers who were unhappy about the establishment of two boards in the 1958 Act, a system retained in the new Act. At the same time, the "elements" idea indicated some kind of equality and separation between public and private, which contented both the C.B.C. and the C.A.B. The "public property" statement justifies Parliamentary regulation of what the private broadcasters basically consider to be a private business.

- (b) the Canadian broadcasting system should be effectively owned and controlled by Canadians so as to preserve and strengthen the cultural, political, social and economic fabric of Canada;

The ownership and control ideas came from Section 8 of the White Paper. "Preserve and strengthen" was a phrase from Section 1., as was "political, social", etc. The Broadcasting Committee recommended the removal of "preserve", and the substitution of "safeguard, enrich", which was done. It was a suggestion of M.P. Bert Leboe who felt "preserve" was too inflexible and might restrict future development.

- (c) all persons licenced to carry on broadcasting undertakings have a responsibility for the public effects of the programs they broadcast but the right to freedom of expression, subject only to generally applicable statutes and regulations, is unquestioned;

This entire paragraph is a light re-write of the White Paper, Section 3., paragraph one, last five lines.² The Broadcasting Committee recommended the deletion of the words "the public effects of", and it was done. It was unenforceable as it stood, because no broadcaster could be held responsible for the effects on every individual of all his programs.

One interesting amendment to this paragraph was proposed by Henri Latulippe in Committee of the Whole. After "but the right" he suggested the words "for all Canadians, to receive, by any means whatsoever, all the programs broadcast and available, subject only . . .". This would take all effective control over the stations carried by CATV operations away from the Commission.

²Supra, 106, F.N. 6.

The amendment is interesting because M. Latulippe owns a CATV system. He did not see fit to declare this fact in the debate until after the Minister pointed it out.³ For various reasons the amendment was ruled out of order by the Chairman. In Committee of the Whole, an addition was made. After the word "expression" was added "and the right of persons to receive programs". There was a very long wrangle on this in Committee of the Whole. The Member most unhappy with the original wording was Terry Nugent, who represents an area not blessed with as many readily available television signals as those nearer the U.S. border. His original proposed amendment was considerably stronger than that accepted for the Act. The accepted amendment is really quite innocuous, and has not limited the C.R.T.C. in its regulation of cable broadcasters.

- (d) the programming provided by the Canadian broadcasting system should be varied and comprehensive and should provide reasonable opportunity for the expression of conflicting views on matters of public controversy, and the programming provided by each broadcaster should be of high standard, using predominantly Canadian resources;

The phrases and ideas here can be traced to various sources. "Varied and comprehensive", and programs "of high standard" are words taken from Section 10. of the Broadcasting Act of 1958, the section which came closest to setting a general Canadian policy. That section also used the words "basically Canadian in content and character", which is not far from "predominantly Canadian resources". The idea of ensuring "conflicting views

³Canada, Parliament, House of Commons, Official Report of Debates (Hansard), January 23, 1968, 5893.

on matters of public controversy" is not directly traceable to any document, but very likely stems from the Report to the House of the Broadcasting Committee following its examination of what has become known as "the Seven Days Affair". Under the section headed "(d) Policies of Public Affairs Broadcasting", the ideas of "conflicting views" and "public controversy" as program matter were put forward with conviction. This came just a bit too late to be included in the White Paper, but was apparently thought proper to be included in the new bill. Some changes were made in this paragraph. The Broadcasting Committee recommended the words "creative and other" be inserted between "Canadian" and "Resources". This was done. They had in mind finance and plant, along with what is usually referred to as "talent", but primarily the latter. According to the Minister, the words "creative and other" were included in the paragraph "as a result of Committee action and a brief from A.C.T.R.A."⁴ In Committee of the Whole, two other words were changed. Ever mindful of making sure the broadcasters were politically neutral in their production, the Committee inserted the word "balanced" between "reasonable" and "opportunity". The other change was to replace the word "controversy" with "concern", the reasoning being that important matters are not necessarily controversial.

- (e) all Canadians are entitled to broadcasting service in English and French as public funds become available;

This is almost word for word Chapter 2, Section 5. of the White Paper. It was also a Fowler recommendation. It was unchanged in the 1968 Act. The only objection came from the C.A.B. which

⁴ Debates, January 24, 1968, 5928.

wanted the paragraph to read as follows:

all Canadians are entitled to broadcasting service in the English and French languages. When necessary public funds, as they become available will be provided to ensure accomplishment of this objective;⁵

The Association feared that the words might be misconstrued to mean that only public funds would be used to expand service.

- (f) There should be provided, under the management of a Corporation established by Parliament for the purpose, a national broadcasting service that is predominantly Canadian in content and character;

Such an aim is inherent in all previous studies and Acts. The Broadcasting Committee did recommend one change, which was accepted. The words "under the management of" were replaced with "through": It was thought the original version might imply more power to the C.B.C. than was intended. The C.A.B. suggested a change in the paragraph, but, strangely enough, it was not for this reason. The Association apparently misinterpreted the meaning, and got concerned about the distribution of the service to be provided. It suggested an amendment to this end, but kept the words "under the management of".

(g) The national broadcasting service should

- (i) be a balanced service of information, enlightenment and entertainment for people of different ages, interests and tastes covering the whole range of programming in fair proportion,
- (ii) be extended to all parts of Canada, as public funds become available,
- (iii) be in English and French, serving the special needs of geographic regions, and actively contributing to the flow and exchange of cultural and regional information and entertainment, and

⁵Canadian Association of Broadcasters, Comments . . . Relative to the Proposed New Broadcasting Act, October 30, 1967, 1.

- (iv) contribute to the development of national unity and provide for a continuing expression of Canadian identity;

Fowler had asked that Parliament clearly state the mandate of the C.B.C. Section 13. of the White Paper did that, and the Broadcasting Committee agreed with that section, suggesting no amendments. The paragraph stands in the Act exactly as above, even though there was a good deal of discussion on various points. Many Members felt (iv), in its reference to "development of national unity", was unnecessary. M.P. Robert Prittie offered an interesting explanation of the source of the phrase:

"We might as well be frank about this. Where do these words come from? They are not in the previous Broadcasting act. They result, I am sure, from the fact that members of the government caucus have said we must get at these separatists in Radio Canada at Montreal."⁶

As a matter of fact, the Producers Association at C.B.C. in Montreal did send a long telegram to the Broadcasting Committee when it was considering C-163 objecting to the phrase. In any case, it stands in the 1968 Act.

This was the first time a Broadcasting Act had attempted to spell out the mandate of the Corporation. In preparing the White Paper and the legislation, the drafters naturally examined the mandate the C.B.C. had developed for itself through the years. The writers could think of only subtle ways it should be changed, and the mandate now stands pretty much as devised by the Corporation. The only objection to it was voiced by the C.A.B. and it was so minor as not to deserve space here. The whole process seems incredibly casual for such a vital matter, but

⁶Debates, January 29, 1968, 6086.

most interested parties seem to be satisfied with the result.

- (h) where any conflict arises between the objectives of the national broadcasting service and the interests of the private element of the Canadian broadcasting system, the objectives of the national broadcasting service must prevail;

This was one of Fowler's basic recommendations. It was stated as a general principle (Section 3.) of the White Paper, and at other points in that document, and strongly endorsed by the Broadcasting Committee, despite objections by the C.A.B. which pointed out that the interests of the C.B.C. and the public interest were not always identical, and suggested the following wording:

where any conflict arises between any elements in the Canadian broadcasting system, these shall be resolved with the public interest considered as being paramount;⁷

There was a long debate in Committee of the Whole led by Bud Sherman,⁸ an ex-private broadcaster, and a man considered by his Conservative colleagues to be well to the right of centre, and no great supporter of public broadcasting. Mr. Sherman's proposal, seconded by another Conservative ex-private broadcaster, Bob McCleave, went this way:

Where any conflict arises between the objectives of the national broadcasting service and the interests of the private element of the Canadian broadcasting system, the public interest must prevail;⁹

⁷C.A.B., Comments, 3.

⁸A number of amendments were moved in the House by Opposition members of the Broadcasting Committee. This is understandable when one considers that there was a minority Government. These members apparently felt they should not pass up a second opportunity to win their points, having lost the first one because the Government always has a majority in committees, regardless of the situation in the House.

⁹Debates, January 30, 1969. 6159.

It is interesting to note that the words in the Bill were, according to Mr. Prittie, "inspired by a member of the Progressive Conservative Party, the Hon. Member for Royal".¹⁰ And to compound the situation, one of the strongest speeches in support of the amendment was by Patrick Nowlan, the Conservative member who is now (1970) the party's chief broadcasting critic, and the son of George Nowlan, who, when he was the minister through whom the C.B.C. reported to Parliament in 1958, was a strong supporter of a paramount C.B.C. This matter was debated at greater length than any other, with many prominent members of all parties making some excellent speeches on this fundamental point in the legislation. Mr. Sherman's proposed amendment was eventually withdrawn, after consultation with the Minister, and a new proposal put by Mr. McCleave, which was a compromise, and which was finally accepted. It appears in the Act this way:

- (h) where any conflict arises between the objectives of the national broadcasting service and the interests of the private element of the Canadian broadcasting system, it shall be resolved in the public interest but paramount consideration shall be given to the objectives of the national broadcasting service;
- (i) facilities should be provided within the Canadian broadcasting system for educational broadcasting; and

Fowler had recommended that morning hours be reserved for educational television, that educational institutions be given broadcasting licences, that a new Council be set up, and other matters to do with education. The White Paper rejected most of this, and proposed a new Federal authority. A study group was set up

¹⁰Ibid., 6163. This refers to Gordon Fairweather, the chief Conservative critic on broadcasting.

on the result of whose work was to be drafted a separate Act. Paragraph (i) was included in C-163 and the Act simply to indicate that the kinds of educational broadcasting then being done could continue. A number of Quebec Members objected to it, but it stood.

- (j) the regulation and supervision of the Canadian broadcasting system should be flexible and readily adaptable to scientific and technical advances;

The White Paper in Sections 1. and 21. noted that technological change was rapid. (j) is a paraphrase of the last part of 21. Fowler had done some speculating on the future, and the Broadcasting Committee included a line on the matter in its report on the White Paper. (j) is a rather gratuitous paragraph stating little, and neither pressed for nor objected to by anyone.

Section 2. concludes:

and that the objectives of the broadcasting policy for Canada enunciated in this section can best be achieved by providing for the regulation and supervision of the Canadian broadcasting system by a single independent public authority.

With differences in detail, this was desired by all interested parties, and stood in the Act.

Part II Canadian Radio Commission¹¹

- 5. (1) There shall be a Commission to be known as the Canadian Radio Commission, consisting of five full-time members and ten part-time members to be appointed by the Governor in Council.

¹¹ A protracted word game took place over the name of the former B.B.G. Fowler called it the Canadian Broadcasting Authority. The White Paper stuck with B.B.G. The Bill's Canadian Radio Commission was chosen because the initials stood up to translation, but the Committee thought it archaic, and changed it to Canadian Radio-Television Council. "Council" was thought too weak in the House, so it became Canadian Radio-Television Commission in English, Conseil in French, C.R.T.C. in both.

Although not too important, there was an interesting numbers game played here. Fowler had recommended one full-time Chairman, and fourteen part-time members. The White Paper rejected this and called for five full-time members and "up to seven" part-time members. The Broadcasting Committee recommended five and six. The five and ten formula of the Bill stood in the Act. There had been unhappiness with Fowler's "czar", as discussed in Chapter 3.

10. The officers and employees necessary for the proper conduct of the business of the Commission shall be appointed in accordance with the Public Service Employment Act.

This went completely against Fowler. He felt the public service structure was too inflexible in its procedures, and that the Commission's employees should be outside it.¹² Unfortunately this legislation came at a time when attempts were being made to re-arrange the Public Service to include many new categories and functions, and the government therefore ignored Fowler. Writing as one who has worked for the Commission for eighteen months, it is my opinion that Fowler was right.

14. (1) There shall be an Executive Committee of the Commission, consisting of the President, the Vice-President and the three other full-time members of the Commission
- (2) The Executive Committee may make rules respecting the calling of its meetings and the quorum and the conduct of business thereat.

This section provides an example of the salutary effect interest groups can have. The C.A.B. pointed out that subsections (1) and (2) were very specific, but lacked a logical extension.

¹²The Committee which sat before the 1932 Broadcasting Act made the same recommendation as Fowler, and the 1932 Act rejected the advice as the 1968 did. The only Act to accept it was the 1936 one.

"There would be value in spelling out an Executive Committee quorum in the legislation in order to be consistent and in order to prevent the possibility of the Executive Committee setting a quorum of one." Since Association members did not know who the new Chairman would be, they seemed to be seeking safety in numbers. A selfish motive, but a reasonable stand. The Broadcasting Committee agreed with the C.A.B., and recommended a new subsection (2) as follows:

Three full-time members of the Council constitute a quorum for the Executive Committee.,

and renumbering of the other subsections. This was accepted, and appears that way in the Act.

15. Subject to this Act and the Radio Act and any directions to the Commission issued from time to time by the Governor in Council under the authority of this Act, the Commission shall regulate and supervise all aspects of the Canadian broadcasting system with a view to implementing the broadcasting policy enunciated in Section 2 of this Act.

This is the formal declaration of the objects of the Commission. It underlines the importance to be attached to Section 2. discussed earlier. The words used by Fowler had been "supervise, control and direct", and he had recommended the Commission also form the board of the C.B.C. The Government specifically rejected that idea in Section 4. of the White Paper, for reasons discussed in Chapter 4.

16. "Powers of the Commission"

- (1) In furtherance of its objects, the Commission, on the recommendations of the Executive Committee, may

(a) prescribe classes of broadcasting licences;

"Classes" means the various types of media, e.g., AM, FM, TV, etc.

(b) make regulations applicable to all persons holding broadcasting licences, or to all persons holding broadcasting licences of one or more classes,

(1) respecting standards of programs,

This point was made strongly by Fowler, and agreed by everyone involved, although not too enthusiastically by the private broadcasters. It would have been extremely foolish of them to oppose such a thing openly, and they did not do so, but there is evidence to show they were worried that such regulations might cost them too much money. Their plea for Commission members with broadcasting experience was partly due to such fears.

(11) respecting scheduling policy in relation to any category or categories of programs,

This clause cannot be traced to Fowler, nor directly to the White Paper. It made its first appearance in C-163, and it died there. The C.A.B. objected to it as giving the Commission too much control over matters of taste and the specific schedule of a station. The Broadcasting Committee agreed, and recommended deleting the clause. In Committee of the Whole, the Minister proposed reinstating the idea of the clause, because, if it were taken out as suggested by the Committee, leaving the Commission's power to make conditions of licence to do the job, it would impose too great a rigidity on the broadcaster by having to stick exactly to his conditions for the term of the licence. The Minister therefore proposed adding to 16 (1) (b) (1) the words "and the allocation of broadcasting time for the purpose of giving effect to paragraph (d) of section 2." This was done. It should be stated here, however, that the C.R.T.C. is very careful to avoid

direct interference in the specific programming of stations, preferring only to give general guidelines and to devise and enforce general regulations. It can exert more exacting pressure in conditions of licence, as prescribed in Section 17. (1) (a).

(iii) respecting the character of advertising and the amount of time that may be devoted to advertising,

Fowler recommended this, there was no objection, and it appears in the Act as clause (ii).

(iv) to (vii) were not the subjects of any apparent contention and appear in the Act as clauses (iii) to vi).

(viii) with the approval of the Treasury Board, fixing the fees to be paid by licencees and providing for the payment thereof,

The source of this clause is difficult to trace. It is not in the 1958 Broadcasting Act, and neither Fowler nor the White Paper mentioned it. In any case, the C.A.B. objected to it, on the apparently sound ground that with the above wording fees could vary widely from station to station, and the setting of high fees could become "a punitive weapon", which it did not feel was the intent. The Association suggested re-wording, which was accepted by the Broadcasting Committee and in Parliament. The Act now reads:

(vii) . . . fixing the schedule of fees to be paid

(c) subject to the provisions of this Part, revoke any broadcasting licence other than a broadcasting licence issued to the Corporation.

Both Fowler and the White Paper dealt with licencing at length, both agreeing that the Commission should be the licencing authority,

both in granting and cancelling. The exclusion of the C.B.C. from the general provision for cancellation, however, was new with the Bill. The Minister explained in the House on second reading that it was put in because it seemed foolish to give one Crown agency such power over another such organization. The C.A.B. objected, taking the position that it was a "single system" and any such special exclusions tended to destroy what it considered to be the equality of the two parts. The objection was ignored, and the Act stands as above.

17. (1) In furtherance of the objects of the Commission, the Executive Committee, after consultation with the part-time members in attendance at a meeting of the Commission, may
- (a) issue broadcasting licences for such terms not exceeding five years and subject to such conditions related to the circumstances of the licensee
 - (a) as the Executive Committee deems appropriate

The whole of 17. (1) is the granting of power to grant, amend, and renew licences, and suspend licences granted to others than the C.B.C. It also permits specific conditions to be attached to any licence. These are two enormous powers, the former being held by Cabinet under the 1958 Act, and the latter a new power. Fowler had suggested a two-part licence, one technical from the Department of Transport, one operational from the regulatory agency. He also recommended conditions of licence. The White Paper went further and combined them both in the C.R.T.C. The Bill contains both with the provision of some protection for the C.B.C., for the same reasons stated earlier. The C.A.B. again objected to the matter of singling out the C.B.C. for a special proviso, but again was ignored.

Subsections (2), (3) and (4) lay out in very precise terms the procedure to be followed in any disagreement on conditions the Commission might wish to impose on the Corporation. The order is as follows: consultation between C.R.C. and C.B.C.; C.B.C. reference to the Minister; consultation among the three; a written directive to the C.R.C. with which it shall comply; publication of the directive in the Canada Gazette; and discussion in Parliament within fifteen days. Once again the C.A.B. objected and was ignored, and although there was some Opposition criticism in Committee of the Whole, the matter stands in the Act, with all concerned generally satisfied that the safeguards on Cabinet interference are sufficient. None of this can be traced to Fowler, of course, since his recommendation had been that the "Canadian Broadcasting Authority" be the single board and authority over both public and private broadcasting. Disputes would not have been possible.

18. (1) (The Commission may undertake research).

This was a Fowler recommendation which cleared every hurdle without comment.

(2) (The Executive Committee or Cabinet may require licencees to broadcast programs which they deem to be) of special significance to Canadians

The C.A.B. was worried about the words "of special significance", and interpreted the whole paragraph to mean that the Cabinet or Executive of the Commission could order broadcasters to air any program they wished. The Association recommended rather complicated wording, which the Broadcasting Committee did not accept, but the Committee did agree with the objection in general terms,

and substituted the words "of urgent importance to Canadians".

This change was accepted in Committee of the Whole.

22. (1) No broadcasting licence shall be issued, amended or renewed pursuant to this Part
- (a) in contravention of any direction to the Commission issued by the Governor in Council under the authority of this Act respecting
- (i) the maximum number of channels or frequencies for the use of which broadcasting licences may be issued
 - (ii) the reservation of channels or frequencies for the use of the Corporation
 - (iii) the classes of applicants to whom broadcasting licences may not be issued and
- (b) unless the Minister of Transport certifies to the Commission that the applicant has satisfied the requirements of the Radio Act

This section retains for the Cabinet three areas of control of a kind alluded to in Section 4. of the White Paper "relating to the structure of the system." The Broadcasting Committee made no recommendations on these matters when considering the White Paper, but suggested one change in the Bill. When the Bill was published, the C.A.B. objected to clauses (ii) and (iii) of this section. They disliked (ii) because it could lead to the C.B.C. reserving channels and frequencies "in fallow" for long periods of time, thus holding up the development of private broadcasting in the area affected. The Association wanted (iii) to specify what the classes might be. The Broadcasting Committee had some sympathy for this latter point and suggested an amendment, which was accepted, which would allow any amendment or renewal of licence then outstanding to be considered regardless of any decisions on classes which might be made by Cabinet.

Paragraph (b) comes close to Fowler's recommendation that technical matters be dealt with, in licencing, by the D.O.T. The difference is that, whereas he wanted stations to have two licences, one technical, one performance, the Act simply calls for technical certification to be given by D.O.T. to the Commission before the Commission considers other matters.

23. (1) The issue, amendment or renewal by the Commission of any broadcasting licence may be set aside, or may be referred back to the Commission for reconsideration and hearing by the Commission, by order of the Governor in Council made within 60 days after such issue
- (2) (Such an order) shall set forth the details of any matter that, in the opinion of the Governor in Council, is material to the application and that, in his opinion, the Commission failed to consider.
- (3) (After such a referral) the Commission shall reconsider the matter so referred back to it and, after a hearing as provided for by subsection (1), may
- (a) rescind the issue of the licence;
 - (b) rescind the issue of the licence and issue a licence on the same or different conditions to any other person;
 - (c) rescind the amendment or renewal; or
 - (d) confirm, either with or without change, variation or alteration, the issue, amendment or renewal.

This section went through some odd contortions. Fowler had recommended Cabinet power be restricted to broad policy matters, and a few other areas. Otherwise, the Commission was to be supreme. Then the White Paper confirmed this principle, but added that "provision will be made for formal appeals to be made to the Governor in Council against the decisions of the Board. . . ." ¹³

In her statement on moving second reading of C-163, the Minister explained that the Government felt appeals would be impractical,

and that this referral back, publishing reasons in the Canada Gazette, would be an acceptable procedure when "recommendations were deemed to be contrary to the public interest" ¹⁴ She made no reference to the words in 23. (1) "may be set aside". The C.A.B., however, objected to this latter phrase, recommended its deletion, and the addition of a new subsection (4) which said that, as a last resort, after referral back, then the Cabinet might "set aside". The Association obviously wanted this avenue of appeal to the Cabinet, but simply wanted a change in the order in which events occurred, and to make sure a setting aside would not be done without publicly stated reasons. The Broadcasting Committee left the wording of 23. (1) as it was, but added a new subsection (4):

- (4) The issue, amendment or renewal by the Commission of any broadcasting licence that has been referred back to the Commission pursuant to subsection (1) and confirmed pursuant to paragraph (d) of subsection (3) may be set aside by order of the Governor in Council made within sixty days after such confirmation.

This was done in camera, with no record of discussion on the subject. In Committee of the Whole, the Minister was asked to explain why Cabinet had wanted this power, and these were her words:

"It seems to me that since the Cabinet is always responsible in the eyes of the public, or always held responsible one way or the other . . . it should be given the responsibility The Cabinet knows what the public reaction is and how the people feel about these things. It has to accept the ultimate responsibility and therefore it might set such a recommendation aside. This is for the protection of the people and for no other reason." ¹⁵

¹⁴ Debates, November 1, 1967, 3753.

¹⁵ Debates, February 5, 1968, 6362.

There was no further discussion, and the subsection stands.

24. (1) No broadcasting licence shall be revoked or suspended pursuant to this Part
- (a) except upon the application or with the consent of the holder thereof; or
 - (b) in any other case, unless, after a public hearing in accordance with section 19, the Commission . . . or the Executive Committee . . . is satisfied that
 - (i) the person to whom the broadcasting licence was issued has violated or failed to comply with any condition thereof, or
 - (ii) the licence was, at any time within the two years immediately preceding the date of publication in the Canada Gazette of the notice of such public hearing, held by any person to whom the licence could not have been issued at that time by virtue of a direction to the Commission issued by the Governor in Council under the authority of this Act.

(i) is very straightforward, and is included here only because of the objection to it raised by the C.A.B. which thought the suspension or revocation of a licence was such an extreme step that the wording of the clause should be more specific. It suggested inserting the words "in some substantial regard" to modify "violated". The licence is the private broadcaster's most sacred possession. The Association was, therefore, greatly concerned that a licence might be lost for other than a very serious breach of the law or regulations. This suggested change was not included in the Act. However, the Broadcasting Committee did suggest the insertion of a new subsection (2), which was accepted, outlining certain procedures to be followed by the Commission in stating reasons for its actions in the press and the Canada Gazette, and by direct mail to the persons involved.

The C.A.B. admitted it simply did not understand clause (ii), and asked for clarification.

(2) ((3) in the 1968 Act)

If the Commission is satisfied the C.B.C. has violated the conditions of a licence, they shall report to the Minister who shall lay it before Parliament.)

Once again, this is quite a different thing than Fowler recommended, since he wished the Commission to manage the C.B.C. directly. His recommendation, as stated a number of times before, was rejected in the White Paper.

25. Except as provided in this Part, every decision or order of the Commission is final and conclusive.

26. (1) An appeal lies from a decision or order of the Commission to the Supreme Court of Canada upon a question of law, or a question of jurisdiction

Fowler had recommended appeal to the Exchequer Court, as the 1958 Act had provided. However, the provision of appeal to a higher court would not appear to serve his aims less well. There was no objection to these sections and they appear in the Act.

28. (1) No licensee shall broadcast . . . a program, advertisement or announcement of a partisan character in relation to

- (a) a referendum, or
- (b) an election of a member of the House of Commons, the legislature of a province or the council of a municipal corporation that is being held or is to be held within the area normally served by the broadcasting undertaking of the licensee, on the day of any such referendum or election or on the two days immediately preceding the day of any such referendum or election.

Some form of this provision has appeared in the last three Broadcasting Acts, and has always been troublesome to broadcasters and regulators. The 1958 Act did not include the words "within the

area normally served", etc., which put the B.B.G. in the position of having arbitrarily to break the law, because it was foolish not to broadcast political matter in St. John's just because Vancouver was electing a new City Council. The new wording took care of that problem. The last part of the section, known as the "48 hour rule" has also caused problems. It is 48 hours because, as the Minister explained in the Broadcasting Committee, of "inertia". It had been there before, and the draft of the legislation assumed the Members wanted it kept. There was considerable discussion of it in Committee and several Members were in favour of abolishing it, since no such rule applied to other media. This was the position of the C.A.B. who could "find no record of any logical reason ever having been given for it. Nor can we see that any real purpose can be served since the ban does not apply to all the various other media of information."¹⁶ The Broadcasting Committee finally compromised, and recommended changing the 48 hours to 24. This was accepted in the House, and is now the law.¹⁷

29. (1) Every licensee who violates the provisions of any regulation applicable to him made under this Part is guilty of an offence and is liable on summary conviction to a fine not exceeding one hundred thousand dollars.

Fowler had found some of the fines imposed by Magistrate's Court, under the 1958 Act, to be ridiculously low,¹⁸ and had suggested a system of graduated fines more in keeping with the revenues

¹⁶C.A.B., Comments, 15.

¹⁷The C.B.C., for reasons known only to itself, still observes 48 hours.

¹⁸A former member of the B.B.G. I interviewed said they had been greatly distressed by the "piddling" fines handed down under the 1958 Act, and strongly endorsed the new scale.

involved, but he made no specific recommendation as to the amount. The White Paper said simply that the Commission "will be empowered to inflict monetary penalties". The figure of one hundred thousand dollars staggered the private broadcasters, and the C.A.B. naturally objected, suggesting rather a minimum of twenty-five dollars and a maximum of ten thousand. There was great debate in Parliament on the matter, with the Minister quoting figures to show what huge profits could be made by just a minor infraction of, for example, the commercial regulations, and the supporters of private broadcasting describing the awful hardship that could be imposed as a result of an inadvertent slip. It was the intention of the Government simply to prove that it regarded infractions of regulations and the Act with great seriousness, but that such a power would not be used lightly. A compromise was reached, and the Act now reads:

. . . to a fine not exceeding twenty-five thousand dollars for a first offence and not exceeding fifty thousand dollars for each subsequent offence.

The Minister agreed to the change after a broadcaster came to her to explain how he had exceeded the commercial regulation some twenty-five times, quite inadvertently. A severe fine would, of course, have put him out of business many times over.

Subsections (2) and (3) set out other fines, which caused no particular objections.

31. (The Commission shall make an annual report to Parliament). Fowler had recommended this, as he had before the 1958 Act, and it was enacted with little discussion.

Part III Canadian Broadcasting Corporation

34. (1) There shall be a Corporation to be known as the Canadian Broadcasting Corporation, consisting of a President and fourteen other directors to be appointed by the Governor in Council.

The differences between this provision and the recommendation of Fowler have been well covered.

36. (1) The President is the chief executive officer of the Corporation and has supervision over and direction of the work and the staff of the Corporation and the President shall preside at meetings of the Corporation.

As for Section 34., no further comment is necessary here, as far as the Fowler recommendations are concerned. Two other factors deserve mention, however. First, the matter of titles for the senior officers. The Broadcasting Committee's recommendation that "Chairman" and "General Manager" replace "President" and "Vice President" was not followed. The C.B.C. President, Mr. Ouimet, felt very strongly that he should have the same title as similar executives in the United States, and convinced the Government of this.¹⁹ Second, the wording of this subsection was changed in the Act. The words "has supervision over and direction of the work and the staff of the Corporation and the President" were cut. The Minister's explanation was simple. The deleted words appeared to be unnecessary, and really belonged under the duties of the Executive Vice President. The aim was clarity.

39. (1) The Corporation is established for the purpose of providing the national broadcasting service contemplated by Section 2 of this Act, in accordance with the conditions of any licence or licences issued to it by the Commission and subject to any applicable regulations of the Commission, and for that purpose the Corporation has power to

¹⁹ A senior civil servant told me that Prime Minister Pearson was particularly adamant on this point.

Fourteen powers are listed. They are for the most part very similar to those listed in the 1958 Act, with some modifications, mostly made for the sake of clarity. The C.A.B. recommended the change of paragraph (g) because "we have always failed to see why the Corporation, supported by public funds, should be placed in a position where it can advantageously enter into direct competition with publishers".²⁰ It reads:

- (g) publish and distribute, whether for a consideration or otherwise, such papers, periodicals and other literary matter as may seem conducive to the purposes of the Corporation;

The C.A.B. suggested it read this way:

- (g) publish and distribute such papers, periodicals and other literary matter as may be essential to the purpose of supplying a national broadcasting service;²¹

The suggestion was not taken up by either the Committee or Parliament.

One paragraph was changed by Parliament seemingly as an attempt to put the C.B.C. in its place. In the Bill it appeared this way:

- (h) collect news relating to current events in any part of the world and in any manner that it deems fit and establish and subscribe to news agencies;

In the Act, the words "in any manner that it deems fit and" were dropped, on the recommendation of the Broadcasting Committee.

It must be recalled that this legislation took place soon after the "Seven Days Affair", during which that program's producers revealed some methods of journalism which Committee members found distasteful.

²⁰ C.A.B. Comments, 16.

²¹ Ibid., 16.

Paragraph (m) was also the subject of some discussion. It reads:

subject to the approval of the Governor in Council, acquire, hold and dispose of shares of the capital stock of any company or corporation authorized to carry on any business that, in the opinion of the Corporation, is incidental or conducive to the attainment of the objects of the Corporation.

The C.A.B. was unhappy with this, interpreting it to mean that the C.B.C. could "purchase control of firms which supply entertainment and news film to all broadcasters and cut off supply of these entirely to private broadcasters in Canada and abroad."²²

Ralph Cowan made a lengthy speech on the matter in Committee of the Whole, and one or two other members worried over it, but the Minister pointed out that such objections were foolish because no Cabinet would approve the purchase of anything unless there were a very good reason. The Act reads as the Bill does.

- (2) The Corporation may, within the conditions of any licence or licences issued to it by the Commission and subject to any applicable regulations of the Commission, act as agent for, or on behalf of any Minister of the Crown or as an agent of Her Majesty in right of Canada or of any province in respect of any broadcasting operations that it may be directed by the Governor in Council to carry out.

This subsection is new with this Act, and was put there, according to the Minister,²³ with the International Service of the C.B.C. in mind. It will be recalled Fowler recommended it come directly under the C.B.C., and that idea was accepted by the Broadcasting Committee. For added clarity, the words "including the provision of an international service" were added to the end of the

²² Ibid., 17.

²³ Debates, February 5, 1968, 6369.

subsection, in Committee of the Whole.

43. (1) The Head Office of the Corporation shall be at the City of Ottawa or at such other place in Canada as the Governor in Council may prescribe.

This subsection has an interesting twist. Fowler thought Head Office should go to Montreal. The White Paper said it would remain where it is, in Ottawa, which the Corporation strongly favoured. Yet here in the Act the door is left open for moving it at a later time. Despite the C.B.C. position, the drafters of the Bill were largely sympathetic to Fowler in this case, and the Cabinet needed little urging to give itself this power. One of the writers of the legislation told me with some glee that he knew of no other act which contained such a provision.

47. (1) Upon the coming into force of this Act and every fifth year thereafter, the Corporation shall submit to the Minister for submission to the Governor in Council a five-year capital program proposed by the Corporation together with a forecast of the effect of the program on the Corporation's operating requirements.
- (2) Upon the coming into force of this Act and every fifth year thereafter, the Corporation shall submit to the Minister an operating budget for the next ensuing five financial years of the Corporation for approval by the Governor in Council on the recommendation of the Minister and the Treasury Board, and the Minister shall lay before Parliament each such operating budget of the Corporation as approved by the Governor in Council within fifteen days after the approval thereof

This section caused a great deal of discussion in many places. It will be remembered that Fowler recommended the C.B.C.'s capital and operating budgets be pegged to a formula of \$25.00 per household per year, for periods of five years. The White Paper accepted this idea. The Bill, however, does not read the way that many M.P.'s seemed to think it read. (It was even

put to me by one who was in a position to know that the Minister did not really grasp what had been drafted, or she would not have given it up so easily.) It was assumed the Bill was saying that the Corporation was being given money in what M.P. Ralph Cowan liked to call "five year grabs". A careful reading shows it does not say that. The intention at the time of writing the White Paper, and during discussion of C-163, was that the C.B.C. should get its money in five-year grants. In her speech on Second Reading of C-163, Miss LaMarsh said it was the government's intention to introduce "separate legislation later in this session to provide for the financial requirements of the C.B.C. on a five-year formula",²⁴ which presumably would have received a thorough, separate debate. As a result, the above form was adopted, which gave the appearance of making the C.B.C.'s financing more stable than in the past, but which really just requires the C.B.C. to do long-term capital planning, and to submit a five-year operating budget. Many Members of Parliament seemed to misunderstand this, and, after a very lengthy debate, the Minister withdrew the section in the interests of having done with it, indicating that the government still intended to introduce long-term financing later on, but it has not been done. In the 1968 Act, the section simply vanished. Financing of the C.B.C. continues to be on a year-to-year basis.

It must be pointed out here that the C.A.B. objected to the section in the Bill, but mainly on the basis that it was not clear, and that it might be misunderstood. Indeed it was. Many

²⁴Debates, November 1, 1967, 3756.

M.P.'s have told me clearly that they will never allow the C.B.C. to have its money for longer terms than one year.²⁵ They give as a reason that they simply do not trust the Corporation with all that money. However, a number of them, when pressed, admitted that their major reason really is that they want that annual opportunity to "have a go" at the Corporation, to pacify constituents who object to its "sinful" programming, and because it's such good sport. Group pressure simply has nothing to do with it.

48. The Corporation shall, within three months after the termination of its financial year, submit to the Minister a report

This is a perfectly straightforward call for an annual report. It is noted here because the C.A.B. objected to it on the grounds that the report should be made to the Commission, not Parliament. The aim was to "clearly spell out that the Corporation is a licensee of C.R.C." This was the Association's final public attempt to make sure in every way possible that broadcasting in Canada consisted of two equal parts, public and private, and that both were equally subject to the same independent regulatory authority. The section appears in the Act as it did in the Bill.

Debate on Bill C-163 was concluded on February 5, 1968. Third reading took place two days later, and the Act received Royal Assent on March Seventh. The Canadian Radio-Television Commission replaced the Board of Broadcast Governors on April first,

²⁵ An example of this attitude can be found in Debates, January 23, 1968, 5885. Bert Leboe said: "I cannot find words strong enough to denounce a policy which allows the C.B.C. a five-year budget. What in the world is this Parliament for if it is not to scrutinize expenditures (W)hy should we put a glorified circle around the C.B.C.?"

1968. As stated earlier, general conclusions on pressure group activity will be discussed in Chapter 6. But how did the seven groups fare at the bill stage of what Bertram Gross calls "the legislative struggle"? Acting publicly, only one group was still struggling: The Canadian Association of Broadcasters. Taking as a basis its brief of October 30, 1967, the C.A.B. did moderately well. Of the sections of the Bill discussed in this chapter, the Association made comments or recommendations on twenty. Ten of these were rejected. Seven had a definite influence on the legislation, and can be counted as partially accepted. Three recommendations were accepted outright, two with changes in wording, one as it was made. But these figures alone do not tell a valid story. If judgments are made on the relative importance of the recommendations, that is, weighting them toward more or less self-interest, more or less improved legislation or public interest, then the C.A.B.'s group pressure was not as successful as had been expected, assuming self-interest to be the criterion.

None of the other groups was still in the game, publicly. Interviews with M.P.'s reveal, however, that some of them were still making their presence felt, with greater or lesser success.

CHAPTER 6

CONCLUSIONS

The aim of this study has been to determine the causes of the differences between the recommendations of the Fowler Committee of 1965 and the provisions of the 1968 Broadcasting Act. It began with some assumptions which led the writer to choose pressure group theory and descriptions as a general background for the examination of the legislation and the actors involved in its formulation. This concluding chapter will outline the results of the examination, in three major parts. First, some of the pressure group theorists' conclusions which seemed likely to have relevance to Canadian broadcasting will be compared with actual findings. Then some of the writer's assumptions made before detailed research began will be re-examined in light of that research. Finally, the general conclusion will be put forward that, although pressure groups were important and active in events leading up to the 1968 Act, several other factors were involved which were at least equally important.

Consider, first, Pendleton Herring's observations that regulatory agencies tend to reach the position where they represent the groups they are supposed to be regulating. There is a good deal of evidence that this is the case in the United States as regards the Federal Communications Commission and the broadcasting industry. Was it true for the Board of Broadcast Governors and the Canadian broadcasters? Certainly the C.B.C. had little influence over the Board, except insofar as it defied

the Board's authority. But what of the C.A.B.? It can be fairly stated that the Association did have considerable influence over the Board's Chairman, Dr. Andrew Stewart. This is not to imply any dishonesty whatever on his part. He was universally recognized to be a well-meaning, fair-minded man. But a number of factors lead to the belief that what the Association wanted it pretty well got. The regulations applied by the Board were filled with loop-holes, and were for the most part lax to begin with, and were enforced to the point of prosecution only on the most glaring infractions. A senior staff member of the Board told me that one of the people with the strongest influence on Stewart was Don Jamieson, who was President of the C.A.B. in the early sixties. It is interesting to note that Jamieson, as a Liberal M.P. in 1968, did his utmost to have Stewart carry on as Chairman of the new C.R.T.C.¹ Cases of relaxation of the regulations in special cases were numerous. Stewart's speeches almost invariably took the side of the C.A.B. in any dispute with the C.B.C. But it is difficult to attribute any of the foregoing to the kinds of factors Herring talks about. The Board as a whole did not go along with Stewart on many matters. Some members of the permanent staff were almost embarrassed at the laxity he displayed. In short, although the B.B.G. was indeed soft on the private broadcasters, it appears to be attributable to the character and training of Andrew Stewart, and to nothing more general or significant. He was an economist, who understood dollars and cents, the language of many private broadcasters. He took a very legalistic approach to the 1958 legislation, daring

¹From interviews with Parliamentarians and broadcasters.

to do only what was exactly spelled out in it, even though, as discussed earlier,² it had been hoped by others he would take a broad view. He seemed to be unable to cope with the determined Alphonse Ouimet. These factors seem more important to the writer in this case than Herring's generalization, without limiting the truth of it. The F.C.C.'s case, and that of other regulatory agencies, have been well documented. For the B.B.G., the findings are not so conclusive.

One conclusion of Truman's seems to be generally proven by interest groups in Canadian broadcasting. It is that a group's strength is a function of the frequency and persistence of interactions within the group. As discussed at the end of Chapter 4, most Broadcasting Committee members interviewed thought the C.B.C. had been the most influential group, which can be taken as an indicator of strength. C.B.C. management was the most tightly knit, interactive of the seven, sharing common beliefs, and even working together in the same building. The Canadian Broadcasting League is another good example. In its heyday, in the early thirties, this group was closely linked by common beliefs, with Spry and Plaunt ubiquitous and persistent in their successful efforts at organization. On the other hand, in its activities surrounding the 1968 Act, it appeared to have but little strength, and this reflected the lack of frequency and persistence of interaction of the League members.

The matter of access by pressure groups is one that has received extensive treatment by group theorists. In Chapter 2, Finer's order of priorities for groups was set out.³ Only three

²Supra, 37.

³Supra, 49.

of the Broadcasting Committee members interviewed had any thoughts on this matter, but they divided interestingly between government and opposition. The government M.P., who was Parliamentary Assistant to Judy LaMarsh during events leading to the 1968 Act, was very clear in his view that pressure groups in broadcasting first sought out public servants to try to influence. Second choice for him was the Opposition front bench and broadcasting critics. Both Opposition members who replied were, however, quite convinced that the Cabinet was the first choice of groups trying to make their views known. One of the two listed a second, third and fourth choice: Government Broadcasting Committee members, Opposition critics, and Government back benchers. In short, the Opposition casts suspicion on the Government, who in turn blames the public service. This just points out one of the greatest truisms about interest group activity: no Parliamentarian will admit that group pressure had any effect on him, but he is certain it influenced others. Taking this process a step further, I asked Committee members what groups approached them personally. One Liberal and one Conservative said Henry Commor, President of A.C.T.R.A. One N.D.P. member said that, although his recollection was hazy, he thought that one private broadcaster from his province had approached him. Two Conservatives said that a representative of the N.C.A.T.A. came to them, and one of these two Members said that he had sought information of the C.A.B. and A.C.T.R.A. A number said they had asked A.C.T.R.A. for figures, being confident in the Association's research. Although I was unable to arrange an interview with Judy LaMarsh, I am assured by those who were close to her that

most of the seven groups visited her in the time leading to the legislation, some several times. This would confirm that, in the minds of groups, the ear of a Cabinet Minister is a most important point of access.

Did visits by interest groups have any effect on the members? All of those interviewed said not, but reading through the Debates and Minutes in 1966-1968 sheds rather more light on this matter. Miss LaMarsh is on record as saying she had visits from "a number of cable operators" who tried to persuade her that they should not be regulated like other broadcasters.⁴ Judging from the Act, they had no success. The C.A.B. approached her on the matter of the \$100,000 fine.⁵ They were not successful with her, although the amount was reduced late in the debate. Association members talked with Mr. Macaluso on the same subject with apparently more success. He made two separate attempts in the Broadcasting Committee to have the amount of the fine reduced.⁶ In Committee of the Whole, Mr. Orlikow stated that he had acted for A.C.T.R.A. and had "close relations with them".⁷ His concern in the debate was for the greater use of Canadian performers, a view strongly held by A.C.T.R.A. Although I did not interview Ralph Cowan, a number of Members assured me that he was being "fed" by the N.C.A.T.A. In one of his innumerable speeches in the House putting forward the cable operators' views, he even (inadvertently?) said "we" wanted certain information

⁴Broadcasting Committee, Minutes, No. 1, November 14, 1967, 21.

⁵Ibid., 23.

⁶Ibid., 23, and Minutes, No. 5, November 24, 1967, 146.

⁷House of Commons, Debates, January 23, 1968, 5852.

concerning the government's intentions on cables.⁸ But how conclusive is all this? There is no doubt that interest groups put forward their positions with people they think might be helpful. But does the fact that a Member asks a question or takes a point of view in the House during debate mean the attempt to influence was successful? It is almost impossible to find out about positive influence, but two personal, negative examples might be helpful. During the Broadcasting Committee hearings on the "Seven Days Affair", M.P. Harold Stafford was consistently hostile to the production people and on the side of management. I personally saw him handing papers to a C.B.C. Head Office representative after a hearing at which he had questioned production people, saying something like "I'm sorry I didn't have time to ask all these questions". But there is no proof that Stafford was acting as the result of pressure or, indeed, any great love for C.B.C. management. My impression is that he was doing it because he was normally management-oriented in any management dispute with its employees, and because he was thoroughly enjoying himself playing a role of prosecutor. The other example occurred during the same hearings. An M.P. who, through the debate on C-163 consistently took a pro-C.A.B. position, asked me if I had any embarrassing questions I would like him to ask of C.B.C. management. I had, and he asked them. Now he enjoyed watching management squirm, his sympathies being with the private broadcasters, but he had no sympathy at all with the side of the dispute I represented. The point that asking a question or taking a position does not necessarily indicate the

⁸Debates, February 2, 1968, 6299.

result of pressure or influence does not seem to need further labouring.

As indicated in the Introduction, this study was begun with certain assumptions. Three of these were that pressure group activity would be found to have been largely responsible for the differences between what Fowler recommended in 1965 and what was enacted in 1968, that a good deal of pressure exerted would have been clandestine and untraceable, and that the Canadian Association of Broadcasters would have been the most powerful of the groups involved, having the most influence. At the conclusion of research, these assumptions had to be considerably modified.

Were the differences between Fowler's recommendations and the Act due to pressure group activity? By admission, in a very few cases, possibly in a few others. It is astonishing how many of the Committee's recommendations were made law. It is quicker to list the few basic differences: the C.R.T.C. does not manage the C.B.C., the most important single difference from Fowler's recommendations; Parliament defines broad policy objectives for the broadcasters, not the C.R.T.C.; the morning hours were not reserved for educational television; there are certain differences on the extension of broadcasting service and the physical makeup of the Commission; the permanent staff of the C.R.T.C. works under the Public Service Act; C.B.C. Head Office was not moved, and the chief executives of the Corporation have different titles than recommended; and the budgetary recommendations for the C.B.C. were finally rejected. Not a long list. How many of these did interest groups bring about? The C.A.B.

can probably take some credit for the rejection of the single board idea, with some help from the C.B.C., although the government did not need convincing. It was quite simply thought by government to be unworkable. The Association might also have had something to do with not reserving morning hours for ETV, with the Corporation's aid, but the government intended to set up a separate agency anyway. The C.B.C., again with little difficulty, got the titles it wanted for its senior executives, and kept Head Office in Ottawa, two rather insignificant victories. Now let it be clear that, having spent three rather long chapters outlining in detail the subtle changes made along the way from Fowler to Act and all the groups' positions on those changes, active and reactive, it is not the thesis of this work that interest groups had little or nothing to do with the formulation of the 1968 Broadcasting Act. They worked hard and with some effect. But it is being stated that the assumption that the major differences between the Fowler recommendations and the Act were due primarily to group pressure was, to a large extent, false. Other factors played important roles. They will be discussed shortly.

The second assumption, that the groups acted in secret, can be dealt with quickly. Several of them probably did. But here is an interesting point. A close reading of Chapters 3 to 5 will reveal that almost every change in the various stages of legislation that seemed important enough to examine can be traced either to a publicly stated position of an interest group or to one of the causes discussed further on in this chapter.

The third assumption, that the C.A.B. exerted the greatest influence, is not entirely correct. Chapters 3 to 5 reveal that, of the seven groups considered, in the period 1965 to 1968, the C.A.B. would, at best, have to share first place with the C.B.C. And that brings us to the major conclusion of this study. It is a confirmation of the idea put forward by Frank Peers⁹ which he called the "dilemma" of Canadian broadcasting, which I would take a step further.

Briefly stated, Peers' idea is that there are two major contending forces in Canadian broadcasting: economics and nationalism. These are not only openly active opponents, but they are forces in the mind of the disinterested, ordinary citizen, who wants Canada to be different from the United States, which would mean an independent broadcasting system, but at the same time his ingrained economic outlook is for private industry to be left alone, not tampered with by governments, and that free enterprise is the best way to do things. I agree with the fact that this confusion exists in men's minds, but I would modify the "contending forces" idea. Peers' is a pretty classic group theory idea. He talks about "the unrelenting pressure of interests which stood to benefit", and that "their pressure was not adequately countered by the resistance of other groups".¹⁰ It can be pictured as a simple, head-on confrontation of opposing forces: economics and nationalism. I would modify this. An examination of Canadian broadcasting from the 1920's to the present shows these two main forces to be of different types.

⁹Full reference Supra, 20, F.N. 25.

¹⁰Ibid., 258.

Economic considerations are always there, more or less constant, a slow-flowing, powerful tide. Sympathy for the tide is ingrained in most minds. Sympathy for nationalism, on the other hand, is not constant. Sometimes people are receptive to its ideas, sometimes not. I would, therefore, picture the situation rather as if a sphere containing several contending forces is being slowly borne along on the economic tide. It is capable of certain movements of its own, but it generally goes with the flow. Occasionally the nationalist force in the sphere becomes strong enough to slow down or even stop it, but then it slowly breaks away and continues its movement with the tide. Trace this motion in broadcasting legislation: from the first radio stations to the late 1920's, tide and sphere rolled along unhindered; then nationalism, aided largely by the Radio League, slowed the sphere down in 1929 with the Aird Report; but it picked up again somewhat until it was brought up short by the first Broadcasting Act in 1932; but that was temporary, and it had regained some momentum when the 1936 Act stopped it dead; from 1936 until the end of the war, the movement was barely noticeable, but from 1945 until 1968, the speed was breathtaking, with the rise of profitability and power of commercial broadcasting. The 1968 Act again applied a brake in that it, almost surprisingly, maintained some of the old nationalist principles. It did not absolutely capitulate to the tide as might have been expected. Since about the time of the 1968 Act, with the Centennial, Expo, change of Prime Minister; etc., nationalism has been on the rise again. The agency created by the new Act is acting quite forcefully

against the tide which would Americanize Canadian broadcasting. Largely because there is a good deal of nationalist sentiment on the Commission's side just at present, commercial forces like the C.A.B. dare not be too overt in their pursuit of helping the sphere's movement with the tide. The Commission is taking advantage of this fact to strengthen Canadian broadcasting.¹¹ It remains to be seen whether, for the first time in Canadian history, it will be able to reverse what has been a constant, occasionally interrupted movement.

In interviews with various people involved in the 1968 legislation and broadcasting generally, an attempt was made to account for the shape and contents of the Act in general terms. Some of the information gathered enforces what had been set out above, some presents additional factors, but none of it opposes the tidal notion. Some of the Broadcasting Committee members endorsed the idea strongly. When asked the methods used by the C.A.B. to get its views across among the Members, a prominent Committee member said the Association did not really have to press its views at all. The private enterprise approach is inherent with almost all M.P.'s. He said that "when pressed to the wall", most M.P.'s will mouth support for the national system, because it is a "good thing" for a Parliamentarian to do. But inherent is a sympathy for the businessman, and therefore an economic approach to broadcasting. One example of this will

¹¹Some recent examples are the forced sale of CKLW-TV, Windsor, by its U.S. owners to Canadian interests; the requirement of cable operators that they produce programs rather than just distribute U.S. and other material; the ban on the importation of distant U.S. signals by micro-wave; new regulations limiting foreign content on Canadian television stations; and new requirements for Canadian music on radio.

suffice. In the Committee of the Whole on C-163, Harold Ballard put the sentiment in an unusually frank fashion. Speaking on 2(h), which says the C.B.C. should receive paramount consideration in a dispute, he said: "I say to the Minister that if she can rise in her place and say that the Canadian Association of Broadcasters is in complete agreement with subclause (h) and thinks it will not inhibit their growth, ingenuity and adventurous spirit, I will take a different attitude to it."¹² And even the Minister's defence of the clause was not strong. She told the story of the man who was giving burial instructions for when he should die. He had had two wives, both dead, and he asked that he be buried between them; but, on reflection, that he be tilted a little towards Bertha.¹³ Just that much preference for the national service; no more. With such ingrained attitudes, an interest group pressing for an economic approach to broadcasting has a powerful ally indeed. It is this which makes the C.A.B.'s influence difficult to assess.

Beside an inherent sympathy for the business approach as an important force in addition to group pressure, there are others. A Conservative member of the Broadcasting Committee told me that ninety per cent of the members of the P.C. caucus simply do not understand the principles involved in Canada's system of broadcasting. Some of them seriously contend the C.B.C. should be broken up and sold to the private broadcasters. Some of them, like Ballard, will happily go along with whatever business sense

¹²Debates, February 1, 1968, 6253.

¹³Debates, January 30, 1968, 6161.

seems to suggest. Very fortunately for the publicly-owned system, Opposition Leader Stanfield supports the principle of public broadcasting, and party loyalty therefore caused Conservative Members to vote for parts of Bill C-163 which were unpalatable to them. Stanfield relied heavily on Gordon Fairweather, the chief Opposition Member on the Broadcasting Committee, who, in terms of broadcasting, is an atypical Conservative. Especially in view of the fact that the 1968 Act was passed by a minority government, where the Conservatives could have caused enormous difficulties, a great deal of credit must be given to the work of Mr. Fairweather for the fact that the Act is as strong as it is. This is not, by any means, to say that the Liberal Members were all principled on the side of nationalism and public broadcasting. I put it to several M.P.'s that the 1968 Act is just the result of liberalism in the sense that Gad Horowicz once defined it,¹⁴ i.e., that liberalism has as its highest aim a desire to make things go smoothly, to take a situation which already exists and try to make it work better. A surprising number, including Liberals, agreed.

Interviewed Members also agreed, some strongly, to the suggestion that a great number of the provisions in the 1968 Act are not there out of any conviction of principle or as the result of any pressure but simply because administrative convenience is a strong aim of the legislation. This is an extension of the "liberalism" idea, except that it applies to all parties. Members like to feel that their legislation will work. There seems to be a reluctance to amend legislation for some time after it is passed.

¹⁴C.B.C. Television Series, Extension, "Ideals of Democracy and Social Reality", January, 1966.

There is a pride in legislation. If the bill under consideration in the House is simply an up-dating of previous legislation after several years, only the parts that haven't worked well or need re-working as the result of new technology are likely to be changed to any extent. This thinking appears to have been at work in 1967-1968.

It is worthwhile mentioning again the peculiar attitude Parliamentarians have toward the C.B.C., this time in support of the idea that important factors besides group pressure were at work between 1965 and 1968. As pointed out earlier, the reason five-year finance for the C.B.C. did not come about was the result of Parliamentary reluctance to let go of the purse strings. The peculiar attitude of M.P.'s toward the C.B.C. in general, finance aside, plays a role in the economics-nationalism struggle. One would think that the "dilemma" would be particularly strong in M.P.'s, for obvious reasons, and it is. But in the matter of broadcasting, it is weighted toward the economic side because of the strange attitude of many Members toward the C.B.C. itself, which is the core of the national broadcasting system. In any discussion of the Corporation, most Members get all tangled up in morals. Here are two examples from the debate on C-163:

"The C.B.C. . . . has been a Trojan horse in our midst, attacking, destroying and spreading filth and disease in this nation."¹⁵

"Mr. Chairman, I say it is time to defend the general public whose business this is because, after all, they are footing the \$100 million deficit that the C.B.C. accumulates, to poison, soil and corrupt our youth."¹⁶ Many more like these could be cited, but

¹⁵Percy Noble, Debates, January 30, 1968, 6157.

¹⁶Charles Gauthier, Debates, January 24, 1968, 5924.

the point seems clear. Such incredible perversity in the minds of Members of Parliament simply helps the inevitable flow of the tide.

Three pressure groups have played important roles in Canadian broadcasting: the Canadian Radio League, the Canadian Broadcasting Corporation and the Canadian Association of Broadcasters. The League has opposed the economic tide for many years, with nationalism its motive, but played little role in 1965-1968. Before 1958, the C.B.C. helped in that opposition, for reasons of nationalism and simple self-interest. Since 1958, its role has been ambivalent, opposing the tide out of nationalism, helping it out of self-interest, mainly that of getting free of the B.B.G. The C.A.B. has always done its utmost to help the tide along, for reasons of economic self-interest. The movements of the other four groups might be summarized as follows: the B.B.G. rode the tide out of simple weakness; the N.C.A.T.A. went along, for economic reasons; A.C.T.R.A. has opposed the tide for reasons of self-interest; and the C.A.A.E. went against it out of self-interest and nationalism. The actions of these groups have had their effects, as detailed in earlier chapters, but it would appear the effects have been largely ones of speeding up or slowing down the inevitable. The system envisaged in 1965 by the Fowler Committee was basically similar to the one put forward on many earlier occasions: a dominant state-owned system with the private broadcasters playing a lesser role. What we actually have is an Act which says "tilt me a little toward Bertha". The C.B.C. and the private broadcasters are almost equals. The 1968 Act has temporarily solidified a precarious balance. If the

balance can be held, it will be a tribute as much to a few individuals in Parliament and the Public Service, and the present mild upsurge in Canadian nationalist sentiment, as to the application of group pressure.

BIBLIOGRAPHY

Statutes and White Paper

Canada. Parliament. An Act Respecting Radio Broadcasting.
22-23 Geo. V, C.51, May 26, 1932.

Canada. Parliament. An Act Respecting Broadcasting. 1 Edw. VIII,
C.24, June 23, 1930.

Canada. Parliament. An Act Respecting Broadcasting. 7 Elizabeth I
C.22, 1958.

Canada. Parliament. An Act to implement a broadcasting policy for
Canada, to amend the Radio Act in consequence thereof and to
enact other consequential and related provisions. 16-17
Elizabeth II, C.25, 1968.

Canada. Parliament. House of Commons. Broadcasting 1966.
(White Paper). Ottawa: Queen's Printer, 1966.

Royal Commissions and Fowler Committee

Canada. 1965 - Report of the Committee on Broadcasting. Ottawa:
Queen's Printer, 1965.

Canada. Royal Commission on Broadcasting. Report. Ottawa:
Queen's Printer, 1957.

Canada. Royal Commission on National Development in the Arts,
Letters and Sciences. Report, 1949-1961. Ottawa: Printer
To The King, 1961.

Canada. Royal Commission on Radio Broadcasting. Report. Ottawa:
Printer To The King, 1929.

House of Commons Debates

Canada. Parliament. House of Commons. Official Report of Debates.
August 25, 1958
November 1, 1967
January 23, 1968
January 24, 1968
January 29, 1968
January 30, 1968
February 1, 1968
February 2, 1968
February 5, 1968

Broadcasting Committee Hearings

Canada. Parliament. House of Commons. Standing Committee on Broadcasting, Films and Assistance to the Arts. Minutes of Proceedings and Evidence.

No. 31, December 15, 1966

No. 33, January 9, 1967

No. 34, January 10, 1967

No. 35, January 16, 1967

No. 36, January 19, 1967

No. 42, March 9-March 16, 1967

No. 1, November 2-November 14, 1967

No. 5, November 24, 1967

Briefs and Submissions

Association of Canadian Television and Radio Artists. Memorandum to The Honourable Miss Judy LaMarsh, Secretary of State. April, 1966.

Canadian Association of Broadcasters. Comments Relative to the Proposed New Broadcasting Act. Press Release, October 20, 1967.

Canadian Association of Broadcasters, Memorandum to the Committee on Broadcasting, November 23, 1964.

Canadian Association of Broadcasters. Submission to Mr. Robert Fowler, Chairman, Fowler Committee on the Subject of Colour Broadcasting in Canada.

Canadian Broadcasting Corporation. Annual Report 1965-1966. I-XX (Reaction to Fowler Committee Report).

Canadian Broadcasting Corporation. Annual Report for the Year 1964-1965. 5-18 (Brief Submitted to Fowler Committee).

Canadian Broadcasting League. Submission by the Canadian Broadcasting League to the Broadcasting Committee, September, 1964.

Stewart, Andrew. Statement by Andrew Stewart (To Accompany "Troika" Report), May, 1964.

Letters and Pamphlets

Allard, T.J. (Executive Vice-President, Canadian Association of Broadcasters) to The Hon. Judy LaMarsh, January 13, 1966.

The Canadian Association of Broadcasters. (Unsigned Pamphlet).

Canadian Association of Broadcasters. C.A.B. General News Letter. January 20, 1969.

Canadian Broadcasting Corporation. Broadcasting in Canada: History and Development of the National System. November 1, 1962.

Chevalier, Jacques (Manager, National Community Antenna Television Association) to R.W. Nichols, March 28, 1969.

Membership in N.C.A.T.A. May, 1968.

Satchell, Anne (Librarian and Information Officer, C.A.A.E.) to R.W. Nichols, November 7, 1968.

Articles and Speeches

Almond, Gabriel A. "A Comparative Study of Interest Groups and the Political Process", American Political Science Review, LII (March, 1958), 270-282.

Beer, Samuel H. "Pressure Groups and Parties in Great Britain", in John C. Wahlke and Heinz Eulau, Eds., Legislative Behavior. Glencoe: Free Press, 1959, 165-178.

"Director's Report". Annual Report: Canadian Association for Adult Education, 1960-1967, 7-15.

Garceau, Oliver. "Interest Group Theory in Political Research", The Annals of the American Academy of Political and Social Science, September, 1958, 104-112.

Gibbon, J.M. "Radio as a Fine Art", Canadian Forum, XI (March, 1955), 212-214.

LaPalombara, Joseph. "The Utility and Implications of Interest Group Theory in Non-American Field Situations", in Nelson W. Polsby, Robert A. Dentler and Paul A. Smith, Eds., Politics and Social Life. Boston: Houghton Mifflin, 1963, 642-654.

Latham, Earl. "The Group Basis of Politics: Notes for a Theory", APSR, XLVI (June, 1952), 376-397.

McKenzie, R.T. "Parties, Pressure Groups and the British Political Process", Political Quarterly, January 1958, 5-16.

Peers, Frank. "The Nationalist Dilemma in Canadian Broadcasting", in Peter Russell, Ed., Nationalism in Canada. Toronto: McGraw-Hill, 1966, 252-267.

"Political Action and the C.A.A.E.". Continuous Learning, VII, July-August, 1968, 158-160.

Prang, Margaret. "The Origins of Public Broadcasting in Canada", Canadian Historical Review, XLVI (March, 1965), 1-31.

Spry, Graham. "The Decline and Fall of Canadian Broadcasting", Queen's Quarterly, LXVIII (Summer, 1961), 213-225.

Spry, Graham. "The Origins of Public Broadcasting in Canada: A Comment", Canadian Historical Review, XLVI (June, 1965), 134-141.

Stewart, Andrew. "Address by Dr. Andrew Stewart, Chairman, Board of Broadcast Governors, Annual Meeting, Canadian Association of Broadcasters", Toronto, May 3, 1963.

Weinstein, Leo. "The Group Approach: Arthur F. Bentley", in Herbert J. Storing, Ed., Essays on the Scientific Study of Politics. New York: Holt, Rinehart and Winston, 1962, 151-224.

Books

Bentley, Arthur F. The Process of Government. Evanston: Principia Press, 1908.

Ehrmann, Henry W., Ed. Interest Groups on Four Continents. Pittsburgh: University of Pittsburgh, 1958.

Finer, S.E. Anonymous Empire. London: Pall Mall Press, 1958.

Gross, Bertram M. The Legislative Struggle. New York: McGraw-Hill, 1958.

Herring, E. Pendleton. Group Representation Before Congress. Baltimore: Johns Hopkins Press, 1929.

Herring, E. Pendleton. Public Administration and the Public Interest. New York: McGraw-Hill, 1936.

Holtzman, Abraham. Interest Groups and Lobbying, New York: MacMillan, 1966.

Jamieson, Don. The Troubled Air. Fredericton: Brunswick Press, 1966.

Key, V.O., Jr. Politics, Parties and Pressure Groups. Fifth Edition. New York: Thomas Y. Crowell, 1964.

O'Brien, John Egli. A History of the Canadian Radio League: 1930-1936. Unpublished Doctoral Thesis. University Microfilms, Ann Arbor, 1964.

Peers, Frank W. The Politics of Canadian Broadcasting. Toronto: University of Toronto, 1969.

Shea, Albert A. Broadcasting the Canadian Way. Montreal: Harvest House, 1963.

Truman, David B. The Governmental Process. New York: Alfred A. Knopf, 1962.

Weir, E. Austin. The Struggle for National Broadcasting in Canada. Toronto: McClelland and Stewart, 1965.

Zeigler, Harmon. Interest Groups in American Society. Englewood Cliffs: Prentice-Hall, 1964.