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THE ROLE OF WHITE
PAPERS IN THE POLICY-MAKING PROCESS:
THE EXPERIENCE OF
THE GOVERNMENT OF CANADA

by

Audrey D. Doerr

A thesis submitted to the Faculty
of Graduate Studies, Carleton
University, in partial fulfillment
of the requirements for the degree
of doctor of philosophy

Department of Political Science
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ABSTRACT

The purpose of this thesis is to investigate how a parliamentary document--the White Paper--has been used as a technique of policy-making. The study combines an investigation of the origin and development of White Papers in the British and Canadian parliamentary systems with an analysis of the impact of two White Papers used as participative techniques by the first Trudeau Administration.

White Papers originated in the British parliamentary system during the nineteenth century. They were developed by the government as a means of providing information to Parliament and the public. White Papers did not appear in Canada until 1939 and were issued infrequently until 1963. The White Papers of the Pearson Administrations, 1963-1968, often contained proposed government policy and were used as a means of facilitating federal-provincial consultations on policy issues of national importance.

White Papers of the Government of Canada acquired a new function after the first Trudeau Administration took office in 1968. Although the Government continued to issue them for the traditional purposes of providing information and of effecting selective consultations, two of the Papers issued between 1968 and 1972 were assigned a more significant role in the policy-making activities of the Government. The 'White Paper process', as it emerged in the policy areas of tax reform and Indian policy, constituted an experiment in 'participatory democracy' by the first Trudeau Administration.

The two Papers were intended to be policy 'offers' of the Government to Parliament, the public and the provincial governments. It was further intended that they would be widely discussed and debated both in and out of Parliament. On the basis of the views and opinions received as a result of the public debates, the Government would then make final policy decisions and draft appropriate legislation. In this way, public participation would assist the Government in developing responsive policy-making structures within government and in improving communications among the different sectors of the policy-making system.

However, the White Paper process had unintended, as well as intended, consequences for the policy actors in the different sectors in each case. A comparison of the involvement of the Government, Parliament, the public and the provincial governments in the policy debates on tax reform and Indian policy revealed that the actual impact of the White Paper process diverged widely from its theoretical objectives. The public debate on tax reform provoked tremendous opposition from participating groups and the provincial governments. The White Paper on Indian policy was flatly rejected by the Indian people. The Government and Parliament often had difficulty coping with the demands made on them as a result of the public dialogues. The final outcomes of the White Paper process were a result of the relationship between the policy process and the substantive policy in these two areas.

An analysis of the costs and benefits which resulted from the two experiments in 'White Paper democracy' revealed that this approach has limitations in effecting a process of 'participative' policy-making. A set of guidelines for the future use of White Papers and a proposal of an alternative technique are offered as suggested ways of overcoming some of these limitations.

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CHAPTER ONE

INTRODUCTION

Technological change and social upheaval are outstanding characteristics of contemporary society. Traditional governmental institutions are being challenged by an entirely new set of circumstances. As a result, governments are being called upon to struggle with the task of working out new policies--new solutions which will minimize the undesirable consequences yet retain the benefits offered by our modern technologies. To do this, they must strengthen and adapt existing institutions and practices and develop new policy techniques which will assist them in their task.

One of the techniques of the British parliamentary system which has been used by the Government of Canada as a means of facilitating policy-making is the White Paper. Although the concept of the document is neither novel nor new in terms of traditional parliamentary practice, the manner in which the Paper has been used by the federal Government in recent years is intimately related to the latter's concern with the improvement of the policy process in government. In this sense, White Papers have become an important innovation for governmental policy-making.

Besides seeking to explore how White Papers developed and have been used by governmental authorities, this study will, in particular, investigate a new use made of the documents by the first Trudeau Administration in two specific policy areas and the impact that this has had on the activities of the various sectors of the policy-making system of the Government of Canada. The White Papers on tax reform and Indian policy issued by the first Trudeau Administration will be assessed in relation to the process of policy-making developed by that Administration. The study, therefore, will seek to integrate two themes: the development and use of White Papers and the relation of a new use of such Papers to the process of policy-making.

I. The Setting

The use of the term 'White Paper', like much of our parliamentary practice, originated in Great Britain. There the term has applied to command papers issued to Parliament by the Crown. The practice of publishing these documents developed during the late nineteenth and early twentieth centuries. The object of presenting them was to give Parliament the information needed as a basis for judgment on matters of national policy. Such presentation also offered the government an opportunity to test the opinion of the members of Parliament and the public before introducing a policy in the form of final legislation.

In contrast to the British practice, the use of White Papers by the Government of Canada has been a relatively recent phenomenon. The essential function of the Paper as an informational document has remained, but there have been some noteworthy differences in the way its role in the policy-making process has evolved in this country. The most significant of these has been the manner in which the first Trudeau Government tried to use the document as a participative device in the policy-making process.

The first Trudeau Administration presented eight White Papers to Parliament, but only two, the White Papers on tax reform and Indian policy, were exposed to full-scale public scrutiny. These two Papers constituted the Government's major experiments with the 'White Paper process'. The manner in which they were used was an innovation in policy-making and had an important impact on the policy-making process.

II. The Issues

The development of the White Paper process reflected the Trudeau Government's concern with developing a comprehensive policy approach which would rationalize the making of public policy and stimulate public participation in governmental policy activities. It indicated a desire on the part of the Government to improve not only the kinds

of policies which were made but also the means by which they were made. It emphasized the Government's interest in the process of policy-making. As Mr. Trudeau had promised during the general election campaign of 1968:

...Above all, it is our determined wish to make Government more accessible to people, to give our citizens a sense of full participation in the affairs of Government, and full control over their representatives... The rights of Canadians must be guaranteed and their Government made to work in response to their needs.¹

'Participatory democracy' was to be one practical application of the theoretical policy framework developed by the Prime Minister's policy advisers. Within this framework, the making of public policy was envisaged as a continuing dialogue between Government, Parliament and the electorate. The White Paper was one of the techniques which would be used to promote this process.

If broad policy proposals were set out in a White Paper, it was argued, this would provide a basis on which a policy debate could occur at a pre-legislative stage. Parliament and interested groups and individuals would be permitted access to the policy-making activities of the federal Government before the final policy decisions were taken. By opening the policy process to the public

¹"Statement by the Prime Minister on the 'Just Society'", Liberal Party of Canada, Ottawa, (May 1968), mimeo, p. 6.

at this stage, such a debate would affect the role of the Government, Parliament and the electorate in significant ways. Although it could not be determined beforehand exactly what that effect would be, theoretically at least, it was envisaged as a means of accommodating the needs and demands for change in governmental institutions and in society.

In order to explore the impact and the significance of the White Paper process in the two cases where it emerged, the author set out a series of questions related to each major sector of the political system which was affected. The sectors which were identified as being involved in the White Paper process included the Executive and the bureaucracy; Parliament; the public, particularly interest groups; and the provincial governments. An investigation of the relationship between the policy process and the policy content in each case was also made.

The questions, which are outlined below, provided the framework for the main part of the thesis. They constituted the parameters within which an analysis and assessment of the impact of the White Paper process was undertaken.

(1) The Governmental Sector

One of the distinguishing features of modern political systems is the dominant role of the Executive. In Canada,

the Prime Minister and his Cabinet in conjunction with senior bureaucratic advisers in the Privy Council Office and the various departments of government are the focal point of most policy-making activity. Moreover, the process of policy-making in a parliamentary system is cloaked in secrecy. Meetings between and among Cabinet ministers and government advisers at which policy is developed are held in camera. Civil servants remain anonymous; and the public and, in most cases, Parliament are excluded from such deliberations. Often the first indication Parliament and the public have of a new policy is when a bill is introduced in the House.

The White Paper process was intended to provide a more "open" approach to government policy-making but it was not clear whether this would affect the activities of governmental policy actors during the preliminary stages of the process. This made it necessary to explore the following questions: What were the pre-policy stages leading up to the drafting of a participative White Paper such as the ones on tax reform and Indian policy? Who contributed the major inputs into these White Paper proposals? If the policies were intended to be responses to public demands, it would be expected that some consultation would be held with affected parties during the drafting stage.

The Government had also expected that the 'openness' of the White Paper process would improve its ability to make public policy. Therefore, it was asked: Did the White Paper process on tax reform and Indian policy improve the Government's ability to anticipate problems? secure compliance for its policy? pass legislation? Did it assist the Government in long-range planning? What strategic value did the Papers have? Did the White Paper debates make the Government and its bureaucracy more responsive to the demands from the public sector? These questions touch upon some of the important elements of the White Paper process in relation to the performance of the Government's policy-making system.

(ii) Parliament

The dominant role of the Executive in the policy process and the traditional secrecy of the parliamentary system also implies that parliamentarians will have a limited role in the process of policy formulation. Members generally criticize and comment on public policy after the Executive has presented it to Parliament, often in the form of legislation. It is not common practice for parliamentarians to formulate and discuss government policy at a pre-legislative stage.

Recently in Canada, there has been a growing concern about the institution of Parliament and the part it plays in

the policy-making process. This interest has been sparked, in part, by a set of reforms in the House of Commons in parliamentary procedure and by the reorganization of the House committees and the party caucus committees. These changes were made in an attempt to improve the ability of the House of Commons to have a meaningful input into governmental processes. Did the participative White Papers hinder or promote these reforms?

The following questions were focussed on this problem: What role did the parliamentary committees play in the debates on the two White Paper policies? Were committee members in particular, and parliamentarians in general, required to become involved in public discussions of the issues? How did Opposition members in the House respond to a public debate on policy initiated through the use of participative White Papers? What influence did they have in effecting policy changes?

(iii) Public Participation

For the most part, those sectors of the public actively involved in attempting to influence and/or change public policy are organized interest groups. In the Canadian parliamentary system, the lobbying activities of these groups are normally conducted behind closed doors in a Minister's or senior official's office. The White Paper

process was intended to provide an opportunity for more open participation. Therefore, it was asked: What channels of communication were available to the public to articulate their views at the federal level when the White Papers on tax reform and Indian policy were issued for the purpose of public discussion? What kinds of interest groups participated? What kinds of presentations were made by those groups to the federal Government? These questions explore some of the forms of public participation which would be expected to emerge in the debates.

The proponents of 'participatory democracy' argue that all citizens should participate between elections in the affairs of government which affect them. The extent to which citizens can and will participate is dependent upon a number of socio-economic factors. It may be assumed that the articulate and financially well-endowed sectors of the community will have an enhanced capacity to participate in a White Paper debate as compared to the 'silent majority' or minority poor. The critical issues which emerge from these circumstances are reflected in the following questions: Did the White Paper process on tax reform and Indian policy provide for a greater input from a wider spectrum of the electorate? Did it create a greater likelihood of individual participation? How did the Government assist the public in its efforts to organize and

participate in these debates? Did the response constitute a major influence on the final form of Government policy, i.e., legislation? If so, in what ways?

(iv) Provincial Governments

The involvement of the provincial governments in federal policy-making has become a significant feature of federal-provincial relations in Canada. The emergence of 'consultative federalism' during the 1960's has been expanded to include joint negotiation and bargaining between the two levels of government on nearly every policy issue of national importance. If White Papers were to be used as a means of promoting an exchange of views and information between the two levels of government, the following questions were important: By announcing its policy intentions in such documents, was the federal Government able to solicit views and information from other levels of government whose co-operation was required for the implementation of the federal policy? What rôle did the provincial governments play in the White Paper debates? What influence did they have on the final decisions made by the federal Government respecting the policy proposals? Did the involvement of the provincial governments facilitate or constrain the federal Government's efforts to effect a 'participative' policy process? If the federal policy process was to be successful, it would be expected that provincial involvement would be a critical factor.

(v) The Relationship between Policy Process and
Policy Content

It may be argued that no discussion of a policy process is complete without an examination of the policy content. The nature of a policy determines who will be affected, i.e., the clientele. It determines how they will be affected and the kind of response they will make. The relationship between process and content is, nonetheless, a reciprocal one. Although policy content will determine how a policy process, in fact, evolves, the process itself will influence the development of the policy content.

However, few studies of policy-making have shown whether the process determines the content of a particular policy or conversely, whether the nature of a particular policy influences the process by which it is formulated. Beyond analysing the relative attention given to certain policy issues rather than others, policy-making studies should also be concerned with ways in which variations in the policy-making process relate to the content and effect of policy outcomes. The White Paper process on tax reform and Indian policy appeared to provide an example of the importance of that relationship. In seeking to understand that relationship a number of questions immediately presented themselves: What features of the policies outlined in the

two Papers had the most important effect on the designated clientele in each case? What was the reaction of affected groups to these proposals? How was the White Paper process affected by the nature of the policy under discussion? Was the Government able to implement social change through legislative reform by such a process? The answers to these questions should provide the basis for an evaluation of the costs and benefits which accrued to the different sectors and participants involved in the White Paper process on tax reform and Indian policy.

There were, nevertheless, other general issues which related to the costs and benefits of the White Paper process. Some of the important questions in this regard included the following: Due to the amount of time needed to conduct a White Paper debate, did the use of White Papers as participative techniques seriously affect the Government's ability to take positive action on a short-run basis? Did the White Paper process infringe upon the policy-making jurisdiction of traditional institutions such as Parliament? Were the Papers a desirable technique for provoking discussions with Parliament and the public about governmental policy intentions? Was there a need for specialized structures designed to convey to government more accurately and more persuasively the views of the electorate on policy issues that were of direct concern to them? The implications of this

type of approach to policy-making may require that the Government develop alternative techniques to accommodate public participation in the policy-making process.

The importance of dialogue and consultation to the process of policy-making is growing. The making of public policy has become an immensely difficult exercise in communications. Problems arise from the increasing complexity of our political situation, the increasing speed and unpredictability of social and technological changes, and the increasing 'lead time' needed to make an effective response. In the following chapters, the author attempts to explore the impact and influence of the White Paper technique as a means to solve these problems.

III. Research Sources and Methods

Section One of the thesis is an historical account of the development and use of White Papers. It was necessary because no previous work on the origin and use of White Papers was available. The research material on Great Britain was collected from a wide range of secondary sources and compilations of British government documents. The information on Canada was more difficult to acquire. No record had been kept by governmental libraries of White Paper documents. It was necessary to peruse the post-Confederation sessional papers and to consult with departmental librarians who had had some experience with these documents. These resources enabled the author to devise a definition of a White Paper as it is used in the parliamentary system and to compile an inventory of the relevant Canadian documents. This inventory is included as an appendix to Chapter Three.

In the second and third sections of this study, which examine and evaluate the two participative White Papers of the first Trudeau Administration, the central time frame is the period from 1968 to 1971. Research material for these sections was drawn mainly from primary sources such as parliamentary debates, committee proceedings, departmental

reports, press releases, ministerial speeches, etc. Much valuable information was also collected from personal interviews conducted by the author with the Cabinet ministers and senior civil servants most directly involved in the debates. In addition to personnel from the Departments of Finance and Indian Affairs and Northern Development, officials in the Department of Secretary of State, the Prices and Incomes Commission and the Privy Council Office were interviewed. There were more than twenty-five interviews of this type conducted. Approximately twenty parliamentarians, in particular members of the Standing Committees which examined the White Papers on tax reform and Indian policy, were also interviewed. The interviews ranged from thirty minutes to four hours in length. A list of the main interviewees has been included in the bibliography.

Personal contact through correspondence or interviews was also made with political party officials, interest group representatives and opinion leaders involved in the policy debates whenever possible. The co-operation received from members of the National Indian Brotherhood and some of the provincial Indian associations merits special attention.

Although it is recognized that the personal interview technique has short-comings as a methodological tool, the author considered it to be the most appropriate approach to

use in investigating the subject-matter. To find out how policy is made or, more importantly, how it is perceived to be made, one must talk to the individuals who make it. The different interpretations and perspectives of events held by policy actors in different parts of the system or performing different roles in the process are the critical determinants of the success or failure of a policy or policy-making approach. Therefore, the interviews had two main objects. The first was to find out how the White Paper process was conceived of and operationalized. The second was to explore the attitudes of the chief actors who were involved in the process. Extensive use was made of documented evidence from primary sources to cross-check the information and opinions received from the interviewees.

This study, therefore, does not seek to measure in quantitative terms the impact of this type of policy-making on policy outcomes. It is an analysis of a normative process of policy-making. As such, it seeks to provide some insight into the political dynamics and subjective considerations which form the essence of public policy-making.

SECTION ONE:
THE HISTORICAL BACKGROUND

CHAPTER TWO
ORIGIN AND USE OF WHITE PAPERS
IN GREAT BRITAIN

The making of government policy in a democracy requires consultation between governments and the governed. In part, this involves the collection and distribution of information which can serve as the basis for the discussion of governmental policy. Numerous techniques and procedures have been developed in the British parliamentary system to accommodate this process. One such technique--the White Paper document--has played an important role as an information device employed by governmental policy-makers.

The evolution and development of the White Paper has spanned nearly two centuries, although the Paper was not used extensively as a policy-making tool until after World War Two.¹ Much of the early history of the technique, therefore, must be acquired by an examination of its forerunner--the Blue Book. The following discussion is a brief historical sketch of the development of these informational devices for policy-making in British politics.

I. Use of Blue Books in the Nineteenth Century

A Blue Book has been defined as:

a term loosely applied to government publications bound in a blue paper cover. Broadly speaking, the

¹See Paul Ford and G. Ford, A Breviate of Parliamentary Papers, 1940-1954, (Oxford: Basil Blackwell, 1961), Preface.

bulkier papers are issued in this form because of their size, so it follows that a Blue Book like a white paper, may be any form of governmental publication. Reports of royal commissions and the more important departmental committees are usually Blue Books; reports of select committees sometimes take this form.²

The development of the use of these documents during the nineteenth century will be briefly explored from three perspectives: the establishment of a publication policy for parliamentary proceedings; the use of Blue Books on domestic issues; and the use of Blue Books in foreign policy. It is from these beginnings that the functions of the White Paper originated.

1. Establishment of a publication policy

The House of Commons has long maintained as a principle of its customary law that it is entitled to demand the use of every means of information which may seem necessary and to call for all documents which it requires.³ Even in the Middle Ages, the Chancellor used to make detailed communications to the House upon the financial position of the country, and the right of the Commons to information on money matters was never disputed.⁴

It was also a principle of parliamentary law that the deliberations of the House of Commons were private.⁵ Practice,

² L.A. Abraham & S.C. Hawtrey, A Parliamentary Dictionary, 2nd ed., (London: Butterworth & Co., 1964), p. 42.

³ Joseph Redlich, The Procedure of the House of Commons. A Study of its History and Present Form, (London: Constable, 1908), Vol. II., p. 39.

⁴ Ibid., p. 41.

⁵ Ibid., p. 28.

however, made this principle in-operative. The legal status of reporting was changed from disgruntled tolerance to formal permission.⁶ Joseph Redlich has noted that: "The first mention in the journals of the printing of parliamentary papers is an order of the 30th July 1641: we read 'Ordered that these votes shall be printed and attested under the Clerk's hand'."⁷ Thus, beginning in the middle of the seventeenth century, reports and papers submitted to the House have been recorded.

In the early decades of the nineteenth century, the House seriously began to recognize the necessity of securing adequate publicity for its proceedings, but for a long time it was content to leave this task to be performed by private undertaking.⁸ By 1836, the policy was established that all Parliamentary papers should be cheaply and readily available to the public. The Parliamentary Papers Act of 1840 provided the statutory basis to implement it in practice.⁹

⁶ See Sir Thomas Erskine May, A Treatise on the Law, Privileges, Proceedings and Usages of Parliament, (London: Butterworth, 1917), pp. 74-77.

⁷ Redlich, The Procedure of the House of Commons, p. 47.

⁸ In 1803, Mr. T.C. Hansard began to compile and publish reports of the debates of the House of Commons. The Hansard family was also charged with the publication of the first breviate of parliamentary papers which appeared in 1834. It was not until 1877 that official support of such undertakings was given out of public funds. See Redlich, ibid., introduction; P. Ford and G. Ford, Hansard's Catalogue and Breviate of Parliamentary Papers 1696-1834, (Oxford: Blackwell, 1953); and _____, A Select List of British Parliamentary Papers 1833-1899, (Oxford: Blackwell, 1953).

⁹ May, A Treatise on the Law, Privileges, Proceedings and Usages, p. 101.

The best proof of the implementation of the policy, however, was the number of procedural devices which were developed for the presentation of papers in the House. Papers could be obtained by provision of an act of Parliament, order of the House, address to the Crown, or by command of the Crown.¹⁰ Motions for addresses to the Crown or by order of the House were the means whereby the legislature extracted documents from the executive.¹¹ Papers laid by command of the Crown, on the other hand, owed their origin normally, not to demand in Parliament, but to the Government itself. In theory, the object of presenting papers was to give Parliament the information needed, and at times demanded, to provide a basis for judgment on matters of policy. In practice, presentation meant publication for the benefit of Parliament and the public.

ii. Use of Blue Books on domestic issues

The presentation and publication of Blue Books on domestic matters originated in the work of parliamentary committees.¹² These committees were employed for essentially

¹⁰ Ibid., pp. 561-566

¹¹ "Accounts and papers relating to trade, finance or general or local matters are ordered directly and are returned in obedience to the order of the House whenever it was issued; but returns of matters connected with the exercise of royal prerogatives are obtained by means of addresses to the Crown. Ibid., p. 561.

¹² See Ronald Butt, The Power of Parliament, (London: Constable, 1967), Chs. 1 and 14. These committees were usually select committees as a system of standing committees did not develop until the end of the century.

two purposes; to inquire into and investigate particular public problems; and to scrutinize private bills. Blue Books were the results of the work of the investigatory committees.

Extensive use was made of these committees following the Reform Act of 1832. One author offers this comment:

The great inquiries of the thirties and forties were the Nemesis of the middle class victory of 1830, an unreformed Parliament would never have persisted in them ... the Cataclysm of 1830 proved to have been the beginning of a slow evolution by which, while an aristocratic fabric was quietly permeated with Radical ideas, an individualistic society was unobtrusively schooled in the ways of State Control. Engels's Condition of the Working Class, which projected the image of the exploiting capitalist on the mind of the European proletariat, appeared in 1845. It was based on English Blue Books.¹³

However, a high level of illiteracy existed at this time.¹⁴ As Young points out: "Clearly no society could be left to rest on a substratum of ignorance so dense as these figures show, especially after the Reform Bill had divulged the arcanum of party government, that the franchise be extended. Of what use were cheap papers to a population which could not read them?"¹⁵

The extensive use of statistical information which marked

¹³G.M. Young, Victorian England: Portrait of an Age, 2nd ed., (London: Oxford University Press, 1953), p. 47.

¹⁴Ibid., pp. 58-9.

¹⁵Ibid., p. 59.

this period made the format of Blue Books cumbersome and unwieldy. Governments were charged with using such committees and publishing such reports as a means of shelving problems, not solving them.¹⁶ As Professor Butt states:

'The Blue Book does not satisfy curiosity but palls it--overwhelms it' commented The Spectator sourly (in 1856) and it cited as an example the Committee on Transportation. This had provided no extracts of the information latent in the evidence and after all the expense of time and money, the result was 'a folio volume of more than seven hundred pages of evidence, prolix, entangled, incoherent, crude...' So much for the futility of Blue Books which were never read.¹⁷

However, these committees inquired into a wide range of social and economic subjects including education, the poor laws and problems affecting trades and industries.¹⁸ Although it was not the job of the committees to produce positive proposals which could be turned into legislation, they provided information on which a Bill might be based. Many reforms of the period originated in this way.¹⁹

As the century progressed, these parliamentary committees which has originally been constituted more or less on a non-partisan basis became increasingly partisan as a system of strict party discipline developed in the House. The

¹⁶ Butt, The Power of Parliament, p. 80.

¹⁷ Ibid.

¹⁸ See Ford and Ford, A Select List of British Parliamentary Papers, 1833-1899, Preface.

¹⁹ Ibid.

Government then began to use royal commissions to obtain non-partisan advice. These two methods of inquiry continued side by side in the second half of the century but most major reforms were based on the findings of royal commissions rather than parliamentary committees during this period.

The Blue Books dealing with domestic matters in the nineteenth century were, therefore, the reports of parliamentary investigatory committees and royal commissions. These reports provided the basis for much of the major legislation of the period. The informational role that they served for the public, however, was limited by their size and volume²⁰ and the high level of illiteracy in the country.

iii. Use of Blue Books in foreign policy

An interesting application of Blue Books appeared early in the nineteenth century in the area of foreign policy. In essence, Blue Books were used by successive Foreign Secretaries as techniques for the manipulation of public opinion.²¹ For example, the Foreign Secretaries would publish all the correspondence and documents between Great Britain

²⁰ The papers for these periods exist in enormous numbers. D. Holland has commented that some two hundred yards of shelving are needed to accommodate approximately forty-five hundred volumes that emerged during the parliamentary career of Mr. Gladstone alone. See D. Holland, "Parliamentary Papers" Parliamentary Affairs, Vol. 8, 1954-55, pp. 526-528.

²¹ Harold Temperley & Lillian M. Penson (eds.), A Century of Diplomatic Blue Books 1814-1914, (London: Cass, 1966), Preface.

and other countries before they would meet with representatives from those countries at the conference table to negotiate treaties and agreements. The effect of this was to give Great Britain a strong bargaining position at the Congresses of Europe. Having tested public opinion at home and, in some cases, mobilized support for an intended course of action, British Foreign Secretaries were able to negotiate policies favourable to their country.

Canning²² was the first Foreign Secretary to employ Blue Books for this purpose. He designed the system by formulating a policy of publicity which succeeded to an extent unrivalled by any of those who came after him. The basic idea of Canning's policy was that the public and private aspects of diplomacy were the same. His well-timed revelations of state papers were calculated with an unerring sense of their effect on the public and on his diplomatic opponents.²³

Throughout the nineteenth century, Blue Books were issued regularly for this purpose and they had an important effect on British foreign policy.²⁴ However, the practice was substantially modified by the end of the century. As one source comments:

The growth of a regular system of consulting foreign powers before documents affecting them were published prevented Blue Books from being used, as

²²1822-27

²³Temperley and Penson, A Century of Diplomatic Blue Books, pp.30-37.

²⁴Ibid., Preface. See also Harold Temperley, The Foreign Policy of Canning 1822-27, (London: Bell, 1925).

in the days of Canning and Palmerston, as instruments of policy ... Thus, it may be seen that the hey-day of Blue Book publication, which opened with Canning, ended about 1880 ... From 1890 to the eve of the Great War, Blue Books were plentiful in number, but the proportion of diplomatic correspondence which they contained was slighter than before.²⁵

Interest in domestic matters increased towards the end of the century as a democratized House demanded more and more governmental activity in the affairs of the individual and the community. The years preceding the outbreak of the First World War were ones of intense activity in parliamentary investigation. More than a thousand reports made by more than six hundred investigatory bodies and individuals, including nearly sixty royal commissions, were produced during the period from 1900 to 1914.²⁶ Most of these investigations were carried out in fields of fundamental public policy. It has been stated that: "Four groups of papers in particular--those on the machinery of government, the place of labour in society, on social security, and on health--illustrate the vigour with which these problems were met."²⁷

Thus, with the development of bodies of inquiry such as parliamentary committees and royal commissions, the presence of Blue Books in the legislative process of

²⁵Temperley and Penson, A Century of Diplomatic Blue Books, p. xii.

²⁶Ford and Ford, A Breviate of Parliamentary Papers, 1900-1916, (Oxford: Blackwell, 1951), Preface.

²⁷Ibid., p. ix.

Parliament began to have an impact in areas of domestic policy. Publication of these reports allowed members of the House access to information. This practice served a two-fold function. First, this was a means whereby the House could exert control over the executive.²⁸ Secondly, it permitted the members to engage in informed debate on policy.

Blue Book reports continued to appear in large numbers during the twentieth century. However, their great numbers as well as their volume made them an unwieldy and increasingly cumbersome technique for informing Parliament and the public of policy considerations. An alternative technique had to be developed to fulfill this function.

II. Development of the White Paper Procedure in the Twentieth Century

Parliamentary dictionaries distinguish White Papers from Blue Books only in relation to the length of the documents: "The term is associated with such command papers (i.e., papers presented by the Queen's command to Parliament) as are not of sufficient size to need a blue cover."²⁹ On this basis, it could be argued that White Papers were probably issued as early as the weightier Blue Books. However, the parliamentary breviates do not take notice of these documents in the policy process until after

²⁸John P. Mackintosh, The British Cabinet, (London: Stevens & Sons, 1968), p. 99.

²⁹L.A. Abraham and S.C. Hawtrey, A Parliamentary Dictionary, p. 229.

1939.³⁰ Formal legislative procedure for the presentation of these Papers was not established until World War Two. The development of the use of White Papers, by and large, followed from some of the changes that occurred in the British Parliament during the nineteenth and twentieth centuries.

1. Background

The Reform Acts of the nineteenth century had marked the end of royal influence on the work of the House. Both the Executive, i.e. Cabinet, and Parliament were now linked in responsibility to the same electorate. As the legislative output had continued to rise during this period, the task of legislation, owing to the growing complexity of administration, had to be undertaken by the Government instead of being left to private members. Procedural changes were necessary.

Gradually, the Government began to lead the House in its legislative activity. Party machinery was developed as a means to control the House on whose favour the Government's existence depended. The party system was formalized and party discipline tightened as the century progressed.³¹ The effect of this was to concentrate political power in the hands of the Cabinet who were representatives of the majority party in the House. The Cabinet retained control of policy and became responsible for its actions to the

³⁰Ford and Ford, Breviate, 1940-1954.

³¹Butt, The Power of Parliament, p. 89.

House and ultimately to the electorate. Professor Butt comments:

As the decades passed, policy was increasingly first 'floated' in the country before being announced in the House and this caused resentment among members...³² Nor was the House of Commons at this time the main channel through which outside interests approached the Government. Then, as now, pressure groups dealt directly with the Government, often to the fury of the by-passed members of Parliament. Members of Parliament as such had little direct part in the 'formulation' of policy (to use the mid-twentieth century terminology) except insofar as they contributed to the climate of opinion in their parties...³³

As the Government began to touch the community at a larger number of points, the attitude, and subsequently the support, of Parliament and of the electorate came to depend, in part, on the publicity given to a policy and on the impression created by it. The pressure of public opinion both inside and outside the House required the use of a more sophisticated informational device than the bulky Blue Books.

White Papers were first published as informational documents on policy in the late nineteenth and early twentieth centuries although Blue Books continued to dominate the period to 1939.³⁴ The White Papers issued in this period were predominantly brief ministerial statements on existing

³² Ibid., p. 90.

³³ Ibid., p. 94.

³⁴ Ford and Ford, Breviate 1900-1916, and Breviate 1917-1939.

policy. They were strictly informational documents and seldom contained proposals for future legislation. During the 1920's and 1930's, however, government proposals for future legislation in the form of White Papers occasionally appeared, but it was not until World War Two that the practice was fully developed.³⁵

The procedural antecedents of White Paper policy-making are to be found in the British Cabinet's activities in relation to post-war reconstruction. The experience of World War One had shown that planning for post-war reconstruction required a systematic and co-ordinated approach. Policies could not be made in isolation of one another but had to be related to some kind of planning framework if the Government was to cope with the magnitude of the problems that were created by war and post-war conditions. Not only did the Government have to create an atmosphere in which it would be allowed to devise and implement plans for reconstruction, it had to devise means whereby policies of government intervention would be communicated to affected parties in such a way that they would be accepted and approved. As Ford has commented: "... between 1939 and 1945, there was a transformation of public attitudes; some of the

³⁵For example, the following White Paper titles are listed in Parliamentary Breviate, 1917-1939: "Proposals for Reform in Local Government and the Financial Relations between the Exchequer and Local Authorities", 1928, Cmd #3135; "Certain Proposals relating to Unemployment" 1928-29, Cmd #3331, pp. 48, and 241 respectively.

inhibitions of our social thinking and will were shed and the 'White Paper' plans of the Coalition Government were partly the outcome of that release of mind."³⁶

It was during the World War Two period that Government departments began to draw on outside experience for policy initiative, either through the membership of advisory committees or by strengthening their staff with appointments from outside the government service. This practice added another stage to the process of internal policy review. The following quotation outlines the effect of this development:

Some of their studies were ... internal to the departments and the Papers resulting from the process often took a different form from those issued in 1917-18. Proposals as drafted by the Departments went through the appropriate machinery to the Cabinet and as modified by them were issued in a brief 'White Paper' giving the Government's proposals, unaccompanied by formal evidence ...³⁷ Some of them represent the Government's final conclusions after considering a report by another body; e.g., those on Social Insurance and Control of Land Use follow the Beveridge report on Social Insurance and Allied Services and the Uthwatt report on Compensation and Betterment respectively. Others, like that on the Distribution of Industry derived from several years of discussion on the ways of dealing with depressed areas and from the Barlow Commission on the Distribution of the Industrial Population. The vital White Paper on Employment Policy, on the other hand, was not preceded by any formal committee report, but was worked out within the governmental organization and summed up years of discussions amongst economists and others which centered round the Keynesian theory.³⁸

³⁶ Ford and Ford, Breviate 1940-1954, p. ix.

³⁷ Ibid.

³⁸ Ibid., p. x.

As a result of these developments, White Papers were integrated into the process of policy formulation. When a matter assumed a character of national importance, it would be inquired into by a royal commission, a departmental committee, a select committee or a joint select committee of both Houses of Parliament. The reports from inquiries such as these continued to be published in the form of Blue Books and put on sale for the information of the public. The Government departments concerned would then consider the recommendations and suggestions made by these statutory bodies as well as other reports from professional and technical organizations and interested individuals in the public sector. It would be at this stage that a White Paper would usually be presented outlining the proposals of the Government.³⁹ These proposals would then be subject to debate in Parliament before a Bill on the matter was drafted.

The qualitative differences which distinguish White Papers from Blue Books are to be found in the procedures by which these Papers originate. The White Paper is usually the result of a long series of studies and investigations, unlike a Blue Book which is a report from one particular study. White Papers contain the policy proposals of a Government ministry as opposed to the findings and recommendations

³⁹John J. Clarke, Outlines of Central Government including the Judicial System of England, 14th ed., (London: Pitman, 1963), p. 44.

of a particular committee of inquiry. Furthermore, White Paper proposals are approved by Cabinet and, therefore, are public commitments to policy.

ii. The Effect of White Papers

The application of White Papers in the process of policy formulation lengthened the overall legislative process. This occurred for two reasons. With the growth in the number of departments and the increasing scope of governmental policies, the number of issues that could be settled inside one ministry declined and the amount of interdepartmental consultation increased. Naturally, the more departments that were consulted in framing a proposal, or gave their consent, the longer the process took.

Secondly, the discussion of a White Paper was only the prelude to the debate on the introduction of final legislation. Often White Papers were also referred to committees of the House so that new evidence could be received and considered before the bill was drafted. Theoretically, the lengthening of the process was intended to make policy procedure more open and thus permit greater participation in the discussion by both members of the House and interested groups and individuals affected by the proposals.

Although the informational function remained basic to their use, the developments during World War Two marked a new departure for the role of White Papers in the policy-

making process. From the Government's point of view, White Papers provided a guide to discussion and a commitment to future legislation. For example, the White Paper on Health Services of 1944⁴⁰ stimulated parliamentary and public discussion of specific proposals (which later were put in the form of an official bill). It also acted as a commitment to introducing future legislation by announcing all-party agreement on the advisability of bringing in the bill as soon as possible after the war had been concluded. One observer comments: "The paper was thus a kind of promissory note that was to be honoured, at least in its essence, by whichever party was in power when that moment arrived."⁴¹

White Papers were a means of appeasing members of Parliament who felt they were being by-passed as legislators of public policy. The information contained in these documents provided parliamentarians with some idea of the type of legislation the Government intended to introduce. The Papers served as a means of educating and informing the members as well as setting out guidelines for policy debate in the House or in committee.

White Papers also contributed to the practice of consulting interest groups. Usually private and confidential

⁴⁰ J.B. Christoph, "Great Britain--The Advent of National Health Services", in J.B. Christoph, Cases in Comparative Politics, (Boston: Little, Brown, 1965), pp. 1-43.

⁴¹ Ibid., p. 18.

consultations with such groups were held by Government ministers and officials before any important legislation was introduced. However, the Government could provide a basis of public discussion by issuing a White Paper sufficiently in advance of a bill. Then anyone who was interested in the policy could make presentations.⁴²

The need for the Government to consult a wider sector of the public was facilitated by White Papers which provided the bases for such consultations. The Government, especially in the areas of social welfare legislation, was faced with the problem of winning understanding and acceptance of its programs in Parliament and among the public. The problem of mobilizing support required effective consultation and communications. The White Paper device was conducive to preparing public opinion for Government action in much the same way as Canning employed Blue Books on foreign policy in the nineteenth century.

Ideally, the White Paper technique as it emerged in postwar years was a sophisticated information device employed by Governments as a means of publicizing their policy and providing a focus for debate on proposed legislation. The advantages of receiving information derived from the use of the technique, in large part, favoured the Government.

⁴²Allan Potter, Organized Groups in British National Politics, (London: Faber & Faber, 1961), p. 208.

The Paper's potential as a device for providing timely and accurate information to Parliament and the public has never been fully realized, as the following examples will show.

iii. Some Criticisms

When publicity in the form of White Papers is projected against the larger screen of contemporary parliamentary government, it may be viewed as one means of controlling the executive branch in the formation of policy and of serving Parliament and the public with information that is useful in the deciding of public policy. If this standard is applied, the use of White Papers in Great Britain has not been totally successful.

The subject of parliamentary scrutiny of public expenditure, for example, has been a concern of members of Parliament for many years. It has been noted that:

Such control of this vast expenditure as now exists, resides, not in this House, but in the Treasury and more importantly, with the Cabinet in the making of policy decisions. It is those policy decisions that determine the long-term commitments, and it is just in this field of policy-making that the elected representatives have no effective control ... These policy decisions are taken by the Government without any scrutiny in depth by the House and with little consultation with the House. Parliament is very often the very last body to be consulted.⁴³

⁴³ Emerys Hughes, M.P., Parliament and Mumbo-Jumbo, (London: Allan & Unwin, 1966), p. 78.

In 1961, the Plowden Committee,⁴⁴ in examining the control of public expenditure, had praised the Government's practice of issuing two White Papers, one on Public Investment and another on Government Lending, together with the accounts of the enterprises themselves "as suitable and appropriate for the purpose of informing Parliament."⁴⁵ Plowden recommended that the Government should further employ these means of informing Parliament to include broad issues of long-range policy involving public expenditure.

In 1963, the Government of the day published a Public Expenditure White Paper⁴⁶ which made a comparison between the 1963-64 public expenditure estimates and the results of the calculation of the prospective level of public expenditure in 1967-68 on the basis of the Government's existing policies and programs. As one observer has noted:

In other words, the figures given were forecasts, not instruments of control and, as was emphasized at the time, those for 1967-8 did not represent decisions by the Government to spend particular sums in that year. A limited amount of explanatory material was also published and a comparison made with the Government's aims for the rate of growth of the economy as a whole. It was a modest, but useful start.⁴⁷

⁴⁴ Great Britain, Chancellor of the Exchequer, "Control of Public Expenditure", (London: H.M.S.O., 1961), Cmd #1432.

⁴⁵ Ibid., p. 24.

⁴⁶ Great Britain, Chancellor of the Exchequer, "Public Expenditure", (London: H.M.S.O., 1963), Cmd # 2235.

⁴⁷ Sir Samuel Goldman, "New Techniques in Government Budgeting: 1. The Presentation of Public Expenditure Proposals to Parliament", Public Administration, (Autumn 1970), p. 252.

The Public Expenditure White Papers which followed in 1966⁴⁸ and 1968⁴⁹ respectively varied somewhat from the 1963 exercise. The 1966 Paper continued the approach of explaining long-range projections on spending; the 1968 Paper was more factually oriented in that it set out all the decisions taken to cut public expenditure programs or to reduce their rates of increase. The White Papers succeeding these documents have been variations on this theme. Thus, some progress has been made since the Plowden report. However, as Goldman points out, "each [Paper] was a special production designed to meet a particular situation; the normal parliamentary business of dealing with public expenditures continued to be related to the Annual Supply Estimates."⁵⁰

In the final analysis, the content of White Papers is the critical factor which determines the extent to which this document can serve as a means of controlling the Government. If the Government chooses not to provide explicit and accurate information or projections of its future proposals, the procedure becomes a formality that is of limited use to the parliamentarian. For example, it has been argued that the practice of 'White Papering' has been carried on by the Treasury Department. Professor Sampson has made the

⁴⁸ Great Britain, Chancellor of the Exchequer, "Public Expenditure", (London: H.M.S.O., 1966), Cmd #2915.

⁴⁹ Ibid., 1968, Cmd #3515.

⁵⁰ Goldman, "New Techniques in Government Budgeting", p. 253.

following criticism:

A persistent feature of the Treasury is secrecy; and this can be well observed in the character of White Papers which are meant to explain changes, but are, in fact, carefully devised to conceal them...⁵¹ Important Whitehall documents all go through the process of toning down, passing from department to department 'papering over the cracks' (in the Treasury's phrase) until much of the original force--or even sense--has vanished....Treasury men insist that this process is part of the machinery of democracy, and that the ambiguities stem from the chief committee of all--the Cabinet. The muzziness of White Papers expresses the muzziness of twenty men each trying to get his own way.⁵²

Professor Sampson was critical of the fact that, when more than ever before, the public and Parliament have need of information such as that contained in White Papers, it has not been forthcoming. He has stated: "[White Papers] are written from one department to another, full of mandarin language, and in the process of fooling the public, one suspects that civil servants begin to fool themselves."⁵³

In the area of consultation, White Papers have permitted Government to pursue the strategy of political public relations. This involves the preparation of opinion for a change in policy while making it possible for the Government to continue

⁵¹Anthony Sampson, Anatomy of Britain Today, (New York: Harper and Row, 1966), p. 298.

⁵²Ibid., p. 300.

⁵³Ibid.

with the existing policy if it eventually concludes that it would be wise to do so. White Papers used in this manner are only an expression of governmental intentions which may or may not be introduced as final legislation. If a policy change is to occur, public opinion will be less outraged by a change if it has been fore-warned by such means as a White Paper. These tactics also enable the Government to procrastinate long enough to be able to pretend that not much change has, in fact, occurred. By employing White Papers as delaying tactics, Governments may use them as tools of manipulative politics. Professor Butt provides this example:

It is plain that in the Parliament of 1964, the Government was obliged to defer to parliamentary opinion and shelve (the steel nationalisation) measure; in turn, parliamentary opinion represented pretty accurately, on this issue, the balance of opinion in the country, which was for the most part hostile or indifferent to steel nationalisation. On the other hand, the Government had to deal warily with its own back-benchers and not give them the impression that it was lukewarm on the issue: hence, the introduction of the White Paper.⁵⁴

The White Paper technique was derived and developed in Great Britain from the practice of issuing Blue Books on areas of major policy. Originally, a brief document providing factual information on policy, the White Paper acquired a more meaningful role as a means of introducing

⁵⁴ Butt, The Power of Parliament, p. 279.

new policy during and after the Second World War. The effectiveness of the document has varied with the manner in which the processes of investigation, formulation and announcement of policy were interwoven. White Papers have continued to be used in the British legislative process as an information device and sometimes as a manipulative tool of Government. The White Paper as used in Great Britain has perfected neither communications nor consultation between the Government and Parliament, on the one hand, nor between the Government and the public on the other. Efforts are now being made to improve the technique in this respect. The use of Green Papers has been developed to complement the White Paper technique.

III. Recent Developments

White Papers have been employed by successive British Governments since World War Two for a variety of reasons. To the extent that they have provided information on policy and set guidelines for the discussion of Government proposals, they have created an opportunity for greater and more informed participation of Parliament and organized groups in policy formulation. Greater demands by Parliament and the public for more information and increased consultation have, in recent years, sparked a number of significant developments in their use.

Almost all advocates of parliamentary reform⁵⁵ have stressed the need for fuller information in Parliament, suggesting that Parliament's influence on policy can most usefully be exerted through its advice to government on the quality of administration. Members of Parliament have long complained of being by-passed by the Government in the formation and discussion of policy and of their inability to control acts of the executive.

The Select Committee on Procedure in the 1966-67⁵⁶ session made a strong case for several ways of involving members in more of the basic processes of inquiry, discussion and opinion formation that lead to the making of legislation. It pointed out that the Government occasionally tested the opinion of the House by publishing a White Paper and arranged for a debate before a bill was published. It urged more use of this technique and, in particular, suggested that White Papers should be published on all major items in the Queen's speech and some days set aside for these specific topics to be debated.

The increasing emphasis on long-range planning by

⁵⁵ See Parliamentary Reform 1933-1969: A Survey of Suggested Reforms, published for Hansard Society by (London: Cassell, 1961); Andrew Hill and Anthony Whichelow, What's Wrong with Parliament, (Harmondsworth: Penguin Books, 1964); and B. Crick, Reform of Parliament, 2nd ed., (London: Weidenfeld & Nicolson, 1968), and Crick, Essays on Reform, (London: Oxford University Press, 1967).

⁵⁶ Great Britain, House of Commons, Sixth Report of the Select Committee on Procedure 1966-67, (London: H.M.S.O., 1967).

Governments and the need for more extensive consultation with interested groups prompted the Fulton Committee⁵⁷ to make these observations:

The increasingly wide range of problems handled by government and their far-reaching effects upon the community as a whole, demand the widest possible consultation with its different parts and interests. We believe that such consultation is not only necessary in itself, but will also improve the quality of the ultimate decisions and increase the general understanding.

We welcome the trend in recent years towards wider and more open consultation before decisions are taken; and we welcome, too, the increasing provision of the detailed information on which decisions are made. Both should be carried much further; it is healthy for a democracy increasingly to press to be consulted and informed. There are still too many occasions where information is unnecessarily withheld and consultation merely perfunctory. Since Government decisions affect all of us in so many aspects of our lives, consultation should be as wide as possible and should form part of the normal processes of decision-making ...⁵⁸

The Fulton committee showed that the trend toward more open consultation had been expressed in two main forms. The first was an increase in the amount of factual information being disclosed; the second, a much greater readiness to publish forecasts and other considerations involved in policy decisions.

These developments led to a policy statement by the

⁵⁷ Great Britain, Prime Minister & Chancellor of the Exchequer, "The Civil Service", Report of the Committee 1966-68, Vol. I, (London: H.M.S.O., June, 1968) Cmd #3638.

⁵⁸ Ibid., para. 278.

Wilson Government in 1969 on the provision of information to the public. The White Paper on Information and the Public Interest⁵⁹ reviewed the use of White Papers as a means of increasing public awareness and participation in the operations of Government. For example, it noted that the White Paper on Economic and Financial Objectives of the Nationalized Industries was a major step forward in communications between the Ministers responsible for the policy and the public at large.⁶⁰ Ministries were adopting the practice of publishing more quantitative and qualitative information about their programs.

The Paper acknowledged that this procedure resulted in slower decisions and slower action, sometimes in cases where prompt action was essential. However, the Paper noted, " ... the guiding principle which the Government has adopted is that the prior publication of information about the considerations involved in policy matters should form a continuing part of the decision-making process whenever reasonably possible."⁶¹

This policy has led to the practice of issuing so-called Green Papers designed to facilitate the process of prior

⁵⁹Great Britain, House of Commons, "Information and the Public Interest", (London: H.M.S.O., June, 1969), Cmd #4089.

⁶⁰Ibid., para. 8.

⁶¹Ibid., para. 14.

consultation. These Papers, in some cases, have been referred for discussion to hybrid committees that operate essentially outside the purview of Parliament. For example, the Green Paper, "The Task Ahead", issued by the Department of Economic Affairs was discussed by the National Economic Development Council.⁶² This Council⁶³ is a hybrid committee composed of Government ministers, trade unionists, industrialists from both the public and private sector, and economists. It is essentially concerned with economic planning and provides the machinery for consultation among affected interests. One writer has observed: "The Ministers who attend its meetings plainly do not feel bound by its conclusions, nor is the Council bound by Government policy. But its influence is likely to be considerable. It has no power, but it has authority."⁶⁴ The Council provides the machinery for the discussion of Green Papers such as "The Task Ahead."

In 1969, the Treasury also adopted the Green Paper approach. The deliberations of the Procedure Committee during the 1966-69 period when White Papers on Public Expenditures began to appear on a regular basis prompted this action. In April 1969, the Government submitted a

⁶²Great Britain, Department of Economic Affairs, "The Task Ahead: Economic Assessment to 1972", (London: H.M.S.O., 1969).

⁶³See J.B. Christoph, "The Birth of Neddy", in Christoph, Cases in Comparative Politics, pp. 44-89.

⁶⁴Crick, Reform of Parliament, p. 240.

comprehensive set of proposals to the Committee. Because of their importance, they were published in the form of a Green Paper and presented to Parliament by the Chancellor of the Exchequer.⁶⁵ Green was now the recognized colour for documents intended to provoke discussion if not controversy.

The central idea of the Treasury Green Paper was to propose that there should be a regular annual White Paper, showing the results of each year's public expenditure survey by the Government. Moreover, it was recommended that the presentation of the White Paper should be fitted into the annual cycle of Parliament's examination of financial and economic matters. The suggestions did not constitute a declaration of Government policy but rather were intended to provoke discussion on the possibility of implementing such reforms.

The feature which distinguishes Green Papers from White Papers, therefore, is the nature of the content of the document. Green Papers contain alternatives rather than preferences of policy proposals. This distinction was made explicitly in "The Task Ahead":

This is a planning document, not a plan. That is to say, the document provides a basis for a further stage in the continuing process of consultation between Government and both sides of industry about major issues of economic

⁶⁵ Great Britain, Chancellor of the Exchequer, "Public Expenditure: A New Presentation," (London: H.M.S.O., 1969), Cmd #4017.

policy. The central purpose of that consultation is broadly to enable important decisions affecting the future to be taken in both the public and private sectors, after a concerted exercise of foresight about the conditions in which those decisions will operate, and the way they may affect each other....

Though the methods used to achieve the consultation vary widely in democratic states and still more so between those states and the more authoritative states, the same process of consultation goes on throughout the world, though its form varies according to the circumstances and the stage of development reached in a particular country. This assessment is put forward as a basis for the further development of that consultation in Britain.⁶⁶

Hence, Green Papers are used to promote discussion of policy issues before the government develops policy proposals on a particular subject.

The use of White Papers in Great Britain has matured as the parliamentary system has attempted to adapt to changing conditions. The publication of Blue Books established the practice of providing information on policy considerations. The White Paper, as an instrument of future policy, extended the principle. The Green Paper is now being used at an earlier stage, before policy proposals are outlined by the Government. These devices have contributed in varying degrees to the consultative process involved in policy-making both inside and outside Parliament.

The extent to which the development of White Papers

⁶⁶ "The Task Ahead", p. 1.

in Canada has paralleled their development in Great Britain will be discussed in the next chapter. The procedure related to the use of these documents was directly transplanted to the Canadian parliamentary system. The Papers have been used by Canadian Governments for purposes similar to those of British Governments. There have been, however, important variations in the role the Canadian Papers have played in the policy-making process.

CHAPTER THREE
TRANSPLANTATION OF THE WHITE PAPER
TECHNIQUE TO CANADA

Where did you come from you little white paper?
I am the result of a Cabinet caper.¹

The Canadian political system has inherited the greatest share of its institutions and institutional procedures from Great Britain. The manner in which they have evolved, however, has been determined by convention and usage in this country. This is particularly true with respect to the development and use of White Papers. The documents were adopted during a much later period of time in Canada and were used much less frequently than in Great Britain. This chapter briefly outlines the procedural origins and development of the White Paper technique in Canada. An inventory of the documents is presented in an appendix to the chapter.

1. Parliamentary Procedure Respecting the Publication and Classification of Documents

Parliamentary institutions and practices were gradually introduced in Canada during the years of British colonial dependence. They were permanently established by virtue of the British North America Act in 1867. Similarly, almost

¹Ralph Cowan, (Liberal-York-Humber) in Canada, Parliament, House of Commons, Official Report of Debates, November 8, 1967, p. 4046. (Hereinafter reference will be made simply to Debates of the House of Commons).

all the forms, rules and usages of the House of Commons of Great Britain were adopted by our House of Commons by virtue of the enactment of a Standing Order which now reads: "In all cases not provided for hereafter or by sessional or other orders, the usages and customs of the House of Commons of the United Kingdom of Great Britain and Northern Ireland be followed so far as they may be applicable to this House."² Consequently, as in so much else, the Canadian Parliament was saved several centuries of slow and difficult procedural development. Some of the forms and mechanics inherited at Confederation have been altered, but little change has been effected in principle.

The availability of information to Parliament has been an all-important theme in the development of Canadian parliamentary procedure. The right to information on government matters and the practice of publishing parliamentary papers have followed in the "spirit of the British constitution" and have always been recognized in the Canadian House of Commons. Members of Parliament have traditionally been entitled to demand the use of every kind of information relating to government operations. As Professor Dawson has commented:

The House has, therefore, over the years, developed procedures by which members of all parties may receive answers to questions and copies of documents. Requests for

²Canada, House of Commons, Standing Orders, January, 1969, S.O. 1.

specific information are made by questions asked orally in the House or printed on the Order Paper. Papers are tabled in the House as returns. The Government, either in response to a request from a member or on its own initiative also periodically makes a statement of policy in the House before the business of the day is begun.³

The documents that are laid before Parliament are presented by message or command of the Governor General in Council, in answer to an address or order of the House, or in pursuance of an act of Parliament. According to rule 82(1), "It is the duty of the Clerk to make and cause to be printed and delivered to each member, at the commencement of every session of Parliament, a list of reports or other periodical statements which it is the duty of any officer or department of the Government, or any bank or other corporate body to make to the House..."⁴ The nature of these papers and returns covers all matters of governmental activity upon which information is required.

No paper may be presented to the House except on some parliamentary authority although most motions for papers are granted without hesitation. The Minister himself may take the initiative when he decides that a question should be made into an order for a return. At other times, his assent is a formality. Some papers are never produced. For

³W.F. Dawson, Procedure in the Canadian House of Commons, (Toronto: University of Toronto Press, 1962), p. 146.

⁴Standing Orders, 82(1).

example, correspondence within a department or between ministers is always privileged. These papers are rarely demanded, and if a member makes such a motion, the Government asserts that the 'public interest' prevents their production.⁵ However ample the power of each House to enforce the production of papers, a sufficient cause must be shown for the exercise of that power, and if considerations of public policy can be conclusively urged against a motion for papers, it is either withdrawn or otherwise dealt with according to the judgment of the House.

The practice of publishing for public distribution was incorporated into parliamentary practice during the colonial period.⁶ From 1841 to 1859, the printing of the journals, committee and special reports, petitions, returns, etc., of the Legislative Council and the Legislative Assembly was the responsibility of each body acting independently of the other.⁷ From 1860 to 1867, a Joint Committee on

⁵ Dawson, Procedure in the Canadian House of Commons, pp. 160-162.

⁶ See Olga Bishop, Publications of the Governments of Nova Scotia, Prince Edward Island, and New Brunswick, 1758-1952, (Ottawa: Queen's Printer, 1957); _____, Publications of the Government of the Province of Canada, 1841-1867, (Ottawa: Queen's Printer, 1963); _____, A Compilation of Canadian Government Publications, (Ottawa: King's Printer, 1935).

⁷ "At each session of the Legislature, particularly the Legislative Assembly, many problems arose which were referred to a committee to investigate such as English copyright laws, disasters at sea, sale of intoxicating liquors, etc. The proceedings of the deliberations of these committees were published." Bishop, Province of Canada 1841-1867, p. 63.

Printing of the Legislative Council and Assembly was responsible for examining every petition, return paper or document and ruling whether or not it was to be printed. Much of the work was contracted out to keep the cost of printing down.

In 1869 an act was passed for the appointment of a Queen's Printer for Canada under whose superintendence the printing of the Canada Gazette, the statutes and departmental reports was performed. In 1888 a Department of Public Printing and Stationery was established under the direction of the Secretary of State who became responsible for government printing of all kinds.⁸ All important papers and documents were and continue to be printed in the Sessional Papers.

Generally speaking, the Sessional Papers of the Canadian House of Commons include any paper laid on the table of the House during the course of a session including the reports of all departments and crown corporations.⁹ The number and kind of government information made public in this way has varied from year to year since 1867.¹⁰ For example, until

⁸Bishop, Ibid. In 1970 the Queen's Printer was incorporated within the organizational structure of Information Canada. The Department of Public Printing became part of the Department of Supply and Services in 1969.

⁹Interview, Alistair Fraser, Clerk of the House of Commons, August 1970.

¹⁰The author examined the contents of approximately 600 boxes of Sessional Papers (1916-1958) stored in the basement of the Public Archives. Bound volumes of the papers and indexes for the years since 1958 were also examined.

World War II, the Papers included mainly departmental, committee and royal commission reports as well as orders-in-council. From 1945 to 1958 many other kinds of documents began to appear. Special studies prepared by departmental officials, research studies prepared for royal commission inquiries, as well as proceedings and reports from federal-provincial conferences added to the volume of papers available to Members of Parliament. The development of departmental information services during this period also contributed to the availability of government publications to the public.¹¹

Since 1958 the trend toward larger quantities of government information in the form of Sessional Papers has continued. Many new kinds of documents are now being presented to Parliament on a regular basis. The reports of task forces and advisory committees have now superseded the voluminous reports of the royal commissions which abounded during the 1960's.

Following the British practice, the term 'blue book' has referred to the reports of the various commissions, committees and departments. Until recently such reports were bound in blue paper covers. Some books such as the Public Accounts continue to appear in traditional blue cover form; others are produced in more fashionable glossy,

¹¹For example, an Information Office in the Department of External Affairs was not established until 1947.

multi-coloured covers.

Although the Blue Books which have been tabled in the House of Commons since Confederation have furnished a vast amount of valuable information on subjects relating to government policy, there have been few assessments of the significance of these documents as sources of policy ideas and means of policy discussions. Some attention has been given to the effect of the work of royal commissions but, for the most part, the significance of public government reports as policy documents has not been assessed.¹²

Less importance has been attached to material published with white covers. For example, treaty series and diplomatic correspondence have always appeared in white paper format although no particular significance has been attached to this practice.¹³ In Great Britain all white papers tabled in the House of Commons are assigned a command number, appear

¹²Some of these analyses include: Kenneth B. Callard, Commissions of Inquiry in Canada, 1867-1949, (Ottawa: 1950); John C. Courtney, "Canadian Royal Commissions of Inquiry, 1946 to 1962. An Investigation of an Executive Instrument of Inquiry", PhD Thesis, Duke University, 1964; J.E. Hodgetts, "Royal Commissions of Inquiry in Canada: A Study in Investigative Technique", Unpublished M.A. Thesis, University of Toronto, 1949; G. Bruce Doern, "The Role of Royal Commissions in the General Policy Process and in Federal-Provincial Relations", Canadian Public Administration, Vol. 10, (December 1967); George F. Henderson, Federal Royal Commissions in Canada, 1867-1966, (Toronto: University of Toronto Press, 1967).

¹³Interview with Philip Laundry, Chief, Research Branch, Library of Parliament, June, 1970.

in white paper cover, and are usually identified as such somewhere in the publication. In Canada, the term 'white paper' appears in the index of the Debates of the House of Commons, but it is not used, for example, in the index catalogue of the Library of Parliament.

While the practice of distinguishing White Papers from other kinds of government documents has not been systematically developed in the Government of Canada, it was possible on the basis of interviews with departmental librarians and of examination of sessional papers to identify some of the characteristics of White Papers which set them apart from other kinds of sessional papers.¹⁴ For instance, a White Paper does not include such materials as ministers' statements or speeches, departmental reports, or materials supplied in answer to questions raised in the House. It is considered to be a policy document, approved by Cabinet, tabled in the House of Commons and made available to the general public. Although it was the practice until 1964 to publish these documents with white covers and identify them as White Papers, recent White Papers have appeared in red, orange, green and multi-coloured covers which has made the term almost meaningless.

¹⁴ The author is especially grateful to Dr. A. Day, Historical Division, Department of External Affairs and Mr. Alistair Fraser, Clerk of the House of Commons for their assistance on this matter.

The use of White Papers by the Government of Canada has generally been restricted to those policy areas which are considered to be of national importance. The manner in which they have been employed in major policy areas has been dependent upon Cabinet and ministerial discretion. The Government has used them to serve a wide variety of functions and has seldom clarified the exact function for which they have been used. In fact, it has found it convenient not to do so. As the following discussion will show, there is a strategic functionality to leaving the definition of such documents vague and ambiguous in order that their use can remain flexible.

II. The Development and the Use of White Papers by Canadian Governments: 1867-1962.

In 1867 the White Paper concept was just being developed in Great Britain. There was no immediate attempt made by the Government of Canada to adopt the technique. In fact, it was not until 1939 that White Papers emerged as a comparable parliamentary document employed by the Government of Canada. In that year, the Hon. Charles A. Dunning, the then Minister of Finance adopted the procedure of presenting a Budget 'White Paper' as a means of shortening the length of his budget speech. As the quotation below

suggests,¹⁵ the content of the White Paper was strictly factual and was issued for the purpose of providing additional information to the members of the House.

This practice has continued to serve an important informational function. Mr. Balls, an authority on this subject, has discussed the present significance of these Papers:

The second set of documents is the "budget papers". These have assumed greater significance since their introduction in 1939, and it is now customary for the Minister to table them for the information of Parliament a day or so before he delivers his budget speech. The budget papers consist of two parts: a general review of economic conditions for the preceding calendar year, with preliminary estimates of, and brief comments on, the more significant economic statistics or indicators, and a preliminary report on the government's accounts and financial operations for the fiscal year just ended or ending, with statements of revenues, expenditures, assets, liabilities, cash and debt transactions. With the budget papers in the hands of members, it is no longer necessary for the Minister of Finance to review in detail in his budget speech the economic conditions prevailing in the country during the past year or to discuss at

¹⁵ "I think I should also intimate to the House that it is the intention to try to follow this year, and possibly in future years, as the House may determine, the practice which is followed in Great Britain and also in Australia of putting together what might be called the statistical and accounting information and explanation into one document, which is filed as a white paper and published as an appendix to the budget... I think it may very well be a means of conveying more information than has been the practice in this House over a long period of years in connection with the budget; it being recognized that it is physically impossible to cover by means of the spoken word all the information which might reasonably be expected to be a part of the Budget." C.A. Dunning, (Minister of Finance), Debates of the House of Commons, April 17, 1939, p. 2840.

length the financial operations of the government during the preceding year. It is customary for him, however, to review briefly the international economic situation and major domestic economic developments.¹⁶

By and large, the contents of the Papers look to the past rather than the future.

The first major policy White Paper issued by the federal Government was the White Paper on Employment and Income of 1945.¹⁷ The Government established a precedent by making a public commitment to a policy that was made available in printed form. The Paper also received the approval of a Cabinet committee. The document was drawn up in the Department of Reconstruction by Dr. W.A. Mackintosh and presented to Parliament by the Minister, C.D. Howe. The background to this document has been outlined in detail by its author.¹⁸

Dr. Mackintosh has described how he had to persuade Mr. Howe to agree to such a document. When he finally got this approval he drafted the paper. He has stated: "One thing I felt at the time to be of first importance. The document must not only have the formal endorsement of the

¹⁶ H.R. Balls, "The Budget and its Function", in A.M. Willms and W.D.K. Kernaghan, Public Administration in Canada: Selected Readings, (Toronto: Methuen, 1968), p. 185.

¹⁷ Canada, Department of Reconstruction, "Employment and Income", (Ottawa: King's Printer, April 1945).

¹⁸ W.A. Mackintosh, "The White Paper on Employment and Income in the 1945 Setting", in S.F. Kaliski, (ed.), Canadian Economic Policy Since the War, (Canadian Trade Committee, 1965), pp. 9-21.

Government, it must be thoroughly understood by at least the minister most concerned."¹⁹ The Paper subsequently received approval by a Cabinet committee.

Although many reconstruction policies were formulated before the war was over, the actual task of reconstruction did not commence until after 1945. According to Dr. Mackintosh, a need existed for a clear enunciation of policy because of the "confused and uninformed state of the public mind".²⁰

In this atmosphere it was essential to inform people of the dimensions of the problem, convince them that it was soluble and that government provisions already made or promised, made an intelligible and practical pattern. Especially it was necessary to convince people that the Government was thoroughly committed and confident ...²¹ It was hoped that this would produce a substantial consensus on the magnitude of the task, the directions in which to move and some measure of confidence in its feasibility ... What was hoped was to dispel any atmosphere of crisis and to apply patient, matter-of-fact reason to a really formidable tangle of problems.²²

The essential function of the document was to provide information to Parliament and the public on reconstruction policy. The Paper contained a review of legislation on the statute books and a reaffirmation of the course of

¹⁹ Ibid., p. 16.

²⁰ Ibid., p. 13.

²¹ Ibid., p. 14.

²² Ibid., p. 15.

policy the Government intended to take in the future. The document received little public debate when it was issued, although it was discussed at the in camera meetings of the 1945 Dominion-Provincial Conference. As Dr. Mackintosh has stated: "Essentially, the White Paper was Part I of a double document of which Part II was the Green Book: the Proposals of the Government of Canada to the Dominion-Provincial Conference of 1945."²³ The White Paper provided an overview and background for such proposals. The fact that it was a public commitment to policy established an important precedent for the White Papers of the 1960's.

The White Papers which were issued subsequent to the 1945 Paper were more modest attempts to supply information on policy to Parliament and the public. Like the Budget documents, these Papers provided additional factual information relating to existing and proposed departmental programs. They were normally tabled in the House during the debates on departmental estimates.

Three departments, other than the Department of Finance adopted the practice of issuing White Papers as information documents during this period. The Department of National Defence annually submitted a White Paper on "Canadian Defence Policy", from 1949 to 1961 (with the exception of 1958 and

²³Ibid., p. 16.

1960).²⁴ The Department of Trade and Commerce also issued a booklet in White Paper form, "Private and Public Investment in Canada" annually during the 1950's.²⁵ The Department of External Affairs published five White Papers during this period--two relating to the Korean crisis (1951) and three relating to the crisis in the Middle East (1956-57).²⁶ These documents were essentially historical accounts rather than statistical information.

By and large, the White Papers from 1939 to 1962 played a strictly informational role in the policy process. The White Paper format was a means by which the Government could present information on policy to Parliament and the public. Its function was essentially to elucidate what the Government was doing rather than to provide the basis for a discussion on proposed Government action.

III. The White Papers of the Pearson Administrations: 1963-68.

A turning point for the use of White Papers by the

²⁴ An illustration of the purpose of these documents can be found in the foreword of the 1961 White Paper on "Canadian Defence Policy": "For the convenience of Members of Parliament the information contained in this booklet is intended to serve as a factual outline of the operations of the Armed Services and of the Defense Research Board together with an explanation of funds requested for the fiscal year 1961-62." Hon. Douglas S. Harkness, Minister of National Defence, "Canadian Defence Policy", Foreword.

²⁵ See appendix, p. 74.

²⁶ Ibid., p. 74.

Government of Canada came during the years of the Pearson administration. They were now issued for the purpose of informing Parliament and the public of governmental intention with respect to future policy and legislation. The Ministers in the Diefenbaker Cabinet had informed Parliament of proposed policy or legislative change by means of ministerial statements made on 'Orders of the Day' or 'Motions'. These brief announcements were the main vehicle by which the Government provided information concerning future policy to Parliament and the public.²⁷ The Pearson administration carried this practice one step further. The White Paper on Pensions is illustrative of this development.

'Better Pensions for All' was one of the promises of the Liberal Party in the general election of April 1963. When a minority Liberal government was elected, it was committed to introducing a pension program during its first 'Sixty Days of Decision'. A few days after the election a twenty-eight man interdepartmental Task Force on Old Age, Survivors and Disability Insurance was appointed. It held some sixty-one formal meetings and prepared memoranda on all aspects of the plan for Government consideration.²⁸ On

²⁷ Interview, Alistair Fraser, Clerk of the House of Commons, August, 1970. The rules of the House were changed in 1968 which resulted in deleting resolution stage.

²⁸ Canada, Department of National Health and Welfare, Annual Report 1965, (Ottawa: Queen's Printer, 1966), pp. 100-101.

June 19 a resolution²⁹ was placed on the order paper to introduce a comprehensive scheme of retirement pensions to those age sixty or more. The responsible minister, Miss Lamarsh made the following statement:

In the time at my disposal today, Mr. Chairman, it has not been possible to deal fully with such a complex proposal as the Canada pension plan. Nor, I think, we would all agree, is it fair to expect honourable members opposite to have a considered opinion on the basis of the resolution and these few remarks. Therefore, for the benefit of all honourable members and for the benefit of interested people in the country and the provincial governments, I have had prepared a supplementary outline of the nature and scope of the Canada pension plan. With the leave of the committee, Mr. Chairman, I would request that this outline be permitted to be printed as an appendix to Hansard. I am also prepared to send now to the leaders of each party a copy of this outline. I have as well a supply which might be tabled, printed in English and French, which are available for any interested member.³⁰

This 'supplementary outline' was subsequently referred to as a White Paper on the Pension Plan. The brief, four page document was intended to facilitate consultation with members of Parliament and the provincial governments.³¹ The desirability of winning public support for a compulsory scheme such as pensions and the need for a constitutional amendment requiring provincial concurrence to implement the

²⁹ Hon. J.F. Lamarsh, (Minister of National Health & Welfare) in Debates of the House of Commons, July 18, 1963, p. 2340.

³⁰ Ibid., p. 2346

³¹ Ibid., October 29, 1963, p. 4162.

plan were among the prime factors which prompted the issuing of a White Paper.

Discussions of the White Paper with the provinces began in July 1963 and continued into the spring of 1964 at several federal-provincial conferences held during that period. The outcome of these meetings was a revision of the original White Paper and the introduction of Bill C-75 in March 1964 which embodied the revised plan.

At the federal-provincial conference of Premiers and Prime Ministers held in April 1964, the province of Quebec tabled its own pension plan and demanded that changes be made in the federal scheme. This conference was followed by a series of discussions between federal and Quebec officials designed to reach agreement on the details of a plan that would be acceptable to the governments of both Canada and Quebec. In essence the discussions brought about a melding of the two sets of proposals.³²

By June 1964 provincial agreement enabled the federal government to amend section 94 of the British North America Act relating to old age pensions. Consultations with the provinces continued through the summer. In August, a White Paper on the second revised plan was issued by the federal government. In October, a new Bill C-136 was given first reading and the earlier Bill C-75 was withdrawn. In

³²Department of National Health and Welfare, Annual Report 1965, p. 102.

November, the Bill was given second reading and referred for study to a Special Joint Parliamentary Committee of the Senate and House of Commons. This was the first time interest groups had formal access to the decision-making process on this question. In all, the Joint Committee held fifty-one sittings, heard 116 witnesses and filled 2,000 pages of Hansard with its hearings.³³ However, the Committee worked under a vital restraint: few major changes could be considered because the agreement with Quebec could not be jeopardized. The Committee reported in February 1965 recommending only minor changes.

The Bill finally received royal assent April 2, 1965,³⁴ nearly two years after the first White Paper had been introduced. As the minister pointed out:

There can be very few occasions when the intentions of a government have been so fully discussed prior to the introduction of the actual legislation into Parliament. Our proposals have produced wide interest, and, I think, increasingly favourable support. Members will have noted the three tabled returns made in response to motion Numbers 84, 88, and 105 which comprise more than 700 folios of correspondence on the subject. Many members will also be aware that important national organizations such as the Canadian Federation of Agriculture, the National Farmers Union and the Canadian Labour Congress have expressed themselves in favour of the pension plan.³⁵

³³ Ibid., p. 103.

³⁴ Debates of the House of Commons, April 2, 1965, p. 13185.

³⁵ Hon. J.J. Lamarsh, (Minister of National Health & Welfare), Debates of the House of Commons, March 17, 1964, p. 1162.

From 1963 to 1968, White Papers were presented to Parliament at the rate of two or three a year. Not all the Papers resulted in the widespread public discussion that had surrounded the Pension document. The White Paper on Defence³⁶ for example was, in large part, a public relations document that was issued before the bill incorporating the proposed changes in the Defence Act was tabled in the House.³⁷ The White Paper in this instance was used essentially to condition public opinion and educate the public on proposed Government policy. Neither consultation nor criticism would result in any modification of the policy. The Minister's proposals were a firm commitment to this proposed course of action. Moreover, the fact that a Bill was passed a few months subsequent to the tabling of this document was an additional indication that the final policy was not intended to be a product of public debate.³⁸

³⁶ Department of National Defence, "White Paper on Defence", (Ottawa: Queen's Printer, March 1964).

³⁷ For example, the first amendment to the National Defence Act leading to the integration of the Armed Services was given first reading less than three weeks after the tabling of the White Paper on Defence. See Debates of the House of Commons, March 26, 1964, p. 1486 and April 13, 1964, p. 2069.

³⁸ Royal assent was given to an Act to Amend the National Defence Act on July 16, 1964. Mr. Hellyer's intention as to the purpose of the White Paper was clear. As the White Paper stated: "Many of the basic principles that govern Canada's defence policy are constant because they are determined by factors, such as geography and history, which are specific. Others such as the nature and magnitude of the threat to peace and security and the development of weapons and weapons

(continued)

The fact that a minority Government held office in Ottawa from 1963 to 1968 helps to explain, in part, why the Papers were employed in this fashion. The White Papers on Pensions, Defence, Broadcasting and Immigration, for example, were all in areas of controversial policy. The Government needed some Opposition support and, in some cases, provincial support to have the measures passed and, therefore, felt that it needed to explain and justify its policies before introducing the legislation. The greater extent to which such proposals received support from the public as a result of prior information also facilitated the passage of legislation through Parliament.

Furthermore, the use of White Papers complemented the leadership style of the Prime Minister. Mr. Pearson had been a noted world statesman. Consultation, negotiation and compromise were characteristics of his philosophy of government. On one occasion he expressed this point of view:

Consultation means the opportunity to participate in the give and take of ideas, the weighing of

Footnote 38 (continued)

technology change rapidly and drastically. Therefore, defence policy must adapt itself to such changes, while principles remain constant. This is why it is desirable for the government not only to provide for defence changes when they are necessary, but to keep the public informed of the nature of and the reasons for the new policies. This can be done through White Papers on Defence, debates in the House of Commons, discussions in Parliamentary Defence Committees and in many other ways. It is hoped that this White Paper will be helpful in this purpose." "White Paper on Defence", 1964, p. 5.

pros and cons; and the formulation of policy based on the highest common denominator of agreement. It is a method of harmonising divergent interests, a process which makes it possible so to adjust and adapt measures which any one government may have in mind that are least likely to disturb and most likely to consolidate the unity of the greater ... society to which we all belong.³⁹

This attitude was especially characteristic of federal-provincial affairs during this period.⁴⁰ White Papers were one technique which facilitated decision-making in a system of 'consultative federalism'.⁴¹ Such consultation was pursued with a view to mobilizing support for a specific policy as well as establishing a bargaining position vis-à-vis the provincial governments.

IV. The White Papers of the first Trudeau Administration: 1968-72

The practice of issuing White Papers was continued following the 1968 election and the formation of the first Trudeau Administration. Eight White Papers were published from 1968 to 1972. They continued to serve many of the same

³⁹Lester B. Pearson, Democracy in World Politics, (Princeton, New Jersey: Princeton University Press, 1965), p. 50.

⁴⁰Thomas A. Hockin, (ed.), "Two Canadian Prime Ministers Discuss the Office", in T.A. Hockin (ed.), Apex of Power, (Scarborough: Prentice-Hall, 1971), pp. 184-199.

⁴¹The Pension Paper was a prime example of this. For a discussion of 'consultative federalism' during this period, see D.V. Smiley, "Public Administration and Canadian Federalism", in Canadian Public Administration, Vol. VII, #3, (September, 1964), pp. 371-388.

purposes ascribed to the documents of the Pearson era. There were those which were used as policy information documents.⁴² Several other White Papers of this period were used as means of effecting parliamentary discussions and/or consultation with affected groups. The White Papers on Veterans Pensions, Unemployment Insurance, and Income Security for example were subject to discussion in parliamentary committees and with affected groups.

The Trudeau Papers contained government policy recommendations based on studies and reviews made by departmental committees, task forces or royal commissions. They covered a wide range of policy issues of national importance. However, the use of two White Papers by this Administration went one step beyond the informational and consultative roles.

In Great Britain the practice of issuing Green Papers began in 1969. These Papers were introduced at a pre-policy proposal stage and were the subject of public discussion before proposals such as those contained in a White Paper were outlined by the Government. Their content included

⁴²The 'White Paper' on "Foreign Policy for Canadians", (June, 1970) is an example of a recent government policy statement issued simply for the purpose of informing Parliament and the public. Although the publication of this Paper sparked commentary and discussion particularly in academic circles the Government did not intend it to provide the basis for discussion leading to a change in its proposed policy. The White Paper "Defence in the 70's" is another example when the Government simply issued an informational statement of policy.

policy alternatives on particular issues but not policy preferences of the Government on those issues.

While the first Trudeau Administration did not adopt the Green Paper technique per se, it did extend the practice of using White Papers by promoting public debate at a pre-policy commitment stage. The two White Papers which were presented as "participative" techniques differed from those used as consultative techniques in that the former were simply offers to Parliament, the electorate and the provincial governments of preferred policy alternatives rather than prescriptions for intended public policy. They did not go as far as the Green Paper concept because they were approved by Cabinet and hence supported by the Government as preferred policy. The Government, however, indicated a willingness not only to modify its preferences but also to select other alternatives if the public debate of the proposals revealed that this would be necessary.

The Government's two experiments with the "participative" Papers on tax reform and Indian policy, however, signified more than just another stage in the evolution of the origin and use of White Papers by the Government of Canada. They were envisaged as an integral part of a comprehensive policy-making framework designed by the Prime Minister's policy advisers. Their importance as policy documents therefore must be assessed in relation to the policy-making process of which they were conceived to be a part.

The purpose of this section has been to provide an overview of the origin and development of White Papers in Great Britain and Canada. In the past, White Papers have been relatively unnoticed as a feature of parliamentary procedure and practice, but as governmental functions have changed the importance of these documents in serving the needs of these political systems has grown. The next two sections which constitute the major focus of this thesis will examine how two White Papers have been used by the Government of Canada as one means whereby the process of policy-making in a modern democratic society may be facilitated.

APPENDIX:
INVENTORY OF WHITE PAPER DOCUMENTS
OF THE GOVERNMENT OF CANADA*

*Sources:

- Sessional Papers of the House of Commons, 1867-1958.
- Catalogues of Official Canadian Government Publications, 1958-1968.
- Official Reports of the Debates of the House of Commons, 1958-1972.
- Departmental Information Offices and Libraries.

White Papers of the Government of Canada, 1939-1962.

1. Department of Finance. "Budget White Paper".
Published annually since 1939.
2. Department of Reconstruction and Supply.

"White Paper on Employment and Income". (April, 1945),
Sessional Paper #90.

"Research and Scientific Activity. Canadian
Federal Expenditure 1938-1946", (March, 1947).
Sessional Paper #101B.

*"Private and Public Investment in Canada--Outlook
1948". (1949). Sessional Paper #95B.

*"Supply of Building Materials in Canada--Outlook
1949". (1949). Sessional Paper #95B.

*(These two Papers continued to be presented to
Parliament by the Minister of Reconstruction and
Supply and later the Minister of Trade and
Commerce until 1957. The department continued
to publish a similar document until the early
1960's but by this time the format of the pre-
sentation was closer to being a departmental
report than a White Paper.)
3. Department of National Defence.

"Canada's Defence Program 1949-50", (1950), Paper
#70D.

Subsequent Papers appeared for the years 1951-52;
1952-53; 1953-54; 1954-55; 1955-56; 1956-57; 1959
and 1961.
4. Department of External Affairs.

"Canada and the Korean Crisis" (1950), Sessional
Paper #154.

"Documents on the Korean Crisis" (1951), Sessional
Paper #151.

"Canada and the United Nations 1954-55" (1956),
Sessional Paper #31.

"The Crisis in the Middle East--October to December
1956" (1957), Sessional Paper #190.

Treaty Series of the Department of External Affairs
have always been presented in White Paper format.

White Papers of the Pearson Governments 1963-68.

1. Department of National Health and Welfare. "White Paper on the Pension Plan". Presented to Parliament by the Minister of National Health and Welfare. June, 1964. 4 pages.
2. Department of National Defence. "White Paper on Defence". Presented to Parliament by the Minister of National Defence. March, 1964. Contents--Introduction. Objectives. Policy since 1945. Considerations affecting future policy. Organization of the defence forces. Shape of the Canadian Forces 1964-75. Defence research and industry. 30 pages.
3. Department of Justice. "White Paper on Capital Punishment". Presented to Parliament by the Minister of Justice. June, 1965.
4. Secretary of State Department. "White Paper on Broadcasting 1966". Presented to Parliament by the Registrar-General. Contents--Public Control of Broadcasting. CBC. Conclusion. 19 pages.
5. Department of Citizenship and Immigration. "White Paper on Immigration". Presented to Parliament by the Minister of Citizenship and Immigration 1966. Contents--Introduction. Considerations affecting immigration policy. Admissible classes. Prohibited classes--Selection and Control Measures. Financial and other assistance to immigration. Conclusion. 42 pages.
6. Department of Finance. "White Paper on Anti-Dumping". Presented to Parliament by the Minister of Finance. 1968. Contents--International Agreements. Present anti-dumping legislation. Draft Canadian anti-dumping act. 101 pages.
7. Privy Council Office. "Domestic Satellite Communication System for Canada". Presented to Parliament by the Minister of Industry. March, 1968. This White Paper reviewed the main factors involved in planning and establishing a domestic satellite communication system to meet Canada's needs, both in the immediate future and over the longer term. 94 pages.

White Papers of the Trudeau Government 1968-72.

1. Department of Consumer and Corporate Affairs. "White Paper on Policies for Price Stability". Presented to Parliament by the Minister for Consumer and Corporate Affairs. Contents--Introduction. Problem of Rising Prices. The Causes of Rising Prices. Policies to Stabilize Prices. A Search for New Methods. A New Approach. December, 1968. 34 pages.
2. Department of Indian Affairs and Northern Development. "Statement of the Government of Canada on Indian Policy". Presented to Parliament by the Minister of Indian Affairs and Northern Development. Contents--Historical Background. The case for a new policy. Implementation of the new policy. June, 1969. 13 pages.
3. Department of Veterans Affairs. "White Paper on Veterans Pensions". Presented by the Minister of Veterans Affairs. Contents--Introduction. Adjudication and Appeals. Hong Kong Veterans. Hundred Per Cent Pensions. Bureau of Pension Advocates. Other improvements. Pension Rates. Improvements in Effect. Recommendations Not Accepted. September, 1969. 16 pages.
4. Department of Finance. "Proposals for Tax Reform". Presented to Parliament by the Minister of Finance. Contents--Setting and Summary. The Individual and Family in Tax Reform. Capital Gains as Income. Corporations and Their Shareholders. Business and Property Income. Taxing International Income. Co-ordination with the Provinces. Impact on Revenues and the Economy. November, 1969. 96 pages.
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SECTION TWO:
THE WHITE PAPER IN THE POLICY MAKING PROCESS
OF THE GOVERNMENT OF CANADA:
The Cases of Tax
Reform and Indian Policy

CHAPTER FOUR
THE WHITE PAPER PROCESS
AND PARTICIPATIVE POLICY-MAKING

When the Trudeau Administration took office during the summer of 1968, a new era of public policy-making opened in Canada. During the general election campaign in June of that year, Mr. Trudeau projected the image of a leader who was concerned with involving more of the electorate in a dialogue with Government and Parliament. One of his promises was to make the democratic process more meaningful. The 'White Paper process', first referred to in 1970 by Finance Minister Benson,¹ was to become part of that exercise.

The policy-making style developed by the Trudeau Government was based on a theoretical framework of policy-making derived from cybernetic theory. The Government attempted to operationalize its rational, technocratic approach to policy-making by modifying the policy-making structures in the Government and by introducing new policy techniques which would facilitate communications flow in the policy-making system. The White Paper used as a participative technique was conceived of as one means to make the system operate effectively.

This chapter examines the central features of cybernetic

¹"Notes for an Address by Finance Minister E.J. Benson to the Canadian Tax Foundation", Montreal, March 21, 1970, mimeo.

theory as they relate to policy-making and the application of such concepts to the policy-making system of the Government of Canada. It also describes the practical application of this approach by the first Trudeau Government to its policy-making activities. It is within this context that an analysis of the impact of the 'White Paper process' will be made.

I. The Policy-Making System of the first Trudeau Government

Any attempt to apply theoretical concepts to real-world situations must be sensitized to the practical limitations and constraints of those situations. A policy-making theory is useful only insofar as it can provide a framework for practical undertakings. The following discussion seeks to explore how one theory provided a context for the policy-making activities of the Trudeau Government.

A. Theoretical Context

Cybernetics², the systematic study of communications and control in organizations of all kinds postulates the thesis that communications, the ability to transmit messages and react to them, is the basis of all organizational processes. Cybernetics can be described as "a science

²See Norbert Wiener, Cybernetics, (MIT Press: Wiley, 1961); Karl Deutsch, Nerves of Government, (New York: Free Press, 1966); J. Klir & M. Valach, Cybernetic Modelling, (London: Iliffe Books, 1967); and Oran Young, Systems of Political Science, (Englewood Cliffs, N.J.: Prentice-Hall, 1964), Ch. 4.

dealing on the one hand with the study of relatively closed systems from the viewpoint of their interchange of information with the environment; on the other hand with the study of structures of these systems from the viewpoint of information exchange between their elements."³ Cybernetics theory investigates the problems of control of the various processes in different systems and the transfer or communication of control signals within these systems or between them. Politics and government appear, in essence, as processes of steering and co-ordinating human efforts toward the attainment of some set of goals. The approach emphasizes at all points problems of dynamics and of the various information flows required for communications and decision-making. Karl Deutsch describes the approach in this way:

The similarity of these processes of steering, goal-seeking and autonomous control to certain processes in politics seems striking. Governments may seek goals in domestic or foreign policies. In order to approach these goals they must guide their behaviour by a stream of information concerning their own position in relation to these goals; their remaining distance from them; and the actual, as distinct from the intended, results of their own most recent steps or attempts to approach them...

In addition to seeking goals, government or political organizations may try to maintain some state of affairs they deem desirable, such as prosperity in economics or tranquility in politics. In so doing, they must receive information concerning the extent and rate of disturbances

³Klir and Valach, Cybernetic Modelling, p. 69.

in order to guide the magnitude and speed of their countermeasures. If they react too much or too soon, they will overshoot the mark and themselves create a disturbance in the opposite direction. To the statesman, guiding a difficult program to success, his problem is to anticipate the skids quickly enough so that he can still control them by small corrections at the steering wheel, where slowness of the action or oversteering would provide worse skids and might wreck the car.⁴

For Deutsch, the concept of feedback is the most important aspect of information use in the system. The system depends for its functioning upon a constant stream of information from the environment. Feedback processes, therefore, may form a maze of communications networks which are seeking to maintain a course for a constantly shifting goal. The goals that the system seeks are not objects but changes in the relationships between people and the environment. With respect to policy-making activity, four main quantitative factors are of paramount importance.⁵

The policy-making structures used in policy formulation must be able to handle the 'load' of information coming into the system. This information is fed in from the environment, from the political arena as well as from within the government machine itself. Moreover, it may be necessary

⁴Deutsch, Nerves of Government, p. 4.

⁵Karl Deutsch, "Communication Models and Decision Systems", in J.C. Charlesworth (ed.), Contemporary Political Analysis, (New York: Free Press, 1967), pp. 283-287.

to initiate an information exchange between and among sectors in the political or social domain in order that government may receive the information it needs. For example, machinery such as royal commissions or task forces may be required to either increase the load or assist the government in the handling of information coming into the policy-making system.

Secondly, policy-making activity must be organized in such a way that the amount of time between the reception of information concerning the position of the target and the time required for action to occur does not result in undue 'lag'. Lag in a policy-making system may be influenced by a number of factors such as slowness to receive information, interpret or transmit it as well as react to it. The shorter the time required for a policy-maker to become aware of a situation, collect relevant data through consultation or from within the system, the better the chances of keeping lag within the context of a problem to a minimum.

Furthermore, a policy-maker will be concerned with achieving 'gain' in policy-making activities. Gain may be measured in terms of the amount of actual change in behaviour, i.e., the speed of the response of the governors and the governed to new problems or new information in the system. The ability of diverse sectors to respond with major recommitments to their resources in a short

time span is a direct function of the amount of gain to be acquired by a policy-making system.

Finally, a major concern of a cybernetic policy-making system focuses on the 'lead time' required to handle problems. The lead time relates to the distance of the accurately predicted position of the moving target from the actual position from which the most recent signals were received. The amount of lead depends on the efficiency of predictive processes available to the goal-seeking system and on the amount of inaccuracy that can be tolerated. Governments, therefore, must be concerned with increasing their capacity to predict and to anticipate new problems effectively. To this end, new structures may be required such as special intelligence organizations and strategy and planning boards. The extent to which public discussion and consultation is to be incorporated into the process may also require new structures or modified institutional forms. In turn, new rules and new procedures for the conduct of the operation of these bodies in the policy-making process must be devised.

By applying these concepts to policy-making, policy advisers in the Prime Minister's Office conceived of the policy-making process as a 'closed loop system'.⁶ At the centre of this system was the Executive arena which was

⁶Mr. James Davey, Prime Minister's Office. Seminar held at Carleton University, St. Patrick College Campus, April, 1971, Videotape.

responsible for steering the 'ship of state'. Set out from and interacting with this central unit were the various affected sectors--Parliament, political parties, business and industrial groups, etc. The total network was held together by communications. There was a continuous flow of ideas and information from sectors in the outer circle to the central unit and back again. The entire process was a continuous circular feedback cycle directed toward the attainment of some set of prescribed goals or objectives. The key to the successful operation of the entire system was responsiveness both within and between sectors. Ideas and information came into the central unit from any source in the outer circle. These ideas were evaluated by the Executive and some decision was made about them. This information was then passed back into the outer circle for further reaction. In turn, the response was once again evaluated by the central unit until a decision or policy was finally formulated. The decision-making process involved at this stage would include long-range forecasting, strategic and operational planning.⁷ All these modes of operation were going on at the same time and hence communication exchanges occurred on a number of different levels simultaneously. This required a strong co-ordinating and directing body. In the system described

⁷Ibid.

above, the responsibility for direction and control rests with the central unit. i.e., the executive-bureaucratic arena.

In order to make this cybernetic system operative, essentially two things were required--structures which could handle the communications flow, and participation of policy actors both within and between the affected sectors. The role of the government sector in this process was paramount. The Report of the Task Force on Government Information expressed it in these terms:

The information needed is not the exclusive and static possession of generators that never change. It is constantly exchanged among social agents and within the State, and during the exchange it undergoes further change. Indeed, in some cases, the exchange itself becomes the useful information. The State can not obtain a real understanding of the information simply by establishing links with some privileged elements of the communications network. But by becoming part of the network; and by assuming a clearly circumscribed role as receiver, transmitter and transformer of information, the State may make use of the information it does not itself generate. Once the information which it has received has re-entered the communications network, the effect of its coming into contact with outside groups and bodies may alter it. The possible usefulness of this information to society and to all parts of the governing machine, makes it imperative that the information be retransmitted.

The government is the largest single component in the circuit, and it is the deliberate receiver of information that is generated outside itself; it is the possessor of a great bulk of information in society. It must therefore play a significant role in

organizing and retransmitting information and, while doing this, it must take into account the difficulties that arise from its duty to interpret faithfully and its duty not to release certain types of information.⁸

From the theoretical perspective, therefore, the policy-making process of government would encompass the interactions and activities of the units and structures in affected sectors of the political system. The nature of the policy-making process for a particular policy issue would be determined by the particular pattern of interactions and communication flows between and within the affected sectors. The information generated by and exchanged between the different sectors in the system would provide the basis upon which acceptable and effective policies could be made by the central unit, i.e., the Government.

The implications of such a framework for any policy-making process, however, would emphasize the control feature of the system. In order for the exchange of information to be meaningful it would have to be orderly and coordinated. The entire communications network would be controlled by the central mechanism. The participation of other sectors in the system would be directed toward the achievement of the goals and policies prescribed by the Government.

⁸"To Know and Be Known", Report of the Task Force on Government Information, Vol. II, (Ottawa: Queen's Printer, 1969), p. 19.

Let us now examine how this framework was applied by the Trudeau Government to the policy-making process in the Canadian parliamentary system.

B. Practical Application

The attempt by Mr. Trudeau and his advisers to apply cybernetic concepts to the process of policy-making was most explicit with respect to the general issues of goal-setting, policy review and policy formulation and with respect to the structural changes which were made in the executive-bureaucratic arena from 1968 to 1972.⁹ While, metaphorically at least, the ideas expressed by the Prime Minister and his Ministers were congruent with the essential features of the cybernetic framework, the political realities of the Canadian parliamentary system required a modification of some of the concepts.

One of the analogies used by Mr. Trudeau to describe the process of goal-setting was described by him at the Harrison Hot Springs Policy Conference in November 1969.

It was on that occasion that he stated:

If we view this whole process of policy formulation as a vast river drawing on many tributaries, then this conference is the fountain-head ... Our time frame is not the next year, or the next session of Parliament, but the next decade. I think

⁹G.B. Doern, "Policy Organizations in the Executive Arena", in G.B. Doern and Peter Aucoin (ed.), The Structures of Policy-Making in Canada, (Toronto: Macmillan, 1971), pp. 60-68.

that is a reasonable period for our purposes. It would be much easier to make forecasts about the immediate future, say the next twelve months. But decisions about the goals for our society, and the means for achieving them require a much longer perspective.¹⁰

Thus, the function of identifying goals for the political system was to be performed by the political party. The party was the main vehicle for aggregating interests, identifying the problems and defining the values which were to be incorporated into the policies and programs of the Government. As Mr. Trudeau elaborated in that same speech:

We are like the pilots of a supersonic airplane. By the time an airport comes into the pilot's field of vision, it is too late to begin the landing procedure. Such planes must be navigated by radar. A political party in formulating policy, can act as a society's radar. The analogy, of course, is very incomplete. As members of a political party we should be thinking not only of the types of goals we wish to achieve in our society, but of their relative importance, and of the best means of achieving them within a reasonable time ...¹¹

The process of policy formulation which we are inaugurating today could not only infuse new life into our Party, but provide it with a whole new dimension. It may be that, in future, political parties will be distinguished from one another, not so much by the issues which they recognize as important, as by the perspective in which they view such issues

¹⁰"Notes for Remarks by the Prime Minister at the Harrison Liberal Conference", Harrison Hot Springs, British Columbia, November 21, 1969, Liberal Party of Canada, mimeo, p. 3.

¹¹Ibid., p.4.

and the methods they employ in devising new policies to resolve them. A party which shows that it is capable of coming to grips with long-range questions about the future of our society will have a new claim to the respect and the support of the people of Canada.¹²

The identification of goals was Phase I of a three phase program of party activity. Phase II involved taking the ideas back to the "grass-roots" for discussion and debate. These activities culminated a year later at the National Policy Conference held in Ottawa in November 1970. In a speech to that conference, Mr. Trudeau made the following remarks:

The goals of this Liberal Government have been stated many times, and are best described in terms of an ongoing process.

- to preserve our sovereignty and independence
- to work for peace and security
- to promote social justice
- to enrich the quality of life
- to maintain a harmonious natural environment, and
- to encourage a prosperous economy ...

Our accomplishments in pursuit of those goals can be called the product of our efforts. Structure is no substitute for results; process is no good without accomplishments. Part of our product takes the form of new programmes; programmes that are bold, imaginative and utilitarian. I should like to mention a few of them catalogued in terms of goals.¹³

While the Party ostensibly was to be involved in the continuing process of goal-setting, this activity was

¹²Ibid., p. 10.

¹³"Notes for Remarks by the Prime Minister". Liberal Policy Conference, Ottawa, Canada, November, 1970, Liberal Party of Canada, mimeo, p. 10.

actually being conducted under the umbrella of general predetermined goals outlined in the 'Just Society' statement of the Prime Minister in 1968.¹⁴ What the Party was really engaged in was a re-evaluation of those goals which would set the parameters for government programs and policies. It was not involved, nor was it intended to be involved, in formulating policies. Rather, the party was engaged in discussing and establishing basic principles which would guide the Government in making public policy.¹⁵

Concomitant to this activity, the Government itself was engaged in a number of internal policy reviews. At a Press Conference held in August 1969, the Prime Minister made this statement:

And some of the programs--it's really incredible when you look at these in detail--some of the programs were started back in the 1920's--to meet a real need then. But they no longer have the same justification and there are other needs which are greater, which we can't meet because we don't have the wherewithal without raising taxes... So one of the purposes of these various reviews of the present Government...is because we want to know more what we're doing, and become more efficient in it.¹⁶

¹⁴ See "Statement by the Prime Minister on the 'Just Society'", (May 1968), mimeo, and "Towards a Just Society 1968-69", Liberal Party of Canada, (1969), mimeo.

¹⁵ Interview, Mr. Torrance Wiley, National Director of the Liberal Party of Canada, May 1971 and December 1972.

¹⁶ Transcript of the Prime Minister's Press Conference, Prime Minister's Office, Ottawa, (August 13, 1969), mimeo, p. 10.

This theme was reiterated in the Speech from the Throne in October of that year, where it was stated:

In addition to solving her immediate problems, Canada must be prepared to face the coming challenges of the post-industrial era. This calls for a systematic appraisal of Canadian society and of the basic principles that are to guide it. During the past twelve months, the Government has begun this lengthy task. During this session a number of reports and white papers will be presented as part of a comprehensive revision of Government policy.¹⁷

These reviews reflected the efforts of the Government to move toward a more rationalistic planning approach for governmental activities. As Mr. Trudeau noted at the Harrison Hot Springs Conference later that year:

In a matter as familiar and as obvious as water pollution, we are paying for the decisions taken, or avoided, ten years ago. At the end of the Seventies we will be living with the results of decisions taken at the beginning of the decade. Planning, whether it is by a political party or a government or a private company, must operate in a scale of time which is sufficient to permit it to alter the future.¹⁸

A policy review process was an integral part of planning for future needs. Not only was the review process to take place within a framework of clearly defined goals but the

¹⁷Debates of the House of Commons, October 23, 1969, p. 5. The Speech from the Throne in the first session of the Twenty-eighth Parliament reflected the Government's concern with the task of completing the work of the previous Parliament. This was necessary before any policy reviews could take place.

¹⁸"Notes for remarks by the Prime Minister", Harrison Hot Springs, 1969, p. 4.

results of the review were intended to be policies that were more closely related to the achievement of those goals in the future. The concepts of 'time frame' and 'lead time' discussed above are directly applied and suggest the influence of cybernetic theory. Moreover, the implementation of Planning Programming Budgeting within governmental departments also had an influence on the conceptual approach taken by the Prime Minister.¹⁹ The 'systems' model used in budgeting procedures was extended to governmental problems at the political level.

In order to co-ordinate governmental activities in such a policy-making system, a strong steering mechanism was needed. This function had to be performed by the Government which, in turn, required appropriate structures to deal with the information it needed to make policy. Mr. Trudeau stated the problem in this manner:

How to organize government to provide for human wants in the most effective way is a difficult but vitally important responsibility that for centuries has challenged political leadership ... One of the first tasks undertaken by this administration was to reorganize the political and administrative machinery of government to permit it to look further ahead. The Cabinet, the caucus and my own office were all changed in a number of respects in order to ensure better consultation with the public, and to make possible a better and more accurate flow of information into the system.²⁰

¹⁹Doern, "Policy Organizations in the Executive Arena", p. 63.

²⁰"Notes for Remarks by the Prime Minister", Liberal Policy Conference, November, 1970, Liberal Party of Canada, mimeo, p. 8.

The Cabinet committees were revamped to provide for a more effective operation of parliamentary government in which a collective executive decided the objectives, policies, and programs of government and in which its members took a joint responsibility for the result.²¹ In addition to holding meetings on a regular basis Cabinet committees were vested with decision-making powers. All decisions of Cabinet committees were listed on an annex to the Cabinet agenda and unless a Minister gave notice to have a decision debated in full Cabinet, the decision would become operative and part of government policy.

The key Cabinet committee was the Committee on Priorities and Planning. This is a small committee which includes the Prime Minister, who acts as chairman, and three or four other top Cabinet Ministers.²² Not only is this committee concerned with the financial aspects of policy but it also gives special attention to the broad objectives of government as well as long-range strategies for policies and programs. Thus, it decides the priorities of public policy as well as the resource allocation for the general areas of government action. Formally speaking, it is not considered to be

²¹Gordon Robertson, "The Changing Role of the Privy Council Office". A Paper presented to the 23rd Annual Meeting of the Institute of Public Administration, Regina, Saskatchewan, September 8, 1971, pp. 3-11.

²²The membership of the Cabinet committees is confidential.

an inner Cabinet.²³

The changes in the Privy Council Office were made to accommodate the changes made in the Cabinet committee structure. The Privy Council Office provides the support and secretarial staff to the Committees as well as a free flow of communication between itself and the Prime Minister's Office. Its role is essentially one of information, co-ordination, follow-up and support provided to the Prime Minister and the Cabinet as a whole while it maintains constant relations with all departments of government.

The practical results of these changes was to give individual Cabinet ministers a broad overview of government activities and to provide opportunity for greater ministerial input into policy formulation. Gordon Robertson, Principal Secretary to the Cabinet, has offered this assessment:

The principal planning objective of the past three years has been to increase the time available between the perception of a problem by Ministers and the necessity of action with regard to it. An effort has been made to identify ministerial responsibility for the problems as clearly and as soon as possible and to marshal whatever is required to examine and prepare a plan and to try to manage it. And finally to allow time to organize for action ... If this does not happen--and if it is not insisted on whatever the pressures may be--the urgent pushes out the important. The consequence is to be overtaken by crisis and to let events, rather than choice, determine the direction we take.²⁴

²³Robertson, "The Changing Role of the Privy Council Office", p. 12.

²⁴Ibid., p. 27.

Furthermore, the Prime Minister's Office was expanded to provide political advisory support directed towards the establishment of a more effective political control over the administration and of better communications with the public at large.²⁵ In part, this increase was the result of the Prime Minister's desire to have around him individuals who would serve in various political capacities.²⁶ As Mr. Lalonde, Principal Secretary to the Prime Minister has stated: "Expansion was a carefully considered step to help the Prime Minister meet the demands upon his time and attention by an increasingly complex governmental organization and by a public transformed by education, affluence and communications."²⁷

Thus, from the Government's viewpoint, these structural changes were directed toward the achievement of two principal objectives: the exercise of a greater degree of collective political control over a large and complex government apparatus;

²⁵M. Lalonde, "The Changing Role of the Prime Minister's Office". A Paper presented to the 23rd Annual Meeting of the Institute of Public Administration, Regina, Saskatchewan, September 8, 1971, pp. 22-23.

²⁶See Doern, "Policy Organizations in the Executive Arena", pp. 66-67 for a discussion of the backgrounds of the advisers in the Prime Minister's Office. Their backgrounds were a mixture of the legal, business and communications professions. The type of policy advice that the unit provided for the Prime Minister and the type of political support that the unit offered was largely a function of this technocratic expertise.

²⁷M. Lalonde, "The Changing Role of the Prime Minister's Office", p. 23.

and response to the increased demands upon Parliament and government by a more active and interested public. As

Mr. Trudeau stated in a 1969 television interview:

Therefore, in order to have this team effect, we must make sure that every ministerial recommendation is meshed in with what is happening in other departments, and this is planning, and in order to plan we must have a strong planning control body which is the Prime Minister's Office and the Privy Council Office who are there not to dominate the ministers; on the contrary, what we are doing is, I hope, giving each departmental minister more latitude to form his policies, to think them out ... What we are really doing is making sure that there is the strong mechanism which is able to ensure this meshing in all of our policies. So it's collective government as I believe there probably has never been collective government in Canada because the problems of government weren't so complex and because the rising expectations could be more easily met.

Q: Does this make the decision process longer?

A: It makes the decision-making process longer and that is why we need a very supple and active tool called the Privy Council Office and Prime Minister's Office to shorten the span.²⁸

While the Cabinet, Prime Minister's Office and Privy Council Office were to provide strong central direction in the planning of objectives and programs for the system, the various sectors outside this central unit were to become 'plugged in' to a system of information exchange to make the process of planning and policy formulation operative. Participation by affected parties and individuals was necessary

²⁸Office of the Prime Minister, Transcript of Interview with the Prime Minister on the C.T.V. Network Program, "Question Period", May 25, 1969, pp. 11-12.

if the Trudeau Government was to achieve a rationalistic policy-making process that was futuristically-oriented toward the achievement of the Government's goals for society.

The Prime Minister's view of public participation was never clearly articulated. At least two distinct themes were discernible in the Government's position on this subject. On the one hand, there was the position, perhaps best expressed in the Report of the Task Force on Government Information,²⁹ which conceived of 'participatory democracy' as a means for improving rational government decision-making.³⁰ It was noted in the Report that:

The State, in order to reach enlightened decisions, requires information which is in the hands of the public, information which is in the hands of non-governmental bodies, and information which is in its own hands. It requires the ability to retrieve it, and use it fully...

A full and free flow of information is a means to obtain the co-operation of the public in government activities. There is greater recognition than

²⁹No public statement was made by the first Trudeau Government outlining a government policy on participation. Cabinet approval was given to an internal policy statement on this subject during the winter of 1971. The author was told that the Report was the closest approximation to a policy statement on participation that was available. Interview, Bernard Ostry, Assistant Deputy Minister, Citizenship Branch, Secretary of State Department, July 1971 and August 1972.

³⁰In the Report, society was conceived of as a communications network in which the State played a key role in the information exchange within and between sectors.

before that increasing participation by the public in the affairs of State is both necessary and possible. At the same time, there are differences in the assessment of the methods to bring about this participation. Democracy may be an ideal that can never be quite reached, but participation is nevertheless a means toward achieving that ideal. Participation requires two-way information which can be effectively exchanged; and an adaptation of many institutions so that they can make information available and understandable. Systems of State information must be able to exploit the general advances in technology, and to take full account of the requirements of society's political organization.³¹

On the other hand, the Prime Minister described the concept of public participation not only as a means of promoting rational government decision-making but also as a method of improving the democratic processes of government. In his "Statement on the 'Just Society'" of May 1968, Mr. Trudeau had adopted this position:

The Just Society will be one in which all our people will have the means and the motivation to participate...The Just Society will be a united Canada, united because all of its citizens will be actively involved in the development of a country where equality of opportunity is ensured and the individual permitted to fulfill himself in a fashion he judges best.³²

Moreover, every policy and program proposed by the Trudeau Government was to be tested by three standards: "First, is

³¹"To Know and Be Known", Vol. II, p. 23.

³²"Statement by the Prime Minister on the 'Just Society'", 1968, p. 2.

it functional, will it work or is it a mere politician's promise? Second, is it designed to give our people a fuller sense of involvement and participation in the growth and development of our society? Third, will it increase the freedom of our people for that, after all, is the primary goal of the Just Society?"³³

The meaning of the promise was unclear, but a number of changes and reforms were undertaken by the Government to effect greater participation in the institutions of representative democracy. For the most part, however, the actions taken by the Government emphasized the view that participation was intended to help the electorate become more politically sensitive and be more understanding of public issues and of options available to the Government. For example, the National Organization of the Liberal Party was revamped to allow greater involvement of the membership of the Party, and through it the public at large, in an extensive discussion of policy goals.³⁴ As previously noted, Mr. Trudeau conceived of the function of the party as the 'radar' of the system. It could only serve this function by means of widespread participation. Moreover, Mr. Trudeau

³³ Ibid., p. 10.

³⁴ See "The Politics of Participation", A Progress Report, A Paper by the Study Group on Participation, National Liberal Party, Ottawa, 1970.

adopted the institution of Political Cabinet³⁵, a semi-public meeting of Cabinet ministers and outside party groups, which has given opportunities for discussions with caucus representatives, student Party members, Party representatives, Western Advisory Groups and others.³⁶

The Liberal caucus was reorganized into a committee structure which paralleled the Cabinet committee structure.³⁷

Mr. Trudeau also established the practice that no proposed legislation could come before Cabinet until the Minister responsible had signed a certificate to the effect that the relevant caucus committee has been consulted and until the report of that caucus committee is before Cabinet.³⁸

The Liberal Party's study group report pointed out that the Prime Minister encouraged members of Parliament to play an increasingly active role in the participation of their constituents and the community at large in public affairs. Their appearance on hot lines, their use of questionnaires and write-ins, and their involvement in public forums were suggested as means, which were used by many

³⁵Senator R.J. Stanbury, "Push Toward Political Participation--Painful but Profitable". Speech delivered to the Halton-Wentworth Liberal Association Meeting at Burlington, Ontario, February 7, 1970, mimeo, p. 4.

³⁶See Lalonde, "The Changing Role of the Prime Minister's Office", pp. 14-15.

³⁷"The Politics of Participation", p. 12.

³⁸Stanbury, "Push Toward Political Participation", p. 5.

Liberal M.P.'s, of adapting their traditional representative roles to the demands of instant communications technology.³⁹

The committees of the House of Commons were reorganized to provide for greater opportunities for the participation of members of Parliament.⁴⁰ The Government provided resources for research facilities for Government and Opposition backbenchers in order that such participation would be more meaningful than it had been in the past.⁴¹ The members of the standing committees became involved in holding public hearings on reports and legislation placed before them and were allowed a high degree of geographic mobility in the process of their hearings.

A number of task forces were established to conduct extensive inquiries into problems affecting different groups of citizens. White Papers were issued to promote debate and involve Canadians in the policy-making process. The final

³⁹"The Politics of Participation", p. 10.

⁴⁰See T.A. Hockin, "The Advance of Standing Committees in Canada's House of Commons, 1965-70", Canadian Public Administration, Vol. XIII, #2, (Summer 1970), pp. 185-202. The Speech from the Throne in 1969 outlined the reforms in this fashion: "A more intensive consideration of national policies by Parliament is in keeping with the spirit of the recent reforms in the rules of the House of Commons. These new rules will demonstrate that Parliamentary traditions can adapt to the changed circumstances of contemporary life while continuing to respect the fundamental principles of popular representation." Debates of the House of Commons, October 23, 1969, p. 3.

⁴¹The following amounts of money for research assistance were made available: Liberals--\$130,000; P.C.'s--\$125,000; N.D.P.--\$35,000; Ralliement Crditistes--\$35,000. See Debates of the House of Commons, February 6, 1970, p. 3295.

link to this participative process was provided by the establishment of Information Canada, a structure designed to assist Canadians in becoming more aware and better informed of the activities of the federal Government. The existence of such an institution was a necessary precondition for participation.⁴² As the Report of the Task Force on Government Information had explained:

A prime function of Information Canada would be the fostering of the people's direct and informed participation in federal affairs. It would emphasize relevant research and develop feed-back on federal information from the regions of the country. Its concerns would, therefore, involve not only the distribution of information but also the government's ability to keep abreast of changing social circumstances and the changing needs of the people.⁴³

The application of cybernetic concepts to the policy-making system enabled the Trudeau Government to provide a rationale for the policy-making approach adopted by that Administration. An emphasis was placed on the development of structures which would formulate and co-ordinate policies for the system and on participation, the process by which

⁴²As Doern points out in "Policy Organizations in the Executive Arena", pp. 65-66: "In an earlier model of politics and policy processes such a structure would tend to be relatively illegitimate. For a politician with a cybernetic model of politics, such a structure becomes obvious and essential. While critics might view it as a propaganda agency, the Trudeau philosophy endorses it with great fanfare as an essential precondition to the effective development and implementation of public policy. The Trudeau shift in emphasis is symbolized both metaphorically and structurally, by the creation of Information Canada."

⁴³"To Know and Be Known", Vol. I, p. 55.

such policies would be made acceptable in the system. Moreover, participation was considered as an essential method not only for making the policy system function in a responsive fashion, but also for supporting the goals of a democratic political system. As the Prime Minister stated:

Structures may be a prerequisite to good government, but process is integral to governing. Process is the way in which government does things. This government has adopted a style of government which we consider to be in step with the seventies. It is based on the belief that decision-making must encourage and reflect the participation of as many citizens as possible; that government must be brought closer to the people and made more sensitive to their needs and aspirations; that the integrity of the individual must be preserved in a society which demands and requires a complex bureaucracy and organization.⁴⁴

The 'White Paper process' to be discussed below provided one example of how the Trudeau Administration attempted to make its participative policy-making approach meaningful.

II. The 'White Paper Process' and the Trudeau Government

Prior to 1968, the importance or potential of White Papers to the policy-making process of the Government of Canada had never been the subject of any serious discussions. Within the context of the policy-making approach envisioned by the first Trudeau Administration, however, the use of the

⁴⁴"Notes for Remarks by the Prime Minister", Liberal Policy Conference, November, 1970, pp. 8-9.

documents became a significant feature of the Government's policy-making activities. They were considered an integral part of the Government's efforts to improve its method of making public policy.

In the first place, the rationalistic assumptions implicit in a cybernetic model of policy-making emphasize long-range planning and review. The Government outlined the importance of White Papers to this activity. As already mentioned, the Speech from the Throne in October 1969 announced that a number of reports and white papers would be presented as part of a comprehensive review of Government policy.

Secondly, the White Paper, by helping to effect participation, was to serve as an interaction mechanism in the two-way flow of information in the system. As the Report of the Task Force on Government Information stated:

Concepts derived from cybernetics and applied to the political analysis of the State enable us to see the State as a communications network that is based on the flow of information. There are at least three major elements in the communications network: government, society and the bodies which link the two. We will refer to these links as "interaction mechanisms".⁴⁵

Thus, the White Paper process was seen as a means of facilitating the flow of ideas and information within the system.

On the practical level, the White Paper process as

⁴⁵"To Know and Be Known", Vol. II, p. 18.

envisaged by the Government was intended to serve a variety of functions. In the first instance, it was to encourage public participation by provoking discussion and debate on policy issues before the Government had made a decision on those issues. As Mr. Trudeau explained during a meeting in Pickering, Ontario in the fall of 1971:

But more important still, in the general government operations, we've used various techniques to make sure that the Government's decisions were put before you so that you could criticize them before they became law. This is the intense use of the White Paper technique that we have employed and which has not always been applauded by the people of Canada, but we thought it was a very worthwhile experiment and we are continuing with it ... I guess that the best known one was the White Paper on Taxation, but also the policy paper on the Indian problem for instance, these were two examples of policies where the government said--"here's what we want to do but we're not enlightened from God or we haven't got any inner authority to tell the people what is good for them, therefore we will tell them what our plan is. We will reform the taxes in this way, we will give a new deal to the Indians in this way, and we want to ask you, all Canadians, what you think of it so that if you don't agree we can change it". So this is another way of involving the people.⁴⁶

In this way, the White Paper process was intended to help solve the complicated problems of decision-making in a technological age. Mr. Benson made this statement on

⁴⁶ Transcript of Prime Minister's Response to Student Question and Answer Session at Pickering High School, Pickering High School, Pickering, Ontario, September 10, 1971, p. 9.

the subject:

When the issues to be resolved are broad and complex the process involves a whole series of decisions at increasing levels of detail and complexity. Decisions on general principles may have to be modified when more detailed particular considerations are brought into play. The White Paper process now permits Canadian individuals and groups to make a contribution to the modification and consolidation of related decisions at an intermediate stage in the series. This should mean an improvement in decision-making, not only because it will sharpen the operation of democracy, but also because it will increase the effectiveness of the final legislation in applying decisions on broad issues to the particular circumstances of Canadian individuals and organizations.⁴⁷

The process was to serve as a means of increasing the knowledge of the Government so that its final legislation would be improved. Also, the exchange of information between Parliament and the public would promote better understanding of the problems of the society and the means whereby those problems could be solved. The White Paper process would provide a further gauge of public opinion on which the Government and Parliament could base its decisions.⁴⁸

Furthermore, the process was envisaged as an integral part of the reform of parliamentary procedures designed to strengthen the institution and adapt it to modern conditions. As Mr. Benson pointed out: "The House of Commons should engage more profoundly in the process of scrutiny. That

⁴⁷"Notes for an Address by Finance Minister E.J. Benson to the Canadian Tax Foundation", Montreal, March 24, 1970, p. 3.

⁴⁸Ibid., p. 2.

scrutiny, in turn, demands a greater participation on the part of the public."⁴⁹ Publicity in the form of a White Paper was to aid the endeavour of Parliament and the public to scrutinize and control governmental operations.

For these reasons, then, the use of the White Paper document was incorporated into the policy-making framework of the Trudeau Administration. Within this framework, it was to serve as an interaction mechanism for promoting information exchange and debate on policy issues. In this role, the Paper was expected to perform a variety of functions directed towards strengthening the role of Parliament and the public sector in the policy-making process. The use of the technique was to promote widespread participation which would, in turn, enhance the democratic process and permit the Government to act more responsively.

The 'White Paper process' developed gradually during the first year of the Trudeau Administration. The initiation and discussion of the White Paper on "Policies for Price Stability" is illustrative of how 'participation' on a selective basis was effected by governmental policy actors.⁵⁰

The development of the policy process on the subject of price stability began in the fall of 1967 when an inter-

⁴⁹Ibid.

⁵⁰Material for the following discussion was drawn mainly from an interview with G.V. Haythorne, former Deputy Minister of Labour, now Commissioner of the Prices and Incomes Commission, June 1971, and from internal memoranda provided by the interviewee.

departmental committee of Deputy Ministers chaired by Robert Bryce, the then Deputy Minister of Finance, was established to examine and inquire into the problem of inflation and to recommend possible solutions to the problem. As part of its preliminary activities of investigation and research, the committee brought in two officials from the National Prices and Incomes Board in Great Britain for consultation. In addition, internal departmental studies were undertaken to provide the background material upon which the committee's report would be based. This inter-departmental committee continued to function until the White Paper was published.

In the spring of 1968, it was announced in the House of Commons that the Government intended to set up a Prices and Incomes Review Board.⁵¹ This was one of the ideas that was being considered by the interdepartmental committee. Following the leadership convention in April and the general election in June, Mr. Trudeau, the new Prime Minister, decided to follow the policy initiation process begun by the Pearson Administration. He held two informal meetings in the form of private dinner meetings at the Prime Minister's residence on Sussex Drive in late August and early September 1968. One meeting included senior union

⁵¹Debates of the House of Commons, March 6, 1968, p. 7337.

leaders; the other included representatives from industry. The individuals asked to attend, whether from the Canadian Manufacturers' Association or the Canadian Labour Congress, came in their individual as opposed to official capacities. Hence, very frank discussions were conducted.

As a result of these antecedents, the interdepartmental committee which acted as the official co-ordinating body for the policy consultations began drafting what was to become the White Paper. Two or three draft documents were submitted to a Cabinet committee and discussions between the Cabinet ministers and the interdepartmental committee were held at various stages during this period.

The White Paper was the result of discussions which had been conducted over a one-year duration. None of the discussions were public. Consultations were essentially internal and informal. No discussion of the policy was held in Parliament at that stage. The first indication of the Government's intention to make a policy statement in this area was given when Mr. Basford, Minister of Consumer and Corporate Affairs, announced in the House in early November 1969 that the Government would be introducing a White Paper on this issue.⁵²

By inviting views from selected sectors of the economy, the Government was charting a new course in policy formulation

⁵²Hon. Ron Basford (Minister of Consumer and Corporate Affairs), Debates of the House of Commons, November 8, 1968, p. 2595.

at least as it pertained to this policy area. However, throughout the course of consultations, the Government was in control of the information exchange in that it determined who would be consulted and when that consultation was to take place. This process of selective consultation was continued in the second phase of policy formulation, i.e., the discussion of the White Paper proposals themselves.

Following the tabling of the White Paper on "Policies for Price Stability" in December 1968,⁵³ the Minister of Consumer and Corporate Affairs "arranged extensive consultations with a wide variety of representatives of economic interest groups, including the organized spokesmen for business and labour, and with the provincial governments."⁵⁴ As a result, meetings of unions, employers and employer associations were convened during February 1969 in Ottawa by the Minister. Mr. J. Grandy, Deputy Minister of Consumer and Corporate Affairs and Mr. G. Haythorne, then Special Adviser on Prices and Incomes to the Minister⁵⁵, accompanied Mr. Basford at these meetings.

The first meeting was held on February 11 with the

⁵³Debates of the House of Commons, December 20, 1968, p. 4214.

⁵⁴Ibid.

⁵⁵It was at this point that Haythorne became actively involved in consultations. His appointment as Special Adviser to the Minister allowed him to devote full time to this work.

Executive Council and a few other senior leaders of the Canadian Labour Congress. This was followed by a similar meeting with the Executive Officers of the Confederation of National Trade Unions on February 18. Two meetings with representatives of employers and employers' associations were held on February 21 and February 25. Some forty people were present at each meeting, with persons in attendance from all regions.

Preliminary meetings had been held with the provinces in March 1968, by J. Grandy. A. Johnson and A. Reynault of the Department of Finance were also involved in these meetings. Mr. Basford made a presentation at the Joint Federal-Provincial Finance Ministers' meeting in December 1968 and copies of the White Paper were later sent to the provinces after tabling in the House of Commons. Subsequent to this, Mr. Haythorne and his Executive Assistant visited all of the provinces for further discussions with Ministers and officials. These visits were made from February 27 to March 11, immediately following the consultations in Ottawa with the union leaders and employers.

Meetings were held in March 1969 with the United States Government officials in Washington, the Permanent Under Secretary of State of the Department of Employment and Productivity of the United Kingdom in New York, and the Chairman of the Economic Council of Canada in Ottawa. A number of private seminars were also held in universities

across Canada and in Washington, New Haven and Boston in the United States. Finally, some eighty letters were received in the Department of Consumer and Corporate Affairs from corporate managers, union leaders and university personnel.

The White Paper was never referred for consideration to a committee of the House of Commons. From the Government's point of view, parliamentary debate would have been detrimental to this particular policy formulation process. The policy issue was a politically sensitive one and every effort was made to avoid giving publicity to it in order that full and frank discussion could be conducted privately. As Mr. Haythorne suggested, "the Government was trying to chart a new course through fairly difficult waters."⁵⁶ Therefore, consultations were conducted on a selective basis.

The outcome of these consultations resulted in the implementation of the White Paper proposals with the establishment of the Prices and Incomes Commission and the appointment of its first chairman, John Young, in May, 1969.⁵⁷ The

⁵⁶G.V. Haythorne, Interview, June, 1971. See also G.V. Haythorne, "Price and Income Policies in the Current Economic Setting". Talk to Economics, Government and Business School Seminar, University of Massachusetts, Amherst, Massachusetts, March 17, 1969. "These consultations which are now nearly completed, have provided an opportunity for a frank expression of views and attitudes regarding inflationary pressures and for recording agreement or objections to the proposals made for dealing with these in future". p. 7.

⁵⁷Debates of the House of Commons, June 16, 1969, p. 10176.

Commission's task was:

to inquire into and report upon the causes, processes and consequences of inflation and to inform those making current price and income decisions, the general public and the Government on how price stability may best be achieved. The Commission will be authorized to prepare and publish from time to time under its own authority specific reports on:

- (a) the results of their studies and investigations of the matters outlined above,
- (b) current developments in costs, prices, productivity and incomes in particular sectors and industries within the economy and for the Canadian economy as a whole.

The Commissioners will be authorized to receive any requests for the conduct of studies on problems, issues and situations made to them by the Minister of Consumer and Corporate Affairs or by any provincial government; will be free to reject or defer any such request if they consider that the study is not relevant to their main functions or that, having regard to the resources available to them, the study is of lower priority than other studies they consider they should conduct.⁵⁸

This, then, was the Trudeau Government's first attempt at using a White Paper as a consultative technique. Essentially a five phase process was involved: 1. policy initiation effected by the formation of an interdepartmental committee; 2. that committee held private consultations; 3. the committee drafted the White Paper, Cabinet committee approved the document; White Paper was published; 4. further selective consultations were conducted with provincial governments and affected groups and individuals; 5. proposals

⁵⁸ Ibid., pp. 10176-7. Three other appointments were made on June 23, 1969. Paul Gerin-Lajoie was appointed Vice-Chairman; G.V. Haythorne and G.E. Freeman were appointed as Commissioners. New Release, Department of Consumer and Corporate Affairs, June 23, 1969.

of the White Paper were implemented without significant change and the Prices and Incomes Commission was established. The process was one of 'participation' on a selective basis. Neither Parliament, nor the 'average Canadian' was invited to be involved in the discussions. Because the Government's intention in the consultative process was to gather needed information as well as to engineer consent for its proposed policy from a select group, a full-fledged public debate was not deemed desirable.⁵⁹

It was not until the Government published the White Papers on Indian policy and tax reform that concerted efforts were made to fully exploit the use of the document as a participative technique. These Papers, which form the major basis for analysis for this thesis, represented an experiment by the first Trudeau Administration in what has been described as the 'White Paper process'. They were the first and most significant instances where the Government attempted to "open" pre-legislative policy discussions in a meaningful way. Consultations were not exclusively selective. Parliament and the general public were encouraged to participate.

⁵⁹See Haythorne, "Prices and Income Policies in the Current Economic Setting", p. 7. "The consultations, which have with few exceptions revealed widespread support of the proposed new approach have also enabled a first-hand involvement by representatives of the principal groups in the economy. A direct involvement is crucial when the effectiveness of what is essentially a voluntary program has to depend so much on a clear understanding of their participation. This becomes especially important today with far-reaching changes occurring in the economy and in the developing roles played by unions, employers and government."

Above all, the proposals contained in these documents were not considered to be final Government policy. They were 'offers' of proposed policy which would be subject to change as a result of public discussion. It was this feature, therefore, which distinguished the 'Statement on Indian Policy' and the 'Proposals for Tax Reform' from other White Papers issued during the period 1968-72 and it was for this reason that they have been chosen for detailed examination.

The four major sectors of the policy-making system which were involved in the two policy debates--the federal Government, including the bureaucracy; Parliament; the public; and the provincial governments--were affected in a variety of ways. The different functions that the two White Papers were to serve, as well as the different nature of the two policies being discussed, produced different reactions from the participants in each case. The Government emphasized that a process/^{of} participation would be developed in each, but it will be shown in the succeeding chapters that participative policy-making meant different things to different groups of policy actors. In each situation, the political dynamics of 'White Paper democracy' had a significant impact on the behaviour of the participants.

In the next four chapters, the author will attempt to analyse and compare how the type of policy-making process

applied to the areas of tax reform and Indian policy affected Government, Parliament, the public and the provincial governments. The extent to which the nature of the policy in each case contributed to the general pattern of responses, and the extent to which the responses, in turn, altered the policy, will be the subject of the concluding chapter of the following section.

CHAPTER FIVE
THE WHITE PAPER PROCESS AND
THE GOVERNMENTAL SECTOR

The policy-making approach of the first Trudeau Administration emphasized the need for a strong central coordinating mechanism to direct and oversee the policy-making and programme activities of government. As previously discussed, changes were made in the structure of Cabinet committees, the Prime Minister's Office and the Privy Council Office in an effort to strengthen the role of the Executive in providing leadership and initiative in the policy-making process. Participation was encouraged as a means of helping the Government improve its ability to make policies. One of the key functions of the White Paper process from the Government's viewpoint, was to provide the Executive with information needed to formulate effective policies. Although the White Paper process was also intended to provide a more 'open' approach to government policy-making, the Government's interest, as will be shown below, focussed on the benefits which it could derive from a public debate.

The process of policy formulation and discussion of the two White Papers chosen for detailed examination involved the policy actors in the governmental sector in a number of different stages of policy-making activities. The first stage included the pre-policy activities of consultation

and decision-making which preceded the issuing of the White Papers. This stage of the process was based on internal reviews and investigations of policy recommendations from outside bodies such as royal commissions and task forces. The Government's decision to issue a White Paper in each case was largely influenced by the nature of the pre-policy activities and was made with a number of strategic considerations in mind.

The second stage included the process of formulating the policies contained in the White Papers. This activity was conducted internally and it was at this point that the interplay of political-bureaucratic influences was most pronounced. Once the White Papers were published, it was the Government's responsibility to publicize and to make available the proposals to the widest possible range of individual Canadians in order that the third stage, i.e., the policy debate, could be undertaken.

The public debates on tax reform and Indian policy involved the Government, in particular the responsible Minister and his officials in each case, in discussions on a number of fronts. Besides establishing public forums for discussions of the policy proposals, the Ministers and their officials had to use their offices for private consultations. While these activities were taking place, the civil servants had to conduct research and further investigation on issues which

were raised during the course of these various discussions. This required a high degree of involvement by the politicians and the bureaucrats responsible for the policies in these two areas.

After the public debates had ended, the policy process was once more conducted internally. On the basis of the information received, the Government was now expected to draft legislation for submission to Parliament. In the case of tax reform, legislation was introduced a year and one half after the White Paper was issued. In the case of Indian policy, legislation was not forth-coming.

In this chapter, the author will attempt to examine in detail the three main stages of the White Paper process as they relate to the preparation of and debate on the White Papers on tax reform and Indian policy. The following discussion, therefore, will concentrate on the pre-policy, policy formulation and policy debate activities of the executive-bureaucratic sector. An investigation of these activities will contribute to a later analysis of the outcomes of the White Paper process in these two cases.

I. Tax Reform.

It has been stated that the White Papers of the first Trudeau Administration were conceived of as part of the continuing process of policy review. It is not possible, given the scope of the topic under discussion, to provide a detailed historical account of the background to these two

policy areas. The historical information included in the following sections, therefore, is intended to highlight some of the more significant activities which preceded the publication of the documents.

A. Pre-Policy Activities

The White Paper on Tax Reform was the result of a seven-year review process conducted essentially by a royal commission established in 1962 "to review the whole field of federal taxation and its impact on the Canadian economy and to recommend reforms and improvements."¹ It was expected that the Commission's report would be ready by 1964. However, it was not until February 1967 that the Report of the Royal Commission on Taxation² was tabled in the House of Commons. On that occasion the Minister of Finance announced:

Mr. Speaker, with the leave of the House, I should like to table the report of the Royal Commission on Taxation. It was delivered to the Prime Minister (Mr. Pearson) on Wednesday of this week. There are 6 volumes ... The majority of the Commission, I am informed has recommended many novel and important changes in our tax laws, which are complicated and interrelated. It will take a long time for honourable members and the public to read these reports and to assess the recommendations and arguments pro and con. There will inevitably be many differing views as to what should be done about the proposals.

The Government intends to study the report and the views expressed in it during the next

¹Speech from the Throne, Debates of the House of Commons, September 27, 1962, p. 8.

²Hereinafter referred to as the Carter Report.

few months, before reaching conclusions about the recommendations made by the Commission or alternative suggestions from other sources.³ I think it will take several months with my inferior intellectual capacity and with the help of my officials before I can reach decisions on this matter or before I would want to make any recommendations to my colleagues. I intend to let several months pass to allow members of the public who would like to, to take a serious look at this report.⁴

A Special Cabinet Committee was established after the Report was released to examine its findings. The Committee represented a wide range of Cabinet interests. In addition to the Prime Minister, the Minister of Finance, the Minister of National Revenue and the President of the Treasury Board, ten or more other Ministers sat on the committee from time to time.⁵ It received assistance from departmental officials throughout the initial period of the Carter Report review. In-depth departmental analysis of the Report continued until the Paper was prepared.

Subsequent to these events, questions were raised in the House of Commons as to whether the Carter Report would be discussed by a standing committee of the House of Commons. In October 1967, the Minister stated the following position with respect to that question:

Since the Carter Commission was appointed not by us but by the government of which the

³ Hon. Mitchell Sharp, (Minister of Finance), Debates of the House of Commons, February 25, 1967, p. 13479.

⁴Ibid., p. 13497.

⁵Confidential source, Privy Council Office.

honourable gentleman was a member, I feel it would be better and more in the interests of the expedition of business here if the committee to which this subject was being referred were to have before it for consideration not only the recommendations of such a commission but a recommendation of the government.⁶

The reasons that Mr. Sharp offered at that time for this decision were two-fold. In the first instance, it would be the Government, not the committee, that would be responsible for the final proposals. Secondly, a study by a House committee would only result in another advisory report to be submitted to the Government.⁷

The Minister had invited presentations to be made to his office after the Report was made public. Although he had promised the Opposition that a White Paper would be issued "as close to the beginning of the year as possible", it became evident that, on the basis of those presentations, tax legislation based on the Carter Report would not be politically viable.⁸ As the Minister informed the House during the budget speech in November 1967:

In accordance with our invitation to all Canadians to send us their views concerning

⁶Hon. Mitchell Sharp, (Minister of Finance), Debates of the House of Commons, October 3, 1967, p. 2754.

⁷Ibid., December 14, 1967, p. 5425.

⁸Because this was a period of minority government, the Minister had to be particularly sensitive to controversial issues.

the Commission's report we have received many hundreds of briefs and letters on the subject. Many individuals and groups have talked to me, and to the Minister of National Revenue, and to other Ministers and officials about the report and its proposals. I wish to express our appreciation to all the individuals, businesses, trade unions and associations who have given us their views on this difficult and controversial subject. However, the work we have done within the government, as well as the analyses we have received from others leads us to the conclusion that while the reforms we will place before Parliament and the public in the form of a White Paper and ultimately in draft legislation will undoubtedly be influenced by the monumental report of the royal commission, they will be more in the nature of reforms of the existing tax structure rather than the adoption of a radically different approach. They will not necessarily be limited to items which the Commission has recommended.⁹

The interplay of political and bureaucratic influences on the Minister to make these decisions was significant. In addition to the lobbying activities which took place in the Minister's office and in Cabinet committee meetings, one particular bureaucratic "withinput" had an important bearing on the Minister's decision. It is necessary at this point to go into some pre-Carter background.¹⁰

In 1964, Walter Gordon, the then Minister of Finance in the Pearson Government, who was anxious to 'get on with

⁹ Hon. Mitchell Sharp (Minister of Finance) in Debates of the House of Commons, November 30, 1967, p. 4906.

¹⁰ Interview with J.R. Brown, Department of Finance, August, 1971. The discussion on this topic is based essentially on the information from that interview.

the job' of tax reform had asked the Canadian Tax Foundation to submit a list of names of individuals who could serve as management consultants to the Deputy Minister. From the three names submitted by the Foundation, Gordon selected J.R. Brown from the firm of Peat, Marwick, Mitchell and Company of Toronto. It was understood that Carter would produce his report early in 1965. Hence, Brown was hired on an eighteen-month contract. It was to be his job to review and analyse the Carter recommendations for the department and then return to his Toronto firm.

By the time Carter finally produced the report, Brown, originally an 'outside' consultant, had been made Senior Policy Adviser in charge of a Tax Analysis Unit within the Department,¹¹ and responsible for the 'inside' analysis of the Report. In fact, the analysis of the Report by the Unit was begun much before the Report was actually published. By the fall of 1965 Carter had indicated that the Report would not be ready for some months. However, at that time

¹¹Brown spent his initial period in the department by getting to know his colleagues. He was determined to avoid the fate of Gordon's three 'whiz kids' from Toronto who had been brought in to help with the 1963 Budget. (See Peter Newman, Distemper of Our Times, (Winnipeg: Greywood, 1968), pp. 19-37). As a result of this 'fitting in' period, Brown was able to get the co-operation of departmental officials when he became an "insider". During that period he also had an input into the 1965 budget. Brown became Senior Policy Adviser (a rank equivalent to Assistant Deputy Minister) in 1966 and the team he had recruited in the summer and fall of 1965 were constituted as the Tax Analysis Unit. For the terms of reference and membership of the Unit see Debates of the House of Commons, February 2, 1966, pp. 593-4.

he began to send Brown draft chapters for Brown's comments and criticisms. This activity was continued up until the time the Report was publicly released.

This practice adopted by Carter raises some interesting questions about the role of royal commissions as independent policy sources. It also has implications for the function of the bureaucracy as an input channel for policy formulation. While Carter undoubtedly solicited Brown's advice for purely professional reasons, he was, at the same time, opening an informal channel of communication through which he could indirectly attempt to 'persuade' the Government to adopt his recommendations. The Minister (at this time Mr. Sharp) took the position that he did not want a preliminary report on the Report. The review of the chapters was undertaken but the Minister was not informed of the proceedings. Brown and his group in the Tax Analysis Unit worked independently on alternative proposals to and feasibility studies of Carter's preliminary recommendations.

As a result of these preliminary studies, Brown and his group were in a position to brief the Cabinet when the report was published not only on the Report's recommendations but also on the alternatives which were available. The range of options which were apparent provided a strong case for publishing a White Paper on the Report before legislation was drafted. There was no general consensus within the Cabinet on the findings of the Commission. The White Paper

approach was a compromise strategy which would provide a means of testing the popularity of the Government's proposals.

The events of the first stage of the pre-policy activities were important for a number of reasons. In the first place, the publicity received by the Commission as a result of its public hearings provoked widespread discussion and debate on the subject even before the Report was released. When the Report was issued the public was invited by the Government to make presentations. The attitude of the Minister was to favour consultation with affected governments and groups before the federal Government stated its position on the Report. After these discussions the Government would then issue a White Paper reflecting its position on the Report. Thus, the Government was committed to 'opening-up' the decision-making process in the area of tax reform. This, however, was the position of the Pearson Administration. When the Government personnel changed after the 1968 election, the matter had to be reconsidered and another decision was needed to reaffirm or reject Sharp's initial decision to issue a White Paper.

On December 12, 1967, Mr. Pearson announced his intention to resign as leader of the Liberal party. It was then decided that any proposals on tax reform which the Government would offer would have to wait until a leadership

convention was held. As Mr. Chrétien explained to the House in February 1968:

Only we have spent a few months studying it [the Report] and we were about to present the White Paper on fiscal reforms some time during the winter. Unfortunately, certain incidents forced us to postpone because the honourable Prime Minister (Mr. Pearson) saw fit to retire. We have been working on the Carter report for almost seven months. We are in the process of formulating fiscal reforms for Canada which will surprise my honourable friends of the NDP, they will lose nothing to wait a few weeks more.¹²

Not only were the Government's proposals delayed for a 'few weeks more' but for many months more. At the leadership convention held in April 1968, Mr. Trudeau emerged as the new leader of the Liberal Party and the new Prime Minister in Parliament. Within two months a general election was called which resulted in the formation of a majority Liberal government. A new Cabinet was selected during the summer of 1968. It was not until the fall of 1968 that the Government and the new Minister of Finance were able once again to address themselves to the problem of tax reform.

¹²Hon. Jean Chrétien (Minister of Indian Affairs and Northern Development) in Debates of the House of Commons, February 19, 1968, p. 6889. Mr. Douglas however, had other reasons to suspect the long delay. As he stated: "Last year the Carter report was presented and the Minister of Finance promised us that we should have a white paper by the fall. Then we were to get it by January 1. Now the Prime Minister has announced that the Carter report is to be put on ice until after the leadership convention because he does not want leadership candidates taking opposite positions on the Carter report. Everybody knows that the Cabinet is split down the middle on the Carter report." Ibid., February 23, 1968, p. 6936.

When the first session of the Twenty-Eighth Parliament opened in September 1968, Mr. Benson made this announcement in the House:

Mr. Speaker, although I would not like to be tied to this, may I say our present intention is to introduce sometime early next year a draft bill dealing with tax reform, which, after first reading will be referred to a committee of the House. However, this is subject to change.¹³

Mr. Benson's initial attitude to the White Paper approach was a negative one. He felt that sufficient public debate had already transpired on the Carter Report and that the Government should be prepared to introduce draft legislation.¹⁴ However, this position was re-evaluated as the Minister began to familiarize himself with the various proposals and alternatives to the Carter recommendations.

The Special Cabinet Committee on Taxation had been re-established after the 1968 election and began to work in earnest during the winter of 1968-69. Moreover, presentations

¹³ Hon. E.J. Benson, (Minister of Finance), Debates of the House of Commons, September 16, 1968, p. 51.

¹⁴ It is interesting to note that in 1962 when the establishment of the Royal Commission on Taxation was announced, Mr. Benson, then a member of the Opposition, commented: "One of the difficulties of royal commissions is the fact that their hearings and analysis take a very long time to complete. It is presently indicated that this commission will not report until 1964. The aims of the Carter commission are laudable. However, Canada cannot wait two years for action. The government should act now and make bold changes in monetary and fiscal policy, including taxation, in order to speed up Canada's economic growth". Debates of the House of Commons, October 23, 1962, p. 863.

continued to be made to the Minister's office from companies and corporations. For some of these groups this was the third time that they were involved in presenting briefs to the Government on this subject. Mr. Benson soon found himself faced with the problem of deciding whether to issue a White Paper or a draft bill.¹⁵ When Mr. Benson decided in favour of the White Paper he explained his position to the House in this manner:

In this regard Mr. Speaker, I have not reversed myself in respect of the White Paper. It was a matter of whether or not a bill would be in the White Paper that was presented. That is the reason for presenting the White Paper without the draft bill included.¹⁶

In the final analysis, essentially three phases of ministerial decision-making occurred. Sharp's position had been one of favouring a White Paper. The recommendations of the Carter report were too controversial and hence politically non-viable to be presented immediately in the form of legislation. The White Paper at this point was intended to serve as a consultative technique typifying its use in other policy activities of the Pearson Government. When Mr. Benson became Minister he decided to reverse the decision of the

¹⁵ Interview with Mr. Benson, November 1970. The discussion in this part is drawn essentially from topics discussed on that occasion.

¹⁶ Hon. E.J. Benson (Minister of Finance), Debates of the House of Commons, February 21, 1969, p. 5797. During the budget speech in March 1969 Mr. Benson indicated that the House would receive the Paper in June. Debates of the House of Commons, March 18, 1969, p. 6792. However, for reasons to be discussed below the Paper did not appear until November.

previous Minister and introduce draft legislation instead. It was his feeling that sufficient consultation had taken place. However, Benson changed his mind and, as the following discussion will show, not entirely for the 'official' reason that he stated in the House.

It has already been noted that the White Paper technique has strategic value. In the case of tax reform, the Government was able to explain to the public its delay in producing a policy in terms of the benefits of a White Paper participatory process. Benson's articulation of the 'theory' of this process, already outlined, confirmed the strategic importance of the document as a technique of participatory democracy. Although the Minister wanted to speed up the review process and have the Government legislate on tax reform, he was persuaded that this would not be the wisest course to follow. The Minister had to decide whether the Government was to cut down the wide range of options that had been developed within the department or present a number of them through the means of a White Paper. The advice offered by departmental officials revealed that the question of administrative feasibility on all alternatives was unresolved, that the Department did not have sufficient information in this area to determine what the optimal trade-offs on the various proposals would be. Moreover, political pressure from within the Cabinet and within the parliamentary caucus indicated that there was an

insufficient consensus as to any one approach to the policy. Hopefully, a White Paper debate would provide that consensus. Finally, the Government was now under the pressure of time. It had to produce a policy on this issue and yet did not have the time available to prepare a draft bill.¹⁷

B. Policy Formulation¹⁸

Traditionally, when tax changes have been contemplated by the Government, the Minister of Finance in collaboration with the Minister of National Revenue has drawn up the appropriate budget resolutions and/or the appropriate legislative amendments and has presented the package to the Prime Minister for his approval. A much broader input occurred in the case of the 1969 tax reform proposals. Right from the beginning of the debate on the Carter report, formal consultations with the Minister were conducted with other Cabinet members, provincial government leaders, and affected groups. As a consequence, the traditional process was 'opened up' considerably.

The political inputs into the White Paper proposals involved a number of policy actors in the executive sector. Following the usual procedure, Mr. Benson presented draft proposals to be studied by several Cabinet Committees.¹⁹ The

¹⁷ Benson interview, November 1970.

¹⁸ Material for this section was drawn extensively from interviews with Mr. Benson, Minister of Finance; Mr. R. Bryce, former Deputy Minister of Finance; Mr. J.R. Brown, Senior Policy Adviser in the Department of Finance and other officials in the Minister's Office.

¹⁹ These included the Special Committee on Taxation, the Cabinet Committees on Priorities and Planning and Legislation.

Special Cabinet Committee on Taxation met several times a week during the period from April to October 1969. This constituted its most intensive period of deliberations. It had completed most of its work by late summer but because of several controversial items in the proposals, further meetings were required in the fall. Whenever anyone suggested a change the Department had to do a computer run to see what the effect would be. This helped to contribute to the delay.

Once the deliberations of the Special Cabinet Committee were completed, its report went to the Cabinet Committee on Priorities and Planning and then to the Cabinet as a whole. At each stage in this process, issues were discussed and changes made where it was shown to be advisable. The Minister of Finance was well prepared to defend his proposals and other Ministers had to be equally well prepared to provide sound arguments for any changes they deemed desirable. Nevertheless, the final proposals had to reflect a consensus of opinion in the Cabinet so the full range of political opinions of the Ministers had to be accommodated in the final draft.

The bureaucratic input into the White Paper proposals was equally significant. It has previously been noted that departmental officials were involved in working on tax proposals before the Carter Report was made public. The officials in the Tax Analysis Unit continued this task throughout the

period from February 1967 to November 1969. Additional 'outside' support staff were also involved in the background preparations.²⁰

The final stage of drafting began in earnest during the summer of 1969. The groups officials involved in this final stage was small. It was spearheaded by Mr. Bryce, Economic Adviser to the Prime Minister,²¹ and Mr. Brown, Senior Policy Adviser in the Department, and a number of

²⁰See Debates of the House of Commons, October 22, 1969, p. 11690. In response to Question #2660 (Mr. Saltsman), the Minister of Finance provided the following information: "1. Yes. Two categories of individuals who are not civil servants have been involved. In the first category are members of the government, and the Parliamentary Secretary to the Minister of Finance. The second category includes three individuals: Mr. D. Andison, a lawyer working full time on a contract with the Department of Finance, and Messrs. P.M. Farwell and M.C.F. Gillan, full-time Special Assistants to the Minister of Finance. A third group have not been involved in the preparation of the White Paper as such, but did take part in the analysis of the recommendations of the Royal Commission on Taxation and of the views on tax reform put forward by the provincial governments, national associations and others. These individuals were on contract to the Department of Finance. Their names are: Mr. R.J. Bertrand, Mr. R. Bourassa, Mr. R.W. Collins, Dr. R.W.V. Dickerson, Mr. D.G. Hartle, Mr. D.R. Huggett, Mr. E.G. Miller, Mr. A. Raynauld, Mr. L.M. Read, Mr. R.E.J. Thompson, Mr. J.B. Tinker. Also in this third group would be a number of economists who collaborated on the six studies prepared for the Department of Finance by the Institute of Quantitative Analysis of Social and Economic Policy (University of Toronto) referred to in question #1111 on page 5310 of Hansard for February 10, 1969. 2. Mr. Andison and those in group three are accountants, economists or lawyers with particular experience in tax matters or in economic analysis. They were selected by the Department on the basis of that experience."

²¹ Mr. Bryce retired as Deputy Minister in the Department in April 1969 but continued to participate in the work on the White Paper.

key people in the Tax Analysis Unit.²² Its activities closely followed discussion and debate in the Special Cabinet Committee on Taxation at which meetings at least Bryce and Brown were in regular attendance.

The final draft was drawn up in a brief four month period. One of the major concerns of the drafters throughout the process, in addition to the Paper's substantive content, was its quality as a communications device. The complexity of tax law and the controversial nature of the proposals made it mandatory that the language of the document was precise and clear. If the Government was to provoke any meaningful dialogue, its message had to be expressed in a simple and straightforward manner.²³

The commercial value of the Paper also had a bearing on its content and timeliness. The normal budgetary secrecy considerations applied to the final stages of drafting and publication. However, speculation on the exact timing of the release of the policy proposals occurred within

²²Interviews, Department of Finance, June 1970 and August 1971.

²³Ibid.

financial circles once the initial June deadline was not met. The Globe and Mail reported in July 1969:

The Government is expected to set a firm date for publication of its long awaited white paper on fundamental tax reform by the end of next week. Finance Minister E.J. Benson says that as soon as he knows the date he will announce it...

The publication date being mooted in the Finance Department is Sunday, September 7, but some officials are afraid that date would not leave enough time for final decision-making and the lengthy tasks of writing, translating and printing the white paper. The tax reforms are of such a fundamental and far-reaching nature that officials decided they must be published at a time when securities markets are closed. Release late on a Friday was ruled out because they felt Saturday newspapers are not seriously read. The precise Sunday hinges on how soon the Cabinet can put the final stamp of approval on the reform package that Mr. Benson first proposed last April...

This means that to meet a September 7 publication date, decision-making and most drafting will have to be completed by the end of this month. Although ministers and senior officials have become more conscious of the pressure of time in recent days, there is considerable doubt whether they will be able to meet the September 7 date. This most likely would result in a postponement until after the October 1 refunding is completed. A total of \$360 million in Government bonds is scheduled to mature on that date and there is a chance Ottawa will raise new money at the same time. The announcement of an impending refunding always takes place on a Friday at least two weeks before maturity. In this instance, the announcement would be due September 12.²⁴

²⁴Report on Business Section of the Toronto Globe and Mail, July 17, 1969, p. B2.

Although speculation on the exact date was based on a number of different factors, the final decision to release the Paper on Friday, November 7, 1969, took into account the major political and financial considerations.

C. Policy Debate

The involvement of the Government in the public debate consisted of essentially three activities: publicizing and explaining its proposals; establishing the machinery for dialogue with Parliament and the public; and participating in that dialogue. The Government message to the Canadian public explaining the intent of the process of policy debate on the White Paper was outlined in the preamble to the document:

- 1.1. In this White Paper the Government of Canada places before Parliament, the Canadian people and the provincial governments its major proposals for reform of the income tax structure. The Government will welcome public discussion of the proposals, particularly in the parliamentary committee considering them. Detailed discussions are also planned with provincial government representatives.
- 1.2. For most of this decade the strengths and weaknesses of the income tax system have been studied closely and debated vigorously... The Government itself has not yet taken part in this debate but it has studied the report and the comments upon it, assessing both the facts of the situation and the attitudes of Canadians toward the present tax structure and various proposals for its improvement...
- 1.4. The government's proposals are the result of careful study of tax principles, practices and impact. The government believes they are the

best practical proposals to attain our objectives in present circumstances. They are advanced for discussion and review in the light of that discussion before Parliament is asked to approve a bill to implement tax reform. The government believes that taxpayers and those who represent them in Parliament and in provincial legislatures should contribute actively at an early stage to the formulation of policies that so directly affect them.²⁵

The White Paper debate was to be a continuation of the consultative process begun after the Carter Report. However, this debate would differ from the former in several respects. In the first instance, the debate was to be based on the Government's proposals, not those of a royal commission. Although the Government indicated that it felt its proposals were 'the best practical proposals' to attain its objectives, it also indicated its desire for the public to be involved in the formulation of policies that affected them. To the extent that these two objectives could be in opposition to each other, part of the Government's task in explaining its proposals was to generate trust that the debate would be conducted in good faith. Secondly, the debate was to be a formal public dialogue. The Government intended that Parliament should play a leading role in this activity. Finally, the Government was to play an active not a passive role in the dialogue. Not only would it listen but it would also argue, defend, and even change its proposals as a result

²⁵"Proposals for Tax Reform", (Ottawa: Queen's Printer, 1969), p. 5.

of the debate.

The first requirement, therefore, was to publicize the issues to be discussed. For this purpose, the Government had large numbers of the Paper printed for distribution. The Government had 175,000 copies printed: 135,000 in English and 40,000 in French. Of this number, over 153,000 copies were distributed.²⁶ At the time of release approximately 1800 copies were made available for Members of Parliament at a special briefing and in the House of Commons post office. No precise record was kept of the numbers received by individual members or mailed on their behalf to constituents. Copies were distributed free of charge to political party headquarters. In most cases, copies of the Paper were also sent to individual members of organizations such as the Federation of Mayors and Municipalities, members of the Canadian Consumer Council, labour organizations, etc. A supply of 230 was provided directly to the Canadian Manufacturer's Association for its own distribution to members. Two commercial tax reporting services, CCH Canadian Limited and Richard DeBoo Limited received 7,000 and 1,500 copies respectively and were charged printing costs. Free copies of the Paper were made available to individual members of the public through the Minister's office and Queen's Printer

²⁶ Information Office, Department of National Revenue, June 30, 1970.

bookstores across the country.²⁷

The distribution of the Paper constituted the major cost factor to the Government in its attempt to disseminate its proposals. No money was spent on advertising the White Paper beyond the cost of printing. The use of other media techniques to publicize government policy has not, as yet, been sanctioned by the Canadian Parliament.²⁸

By and large, the Government had to rely on the co-operation of the media to assist it in its public relations task. The Minister of Finance and other Cabinet members participated in press interviews,²⁹ made television and radio

²⁷See Mr. Benson's reply to Question #729 (Mr. Orlikow) in Debates of the House of Commons, February 2, 1970, p. 3065.

²⁸An interesting case of resistance to this public relations approach by government occurred when the Finance Department had a set of slides prepared by the National Film Board for the purpose of informing M.P.'s about the details of the paper. Stanley Knowles raised the issue in the House on a point of privilege. He charged that the use of government funds to propagandize government proposals not yet adopted by Parliament was a breach of parliamentary privilege. See Debates of the House of Commons, December 10, 1969, p. 1789. His motion was over-ruled by Mr. Speaker, but it raised the question of the extent to which a government can legitimately employ modern media techniques to advertise proposals that are not established government policy. In a technological society where people acquire information more rapidly from audio-visual media, this issue will become increasingly relevant to the workings of government.

²⁹An elaborate press conference and briefing session were held November 7, 1969, the day the Paper was released. Subsequent to this, the Minister made himself as accessible to the press as was physically possible.

appearances,³⁰ and conducted public speaking tours across the country. The Minister of Finance gave speeches on the proposals to public meetings sponsored by interested groups in all major cities and in every province except Prince Edward Island.³¹ He also attended special seminars and conferences at which he and his officials gave explanatory papers on the proposals.³² The fact that members of the Minister's office staff became involved in explaining the content of the Paper was the cause of some concern in Parliament:

Mr. Thomas M. Bell (Saint John-Lancaster)...

In view of the traditional practice around here that executive and special assistants do not appear in public at any time, may I ask the minister if he is so desperate and hard up he has to get these fellows to defend the white paper?

Hon. E.J. Benson (Minister of Finance)...

Mr. Speaker, there are a vast number of people in Canada who wish to discuss the white paper proposals logically and who wish to be informed rather than...get the kind of propaganda they are getting from some agencies in the country. I see nothing wrong with members of my staff being willing to explain, not defend but to explain, the contents of the white paper just as I have been doing across the country...³³

³⁰The Minister made a number of appearances on television, including the CTV network's program, "Question Period".

³¹"Notes for a speech by Finance Minister E.J. Benson to the Toronto Chapter of the Society of Industrial Accountants of Canada", Toronto, Wednesday, October 28, 1970, mimeo, p. 1.

³²Perhaps the key example of this was the 1970 conference of the Canadian Tax Foundation, which devoted its entire agenda to tax reform. See Chapter Seven below.

³³Debates of the House of Commons, February 27, 1970, p. 4174. The individual in question was the Minister's special assistant, Peter Farwell.

The physical problems of informing the public were compounded by the fact that the Government was also required to make its proposals understood. Not only was the Government initiating a process of information-exchange, it was also performing an educative function. As the Prime Minister explained in one of his speeches on the proposals:

Some people argue that tax reform is far too complex a subject for public discussion, that it is too easy to misrepresent its objectives and effects, and that it offers a ready target to the Opposition... Surely the public should know how it is being taxed, and why. It should be aware of the reason behind the regulation. It should know of the basic choices which have to be made in designing a tax system. As the White Paper points out, taxes by their nature cannot always promote all our economic goals, although they should interfere as little as possible with incentives to work and invest. We have to realize that in any system there will be trade-offs between conflicting objectives, that lowering taxes for the poor means raising them for others, that the need to encourage economic growth must be reconciled with the demands for social justice. It is our hope that public discussion will shed some light on these profound questions, and that Canadians will have a chance to become better informed about a difficult subject which affects us all. That is one reason why we decided to issue a White Paper setting out the government's proposals and inviting public comment on them.³⁴

³⁴"Notes for the Prime Minister's Speech to a Banquet of the Toronto and District Liberal Association", Royal York Hotel, Toronto, March 4, 1970, mimeo, pp. 2-3.

The aspirations for the White Paper as a participative technique required that information be available and understood so the participants could "act rationally and achieve their goals". The Government's activities were limited in this respect due to apathy, disinterest and distrust as well as the difficulty of the subject-matter it wanted discussed.³⁵ Although the Minister of Finance was aware that it would have been impossible to inform every individual affected by the policy, he and his colleagues made every effort to generate widespread debate among interested sectors of the public.³⁶

Three weeks after the Paper was released and tabled in the House it was referred to the Standing Committee on Finance, Trade and Economic Affairs.³⁷ It was also referred

³⁵As Mr. Benson remarked: "In spite of the efforts made so far, we are a long way from solving our communication problem. Some indication of how far away was given by a recent Gallup poll which showed that 50% of Canadians have never heard of the White Paper on Tax Reform. Poor understanding makes it easier for the opponents of tax reform to build on the uncertainty created by the prospect of any change, to issue misleading statements and to stir up emotion with irrational criticisms. This type of thing places our Members of Parliament under terrific pressure and it is what we are referring to when we say that the White Paper process may be 'bad politics but good government'." See "Notes for An Address by Finance Minister E.J. Benson to the Canadian Tax Foundation", p. 12.

³⁶Benson interview, November 1970.

³⁷Debates of the House of Commons, November 28, 1969. p. 1370.

to the Senate Standing Committee on Banking, Trade and Commerce.³⁸ A Joint Committee of Parliament had been named, but for reasons to be discussed later, it never met. When the second session started, the Government decided to use two separate committees for the public hearings.

Mr. Benson was anxious that the committees would play an active role in the policy process. As he stated in the House:

I mentioned earlier that we are following a new procedure in referring the reform proposals to a committee of the House. This procedure will permit interested Canadians to put forward their views concerning the proposed Canadian tax system and to bring to the attention of Parliament and the government particular situations in which, for some reason, the proposals might have anomalous results...I propose at some appropriate stage to bring in an amendment which, if accepted, would enable the committee to obtain staff as necessary to assist them in carrying out their examination of these tax proposals and also to study the numerous briefs which, no doubt, will be submitted.³⁹

The Minister and his officials made numerous appearances before the House committee.⁴⁰ At these meetings, the Minister explained the general objectives of the proposals and Mr. Bryce and

³⁸Debates of the Senate of Canada, November 19, 1969, p. 171.

³⁹Debates of the House of Commons, November 28, 1969, p. 1372.

⁴⁰They were not asked to appear before the Senate committee. Apparently, the Senators felt they did not require their help.

Mr. Brown provided the detailed information and explanation required by the committee.⁴¹ Mr. Benson's concern was that the Government's role should be one of assisting, not confounding, the committee's activities. The Minister, therefore, instructed the committee on the form and purpose of those appearances:

I really do not want to get people more upset than necessary as we move along. I thought that on my first appearance before the Committee I should indicate the areas which are causing difficulties...I think the logical procedure from this point on is in explanations that come from my officials. Many of the questions that arise in people's minds will be clarified. I do not think I will be in a position or should undertake to run to the Committee and say that we are going to change this, this week, and this sort of thing. What we need is a reasoned consideration of the proposals for tax reform; I hope this is what will occur. The Committee will move through it in a logical manner, and come up with conclusions ultimately which the government can consider before presenting the legislation.⁴²

The departmental officials supplied a large amount of supplementary information on the proposals to the committee

⁴¹Minutes of Proceedings and Evidence, Standing Committee on Finance, Trade, and Economic Affairs, 1970, Report #'s 12, 13, 16, 18, 25, 91 and 92.

⁴²Ibid., #12, p. 12:55.

in addition to their verbal testimony.⁴³ No additional studies were undertaken for the committee; rather, existing material was put together in publishable form.⁴⁴ This information was intended to help the Members understand the implications and complexities of the proposals. It was hoped that, as a result of these efforts, the committee's work would help the Government. As Mr. Benson stated during his final appearance before the committee:

This committee and the government share much of the responsibility to make the White Paper process work. This untested process, particularly in the difficult area of taxation is proving untidy, slow and filled with uncertainties and inconveniences for many concerned. I think you share with me a belief that it will give us a better tax system. That should make it worthwhile.⁴⁵

Although the Minister had promised the House committee that changes would be made, but only after the reports of the committees were received, he was, nevertheless, compelled to make some modifications in the proposals as a result of discussions which extended beyond the formal proceedings

⁴³See Appendices to Minutes of Proceedings and Evidence, Standing Committee on Finance, Trade and Economic Affairs, 1970, Report #'s 12, 16, 18, 25, and 31.

⁴⁴Ibid., #16, p. 16:6.

⁴⁵"Statement by Finance Minister E.J. Benson to the Commons committee on Finance, Trade and Economic Affairs, August 5, 1970", Department of Finance, Press Release, #70-97, mimeo, p.2.

of the House committee. The private consultations in the Minister's office were the main focus of interest for many groups.⁴⁶ In point of fact, the discussions that had begun with interest group representatives after the Carter Report had been released had never really stopped.

Pressure for changes was also brought to bear on the Minister from provincial government representatives. As a result of in camera meetings of federal and provincial ministers and officials, modifications were announced. Changes were made either because the Government found it necessary to reduce uncertainty in some areas⁴⁷ or because the Government's proposals were found to be in error.⁴⁸

The effect of these announcements was to enhance the sincerity of the Government's role in the dialogue. For example, when Mr. Ienson announced a modification of the suggested rate schedule, one newspaper editorial carried

⁴⁶Because the composition of Cabinet committees is confidential, lobbies could not be sure who was on the Committee on Taxation at any one time. As a result, the Minister of Finance carried the brunt of these private consultations. He saw as many representatives as he could although meetings were denied to some groups. The criteria applied in this selection process were not revealed to the author. Interviews, Minister of Finance, November 1970.

⁴⁷See Department of Finance, Press Release, August 26, 1970, #70-105, mimeo, "Revisions of the proposals involving taxation of the Canadian mining industry", pp. 1-5.

⁴⁸See Department of Finance, Press Release, June 11, 1970, #70-76, mimeo, p. 6.

this comment:

He wanted debate, yes. But changes would only be made when a bill was introduced in the House. People would suggest changes. For him to indicate preferences would be to show contempt for the committees of the Senate and the House that were studying the White Paper... This is the most important response to criticism Mr. Benson had made. Not so much because of his alternative proposals. But because of the dramatic shift in his approach to the White Paper debate. It took some courage to make the shift. But there is immense consolation that this opens the way to a much more constructive and realistic discussion of the proposals through negotiation instead of harangue.⁴⁹

The widespread publicity given to the White Paper also resulted in a flood of letters and submissions to the Minister's office. His office received over 26,000 between the time the White Paper was tabled and the presentation of the June 1971 Budget.⁵⁰ This figure does not include coupons cut from newspapers which arrived in bushel loads.⁵¹ All of these submissions were processed in the Correspondence Unit which was established in the Minister's office in April 1970 for this purpose. About twenty employees, including ten chartered

⁴⁹Editorial, "A New Flexibility", Toronto Globe and Mail, June 12, 1970, p. 6.

⁵⁰ "Address by Finance Minister E.J. Benson to the Law Society of Upper Canada", Royal York Hotel, Toronto, Thursday, August 26, 1971. Department of Finance, Press Release, #71-100, p. 3.

⁵¹Ibid., p. 4.

accountants were hired to assist the Minister in this task.⁵²

In sum, the Government's involvement in the debate on the White Paper proposals occurred on a number of different planes. In the first instance, the Minister and his colleagues were responsible for explaining the proposals, publicly and privately. Secondly, the Minister and his officials appeared before the House committee examining the proposals for the purpose of answering questions and providing information. Beyond that, the Minister and his officials had to continue consultations with representatives of interest groups and provincial governments at formal and informal meetings. They also had to participate in meetings and seminars sponsored by private groups such as the Canadian Tax Foundation, the Canadian Labour Congress, the Canadian Chamber of Commerce, universities, etc. All these modes of operation were going on at the same time and made strenuous demands on the governmental participants in the process.

In particular, these kinds of activities placed the civil servants in a novel position. Traditionally, civil servant debate on policy is internal. Because it is Government policy,

⁵²Information Office, Department of Finance. In the final phases of the public debate, the Department of National Revenue was also required to expand its staff in readiness for the impending legislation. See Debates of the House of Commons, October 26, 1970, p. 545.

the civil servant who publicly commits himself to that policy may find himself in an awkward position if the government is turned out of office. The role of the civil servant as a policy participant is a delicate one. As Mr. Bryce, Department of Finance, had noted:

...much of what the Department does is internal government business, in particular the scrutiny, analysis and criticism of various proposals that are brought before the government, which we are not really free to discuss, not only because much of it is confidential but they are not our proposals and it is not for us to comment to Parliament or the public about them. Like the Treasury Board, we often have to act in the role of a sort of internal opposition within the Government. It is a role that we get used to but it is not one where we can put in public the views that we put, of course, in private.⁵³

However, it was difficult for the officials in the Department of Finance, when called upon to explain the Government's proposals, to avoid discussing substantive issues. The officials were forced into a similar position in private

⁵³Minutes of Proceedings and Evidence, Standing Committee on Finance, Trade and Economic Affairs, April 24, 1969, #36, p. 36:23. Testimony by R.B. Bryce.

consultations in the Minister's office, especially when he was not present.⁵⁴

The formal public debate on the White Paper lasted from January to October 1970. It ended when the reports of the Parliamentary Committees were presented to the Minister.⁵⁵ The White Paper process of public debate had been long and arduous but the Minister felt that it had been advantageous to the Government for a number of reasons. For example, in the early stages of the dialogue, Mr. Benson had made these comments:

⁵⁴Interviews, R.B. Bryce and J. Brown of the Department of Finance. The general response from civil servants that were asked about this 'new' role was a negative one. They did not like the idea of being drawn into the debate whether public or private. As one official commented on the private consultations: "The most I felt I could say was 'It sounds good. I'll tell the Minister'. But the Minister may say to hell with it and he doesn't want others to know where the disagreement exists". As a result, officials were compelled to give an overly negative response to the group making a presentation. Nothing more than an indication that a group's position had been heard, understood and noted could be given.

⁵⁵See Canada, Senate, The Standing Senate Committee on Banking, Trade and Commerce, "Report on the White Paper Proposals for Tax Reform presented to the Senate of Canada", September 1970 and Canada, House of Commons, Eighteenth Report of the Standing Committee on Finance, Trade and Economic Affairs, "Respecting the White Paper on Tax Reform", October 1970.

The government launched this debate on tax reform with a white paper containing proposals--and I emphasize proposals--because it knew it did not have all the answers about designing the best possible tax system for the country. The government was confident that Canadians could be counted upon to consider and comment upon those proposals in a reasonable way. There has been some hysteria, and some irresponsible and misleading newspaper advertising which has grabbed headlines. But we are also receiving many thoughtful letters--letters with ideas-- from individuals. We will consider these along with the briefs to the parliamentary committees and the findings of these committees. One of the most encouraging things about this debate--and which confirms the usefulness of putting out white papers--is the number of letters which reveal that the writers sat down and thought about our proposals and tried to come up with ideas that might improve or alter the white paper. This is no confidence trick by which the government tosses out proposals, listens and then implements the white paper intact when everybody is tired of arguing. I say this because the eventual reform will be part of the government's record at the next election. As politicians we want that record to be a good one. We are asking Canadians to help us make that record good.⁵⁶

The White Paper proposals had been formulated by a relatively small group of ministers and officials working under the cloak of secrecy. One of the advantages of a public debate was to enable the Government to receive criticisms and counterproposals on tax reform which would help it to improve its final legislation. This was provided from a wide variety of sources. Accounting and tax firms as well as provincial treasury departments provided material

⁵⁶"Notes for a speech by Finance minister E.J. Benson to a public meeting sponsored by the Liberal Association of Lachine federal constituency", Montreal, March 8, 1970. Press release, Department of Finance, #70-30, mimeo, p. 1.

on the statistical analyses and computer runs needed to test the proposals.⁵⁷ In many other areas, the information needed by the Government was provided by research staff of professional associations.⁵⁸

The 'openness' of this type of policy process also had its disadvantages. One of the most difficult tasks, from the Minister's point of view, had been to convince the public that he had intended to conduct the debate in good faith. If presentations made by interested parties suggested that changes were necessary, the Minister had to convince those groups that he would be willing to consider the alternatives. As Mr. Benson commented in retrospect:

It was a disappointment to me that many people assumed that the White Paper represented an entrenched government position. I said from the beginning that the White Paper proposals would be modified or abandoned if it could be shown they did not represent the best interests of reforming our tax system. I think the reluctance of the critics to accept the validity of my statements about the role of the White Paper is partly attributable to the fact that the White Paper process is a relatively new procedure in this country, and partly to the fact that throughout the debate I thought it unwise to announce changes at every turn. It would have made it much more difficult for the critics to assess the government's position, but it would have had a detrimental effect on the White Paper debate. In addition as we came close

⁵⁷Interview with J.R. Brown, Department of Finance, August 1971.

⁵⁸The Canadian Tax Foundation was especially active in this role. For a discussion of the contributions of private groups in this regard see Chapter Seven below.

to the end of the process, the tradition in our country of budgetary secrecy made it impossible for me to divulge details of the government's final position.⁵⁹

The communications problem not only created a time lag in the public dialogue, it also made more difficult the Government's role in that debate. The Minister was not able to openly rebut charges against the proposals for fear that the critics and/or other participants would feel that the Government had taken a rigid position on the policy. The Minister, therefore, had to be as non-committal as possible in such confrontations. The commercial value that any such information might have contained also made it difficult for the Minister to present a decisive position on an issue.

The Tax Bill that was introduced in the House on July 18, 1971 reflected the policy changes made by the Government as a result of the public debate.⁶⁰ The modifications, to be discussed later, were based on the proposals in the reports of the parliamentary committees which examined and discussed the Paper. The fact that the Government appeared to have listened to what was being said by groups and individuals outside of Government circles established the credibility as well as the utility of the process as a means of improving

⁵⁹"Address by Finance Minister Benson to the Law Society of Upper Canada". p. 3.

⁶⁰The legislation was tabled budget night in the form of a Notice of Ways and Means Motion. Under this House of Commons procedure, the legislation is introduced in the form of a bill at the end of the budget debate.

governmental decision-making. As the following discussion will show, this was not the case with respect to the Indian policy statement.

II. Indian Policy

The preceding discussion outlined how the White Paper process on tax reform was the intermediary phase between the Government's deliberations on a royal commission report and the introduction of draft legislation in the House of Commons. The White Paper process on Indian policy, on the other hand, represented a renewed attempt by the Government to succeed in its consultation efforts with the Indians. It was the Trudeau Government's answer to a number of previous efforts in this area. The problems facing the Government, although of a different nature than in the case of tax of reform, were of a greater magnitude because the Indians were, for the most part, an inarticulate clientele.

A. Pre-Policy Activities

The single most significant factor which influenced the Executive's role in the White Paper process on Indian Affairs was the unique relationship of the Indian people to the federal government. The basic underlying assumption of the policy-making approach introduced in Chapter Four is that what governments do is a response to demands from the environment or the political system. With respect to Indian policy in the past, this assumption has been invalid. Historically,

the political context of Indian administration has been noteworthy in that Indians have had little influence on the formation of policy affecting their lives. Political and administrative officials have been relatively unhindered in the determination of Indian policy.⁶¹

The reasons for the ineffectiveness of Indians in bringing pressure and influence to bear on the Government are varied and complex.⁶² From the Government's viewpoint, however, one of the major reasons for this situation lies in the historical and constitutional position of Indians in Canadian society. As one departmental source has commented:

By the time of Confederation, the province of Canada had a fully developed Indian policy, inherited from the British Imperial and Colonial governments, and administered by the Crown Lands Department. This policy was, in turn, inherited by the new federal government which was given legislative authority over "Indians and lands reserved for Indians". The bases of the policy were: alienation of Indian interests in land through treaties, reservation of lands for Indians and the existence of a government department charged with managing the affairs of Indians. The aim of the policy was to effect a transition from the native way of life to that of the white majority and the basic assumption was that the Indians required not only assistance, but also protection in making the transition.⁶³

⁶¹An excellent analysis of the non-participative role of Indians in the political system can be found in H.B. Hawthorn, (ed.), A Survey of the Contemporary Indians of Canada: A Report on Economic, Political, Educational Needs and Policies, Vol. I, (Ottawa: Indian Affairs Branch, 1966), pp. 199-204.

⁶²Ibid., pp. 360-384.

⁶³Department of Indian Affairs and Northern Development, mimeo, 1969, #361-0045-E1.

The paternalistic posture of the federal government in the regulation of Indian Affairs has been the over-riding characteristic of Indian policy until recent times. The policy was synonymous with a protectionist bureaucracy which handled all the services provided for this group. Policy and policy changes were completely internal to the Indian Affairs Branch and were made, by and large, for administrative convenience.

Prior to 1968 only two previous efforts of any purport had been made to involve the Indian people in policy formulation. These included the Joint Committee hearings of the Senate and the House of Commons in 1946-48⁶⁴ and 1959-61. On these occasions Indian spokesmen were invited to make presentations. The growth in parliamentary and public interest in Indian administration that subsequently developed not only reflected the changing climate of public opinion during this period,⁶⁵ it also had an important influence on the officials and the policy of the Indian Affairs Branch. The custodial

⁶⁴As a result of these hearings, the Indian Act was revised and passed in 1951. This was the first major revision to the original Act.

⁶⁵See Hawthorn, A Survey of the Contemporary Indians of Canada, Vol. I, pp. 360-5. The comment was made that: "In summary, the evolution of public and governmental concern for Indians is the result of a double spill-over, on the one hand, changed expectations with respect to the role of government in Canada, and, on the other hand, the domestic reaction to the demise of a world in which White skins and the possession of power were tightly correlated." Ibid., p. 363.

mentality was gradually replaced by a new attitude which was reflected in such programs as increased grants for education and health services.⁶⁶ As the Branch began to effect the extension of provincial services to the reserves in an attempt to make Indians full citizens, its officials became involved in a role that was essentially a diplomatic one. It became explicitly recognized that Indian consent was necessary before any extension of such services could be undertaken. The commitment to prior consultation became basic federal policy.⁶⁷

The significance of the position of the Indian people vis-à-vis the federal government's policy-making function was three-fold. In the first instance, the policy of exclusion has placed the Indians in a political vacuum. Little was known of the Indian people's condition or their needs. Moreover, the Indians had no voice. They were not politically organized. Any communication or

⁶⁶ See a speech by the Honourable Jean Chrétien, Minister of Indian Affairs and Northern Development, "The Unfinished Tapestry--Indian Policy in Canada", Queen's University, March 17, 1971, mimeo, pp. 6-7.

⁶⁷ The main reason for this policy was two-fold: for historical reasons the Indians regarded provincial governments with suspicion; secondly, the Branch was determined to improve Indian self-government and ultimately withdraw its services. See Hawthorn, A Survey of the Contemporary Indians of Canada, Vol. I, pp. 343-384.

information exchange with Government was through some official from the Indian Affairs Branch and such channels of communication were seldom effective.⁶⁸ Finally, the desirability (from the viewpoint of the Indian Affairs Branch) of transferring many of the Branch's services to the provincial governments established the precedent for consultation with affected groups. Therefore, the federal Government had to pursue essentially three courses of action before it could formulate any substantial revisions to the existing Indian policy. It had to inform itself of the Indians' needs; it had to encourage the organization of Indian groups on a national and/or provincial basis by means of financial support; and, finally, it had to establish consultative machinery that could effect communication between the Indian people and the federal Government. A policy of inclusion could only be effected by a process of inclusion.⁶⁹

⁶⁸For example, the Hawthorn Report points out: "The possibility of a constructive Branch clientele relationship was further hampered by the deep suspicion in which the Branch was held by many Indians, and their feelings of hostility towards it...References to Indian confusion were frequently referred to before the 1959-61 Joint Committee and were noted by several of the researchers in this project who spent time in Indian communities. The low level of Indian information which this reveals illustrates the gulf between Indians and the Branch, and thus the difficulties in the way of successful joint co-operation". Ibid., Vol. I, p. 369.

⁶⁹Department of Indian Affairs and Northern Development, mimeo, 1969, #361-0045-E1.

The first major step toward the formulation of a 'new' Indian policy occurred in 1966 when the Indian Affairs Branch was transferred from the Department of Citizenship and Immigration to the Department of Northern Affairs and National Resources.⁷⁰ The creation of the new department--Indian Affairs and Northern Development--signified an elevated status for Indian affairs as a concern of the Government. In 1967, a Policy and Planning Directorate was established in the Indian Affairs Branch of the new department. It was to be "responsible for establishing guidelines, for setting long-term objectives and goals, clarifying priorities, co-ordinating and recommending adjustments to programs".⁷¹ This responsibility was to involve continuing consultation with Indian people and others "to ensure that an opportunity is provided for their views to be expressed and considered".⁷²

In order to facilitate consultation on the Indian side, the Branch had, as a result of discussions at the Federal-Provincial Ministerial Conference on Indian Affairs held in Ottawa in October 1964, established eight Regional Advisory Councils and a National Advisory Board in 1965.⁷³ The Councils were composed entirely of Indians either elected by

⁷⁰Statutes of Canada, 1966-67, 14-15 Elizabeth II, Ch. 25, s. 40, 45.

⁷¹Department of Indian Affairs and Northern Development, Annual Report 1967-68, (Ottawa: Queen's Printer, 1968), p. 100.

⁷²Ibid.

⁷³Department of Indian Affairs and Northern Development, Annual Report 1964-65, (Ottawa: Queen's Printer, 1965), p. 25.

the bands of the various regions or nominated by Indian associations. They were created "to give the Indians a voice in basic planning and the formation of Indian Affairs policy", but in no way were they "to inhibit the function of the band councils which are continuing to accept increasing responsibility for the operation of reserves and management of band funds."⁷⁴ These councils met frequently during 1966 and 1967. The main topic of discussion at these meetings was proposed amendments to the Indian Act.⁷⁵

The Pearson Administration had been attempting to introduce changes and revisions to the Indian Act as early as 1963.⁷⁶ Two major studies had been commissioned by the Branch in 1964 and had reported in 1966 and 1967 respectively.⁷⁷ These reports, in addition to the Department's concern about the need for a reconstituted Land Claims Commission, were the beginning of an in-depth departmental study and review of the entire area

⁷⁴ Ibid., The band council is the officially recognized body with which the Department deals in matters relating to band affairs.

⁷⁵ Department of Indian Affairs and Northern Development, Annual Report, 1966-67, (Ottawa: Queen's Printer, 1967), p. 48

⁷⁶ See Debates of the House of Commons, December 14, 1963, p. 5871. Bill C-130, 'provision for the Disposition of Indian Claims' was introduced and debated on resolution and first reading. Similarly, a Bill C-123 'Indian Claims Bill' was introduced in 1965. See Debates of the House of Commons, June 22, 1965, pp. 2777-81. In each case the Bills died once they were referred to the Indians for discussion.

⁷⁷ Hawthorn, A Survey of Contemporary Indians of Canada, Vols. I and II. A second study, 'Indians and the Law' was undertaken by a committee of the Canadian Corrections Association and presented to the Minister. Both studies were tabled in the House of Commons and sent to Indian bands.

of the administration of Indian affairs policy.⁷⁸

The Minister's determination to have revisions made to the Act was evidenced in various statements made in answer to questions raised in the House during 1966 and 1967. For example, when asked whether a draft of the revised Indian Act had been prepared, Mr. Laing replied: "Mr. Speaker, it is our intention to present it first in the House and then take it to the Indian bands. The draft is just about completed, and I hope that early in the new year we might distribute it first here and then to the bands and other interested parties in Canada."⁷⁹

However, the draft bill was not forthcoming. One of the major reasons for the delay was the ineffectiveness of the consultative processes that were supposed to be taking place. Consultation with the Indian bands was difficult. The Regional Advisory Councils established for the purpose of consulting were viewed with distrust by band officials.⁸⁰

⁷⁸An interdepartmental committee was established to consider the report of the Canadian Corrections Association and follow up its recommendations. The Hawthorn Report was considered but to the extent that its recommendations deviated from established departmental policy, little action was taken in implementing its proposals. The Indians made more use of its proposals than the Government did. See Chapters 8 and 9 below.

⁷⁹Debates of the House of Commons, December 11, 1967, p. 5264.

⁸⁰See Harold Cardinal, The Unjust Society, (Edmonton: Hurtig, 1969), pp. 103-4.

Consultations, such as they were, were slow and unproductive.

By the spring of 1968, the Government was committed to taking some action on the revisions to the Indian Act. On March 18, the Minister initiated a new stage in the continuing 'consultations' with the Indian people. The Department had a booklet called "Choosing a Path" prepared and had it circulated to members of Parliament and sent to all Indian bands and to individual Indian families. It was reported at the time that:

The Minister said that he had discussed the Indian Act with his Cabinet colleagues and the government has agreed to support an Act which will allow Indian bands to choose from a number of options the form of self-government which will suit them best. "My colleagues have given preliminary approval to some other changes which might be made following consultation," said Mr. Laing, "but we must know the extent to which the Indian people themselves want changes, and the nature of the changes before we come up with a finished Bill. This will not be an Act imposed on the Indians. I suppose that no one will get everything he wants, but he will certainly be heard and if enough agree about specific points, you can be sure that we will pay close attention."⁸¹

The booklet set out thirty-four questions on the Indian Act that the Department wanted the Indians to answer. It was a renewed attempt on the part of the Department to effect meaningful consultation with the Indians in areas where

⁸¹Department of Indian Affairs and Northern Development, Press Release, Ottawa, March 18, 1968, #1-67148, pp. 2-3.

the Department wanted to take action. It was stated in the preamble to the document that:

The Indians must be consulted about what is to be done and what is being done if they are to look after their own community affairs and have a full and equal place in Canadian society...This book is part of the consultation process. It explains some of the questions which must be resolved in preparing a new Act and it is intended to help individual Indians, families and communities to define their views...Each Band is asked to appoint someone to speak for its members at a meeting with representatives from Ottawa. These spokesmen will be heard and should be ready to speak for their people. When the government has reviewed all the representations made by the Indian people, a Bill will be prepared for Parliament to consider. Parliament decide what the law will be.⁸²

The Government also promised that after a Bill was presented to Parliament, the Indians would be given an opportunity to study the Bill and make presentations to the parliamentary committee which would examine it.⁸³

The consultative process based on this document was to consist of a number of regional meetings. A consultation team made up of the Minister and Departmental officials would meet with band representatives and other Indian spokesmen in each region.⁸⁴ The meetings were to be open to the public and the media. As the Minister stated: "I hope they will get coverage, because the questions are public business and should

⁸²Department of Indian Affairs and Northern Development, "Choosing a Path", A Discussion Handbook for the Indian people", (Ottawa: Indian Affairs Branch, 1968), preface.

⁸³Ibid.

⁸⁴The use of the Regional Advisory Councils was rejected largely in response to Indian requests.

be discussed publicly."⁸⁵ This publicity was also intended to show that the Government was doing something about Indian affairs.

In April the Minister announced that the consultation meetings would begin in May 1968.⁸⁶ Shortly thereafter, a postponement was announced. The Minister expressed his regret at the delay because he believed that fundamental improvements to the Indian Act were overdue. However, he had been asked by a number of Indian leaders and organizations to postpone the meetings and to provide more time for study. These groups had also expressed a desire to avoid "all possibility of the question being invaded by political considerations in the election period."⁸⁷

The promise of participation of Indians as full citizens in the 'Just Society' was one of the major issues of the 1968 election. Immediately after the election, the Trudeau Government acted quickly to make its promise good.⁸⁸ Mr. Chrétien,

⁸⁵Department of Indian Affairs and Northern Development, Press Release, March 18, 1968, #1-67148, p. 5.

⁸⁶Department of Indian Affairs and Northern Development, Press Release, April 18, 1968, #1-6812.

⁸⁷Department of Indian Affairs and Northern Development, Press Release, May 1, 1968, #1-6816, p. 2.

⁸⁸Or so it appeared. In actual fact, departmental officials had taken the initiative in getting the Government committed to the meetings before the election. See Department of Indian Affairs and Northern Development, Press Release, Friday, June 14, 1968, #1-6841.

the newly appointed Minister of Indian Affairs and Northern Development, and Mr. Andras, Minister without Portfolio were assigned the task of following through these previously arranged consultations. Neither of these men had had any previous experience with Indian affairs policy and hence came into the job essentially as novices.⁸⁹ Because of this they had to rely very extensively on bureaucratic advice and direction.⁹⁰

The format of the meetings which began on July 15 in Yellowknife, N.W.T., was patterned along the lines of a formal hearing. The consultation team⁹¹ sat at a head table manned with microphones. Television cameras and tape recorders constituted the major technical equipment. Indian representatives were asked to make their speeches into microphones.⁹² At each meeting, the Minister or his representative outlined the intention of the Government in holding these meetings and

⁸⁹As Mr. Trudeau said of Mr. Chretien: "And that is why one of the very first priorities of the government ... was to appoint a minister--and a young minister who also belonged to a minority in Canada and who had no prejudices and who honestly didn't think he was up to the job ... " in "Statement by the Prime Minister at a meeting with the Indian Association of Alberta and the National Indian Brotherhood", Ottawa, June 4, 1970, Prime Minister's Office, mimeo, p. 1.

⁹⁰The Departmental Officials had already set up the consultative machinery. Mr. Chretien agreed that what they had prepared for should be carried out.

⁹¹The composition varied from meeting to meeting. It generally consisted of six or seven members including the Minister or his representative. However, it was the Departmental officials that played the most active role. Mr. Chretien's appearances were sporadic. See Department of Indian Affairs and Northern Development Reports of the Indian Act Consultation Meetings, 1968-69, #1-17.

⁹²The use of such a format reflected a complete lack of understanding on the part of the Branch officials in their (Continued)

emphasized that the Government was there to listen. Re-assurances were given that the meetings were only a first round of consultations. As the report of the proceedings from one of those meetings stated:

(Mr. Mussell) advised that the Minister felt that the round of consultations presently under way were a first step toward what he hoped would be meaningful communication between the Indian people and the federal government...He noted that the first round of consultations would end in December and the results of this round would provide a general framework which would give the drafters of the Act some general directions to follow. He advised that there would be a second round of consultations because of the significance of the Act to the Indian people of Canada. Mr. Mussell mentioned that the Minister fully recognized the importance of the involvement of the people in their own affairs. He advised that the Minister had said in the past that he was not a very good colonialist and having to deal with the number of decisions involved in Indian affairs, he felt that these could be handled more readily at the local level or at the Band Council level if the Councils wished this responsibility. He said that the Minister was also in favour of local, regional or provincial areas establishing strong associations or organizations. He added that by strong he meant associations representing as many people as possible. Through such strong local, grassroots organizations, the process of communication could be more readily established and continued.⁹³

(continued)

⁹²'communication' with the Indians. As Mr. Chrétien admitted: "Some of the Indian people have been very well-prepared...However, in some instances some of the Indians were not at ease, because when they come from far away into a big hall with microphones, stenographers, etc., it is a bit difficult for them to adjust...", Minutes of Proceedings and Evidence, Standing Committee on Indian Affairs and Northern Development, November 19, 1968, #5, p. 97.

⁹³Report of the Indian Act Consultation Meeting, Chilliwack, British Columbia, November 18, 19, 20, 21, 22, 1968, p. 2.

The consultation meetings were held in seventeen different centres across Canada from July 1968 to January 1969. The Minister had promised a final plenary meeting of all the regional co-chairmen to be held in Ottawa sometime during the spring of 1969.⁹⁴ Following that meeting, a draft bill was to be prepared by departmental officials and submitted to Indian representatives for appraisal. However, by December 1968, it was apparent to the Minister and his officials that these consultation meetings would not generate a sufficient consensus to enable them to formulate draft legislation.⁹⁵ The discussions at the meetings deviated from the questions in the booklet, "Choosing a Path", to current socio-economic problems of the Indian people. The Indians began to air their grievances rather than address themselves to the policy questions. As one official remarked: "The Indians found themselves on stage and began to outpour their feelings against the Department and the injustices in the Indian Act. The media helped to escalate this emotionalism."⁹⁶

The political context within which the Indians began to find themselves as a result of the publicity given to the consultation meetings acted as a final pressure on the Department

⁹⁴Report of the Indian Act Consultation Meeting, Whitehorse, Yukon Territory, October 21, 22, 23, 1968, p. 1. The meeting was finally held in the latter part of April and early May 1969.

⁹⁵Interview with J.A. Macdonald, Deputy Minister of Public Works and former Deputy Minister of Indian Affairs and Northern Development, June 1971.

⁹⁶Ibid.

to take some decisive action. The Minister, his assistants, and the officials in his Department were being subjected to increasingly heavy criticism both publicly and privately.⁹⁷ Something had to be done to allay the political momentum that was developing against the Department and to allow the Department to proceed with the drafting of a new Indian act. A new breakthrough in the policy discussions was needed. It was decided that a White Paper would be issued to achieve that objective.

The original idea to issue a White Paper has been claimed by J.A. Macdonald, then Deputy Minister in the Department.⁹⁸ In late December 1968, he conceived of the plan by which the Department would make a new 'offer' to the Indian people in the hope that they would pronounce upon the general issues that affected them. When the Minister returned from Christmas vacation in early January 1969, Macdonald approached him with his idea and was able to persuade him of the political utility of such an approach. With the Minister's approval, Macdonald,

⁹⁷The special assistants to the Minister had played an active role in the consultation meetings. They, as well as the departmental officials, were thus drawn into the public debate with Indian leaders whether at the consultation meetings or during other public appearances. Office of the Minister of Indian Affairs and Northern Development, Interviews, July 1971.

⁹⁸Macdonald interview, June 1971. He stated that he had been greatly upset by the bitter personal attacks being made by the Indians on himself and other members of the Department. The emotional escalation during the consultation meetings had resulted in a polarization of opinion against the Department and something had to be done to break this down. In a brief discussion with Mr. Chrétien in July 1971, this claim was confirmed by the Minister.

with the assistance of the senior officials in his department, began to draft what was to become the White Paper on Indian policy.

B. Policy Formulation⁹⁹

The development of the "Statement of the Government of Canada on Indian Policy" provides an excellent example of the dominating influence of civil servants in the policy formulation processes of government. Traditionally the mandarins had always had control over policy in the Branch¹⁰⁰ and they maintained that control in spite of the official change of attitude toward the Indian.¹⁰¹ In any event, the policy formulation activities that surrounded the Indian policy White Paper were entirely internal to the Government and essentially in reaction to the consultation meetings that were being held with the Indians.

The Deputy Minister was a relative newcomer to the Department. He had been appointed to the post shortly after Chrétien

⁹⁹The material for this section was drawn mainly from interviews conducted with Mr. J.A. Macdonald, former Deputy Minister of Indian Affairs and Northern Development and other senior members of the Department including Mr. R.F. Battle, Assistant Deputy Minister, Mr. J. Churchman, Director of Liaison and Research, and Mr. C.I. Fairholm, Senior Policy Adviser during the month of June 1971.

¹⁰⁰See Hawthorn, A Survey of Contemporary Indians, Vol. I, p. 207.

¹⁰¹i.e., that Indians are full citizens, not wards of the state.

took over the portfolio in July 1968.¹⁰² But new leadership in the management of the Department did not result in new policy directions. The Deputy Minister adopted the position that the policy intentions of the previous administration were to be continued.¹⁰³ Nevertheless, Macdonald was convinced that a new procedural approach had to be developed to effect a breakthrough in the Department's relations with the Indians.

As mentioned above, the Deputy Minister with the aid of his senior officials set out the initial draft of the White Paper early in 1969. It was discussed at the Cabinet Committee on Indian Affairs and the Cabinet Committee on Priorities and Planning. There was some controversy over the content of the document. Officials in the Privy Council Office and the Prime Minister's Office became involved in revising parts of the Paper to ensure that it reflected the position of the Government as expressed in the 'Just

¹⁰²Moreover, a new Assistant Deputy Minister, J.B. Bergevin was appointed to be in charge of Economic Development in the new Indian Eskimo Development Branch. See Department of Indian Affairs and Northern Development, Press Release, October 17, 1968, #1-68120, mimeo.

¹⁰³For example, when questioned on Indian educational policy before the House Standing Committee on Indian Affairs and Northern Development, Mr. Macdonald stated: "The policy, Mr. Howard, is quite clear: it is to get out of business. We have been pursuing this policy vigorously with every one of the provinces...", Minutes of Proceedings and Evidence, Standing Committee on Indian Affairs and Northern Development, Friday, November 29, 1968, #7, p. 134.

Society' statement of 1968.¹⁰⁴ The modified document was then put before full Cabinet for discussion. Final approval was given in the late spring of that year.¹⁰⁵

Nevertheless, the Minister did not announce the Government's intention to issue a White Paper until May 1969.¹⁰⁶ In January, he had stated at one of the last consultation meetings that:

...I think there can't be a categorical statement as to the date of when the new act might be passed by Parliament. It might be 1970, it might not... Following [the national consultation meeting] it is possible, although it is not absolutely definite yet, that there might be draft proposals based on the information and the points of view that have been expressed by Indian people at these many consultation meetings to be put together in some form of a proposal for a new act and that even then would be subject to further consultation and, whether

¹⁰⁴Anthony Westell, Paradox: Trudeau as Prime Minister, (Scarborough, Ontario: Prentice-Hall, 1972), pp. 1-19 has claimed that the Prime Minister was deeply and directly involved in drafting the White Paper. Bruce Thordarson, Trudeau and Foreign Policy: A Study in Decision-Making, (Toronto: Oxford University Press, 1972), p. 96 states that Mr. Trudeau was not very interested in the policy issue. The author's impression, based on discussions with officials in the Indian Affairs Department and the Privy Council Office, is that the latter's view more closely approximates the reality of the situation. The Prime Minister's advisers and officials in the PMO and PCO played an active role in what they considered to be 'improving' the policy. But, in fact, their work reflected the policy position the Department had committed itself to in the first place.

¹⁰⁵Macdonald interview, June 1971.

¹⁰⁶See Debates of the House of Commons, May 2, 1969, p. 8259.

the second round of the consultations will take the exact form of this one, I don't know yet, but there will be a second opportunity to consult. Plus the fact that any act that goes before Parliament, of course, would be placed before a committee and that committee itself would be a mechanism by which must consultation would take place. So there's going to be a long, long period yet before any act is passed in the House of Commons.¹⁰⁷

Although the Minister had promised that the Government's policy proposals would be based on the outcome of the consultation meetings, they were prepared while those meetings were still being held. Mr. Chrétien's first public intimation of the approach to be taken was expressed before the Standing Committee in May 1969:

I am convinced that what is required is bold new initiatives because it is clear that the old ones have not worked. The Indian spokesmen told us many things...Despite the fact that many Indians have made and are making a great contribution to Canadian life, barriers remain. Indian people want the right to participate fully in the social, economic and political life of Canada. They want other Canadians to recognize the importance of their cultural diversity in the mosaic of Canadian life... The issues which have been discussed are very broad, very complex, very difficult. There are no easy answers. It has been said many times that only through participation, through

¹⁰⁷Report of the Indian Act Consultation Meeting, Toronto, Ontario, January 20-24, 1969, p. 10.

discussion, through consultation can real progress take place. Only through these processes can satisfactory solutions, new directions, workable programs be identified.¹⁰⁸

The major objective of the Government's policy statement on Indians presented to the House of Commons on June 25, 1969¹⁰⁹ was to effect greater participation of and improved communications with the Indian people. But it is difficult to understand how the Minister and his colleagues expected to achieve that objective in view of the fact that they had not honoured their commitment to the Indians and waited until the consultation meetings were concluded before drafting the policy proposals. Nevertheless, they were convinced that they were acting in good faith. As Mr. Macdonald stated: "The White Paper was based on what was happening in those consultations".¹¹⁰ This was also the official position of the Minister. In a statement to the House, he explained:

What the government was doing in issuing this statement was putting forward its view after having been in consultation with Indians for over a year, having listened to what they considered to be the evils and the faults of the

¹⁰⁸Minutes of Proceedings and Evidence, Standing Committee on Indian Affairs and Northern Development, May 13, 1969, #22, p. 752.

¹⁰⁹Debates of the House of Commons, June 25, 1969, p. 10581.

¹¹⁰Macdonald interview, June 1971.

present system and having formed its own view in the same connection. The government's view which was incorporated in the policy statement, was deeply influenced by everything that the Indian people have been saying about the Indian Act, about the department, about their separate status, about discrimination, not only in the period of consultation to which I have referred, but for many years...The government's view, of course, also arose out of an analysis of the merits of the situation in each of these particulars. It so happened that the results of this analysis coincided almost exactly in every instance with the view the Indian representatives had been expressing for years. However, the point which appears to have been missed is that the government is offering it as a view, a proposal, something upon which the consultations will now take place. The government considered that it had the duty to put forward proposals for public debate by the Indian people and by all the people of Canada...In general, the whole thrust of the paper is the offering of a policy for consultation and debate.¹¹¹

What the Government was really doing, however, was using the White Paper technique as a consciously-designed, strategic technique.¹¹² It was to be used to focus the debate on the Indian problems which the Government wanted to discuss, not those which the Indians felt were important.¹¹³

¹¹¹Hon. Jean Chrétien, (Minister of Indian Affairs and Northern Development), Debates of the House of Commons, July 11, 1969, pp. 11142-3.

¹¹²Macdonald interview, June 1971. Also interviews with members of the Minister's personal staff, July 1971.

¹¹³See Harold Cardinal, The Unjust Society, Chapter 13, "Legislative and Constitutional Treachery--The Macdonald-Chrétien Doctrine", pp. 128-139.

C. Policy Debate

The three key activities of the governmental sector in the policy debate on the White Paper--informing the public, setting up the machinery for debate, and participating in the dialogue--were rigourously pursued by the Minister and his officials. The Paper was published in three languages--English, French, and Cree--and was sent to all Indian bands and families. Members of Parliament and provincial government representatives also received copies.¹¹⁴ The Minister, in addition to holding press conferences and making radio and television appearances, began a series of meetings with Indian groups across the country.¹¹⁵ These efforts were to ensure that the White Paper proposals would be widely distributed to affected parties.

One of the reasons for the failure of previous consultation efforts had been the lack of Indian organizations that were capable to participating in the discussions in a meaningful way. What the Indians needed to organize effectively was financial assistance. This the Government was finally prepared to give.

¹¹⁴The exact number of Papers which were printed is not known. A rough estimate given by the Information Services of the Department of Indian Affairs and Northern Development placed the figure at some tens of thousands.

¹¹⁵See Debates of the House of Commons, July 11, 1969, p. 11144. For an alternative perspective of the "phenomenon of the travelling minister" see Cardinal, The Unjust Society, pp. 137-139.

On September 16, the Minister announced that the Government would make organizational and operating grants to national and provincial Indian associations.¹¹⁶ These funds would "enable them to organize their people, to hold meetings to discuss their own ideas of the future policies which would serve them best and to meet with Government and staff to make their ideas known".¹¹⁷ Funds were also provided to band councils to enable them to support these organizations on a continuing basis.¹¹⁸ As the Minister explained:

The reason for making the funds available to the band councils in future years is to ensure that associations are completely free from Government interference. We want them to take a full and independent role in the consultations which will be taking place. Support for the associations should come through the Bands and not directly from the Government.

Future support for the National Indian Brotherhood will depend on them being supported in turn by the provincial associations. In this way, we ensure that all the Indian organizations are independent. We want the money to come from the grass roots, and eventually it must, but many Indian people cannot yet afford to support the associations.¹¹⁹

¹¹⁶Department of Indian Affairs and Northern Development, Press Release, September 16, 1969, #1-6991, mimeo, pp. 1-4.

¹¹⁷Department of Indian Affairs and Northern Development, Annual Report 1969-70, (Ottawa: Queen's Printer, 1970), p. 161.

¹¹⁸Ibid., p. 163. Total funds granted during 1969 for these purposes amounted to \$718,235.

¹¹⁹Department of Indian Affairs and Northern Development, Press Release, #1-6991, p. 3.

The Minister intended that the main forum of debate with the Indians would be through the Department. To that end, he established an Indian Consultation and Negotiation Group in the Department under the direction of Dr. D.A. Munro.¹²⁰ The responsibility of this unit was to "carry out consultations and negotiations with Indian organizations and bands and provincial governments on the new policy proposals..."¹²¹ A Land Claims Commissioner was also appointed to consult with the Indians and to study and recommend acceptable procedures for the adjudication of claims.¹²²

¹²⁰Department of Indian Affairs and Northern Development, Press Release, August 27, 1969, #1-6981, mimeo. Dr. Munro was an Assistant Deputy Minister in the Department. The other members of the Group included J.W. Churchman, G.A. Yeates, C.I. Fairholm, W.D. Mills and L.C. Brown also from the Department. Other staff included G.E. Bell, M. Blanchard, W.A. Gryba, R. Moses, R.W. Nublo, C.F. Kerr, H.G. Sprott, W.J. Fox and L.G. Smith. See Debates of the House of Commons, February 25, 1970, pp. 4064-5.

¹²¹Department of Indian Affairs and Northern Development, Press Release, #1-6981, p. 2.

¹²²This position was recommended in the White Paper and Dr. L. Barber of the University of Saskatchewan was appointed. It was intended that the Commissioner would represent the Government in its dealings with the National Indian Committee on Rights and Treaties. See Debates of the House of Commons, May 1, 1969, p. 8206.

Nevertheless, the Minister and his officials found it difficult to effect a public dialogue with the Indian people. The Minister was not able to generate trust from the Indians in spite of his continued efforts to do so. Right from the outset, he insisted that:

The statement is not legislation, it is not an order from above drafted in a vacuum. It was written in response to many different things which many different Canadians--both Indian and non-Indian alike, and members of Parliament from both sides of the House--have said over the years. We will not push anything down anyone's throat. We will not abandon anyone or any problem. We will be flexible. We do want to discuss. The government believes that the proposals are the right ones. It is committed to discussing, negotiating, consulting to make them the right ones. It wants the chance to do this and it seeks the full and continuing involvement and understanding of those whose decisions will affect its chances.¹²³

However, the Indians did not react in the way intended or desired by the Minister. They were suspicious of his motives in issuing the White Paper.¹²⁴ The Minister was required to reiterate time and again that he was trying to consult in good faith. As he stated in October 1969:

¹²³Hon. Jean Chrétien, "Why An Old Indian Pattern Was Broken", Globe and Mail, Tuesday, July 8, 1969, p. 7.

¹²⁴The Indians' attitude was reflected in a statement issued by the National Indian Brotherhood the day after the White Paper was released: "It is apparent to us that while there was a show of consultation, neither the Minister nor his Department really heard and understood the Indian people...The policy was prepared unilaterally. There was no negotiation with Indian people while the Minister's office was preparing it". "Statement on the Proposed New 'Indian Policy'", National Indian Brotherhood, Press Release, June 26, 1969, mimeo, pp. 3-4.

In June, I announced the government's proposals for an Indian policy. I had hoped that a vigorous debate might start over the policy proposals put forward. The debate has appeared, but much of it is not over the proposals advanced by the government. The debate has become clouded because of misunderstandings, misinterpretation, and a lack of knowledge on the part of the Canadian public of the Indian situation...The statement is NOT a final policy decision to be implemented regardless of what anyone says...¹²⁵

What is needed now is a sensible and meaningful discussion about the steps to be taken and to separate the principal components of the problem so they can be dealt with appropriately. We want to talk. We want to have a dialogue with Indian spokesmen and we want the provinces to join in the talks...¹²⁶

Nevertheless, the communications gap between the Department and the Indians became wider. Although the Minister had spent much time during the months following the release of the White Paper visiting Indian bands and discussing problems with Indian spokesmen in his office,¹²⁷ the public debate on the White Paper never really occurred. Distrust of the Government by the Indians was so severe that, in one case, a provincial association refused to meet with the Minister and his officials for fear

¹²⁵Hon. Jean Chrétien, "The Government Policy on Indians, What is the Debate About?". A speech to the Saskatchewan Women's Liberal Federation, Regina, Saskatchewan, October 2, 1969, mimeo, p. 1.

¹²⁶Ibid., p. 4.

¹²⁷Representatives from the National Indian Brotherhood and some provincial associations were active in lobbying both the Minister and his Deputy Minister. Macdonald interview, June 1971.

"that if we met with them without being fully prepared, that even if we just talked about the weather, he would turn around and tell Parliament and the Canadian public that we accepted his White Paper."¹²⁸ The White Paper process served to provoke debate, but not in the way the Government had intended.

The Consultation and Negotiation Group was rejected as a legitimate mechanism by the Indians.¹²⁹ Instead, they chose to request a meeting with Prime Minister, the Minister of Indian Affairs and Northern Development and the Members of Parliament on the Standing Committee on Indian Affairs and Northern Development, but only after they had had sufficient time to prepare a case. This meeting was held in the railway committee room in the Parliament buildings on June 4, 1970. Over 300 Indians and chiefs were in attendance.¹³⁰

The topic of discussion at the meeting was the Alberta Indian Association's Red Paper, "Citizens Plus". The document contained a review of the Government's proposals and a set of counter-proposals developed by the Indians themselves. In essence, the Paper constituted an outright rejection of the Government's policy statement.

¹²⁸"Citizens Plus", a presentation by the Indian Chiefs of Alberta to the Rt. Hon. P.E. Trudeau, P.M., and the Government of Canada, June 1970, mimeo, preamble.

¹²⁹The group was disbanded during the summer of 1970.

¹³⁰See Ben Tierney, "Our policy on the Indians is now being discarded", Ottawa Citizen, Tuesday, June 9, 1970, p. 6.

This meeting marked the turning point for the White Paper debate. The control of the information exchange was taken out of the hands of the Government for the first time in the policy process. As Mr. Trudeau commented to the meeting:

The statement was made now and we have to look at it. You want us to be pragmatic and rational and your brief is pragmatic and rational, and it's calm and it's poised and we appreciate that. We will try to have that kind of response and the dialogue will go on. And we had our policy paper which you reject; now we have your red paper which we may reject or which we may accept and modify, or we will discuss it with you...¹³¹

Let me just say that we will be meeting again and we will be furthering the dialogue, and let me just say, we're in no hurry if you're not. You know, a hundred years has been a long time and if you don't want an answer in another year, we'll take two, three, five or ten or twenty--the time you people decide to come to grips with this problem. And we won't force any solution on you because we are not looking for any particular solution.¹³²

The Prime Minister's statement was a de facto withdrawal of the Government's proposals. In the Speech from the Throne in the fall of 1970, no mention was made of the White Paper.¹³³ Gradually, Minister and his officials withdrew the proposals from public discussion. The conclusive statement on the withdrawal of the Paper was made by the Minister in March 1971:

We cannot...deal in good faith unless the Indians are prepared to believe us. When we say we do not intend to thrust any particular solution on the Indian people, we

¹³¹"Statement by the Prime Minister at a Meeting with the Indian Association of Alberta and the National Indian Brotherhood", Ottawa, June 4, 1970, mimeo, p. 6.

¹³²Ibid., p. 7.

¹³³Debates of the House of Commons, October 8, 1970, pp. 1-3.

mean it. If we are greeted with doubting it cannot help toward a solution. Scepticism has sometimes been encouraged by some non-Indians who have taken it as their public duty to discredit my department. They have every right to criticize; but I sometimes wish they would do some self-examination instead of feeling the understandable doubts of a long misunderstood group. But I know that we will have to earn the confidence of the Indian people and to do this, actions will speak louder than words. The Government put forward its proposals for a future Indian policy a year and a half ago. These stimulated and focussed a debate and have served a necessary purpose. They are no longer a factor in the debate. The Government does not intend to force progress along the directions set out in the policy proposals of June 1969. The future direction will be that which emerged in meetings between Government and Indian representations and people.¹³⁴

The publication of the White Paper on Indian policy had been a conscious effort on the part of the Government to provoke discussion and debate on Indian problems. It had been intended that, in this way, a consensus of public opinion on the proposals could be generated which would enable the Government to inform itself of Indian problems and gain the support, if needed, to implement its proposals. The White Paper was intended to perform a 'public relations' function in the selling of a piece of controversial government policy. Largely because of the Government's inability to generate trust among the Indian people that the debate would be conducted in good faith, it became impossible for the Government to realize its objectives. In view of its commitment to 'meaningful consultation' the only realistic political alternative for the Government was the withdrawal of the proposals.

¹³⁴ Hon. J. Chrétien, "The Unfinished Tapestry--Indian Policy in Canada", A speech given at Queen's University, March 17, 1971 as one of a series of lectures sponsored by the Dunning Trust Lectures Committee. pp. 10-11

111. Conclusions

The use of the White Papers on tax reform and Indian policy was envisioned by the Trudeau Government as a means of improving communications between the government and the governed and of improving final policy decisions respecting legislation. Both Papers were the product of previous policy reviews conducted on the one hand by a royal commission and on the other hand by a departmental consultation team. Both Papers were used for strategic political purposes by the Government. They were also intended to serve as a means of engineering consent for each respective policy. To this end, the Government was not only seeking information; it was searching for a means of gaining support for its policies.

In the case of tax reform, legislation was introduced. It was based upon recommendations advocated by groups and individuals outside government circles. Although modifications were made, the Government had been able to secure a sufficient level of consensus to introduce its major recommendations in the form of legislation. With regard to Indian policy, the Government failed totally in its efforts to effect a meaningful debate and to gain the support needed to implement its policy proposals. The response received by the Government was totally negative and ultimately resulted in the withdrawal of the Paper.

The process was a new experience for the Government. It had to learn to be responsive to the debates that it had initiated. It had to learn to communicate and react to the process

that it had set in motion. The demands made on the politicians and officials alike resulted in detailed analysis and discussion within the executive-bureaucratic arena which, particularly in the case of tax reform, had seldom occurred to the same extent in the past. In sum, the impact of the White Paper process on tax reform and Indian policy on the Government sector served to publicly expose the activities of policy-makers in the policy-making process.

The next chapter will examine how Parliament was involved in the policy debates. The extent to which parliamentarians were able to respond to and participate in the White Paper process in these two areas was a critical feature of that involvement.

CHAPTER SIX

THE WHITE PAPER PROCESS AND PARLIAMENT

The concentration of power in the Executive branch has become a distinguishing feature of the Canadian parliamentary system. As a consequence, the issue of parliamentary reform in recent years has been focussed on ways of improving the institution's function of scrutiny and control of Government actions. However, because of the principles of collective ministerial responsibility for policy and of strict party discipline in Parliament, it has been difficult to devise methods whereby Parliament may perform in a meaningful way, especially in the policy-making process. As Professor Crick has commented:

The only means of Parliamentary control worth considering, and worth the House spending much of its time on are those which do not threaten the Parliamentary defeat of a government, but which help to keep it responsible to the underlying currents and the more important drifts of public opinion. All others are purely antiquarian shufflings. It is wholly legitimate for any modern government to do what it needs to guard against Parliamentary defeat; but it is not legitimate for it to hinder Parliament, particularly the Opposition from reaching the public ear as effectively as it can. Governments must govern in the expectation that they can serve out their statutory period of office, that they can plan--if they choose--at least that far ahead, but that everything they do may be exposed to the light in circumstances designed to make criticism as authorized, informed and as public as possible...Control means influence, not direct power; advice, not command; criticism, not obstruction; scrutiny, not initiation; and publicity, not secrecy. Here is a very realistic sense of Parliamentary control which does affect any government.¹

¹Bernard Crick, The Reform of Parliament, pp. 79-80.

As previously discussed, White Papers have been used by the Government of Canada as means of informing parliamentarians of existing and proposed policies. The practice of referring documents of this kind to Standing Committees of the House for discussion was adopted on a regular basis during the Pearson Administration. When the White Paper process was initiated by the first Trudeau Administration, these practices took on a new significance.

The White Paper process was intended to further the reforms introduced in the House of Commons in 1968 and 1969. By involving parliamentarians in a public debate on government policy, it was expected that their ability to scrutinize and control government action would be improved. In particular, the debates were intended to enhance the role of the Standing Committees in Parliament and of parliamentarians, especially Opposition members in the House, in the policy-making process.

The following discussion will examine how Parliament was involved in the White Paper debates on tax reform and Indian policy. The impact of that involvement on the roles played by parliamentarians in each case will also be examined.

I. The Role of Standing Committees

The referral of policy White Papers to standing committee was intended to provide an opportunity for parliamentarians to

become involved in the pre-legislative policy process of the government.² The nature of the task assigned for the participative papers marked a significant departure for the committees' work, especially that of the Commons committee. In these instances, the committees were to serve as public forums for the debate. The members of the Committees were vested with the responsibility of participating as policy actors engaged in developing alternative sets of proposals on government policy. The effect of this was to place the committees in the role of policy idea sources independent of the Government and of the public service. This was a task which parliamentary committees have not often been called upon to perform.³

²R. Van Loon and M. Whittington comment: "At the policy-formation stage, the committees again act as information gatherers but usually with respect to a specific set of policy alternatives such as those set down in a government white paper. In this case, the priority has already been set and the problem faced by the committee is to discover public attitudes to the various alternatives ... Investigatory committees, although they report back to the House of Commons, can afford to be less partisan than committees involved in the refining of government legislation. At the pre-legislative phase the government is not firmly committed to any policy and if the findings of the committee differ with the government's attitude to the problem being studied, the government can still back down without losing face." The Canadian Political System. (Toronto: McGraw-Hill, 1971), p. 478. See also Hockin, "The Advance of Standing Committees in Canada's House of Commons", pp. 185-202.

³Hockin, Ibid. pp. 201-2.

A. Tax Reform

Shortly after publication, the White Paper on tax reform was referred to the House Standing Committee on Finance, Trade and Economic Affairs⁴ and the Senate Standing Committee on Banking, Trade and Commerce.⁵ There had been an earlier motion introduced in the House that a special joint committee of the two chambers would be established to examine the proposals,⁶ but the committee never had a chance to consider the White Paper as it was not presented until the next session of Parliament. Parliamentary rules do not provide for the continuation of special joint committees from session to session.

By the time the White Paper was tabled in November 1969, the Government had reverted to its previous position of referral to a Standing Committee of the House essentially because of pressure from NDP members.⁷ This action caused some concern in the Senate about the advisability of having separate committees. As Senator Aseltine commented:

⁴ Debates of the House of Commons, November 28, 1969, p. 1370.

⁵ Debates of the Senate, November 19, 1969, p. 171.

⁶ Debates of the House of Commons, July 18, 1969, pp. 1356-1363. The members of the committee were also named at that time.

⁷ The specific reasons that the N.D.P. offered for opposing a joint committee included the party's position on the abolition of the Senate and the fact that the membership of the joint committee was to include Senators who, it was felt, had vested interests in changing the proposals. See Ibid., July 21, 1969, p. 11387.

We have in the Senate a number of Senators who are experts in tax matters and I would like to see a joint committee set up with ten of those senators as members of that committee. I think a better study would be done by a joint committee than by separate committees. There would be less danger of duplication and less difficulty in the examination of witnesses.⁸

The concern about duplication of effort was not shared by all the Honourable Senators. As Senator Roebuck remarked:

The Senate is a different type of house from the Commons. We are different in our personnel, in our origin, in our responsibilities and in the view that the nation takes of us. I would like to see our personality and our individuality maintained. Our view of this document may be vastly different from that of those who form the membership of the other house. I would much prefer that we take our own view of this matter and bring in our own report. It is much simpler to manage a committee of our own house than it is a joint committee. Our report is very much more likely to be incisive than if we dilute our thought with that of those who are not members of this chamber.⁹

Thus, for political reasons two separate committees of Parliament were charged with the task of acting as sounding boards for the public debate. It was felt that the differing views held by the members of the two respective chambers could be better reflected in committee reports if separate committees examined the proposals.

The committees' first task was to organize themselves. The House committee, however, had great difficulty in determining what to do and how best to do it. In the first instance, there was the problem of the traditional procedure and practice

⁸ Senator W.A. Aseltine, Debates of the Senate, November 19, 1969, p. 171.

⁹ Senator Roebuck, Ibid.

of House committees. As one member, Mr. Baldwin (PC-Peace River) asked: "What is the committee going to report? Is it going to report that we have examined this ninety-one page document, that the committee has looked into the whole lousy can of worms, if I may use that expression; that the members of the committee like what they see and that they have certain recommendations to make?"¹⁰

The effectiveness of a partisan Standing Committee as a forum for public dialogue and for an independent policy idea source was questionable in the eyes of the Opposition. If the traditional practice was to be followed, the Committee's work in this regard could be non-productive. Jack Horner (PC-Crowfoot) remarked:

The committees are used as tools of the government. There is no way in which this white paper will receive fair and non-partisan scrutiny by the standing committee, because as soon as two or three Government members begin to criticize the white paper they will suddenly find their names withdrawn from the membership of the committee.¹¹

A second area of Opposition concern centred on the terms of reference given to the House Committee.¹² It was felt that its terms of reference were too broad, that the committee would not be able to conduct a detailed examination

¹⁰G.W. Baldwin (PC-Peace River), Debates of the House of Commons, November 28, 1969, p. 1395.

¹¹Mr. J.H. Horner (PC-Crowfoot), Ibid., December 1, 1969, p. 1464.

¹²The original motion read: "That the White Paper entitled 'Proposals for Tax Reform', tabled in the House on November 7, 1969, be referred to the Standing Committee on Finance, Trade and Economic Affairs." Ibid., November 28, 1969, p. 1370.

of the entire White Paper proposals and hence, develop alternative proposals.¹³ To this end, the Leader of the Opposition, Mr. Stanfield, moved an amendment to the motion of referral that narrowed the terms of reference.¹⁴ The motion was ruled out of order by Mr. Speaker,¹⁵ but it did reflect the attitude of some of the Opposition members on the utility of referring the White Paper to a Standing Committee for discussion. In part, it also reflected the attitude of some of the committee members toward the task they had been called upon to perform.

As the proceedings show, the House Committee also had difficulty in organizing discussions on the White Paper. If it was to conduct an intelligent and constructive dialogue with the public sector, it had to be fully conversant with the details of the White Paper proposals. Very few of its members could have been considered 'experts' in the

¹³G.W. Baldwin (PC-Peace River), Ibid., p. 1396.

¹⁴The amendment read: "...with instructions to develop alternatives to the proposed 'disincentives' affecting middle income groups and small businesses in particular and which increase the vulnerability of Canadian enterprise to foreign take-overs". See Ibid., p. 1383.

¹⁵Debates of the House of Commons, November 28, 1969, p. 1400.

field of taxation.¹⁶ The Committee, therefore, undertook to familiarize itself with the subject matter. This was done in three ways.

First, it spent its initial meetings hearing testimony from the Minister and officials of the Department of Finance. The procedure was to ask the officials general questions about topics of interest to individual members. This was followed by an attempt to discuss the proposals on a chapter by chapter basis.¹⁷ However, it became all too clear to the Committee members that they lacked the expertise needed to make an in-depth examination of the tax proposals. Consequently, they accepted an offer from the Canadian Institute to explain the substance of the White Paper to them.¹⁸ The CICA representatives provided information to the members in the following manner:

¹⁶The regular members of the Committee included 11 Liberals, 5 Progressive Conservatives, 2 New Democrats and 2 Creditistes. The Liberal membership was composed of Gaston Clermont (Gatineau) who acted as Chairman, Alastair Gillespie (Etobicoke) who acted as Vice-Chairman, Barnett Danson (York North), Robert Kaplan (Don Valley), Pat Mahoney (Calgary South), Ray Perrault (Burnaby-Seymour), John Roberts (York-Simcoe), Jacques Trudel (Montreal-Bourassa), Ross Whicher (Bruce), Aurelin Noel (Outremont), and Fernand LeBlanc (Laurier). The Progressive Conservative members included three veteran parliamentarians, Marcel Lambert (Edmonton-West), J.H. Flemming (Carleton-Charlotte) and Robert McCleave (Halifax-East-Hants); and two newcomers, Gordon Ritchie (Dauphin) and Cliff Downey (Bathurst). The two New Democrats were Max Saltsman (Waterloo) and John Burton (Regina-East). C.A. Gauthier (Roberval) and Henri Latulippe (Compton) represented the Creditistes.

¹⁷Minutes of Proceedings and Evidence, Standing Committee on Finance, Trade and Economic Affairs, January 20, 1970, #13, p. 13:17.

¹⁸Ibid., March 3 and March 10, 1970, #25, p. 25:5.

The material which we shall be presenting is material which has been developed as part of a continuing education course by CICA...Our objective during the day will be, as far as possible, to present the facts of the white paper as we understand them. We shall steer away from making any personal views as to the merits or impacts of the proposals. The object as we understand it is to have a once-over-lightly of the white paper so that in one day the main features of the whole of the white paper can be presented.¹⁹

Finally, this instruction course was followed by a three-day teach-in at the annual conference of the Canadian Tax Foundation in March 1970. The entire Committee attended the conference for discussions and seminars on the tax proposals. By now, members felt they were prepared to make some major decisions regarding the Committee's course of action.²⁰

On April 9, 1970 it was decided that the Committee would devote its full time to the examination of the White Paper.²¹

¹⁹Ibid., March 17, 1970, #28, p. 28:6.

²⁰Some members of the Committee were highly critical of the approach the Committee had been taking in its initial months of deliberation. At one point Mr. Kaplan commented: "The procedure that we are following at the moment--with respect--contains a great element of futility. I think that the Finance Committee is at this point really lost in a wilderness. We have had excellent witnesses...However, I must, Mr. Chairman, say that I think at this rate it will be many years before we complete this discussion with them on Tuesdays and Thursdays. Obviously, we cannot permit the Finance Committee to get into that position... Mr. Chairman, the suggestion that I would like to make is that we proceed immediately to hear the members of the public who want to be heard." Ibid., April 9, 1970, #31, p. 31:62.

²¹Ibid., p. 31:4.

Secondly, it was decided that the Committee should begin hearing briefs from the public at the earliest possible date. At this time 950 notifications of intent to present briefs and over 300 letters commenting on the tax proposals had been received by the Committee from interested groups and individuals.²²

The full Committee began hearing witnesses from the public sector on April 23, 1970. Because of the large number of groups that wanted to make presentations, the Committee split into two sub-committees called 'A' and 'B' which met simultaneously throughout the months of June and July. One of the sub-committees travelled to the Western provinces for hearings, while the other heard submissions from groups in the Atlantic provinces.²³ The last briefs from the public sector were presented in Ottawa on July 31, 1970. In total, the House Committee held 146 meetings and heard 211 briefs presented by 820 individuals.²⁴ The geographic mobility of the Committee was a novel procedure which helped to create greater public awareness of the policy discussions and provide a greater opportunity for groups and individuals to participate.

²²Ibid.

²³Ibid.

²⁴Eighteenth Report of the Standing Committee on Finance, Trade and Economic Affairs, "Respecting the White Paper on Tax Reform", October 1970, p. 5.

Although the Committee had tried to accommodate all the groups who wanted to make presentations, it operated under several handicaps during the hearings. The lack of time available to the Committee and the hundreds of briefs and presentations it had to consider, created difficulty in scheduling the public hearings. Moreover, it was a delicate political task to select those briefs which would be presented before the Committee.²⁵

The normal procedure during the hearings was for witnesses to make no opening statements at all. Questioning from the members began immediately and, in most cases, the questions were directed to particular circumstances of the group present rather than from the perspective of the objectives of the tax reform measures. Often the content of the briefs was not known before a presentation was made. Furthermore, the brief question time allowed each member²⁶ and the technical complexity of tax law, which was little understood by the committee members, did not permit an effective cross-examination of most witnesses.

As previously mentioned, the Minister had promised staff assistants to the Committee. The Committee hired a group of sixteen tax lawyers, tax accountants and economists headed by a senior advisor, Ronald Robertson, a former Director of the

²⁵ Over 40 mining companies presented briefs which were similar in many respects. However, once one company had been accepted the Committee found it difficult to refuse the requests of others.

²⁶ This amounted to about twenty minutes per member. Mr. Clermont, the Committee Chairman, made every effort to apply this rule fairly rigidly.

Canadian Tax Foundation.²⁷ Because temporary staff of this sort is normally hired by the Chairman of the Committee, some members of the Opposition parties on the Committee were concerned about the impartiality of advice which they could receive from individuals engaged in this way. The staff that were selected, however, won the confidence of the Opposition members, and each party group chose a member of the staff to advise it on a confidential basis.²⁸

The role of the Committee advisors was four-fold. First, they analysed and summarized the briefs which were submitted and suggested questions which members could put to witnesses. Secondly, they prepared background papers for the use of members on certain issues of interest. Thirdly, they discussed the issues on an informal basis with members who sought advice. Finally, when the public hearings were concluded, they met for a day in camera with the Committee and gave their views on what they thought the Report should contain. These efforts greatly helped the Committee in its conduct of the hearings.

Another problem which faced the Committee was the lack of a focus for debate. Discussions at the hearings had been fragmented and wandered from topic to topic. One member of the Committee, Alastair Gillespie, attempted to overcome this problem by publicly outlining five major areas which he felt

²⁷ Minutes of Proceeding and Evidence, Standing Committee on Finance, Trade and Economic Affairs, January 15, 1970, #12, pp. 12:27 to 12:75.

²⁸ Interview, Gaston Clermont (Liberal MP-Gatineau), May 1971. See also E.S. Goldenberg, "Parliamentary Committees and Policy Formulation: A Case Study of the House of Commons Standing Committee on Finance, Trade and Economic Affairs in the Process of Tax Reform in Canada". MA Thesis, McGill University, 1971, p. 62.

merited the Committee's attention.²⁹ He also attempted to publicize those areas as a form of guidelines for individuals and groups making presentations.

Gillespie's personal interest in the role of the House Committee as a forum for debate assisted the Government in the task of educating the public about the White Paper process. As he remarked in a speech to the Petroleum Accountants Society of Western Canada: "The White Paper is a great exercise, an important exercise, in participation. I cannot emphasize too strongly how important it is that the exercise succeed... The White Paper process is a major innovation in our system of government. It takes the decision-making process out of the bureaucratic shadows of the civil service and places it in the searching daylight of public discussion."³⁰

However, beyond encouraging public participation in the White Paper process and attempting to identify general areas of interest to focus discussion, it was difficult for Committee members to play an active public role. As Committee members they were expected to be neutral and impartial but as party members their role was to support the position of their party. The exercise was particularly frustrating for the Liberal M.P's on the Committee because the White Paper was not endorsed Government policy. If a Government member approved of the proposals in the

²⁹See Minutes of Proceedings and Evidence, Standing Committee on Finance, Trade and Economic Affairs, April 9, 1970, #31, p. 31:4.

³⁰"Notes for a Speech to the Petroleum Accountants Society of Western Canada" for Alastair Gillespie, M.P., Jasper, Alberta, May 14, 1970, mimeo, p. 4.

White Paper he risked political embarrassment if the Government modified its proposals.³¹ On the other hand, party discipline prevented the Liberal members of Parliament on the Committee from criticizing the proposals.

When the Committee was ready to draft its report, a number of other problems respecting the procedure of parliamentary committees arose. The first of these centred on the role of the Committee chairman. In the past, committee chairmen have been criticized for being overly partisan with respect to reports and procedure. Although Mr. Clermont had attempted to act as an impartial chairman throughout the course of the hearings and during the drafting session, there can be little doubt that the informal briefing sessions which were held between the Government members of the Committee and the Minister of Finance had a bearing on the content of the final report.³²

The drafting of the report was conducted over a brief six week period in the late summer of 1970 by Mr. Clermont, the members of the sub-committee on Agenda and Procedure and some of the Committee's advisers.³³ There had

³¹ This was the unhappy experience of one Liberal member of the Committee, Bob Kaplan (Don Valley). He had participated in a series of public forums in his constituency at which he advocated the White Paper proposals. When modifications were announced by the Government, he suffered a loss of 'political' face.

³² Interviews, May and June 1971.

³³ Mr. Robertson, Senior Adviser to the Committee, prepared the first draft of the report and advised the steering committee responsible for the final draft.

been some concern expressed by committee members that the modifications in the proposals announced by the Government during the hearings³⁴ would hinder the committee's examination of the White Paper and the subsequent recommendations that it might make. This concern was allayed by reassurances from the Minister of Finance that the Government awaited the committee report with an open mind.³⁵

The Committee report that was tabled in the House of Commons on October 5, 1970³⁶ claimed to be an assessment of the Government's proposals based on the criticisms presented to the Committee from representatives of interested groups. As the report noted:

There is one overall conclusion your Committee and, we expect, most Canadians have reached on the subject of reform as the result of the long debate on the White Paper proposals and the debate on the federal and provincial Royal Commission reports which preceded it. It is that no tax proposal is exempt from valid criticism in a complex society with multiple objectives, and that no country has achieved a perfect tax system ... Where the Committee has not recommended adoption of the White Paper proposals, it has sought alternatives, but has not attempted to spell them out in technical detail.³⁷

However, the presentation of the report was not well received by all the Committee members. At a final drafting

³⁴Hon. Marcel Lambert, (PC-Edmonton West), Debates of the House of Commons, June 12, 1970, p. 8042.

³⁵Minutes of Proceedings and Evidence, Standing Committee on Finance, Trade and Economic Affairs, August 5, 1970, #91, p. 91:5, seq.

³⁶Mr. Gaston Clermont, (Liberal MP-Gatineau), Debates of the House of Commons, October 5, 1970, p. 8781

³⁷Eighteenth Report of the Standing Committee on Finance, Trade and Economic Affairs, "Respecting the White Paper Proposals", 1970, p. 8

meeting of the Committee, the Liberal members approved it; the Progressive Conservative members abstained and the Creditistes did not attend. Moreover, the NDP members who opposed it, issued a minority report of their own. In spite of the public hearings, which provided an opportunity for groups and individuals to be heard, the NDP members did not feel the Committee's report reflected the interests of the majority of Canadians.³⁸ Their report, in effect, constituted an NDP veto of the Government's proposals. Thus, although the Committee had been intended to provide an impartial forum for public debate, when the report was finally issued the actions of the committee members were strongly influenced by partisan considerations. The extent to which the Committee was able to act as an independent policy idea source was severely circumscribed as a result.

The proceedings of the Senate Committee were conducted more expeditiously than those of the House Committee. Because of the expertise of its members, the Senate Committee had no difficulty in conducting its hearings. It held 31 public meetings between January 28, 1970 and June 24, 1970 and received a total of 345 briefs from interested groups and individuals,

³⁸"The proposals continue a system and philosophy favourable to business--a double standard that discriminates against the other earners in this country. What makes it particularly unacceptable in a democracy is that wage, salary and pension earners represent the overwhelming majority of the people." See "Press Conference Statement on New Democratic Party Position on White Paper proposals for Tax Reform," September 1, 1970, (Max Saltzman and John Burton), mimeo, p. 1.

of which it heard 118.³⁹ Moreover, the Committee retained the services of only a limited staff comprising A.W. Gilmour, a recognized tax expert in tax accounting matters; Alan J. Irving, a former member of the legal staff of the Department of National Revenue; and Ronald R. Breton on loan from a large trust company, as executive secretary.⁴⁰ Furthermore, the proceedings of the committee hearings were conducted in business-like fashion, the issues and problems being understood at the outset by the Senators and witnesses alike.⁴¹

Nearly three-quarters of the briefs presented to the Senate Committee were also heard by the Commons Committee. However, the report of the Senate Committee presented an additional set of recommendations and comments to the House Committee report. The Senate report was drafted under the guidance of Senator Hayden, its chairman, who was an outspoken

³⁹Standing Senate Committee on Banking, Trade and Commerce, "Report on the White Paper Proposals for Tax Reform", September 1970, p. 9.

⁴⁰Ibid. It was a matter of some pride to the staff of the committee who were asked about the difference in numbers of staff assisting the respective committees. The author was told that the Senators, unlike members of the other place, knew a thing or two about the subject matter and did not large numbers of support staff.

⁴¹See Minutes of Proceedings and Evidence, the Standing Committee on Banking, Trade and Commerce, #1 to #41, January to September 1970. The Committee was chaired by Senator Salter Hayden, a former tax lawyer. The other members included Senator Lazarus Philips, Vice-Chairman, and Senators Aird, Aseltine, Beaubien, Benidickson, Blois, Burchill, Carter, Choquette, Connolly, Cook, Croll, Desruisseaux, Evertt, Gélinas, Giguère, Grosart, Haig, Hays, Hollett, Isnor, Kinely, Lang, Macnaughton, Molson, Walker, Welch, White and Willis.

and strong defender of private business interests⁴² and who was opposed to many of the White Paper proposals. Hence, the outcome of the committees' efforts were two different sources of policy initiative which contributed to the White Paper process.⁴³

According to the 'Tax Reform Synopsis' provide in the Department of Finance's information release, "Summary of 1971 Tax Reform Legislation", it was the report of the Commons Committee that carried the greater influence.⁴⁴ In many instances, however, the recommendations of the Senate report coincided with those in the House report. The Senate Committee provided an additional channel of communication for the views of interest groups who participated in the debates, but its report was not considered as closely as that of the House Committee. The Government could not have favoured the Senate's Report in any case because it would have been charged, especially from NDP members, with catering to undemocratic influences.

Although the Government made changes in its proposals that

⁴²See Senator K. Davey, "If You Think You May Have a Conflict of Interest You Have One", Weekend Magazine, Vol. 21, #39, (September 28, 1971), pp. 4-7.

⁴³The Senate Committee released its report one week before the House Committee. A press conference was held and 1500 copies of the report were distributed, free of charge, to the press and interested individuals.

⁴⁴See also "Tax Reform in Canada, A Review of White Paper Proposals for Tax Reform and House of Commons and Senate Committees' Reports", prepared by Clarkson, Gordon & Co., October 1970.

coincided with many of the recommendations of the House Committee report, as already noted, the Committee was not as independent a policy source as it appeared. This raises the question of the effectiveness of committee reform in the House. As Professor Franks has commented:

It performed a valuable service to the government by hearing criticisms of the White Paper and crystallizing them into recommendations, but the extent to which its recommendations have been adopted reflect prior understanding between Liberal committee members and government, as there were many informal discussions between them and Mr. Benson, the Minister of Finance, during the investigation. Close co-operation on the government side can weaken the interest of opposition members, only one of whom (Marcel Lambert) in fact, participated greatly in this Committee's work. The extent to which this sort of report serves the interest of Parliament rather than the government side is questionable.⁴⁵

The fact that the House Committee continued to function within the framework of traditional parliamentary practices respecting the selection of Chairmen and Vice-Chairmen from the Government side of the House and the dominance of Government support in its membership removed the possibility of its report reflecting truly non-partisan policy advice.⁴⁶ The Commons Committee members were laymen on the subject of taxation. They were required to seek advice of the Minister and his advisers in addition to the technical assistance provided by their own staff. Although

⁴⁵C.E.S. Franks, "The Dilemma of the Standing Committees of the Canadian House of Commons", Canadian Journal of Political Science, Vol. IV, #4, (December 1971), p. 470.

⁴⁶Ibid.

the experience was a new one for most of the members,⁴⁷ the final result of the Committee's work did not constitute any substantial breakthrough in the movement for greater independence for House committees.⁴⁸

In both instances, the public hearings of the Committees were not as representative of the opinion of the country as they might have been. This was due, not to Government interference, but rather to the procedures adopted by the Committees themselves. They simply responded to the requests of organized groups who desired to make presentations. No means was found to enable the unorganized and low-income people to effectively articulate their views. As will be discussed later, the extent to which the Committees were supposed to be engaged in an exercise in participatory democracy fell short of the ideal. Nevertheless, they did go farther in this respect than the House Committee which examined Indian policy as the following discussion will show.

B. Indian Policy

The role of the Standing Committee on Indian Affairs and Northern Development in the debate on Indian policy provides a curious contrast to the role of the parliamentary

⁴⁷For the first time, many of the M.P.'s were being forced into the role of 'policy-deciders'. As Bob Bryce remarked: "They're not used to the role. You can tell by the way they're squirming in the committee room". Interview, May 1970.

⁴⁸Franks, "The Dilemma of Standing Committees", pp. 471-5.

committees which considered the tax reform proposals. In the first instance, the recommendation that a special joint committee of Parliament be established to look into the Government's proposals was never put forward.⁴⁹ The Minister had promised that the White Paper would be referred to a Commons Standing Committee and this proposal was greeted with approval from the Opposition benches.⁵⁰ However, the Standing Committee on Indian Affairs and Northern Development did not become the forum for the public debate on Indian policy.

It has already been noted that the Government had established a special consultation unit in the Indian Affairs Branch shortly after the White Paper was issued to provide a mechanism for effecting dialogue with the Indians. Although this forum was rejected by the Indian people as an illegitimate and untrustworthy means for discussing the Government's proposals, the House Committee did not present a viable alternative. As a result, its Steering Committee decided not to go ahead with the proposed public hearings. The major reason for this decision was that the Indians had made no request or proposal to present

⁴⁹The previous parliamentary committee that had examined Indian affairs policy in 1961 had been a special joint committee. However, the issue was never raised in the House when the White Paper was tabled.

⁵⁰Hon. Jean Chrétien, (Minister of Indian Affairs and Northern Development), Debates of the House of Commons, June 25, 1969, p. 10582. Mr. Baldwin of the P.C.'s commented at the time: "I would hope that the matter would be referred at an early date to a standing committee of the House of Commons in order that the response of the provinces and of the Indian people involved can be known by the whole of Parliament and taken as a guide to our action in future." Ibid., p. 10583.

briefs.⁵¹ It was not so much that the Indians distrusted the Committee but rather that they were neither prepared nor organized to participate in such an exercise. Moreover, the nature of the subject matter was of limited interest to the majority of members of Parliament and, as a consequence, no pressure was brought to bear on the Government or the Committee to conduct public hearings.

During the fall and winter of 1969-70, the Committee pursued its normal activities with respect to discussions of the Annual Report of the Department.⁵² The Committee decided that it would focus on the problem of Indian education and heard witnesses representing Indian associations as well as academics and representatives of voluntary associations which supported Indian development programs. The Minister also made several appearances before the Committee during this period to outline and defend the programs administered by his Department. On some of these occasions, references were made to the Government policy proposals. For the most part, however, the Committee took a sympathetic view of the Indian's position on the Government policy. As Mr. Nesbitt, (PC-Oxford) remarked:

⁵¹This was a deliberate decision taken by the Steering Committee, the members of which saw no purpose in conducting a public debate if there were no parties to participate. Interview, Ian Watson, Chairman of the Indian Affairs and Northern Development Committee, June 1971.

⁵²These deliberations also focussed on matters other than Indian affairs for the programs relating to northern development are also reviewed by the Committee.

It seems to me that the principal thing with reference to the Minister's proposals for the future of the Indian people, which, for brevity's sake is sometimes referred to as the White Paper on Indian Affairs, that seems to annoy and aggravate the Indian people is not so much the specific terms in the White Paper, but rather the fact that the Indian people feel they have had no genuine part to play in the making of these policies. After the Minister took on this portfolio last year, he certainly made an effort, as far as I could see, to go around the country and visit the Indian people and consult with them. 'Consult' is always an interesting word; it can mean many things. However, he certainly talked with the Indian people on these matters, but at the same time the Minister was talking to them, the members of the Department were very obviously drawing up the proposals. Anyone who has had any experience around here at all knows that it takes quite a long time to draft proposals such as the ones that were presented in the White Paper last year, and certainly to the Indian people it must have been, to put it mildly, rather like the atom bomb dropping on Hiroshima when, just after the Minister had been going around visiting them and assuring them they would be consulted about any decisions, suddenly, bang, the White Paper was dropped on them. You can hardly blame the Indians for being annoyed. The Minister may well have some explanation for this, but they were busily engaged in drafting the proposals in Ottawa when the Minister was out more or less placating the Indians. It is no wonder that the Indian people sometimes refer to White people as speaking with a forked tongue.⁵³

It was not until June 1970 that the Indians were prepared to call upon the services of the House Committee to discuss the Government's proposals. At this time, a delegation of Indian Chiefs from Alberta and from the National Indian Brotherhood appeared before the Committee to discuss the Alberta association's 'Red Paper' entitled Citizens Plus

⁵³ Commentary of Mr. Nesbitt, Minutes of Proceedings and Evidence, Standing Committee on Indian Affairs and Northern Development, March 19, 1970, #9, p. 9:23.

(a counter-proposal to the Government White Paper on Indian Policy).⁵⁴ Following the presentation of the brief, Ian Watson, the Chairman, made these remarks:

As you realize, we have held off holding any hearings ourselves on the subject of the new Indian policy proposals until we started to hear reactions from our Indian people. Your reaction is the first, I would imagine, of a long number that we are going to be receiving from Indian associations across Canada. I would expect that we will be in consultation, and certainly speaking for the Committee, you will find us completely receptive to any desire on your part to start hearings on a detailed explanation of your particular presentation. You may decide, in consultation with the National Indian Brotherhood, to wait until further presentations are prepared before you ask our Committee to begin formal hearings on the whole subject of the government's proposals for a new policy. In your experience with the Committee so far, I think you will appreciate that we are ready to hear from you when you are ready to come to us. This will be a matter of working things out together and we are certainly--and I am sure I speak for all members of the Committee--ready to start hearings on your presentations and on the government's proposals...Our Committee has been studying off and on, between other pieces of legislation, the question of Indian education during the past year, and hopefully we will be coming forward with at least an interim report in the very near future. We certainly intend, as a Committee--and I know that I speak for all the members here--to keep attacking these bread and butter issues like education and jobs while the other things are being talked about.⁵⁵

Although the offer had been made by the Committee Chairman to conduct hearings on the Indians' submission, there was little in the way of organized efforts on the part of groups and associations to present briefs. Following the June 4 meeting,

⁵⁴The meeting was held in conjunction with the meeting with Messrs. Trudeau and Chrétien and other Government ministers that day.

⁵⁵Ian Watson, (Liberal-Laprairie), Minutes of Proceedings and Evidence of the Standing Committee on Indian Affairs and Northern Development, June 4, 1970, #25, p. 25:16 and 25:17.

two subsequent sessions were devoted to a discussion of presentations on teaching and research in Indian education.⁵⁶ It was difficult to initiate hearings on the Government White Paper because the Indians had flatly refused to discuss it.⁵⁷ Moreover, the Government by this time had indicated its willingness to withdraw the proposals. Thus, the Committee really had no justification for taking such action.⁵⁸

The role the Committee did play was one of providing moral support to the Indian people. In addition to its support for the Government funding of Indian associations,⁵⁹ the Committee heard testimony from a cross-section of witnesses concerned with Indian and Eskimo education ranging from Indian university students to representatives of Provincial Indian Associations and Indian Affairs Branch Officials. This testimony was supplemented by visits to Indian and Eskimo communities and by discussions with community leaders, parents, young people and students in the communities visited. Some members of the Committee accompanied the Minister and Indian leaders on a visit to New Zealand and Australia in April 1971.

⁵⁶ Minutes of Proceedings and Evidence, Standing Committee on Indian Affairs and Northern Development, #28, June 16, 1970, and # 31, June 25, 1970.

⁵⁷ Ibid., #25, June 4, 1970, pp. 25:11.

⁵⁸ Judd Buchanan, M.P., Chrétien's parliamentary secretary who sat on the Committee, indicated that his terms of reference were essentially to deal with the Northern Development issues discussed by the Committee. He tactfully stated that the Minister was not interested in public hearings being held by the Committee. Hence his role on the Committee as the Minister's representative on Indian affairs was not an extremely active one.

⁵⁹ Minutes of Proceedings and Evidence of the Standing Committee on Indian Affairs and Northern Development, #25, June 4, 1970.

The report of the Committee's study, released in June 1971, was critical of the Government's policies and programs.⁶⁰

For example, it was stated in the report that:

The policy of the Department of Indian Affairs and Northern Development to drive towards the transfer of the educational program to the provinces was encouraged by the policy paper, issued by the Government, on Indian Affairs, in June of 1969. The Committee has noted both in testimony received by the Committee and during visits to Indian and Eskimo communities a unanimity of Indian opinion that no transfer of Indian children into integrated schools or into provincial schools take place except with the consent and at the request of the majority of Indian parents in the communities concerned.

Your Committee is convinced that the education of Indian and Eskimo young people, and in particular Indian young people, has suffered from the day-to-day, year-to-year improvisation attitude of successive governments which regarded Indian education as a passing thing, soon to be handed over to the provinces.⁶¹

Moreover, the report contained a set of alternative proposals on Indian educational policy. It was strongly suggested that the federal Government avoid a total approach to Indian policy formation as reflected in the White Paper.

When the report was released, it was applauded by the National Indian Brotherhood.⁶² Chief George Manuel, National President, was reported to have said:

⁶⁰Canada, House of Commons, Votes and Proceedings, June 30, 1971, #163.

⁶¹Ibid., p. 762.

⁶²The Committee co-operated closely with the Brotherhood. For example, Watson was in daily communication with its offices prior to the release of the Report. The prior consultation was intentionally designed to strengthen and support the Brotherhood's attitude to Government policy.

This is the most important Parliamentary Report of the decade so far as Indian people are concerned. It is the first time an official source has understood what we have been trying to say for the past hundred years or more...If the Government will recognize the principle Mr. Watson has laid down--of express and clear approval of the majority--we may yet reach the day of real participation of Indian people in making the major decisions about our own lives.⁶³

In sum, the role of the parliamentary committee in the White Paper process on Indian policy was not to provide a forum for public debate. Rather than force participation on the Indian groups, the Committee chose to wait for reaction rather than create it. When it finally did submit a report on Indian education policy, it took a critical posture vis-à-vis the Government's programs in this area. Although the Government had already taken the position that the White Paper would be withdrawn, the Committee saw fit to offer an alternative set of policy proposals to Parliament on this aspect.

Thus, there are few points of comparison which can be made between the parliamentary committees which examined the tax reform proposals and the one which was responsible for Indian affairs because the latter did not play an active role as a public forum for debate. It may be said that the White Paper process served, in both instances to help educate and inform the Members. To this end, their ability to participate in discussions on the policies and on issues relating to them was enhanced. However, the reports of the respective committees, with few exceptions, reflected the limitations which continue

⁶³ National Indian Brotherhood, Press Release, Ottawa, Friday, July 2, 1971, pp. 1-2.

to affect legislative committees in a parliamentary system. The fact that the Chairmen of these committees are members of the governing party in the House or members appointed by that party and, in the case of the lower house, subject to party discipline; and that the Executive retains exclusive responsibility for policy precludes a really independent role for them similar to that which exists in the American Congressional system.

II. The Role of the Opposition

Little formal literature exists on the role and function of the Opposition in the Canadian Parliament. By definition, its function is to oppose Government activities although the form this opposition may take will vary. One writer has stated that "... it is the function of the Opposition to oppose, both in the sense of seeking out the chinks in the administrative armour and in the sense of providing a realistic, acceptable alternative to the ruling party and thus presenting to it a constant threat in Parliament and out."⁶⁴ Therefore, not only must the Opposition be critical, it must also be constructive.

Theoretically, a White Paper process should enhance the role of the Opposition in its scrutinizing and criticizing functions. A White Paper provides the Opposition not only with

⁶⁴W. Stewart, Shrug: Trudeau in Power, (Toronto: New Press, 1971), pp. 191-2.

information respecting Government policy but also provides a set of proposals respecting the Government's intentions in a particular policy area. The opportunity to criticize at a pre-legislative stage provides a means whereby the Opposition may influence or embarrass the Government before a final Bill is introduced in the House. Moreover, a White Paper serves as a means of testing public opinion. In view of the fact that members of Parliament represent constituency interests as well as public interests,⁶⁵ their participation in a White Paper debate enhances their representative role in Parliament. The extent to which the White Paper process served to strengthen the role of the Opposition in Parliament was dependent upon the response that was made to the White Paper debates. In the case of tax reform that response was widespread; with respect to Indian affairs, the Opposition played a minimal role.

A. Tax Reform

When the proposals were tabled in the House, the Government allowed a three week period to pass before a two day debate on the motion for referral to committee was scheduled.

⁶⁵J.A. Corry and J.E. Hodgetts, Democratic Government and Politics, 3rd ed., (Toronto: University of Toronto Press, 1962), On page 154 the comment is made: "(His Majesty's Loyal Opposition) is loyal to the permanent common interests and fundamental aspirations of the people while opposed to the audacity of a temporary parliamentary majority."

This was done to allow Members of Parliament to read the Paper and become familiar with the intent and implications of the proposals. By the time the two day debate was held, the members who spoke on the topic were familiar with the main details of the proposals.⁶⁶ As previously noted, the Government had also prepared information for M.P. study sessions, but this was initially turned down.

During the referral debate, one of the Government members outlined what he hoped would be a non-partisan participative role for all members of the House in the debate. Mr. Jerome, (Liberal MP-Sudbury) stated that:

The fact we have now progressed to a stage at which we are able to adopt a white paper approach, and table in this House complete background information outlining in detail the policy of the government on taxation matters, is something which I profoundly welcome. This gives the nation an opportunity to react, an opportunity to understand the background and to express its views, an opportunity to discuss the measures proposed and apply them to their own way of life, to their own spheres of activity, to their own line of work or class of business. This in turn enables them to take part in our democratic and representative way of governing by voicing their reactions. In line with the rule changes recently made in this chamber and the increased responsibilities given to our standing committees, a full discussion and detailed examination of this document will therefore take place. All members of the chamber will have an opportunity to question those responsible for this white paper, to examine the government officials involved and more importantly, to bring to the floor of the Standing

⁶⁶ See Debates of the House of Commons, November 28th and 29th, 1969.

Committee the views of their constituents as to the wisdom or otherwise of every page and paragraph, every proposal and provision contained in this White Paper on taxation policy.⁶⁷

He went on to urge that all members participate in the debate on a non-partisan basis:

I suggest we face not one but two challenges. First of all, by being responsible members of this House, we have to assist each individual citizen to react to this White Paper. In addition to that, through our work on standing committees and in our contributions to this debate, both before and after the subject is studied in the Standing Committee, we must see to it that this chamber possesses the capacity to evaluate public reaction and apply it to government policy. If we are successful, then in the final analysis, when these proposals are implemented in a year or 14 months from now, we will be able to say with pride that it has resulted from good democratic representative government in Canada today.⁶⁸

However, the Opposition did not perceive its role in the White Paper process on tax reform to be a non-partisan one. In addition to the many criticisms raised in the House, the leader of the Opposition launched a national campaign against the White Paper proposals. This campaign began in earnest in February 1970, following a Conservative conference at which it had been decided that the next election would be fought on the federal government's proposals for tax reform.⁶⁹ A

⁶⁷Mr. J.A. Jerome (Liberal MP-Sudbury), Debates of the House of Commons, December 1, 1969, pp. 1462-3

⁶⁸Ibid., p. 1463

⁶⁹N. Hills, "Canadians can't afford Benson's tax--Stanfield". The Ottawa Citizen, Tuesday, February 17, 1970 p. 11.

set of counter-proposals with respect to some of the White Paper recommendations were put forward at that time.

Mr. Stanfield then undertook a series of speaking engagements across Canada. As one newspaper reported in June 1970:

He has spoken in 26 cities and has entered 120 federal constituencies (a shade under half of the total of 246). Of these, 100 are ridings now held by the Liberals and New Democrats. The Conservative leader has given scores of press conferences, been interviewed on radio and television about as frequently and--apart from the large formal meetings at which he has spoken on the white paper on taxation--has met with special interest groups in B.C., Alberta, Manitoba, Ontario, Quebec and Nova Scotia. He has spoken in every province. Meanwhile, he and a busy staff have answered some 5,800 letters concerned with the tax reform issue.⁷⁰

The Opposition leader, in his campaign, took the position that the Government's proposals should be withdrawn.⁷¹ Although he was willing to concede that some proposals were worthwhile, he did not feel that the implementation of the package would work.⁷² Mr. Stanfield stated publicly that he felt the

⁷⁰"Stanfield's crusade against tax plans", The Ottawa Citizen, Saturday, June 13, 1970, p.6.

⁷¹Report on Business Section of the Toronto Globe and Mail, Wednesday, March 18, 1970, p. B2

⁷²"Stanfield's proposals for Tax reform", The Globe and Mail, Saturday, May 2, 1970, p. 7.

Conservative campaign against the Paper had been influential in changing the Government's policy. He was reported to have said that, "The Cabinet is now squirming more and more uncomfortably in a net of its own making... We, as the official Opposition, should be proud of the part we played in drawing it tighter."⁷³

In terms of the public debate, Mr. Stanfield's role as an Opposition critic culminated in August 1970 when he attended a meeting of the Standing Committee on Finance, Trade and Economic Affairs and questioned Mr. Benson who was appearing as a witness on the White Paper proposals. As the Leader of the Opposition stated:

I came here this morning hoping that the Minister of Finance would make a statement with respect to the modifications in the government's proposals as set forth in the White Paper--modifications that the government has come to accept following many months of discussion--and I think it would be helpful to the Committee as well as to the people of this country to know what still represents government proposals and what no longer does.⁷⁴

Mr. Stanfield questioned the Minister on a wide range of topics relating to the proposals and tried to get Mr. Benson to declare the Government's position on the policy. The latter

⁷³"Stanfield says drive against tax paper succeeding", Ottawa Citizen, Thursday, June 25, 1970, p. 31

⁷⁴Minutes of Proceedings and Evidence, Standing Committee on Finance, Trade and Economic Affairs, August 5, 1970, #91, p. 91:9

declined stating that this would not be done until the reports of the respective parliamentary committees were received.⁷⁵

The activities of back-bench Conservatives in the policy debate also formed part of Stanfield's anti-White Paper campaign. The Conservative's tax critic, Marcel Lambert, who served on the Standing Committee was perhaps the most active of these. Often members not assigned to the Committee attended its hearing and occasionally asked questions of the witnesses.

The NDP, on the other hand, had to pursue a different strategy with respect to its role in the debate. Mr. Lewis, who led the opposition attack for the NDP, was critical of the proposals because they did not go far enough. In the initial phases of the public debate, the NDP's criticisms were directed against the White Paper. As Mr. Lewis stated in the House of Commons:

This White Paper reflects a determination by the government to do nothing to reduce either the competition or the power of the rich and powerful. It reflects a reactionary attitude toward modern society in that the government is not concerned at all with equality in the condition of life of the Canadian people. The government would seem to be concerned only with making sure that their friends, if they are a little angry, are not angry enough to stop giving the support which they require in order to continue in power.⁷⁶

⁷⁵ Ibid., p. 91:14

⁷⁶ Mr. Lewis (NDP-York South), Debates of the House of Commons, November 28, 1969. p. 1389.

However, the NDP was required to launch counter-attacks on the P.C.'s campaign for withdrawal of the White Paper.⁷⁷ In spite of their opposition to the tax proposals, they could not risk losing out on some progressive reform. A study paper distributed by the NDP in March 1970 stated the case on the White Paper in this way:

Canadians should not be fooled by the present furor from the right over the Government's White Paper on Tax Reform. Any close examination of the Government's taxation proposals clearly shows that they continue to preserve the favoured treatment of Canada's privileged groups. The New Democratic Party will not be taken in by the noisy lobby for big business and industry pleading for continued freeloading in the tax system. We will not stop presenting the case for the low and middle income Canadians.⁷⁸

Thus, the Opposition's role in the debate centred on the political issues in the White Paper. Although it had been intended that the White Paper debate would be conducted, for the most part, before the parliamentary committees, the controversial nature of the proposals shifted part of the debate to the activities of private individuals and groups who were loudly protesting the Government's policy. The Opposition members had to react to this. The Conservatives saw it as a means of gaining political support by urging withdrawal of the proposals. The NDP, on the other hand, were critical of the Government's proposals but did not want to see the Paper withdrawn. By and large, the Opposition's political view was

⁷⁷"Rearguard action--NDP move to save tax reform White Paper", Ottawa Citizen, Thursday, March 19, 1970, p. 25.

⁷⁸T.C. Douglas, M.P., "The White Paper on Tax Reform", March 10, 1970, mimeo, p. 1.

that the tax proposals were geared to the next election.⁷⁹ The party leaders in the House responded accordingly.

One of the effects of the White Paper process was to provide a further gauge of public and constituency opinion to members of Parliament. The offices of the members were subject to an inflow of mail and inquiries. Workers in the NDP leader's office compiled a kit consisting of three form letters which were sent out to more than 1500 addresses. Many pressure groups sent their briefs to back-bench M.P.'s. At constituency meetings, members were required to make speeches on the proposals. The NDP held public caucus meetings across Canada to allow groups to present their views.⁸⁰

In sum, the effect of the White Paper process on the Opposition was two-fold. In the first instance, the debate on the White Paper was like a mini-election campaign. Each party took sides and attempted to build support for their position on the policy proposals. Each acted as the spokesman for particular interests involved in the debate. Secondly, the White Paper process created a high level of public awareness and interest which, in large part, followed from the activities and actions of the Opposition parties. Each party's position was publicized and explained in all parts of the country.

Thus, it would appear that the effect of the debate on the Opposition produced both constructive and obstructive results.

⁷⁹Interview, Office of the Leader of the NDP, May 1970.

⁸⁰"Cross-Canada caucuses by New Democratic MPs will hear of problems", The Ottawa Citizen, Thursday, May 28, 1970, p. 24.

The White Paper symbolized a potential election issue and the public statements made by members of the Opposition parties were more partisan than they were objective. Although counter-proposals were eventually developed by the Progressive Conservatives and the New Democrats, they did not receive the same kind of publicity that was given to the derogatory statements made by the Opposition politicians in the House and in the constituencies. The 'political' value of the White Paper was the over-riding influence on the Opposition's participation in the debate. In the case of Indian policy, to be discussed below, this element was, for the most part, missing and hence the Opposition reacted much differently to the policy statement on Indian affairs than it had with respect to tax reform.

B. . . Indian Policy

The initial reaction of the Opposition parties to the Government's statement on Indian policy was a favourable one. Representative spokesmen from all parties applauded the Government's proposals when they were tabled in the House. The Minister had given prior notice to all members that a policy statement would be made and sent copies of the document to them before it was introduced in the House. The members were thus in a better position to comment intelligently on the Paper.

Each party claimed that the Government's proposals were really a reflection of what had been said by the Indian people for many years hence. As Mr. Baldwin of the Progressive Conservatives remarked:

We welcome the statement by the Minister. It amounts to an acceptance of many proposals made by the Indian people through the years, and made by those who have worked on their behalf, in this party and elsewhere. As the Minister made clear, it is only a statement of position and to a degree a statement of a bargaining position. There are a lot of 'ifs' and a lot of implications. I am not offering carping criticism about this, Mr. Speaker, because the extent to which this will be successful will depend on the full understanding and knowledge of the problems which lie ahead that must be overcome.⁸¹

Mr. Baldwin went even further in his support of the Government's proposed program. He indicated that his party was willing to accept the sincerity of the Government in its attempt to help the Indian people, and "we are prepared to help the government achieve the general goals which are outlined."⁸² His position, initially at least, was that of a co-operative, rather than a critical, Opposition spokesman.

Similarly, the New Democrats endorsed the Government's White Paper. Their chief critic on Indian affairs, Frank Howard, expressed his approval in this way:

For years we have advocated the necessity of discussion, conversation and consultation with the Indian people. We hope this will now be acted upon. The Minister talked about transferring certain of the activities of his department to the provinces so that services provided by provincial governments will be available to Indian people on the same basis as they are available to other people in Canada. This follows the concept of equality of treatment within the law which we have been advocating for a long period of time.⁸³

⁸¹G.W. Baldwin (PC-Peace River), Debates of the House of Commons, Wednesday, June 25, 1969, p. 10583.

⁸²Ibid.

⁸³Mr. Frank Howard (NDP-Skeena), Debates of the House of Commons, Wednesday, June 25, 1969, p. 10584.

However, this co-operative attitude on the part of the Opposition parties did not last long. Once it became apparent that Indian groups were not prepared to accept the Government's proposals, the Opposition quickly made the issue a partisan one. A few weeks following the release of the Paper, Frank Howard introduced a motion of adjournment under Standing Order 26 in an attempt to hold an emergency debate on the matter. His request included the following:

Mr. Speaker, I rise to ask leave, seconded by the honourable member for Winnipeg North Centre (Mr. Knowles) to move the adjournment of the house under Standing Order 26 for the purpose of discussing a specific and important matter requiring urgent consideration, namely the failure of the government to have consulted the native Indian people in Canada in the development of its policy statement on Indian affairs presented to this house on June 25, the almost universal rejection of this policy statement by Indian people, the growing discontent among Indian people over the manner in which the government has treated them both with respect to the policy statement and in general terms, the refusal of the government so far to indicate it is prepared to enshrine in the constitution those aboriginal and hereditary rights arising out of the treaties, and the similar rights relating to land, resources and the like in areas where no treaties exist, the general refusal of the government to enter into meaningful discussions with the native people of Canada over such rights and inheritance and the attendant possible turbulence, and fury which may follow from the aforementioned.⁸⁴

Opposition reaction was in direct response to the Indian's attitude to the Government proposals. Acting as a spokesman for the Indian people, Frank Howard reversed his earlier position in supporting the Paper.⁸⁵ He was critical of the lack of consultation with the Indians on the drafting of the document and

⁸⁴Ibid., July 10, 1969, p. 11057

⁸⁵Ibid., July 11, 1969, p. 11123

outlined four major areas where Indian views were not reflected in the Paper.⁸⁶ Other Opposition members made the same kinds of criticisms. What had previously been acclaimed as a 'step in the right direction' now became a serious misdemeanor on the part of the Government.

The extent to which this shift in position was made on the prompting of Indian leaders was indicated by Walter Dinsdale (PC- Brandon-Souris). He claimed he had been "bombarded by telegrams, briefs and personal letters from Indians in every part of this country, and obviously, their reaction was the same as mine."⁸⁷ Dinsdale cited excerpts from the telegrams to indicate the degree of opposition which existed among the Indian leaders in Canada.⁸⁸

Opposition criticism continued in the House during the next session of Parliament. Essentially it took the form of questions and motions for papers. Unlike the White Paper process on tax reform, none of the Opposition parties launched a national campaign calling for the withdrawal of the Indian policy statement. Rather, they chose to closely scrutinize the Government's activities in the areas of consultation with Indian groups and of provision of financial aid to Indian associations. The Opposition preferred to let the Indians fight their own battle with the Government. It was felt that the Indians were the only ones in a position to offer counter-proposals or informed comment on the Government's

⁸⁶Ibid.

⁸⁷Hon. W.G. Dinsdale (PC-Brandon-Souris), Ibid., July 11, 1969, p. 1137.

⁸⁸Ibid., pp. 11138-9.

policy. The Opposition, like the Standing Committee, perceived its role to be that of providing support to the Indians' efforts in the debate. In this sense, for those Members of Parliament who were interested in the policy, their representative role was enhanced, but their policy-making role was not.

In the White Paper process on taxation, the Opposition had joined forces with groups representing public opinion against the White Paper. Thus, the Opposition's involvement in the public debate was essentially extra-parliamentary. The debate was focussed on a political issue that affected a majority of Canadians. The Opposition's involvement in the White Paper debate on Indian policy was more limited. The political gains to be made by the Opposition were not as substantial as was the case with respect to taxation. Moreover, it was the unofficial policy of the parties to assist the Indian people in their fight for equality, but not to prescribe solutions for them. Thus, the Opposition's role in this latter debate did not go much beyond the normal function of criticizing Government policy.

III. Conclusions.

The White Paper process had been conceived of as one means of furthering the reform of Parliament. It was to help parliamentarians to scrutinize and control executive action by becoming involved in the policy-making process at a pre-legislative stage. On the basis of the experiences respecting tax reform and Indian policy it may be said that this objective was only partially achieved.

In the case of tax reform, two parliamentary committees were used as forums for the public debate of the proposals.

Although the views presented to the committees did not represent those of all groups in society and although the House committee operated under some serious procedural difficulties, a high level of public awareness about tax reform was created. Committee members and parliamentarians alike were provided the opportunity to become reasonably knowledgeable about the policy intentions of the Government and, hence, discuss them in an informed way. Furthermore, the Committees' reports, however partisan, were seriously considered by the Government before it drafted its final legislation.

Although the Standing Committee on Indian Affairs and Northern Development did not act as a public forum for debate on the Indian policy statement, it too helped to create some public awareness of the policy. As evidenced by its report on Indian education, this committee was more outspoken in its criticism of the Indian policy statement than was the House committee examining tax reform. But then, it could afford to be. The issue was not of the same political concern to the Government.⁸⁹ Moreover, the Committee's report was really directed at helping the Indians in building support for policy changes rather than anticipating Government action on it.

The greatest limitation on the committees, however, was simply the inability of parliamentary committees to act independently and objectively in a parliamentary system. As Mr. Gordon Robertson, a senior official in the Privy Council Office has remarked:

⁸⁹ See Bruce Thordarson, Trudeau and Foreign Policy, p. 96

A central feature of our system is the responsibility of the Cabinet, with its collective neck on the block for the entire program of public policy and public legislation at the federal level. Committees tend to take on a life of their own, and it is not always easy to reconcile their increased use with Cabinet control. Parliamentary committees cannot have the free-wheeling autonomy of congressional committees in the United States without affecting the central doctrine of Cabinet responsibility.⁹⁰

Similarly, the role of the Opposition in the policy debates was affected by the parliamentary principles of Cabinet responsibility and party discipline. Although the White Paper process was envisaged as a means of involving parliamentarians in an objective debate of the Government's proposals, in both instances discussed above, the Opposition used the process for partisan purposes. The White Papers provided political ammunition for the Opposition. This strategy was pursued more vigorously with respect to the tax proposals than to the Indian policy, but it was also used in the latter case. Finally, the extent to which these debates provided Parliament with a meaningful gauge of public opinion on which it could base its decisions was a direct function of the numbers and kinds of groups which participated in the process.

Let us now turn to an examination of public participation in the White Paper process on tax reform and Indian policy.

⁹⁰ R.G. Robertson, "The Canadian Parliament and Cabinet in the Face of Modern Demands," Canadian Public Administration, Vol. II. (Fall: 1968), p. 276.

CHAPTER SEVEN
THE WHITE PAPER PROCESS AND
PUBLIC PARTICIPATION

Like the term democracy, there is no generally accepted definition of participatory democracy. The phrase has been used in many different ways to mean many different things. It would seem that participatory democracy, however defined, is concerned with enhancing the citizen's role in the political process by reversing the trend toward concentration of political authority in the hands of elected representatives and appointed experts.¹ In terms of public policy-making, a process of participatory democracy would require the involvement of citizens between elections in the activities of government. However, the practical form of a participative process could include a number of variations of such involvement.

According to Prime Minister Trudeau, individuals would be given an opportunity to participate in order that they would feel a sense of involvement in the policy-making process. It was not intended that participation would mean that the public

¹T.E. Cook and P.M. Morgan, Participatory Democracy, (New York: Canfield Press, 1971), p. 4.

would actually make decisions. That was the Government's responsibility.²

The alternate view that a process of participatory democracy involves authoritative decision-making at the 'grass roots' level was never advocated by the Trudeau Administration. This approach, as it has been advocated by some groups, may be viewed as:

...democracy of direct action in which the concerned activists could intervene directly in political processes, and affect their outcome without the intervention of an electorate and the machinery of representative democracy. The direct actions of a 'participatory democracy' would be set up parallel to the institutions of representative democracy which they would then supersede.³

²The Prime Minister made this point quite clear in a number of public speeches. On one of those occasions he expressed his view in this way: 'Well, I'm telling you and this I repeat is a very thoughtful question, that I don't believe in the tendency which is becoming prevalent in some groups, to believe that the decisions should be taken in the streets and that participation means more than just participation. It doesn't mean that those who participate must necessarily be those who decide. In other words, participatory democracy means that you all have a chance to have your ideas known by those who govern you. But it doesn't mean that they must also decide the way you think they should, because obviously we can't decide the way everyone thinks, because there's too many various opinions. So you participate, the government decides, then you judge it at election time. And I think this is the solution, the answer to your question.' Transcript of Prime Minister's Response to Student Question and Answer Session at Pickering High School, Pickering, Ontario, September 10, 1971, p. 11. See also Transcript of Prime Minister's Remarks at Port Hope Town Meeting replying to a brief by Mrs. Shirley Johnston of Grafton, Ontario, September 10, 1971, p. 1.

³L.S. Feuer, The Conflict of Generations, (New York: Basic Books, 1969), p. 408.

There are only a few recent examples of such participative activities in the Canadian political system. The activities of citizens' groups at the level of local government⁴ and, to some extent, Indian associations, to be discussed below, have provided examples where 'pure' participative democratic principles have been operationalized.

Public participation between elections in the policy-making process of the government has normally been engaged in by established interest groups. By using a White Paper process, the Government intended that participation and involvement would also come from other groups and individuals. In the case of tax reform, the policy affected a wide sector of the public. It could be expected that there would be large numbers of participants. On the other hand, the proposals on Indian policy directly affected only a small minority clientele who, initially, were poorly organized and lacked capable leaders.

This chapter will examine how various groups and individuals were involved in the White Paper debates. It will examine the types of groups which participated and the channels of communication used by them to articulate their views. The impact of that involvement on the process of policy-making will also be discussed.

⁴Art Stinson, "Citizen Participation: Community Building in a Time of Urban Crisis". A paper prepared for the International Union of Local Authorities, Zagreb, Yugoslavia, October, 1971, mimeo.

I. The Involvement of Interested Groups and Individuals in The White Paper Process

The function of 'interest groups' whether a large association or a small number of individuals, in the policy-making process is essentially one of influencing the behavior of governmental decision-makers.⁵ Group pressures are brought to bear on the Government through a variety of strategies and tactics which come under the general heading of 'lobbying'. The actual methods of influence employed by these groups may vary in relation to the objective to be achieved and the particular policy-making process in question. Moreover, interest groups, in the process of attempting to influence political decision-makers can, and do, provide large amounts of information and intelligence needed by governmental officials. These groups play an important function in effecting two-way communications between the Government and the public sector which they represent. It is extremely important, therefore, that as many groups and individuals representing as many different interests in society as possible be involved in this process.

⁵See G. Almond, "Interest Groups and the Political Process", in R.C. Macridis and B.E. Brown, Comparative Politics, (Homewood, Ill.: Dorsey Press, 1964), pp. 132-3, where he states: "Interest groups articulate political demands in the society, seek support for these demands among other groups by advocacy and bargaining and attempt to transform these demands into authoritative public policy by influencing the choice of political personnel and the various processes of public policy making and enforcement."

A. Tax Reform

The interested groups and individuals that participated in the public debate on tax reform can be divided into three categories: the 'objectivists', who were interested in discussing the feasibility of the proposals in non-partisan terms; the 'opposers', who wanted changes made in proposals which affected their special interests; and the 'supporters', who were in favour of the implementation of the proposals. Each of these categories included established and newly-formed groups which were interested in tax reform policy. The main arena for their activities was the parliamentary committees to which hundreds of briefs were submitted and heard, although other sites also provided forums for debate and discussion. In addition, there was a small group of individuals who played a participative role in a variety of novel ways. Because of the unique nature of their activities, they will be discussed separately.

In the first instance, participation by many 'objectivist' groups had been part of an on-going process which had started with the public hearings of the Royal Commission on Taxation. One could claim that many of these groups served as 'consulting firms' to the Government on an almost continuous basis from the time the Royal Commission study was undertaken until the final legislation was introduced in the House of Commons. The

research done and the briefs prepared by many of these associations helped to supplement the work of departmental officials. Certainly this was the major role played by one of these associations, the Canadian Tax Foundation.

The Foundation was established in 1945 by the Canadian Bar Association and the Canadian Institute of Chartered Accountants as an independent tax research organization. The purpose of the Foundation, as stated in its journal:

...is to provide both the tax-paying public and the governments of Canada with the benefit of expert, impartial research into current problems of taxation and government finance. This work is carried on by a well-qualified permanent staff and by outside experts commissioned for special studies. Stated briefly, the main aim and purpose of the Foundation is the establishment of the best possible tax system--that is, a system that is as fair and equitable as possible, and that fosters the growth and productivity of the country.⁶

Lobbying is not the Foundation's chief purpose, rather, it serves other interest group functions, especially those of articulating opinions and providing information.

The Foundation devoted two of its annual conferences to a discussion and review of the recommendations of the Carter Report. When the White Paper was issued, it too was discussed at one of the Foundation's annual conferences.⁷ The position

⁶Canadian Tax Journal, Vol. XVIII, No. 4, (July-August 1970), coverpiece.

⁷Report of Proceedings of the 22nd Tax Conference on the "White Paper Proposals for Tax Reform", (Toronto: Canadian Tax Foundation, 1970).

of the Foundation with respect to the proposals was a neutral one. As the Chairman of the 1970 Conference explained:

The other Governors and myself are continually being asked what the position of the Foundation is in relation to the White Paper recommendations and when we are going to put in a brief to one or other of the Parliamentary Committees. The answer is, of course, that it is impossible for the Foundation to establish a position which would represent the views of all its members and that few, if any, recommendations could be put forward which would not raise objections in some area of our membership. What we can and do achieve is the organization of our tax conferences. These provide a forum for discussion and an opportunity for government observers to listen to discussion at a very high level. I do not think there is any need to be modest about the professional and intellectual capacity of our members. We are here because we are intelligent professional and business men interested in taxation. Our speakers include the best informed minds in this field. We are qualified, as a group, to provide a thoroughly intelligent discussion and review of the proposals.⁸

The Conference served as a forum for debate between politicians, government officials and private businessmen. As previously mentioned, the members of the House Standing Committee on Finance, Trade and Economic Affairs as well as the Minister of Finance and his senior advisers attended and participated in the meetings. The registration list for the Conference included 1,325 names.⁹ It was, perhaps, the largest public forum of its kind held during the White Paper debate. Individuals representing every conceivable legal and accounting firm across Canada were in attendance in addition to representatives from

⁸"Address of Welcome by Mr. Dale-Harris", Ibid., p. 2

⁹Ibid., pp. 431-458.

such companies as General Motors of Canada, International Nickel and Bell Canada. Representatives from academic circles and from other governments were also present.

The membership of the Foundation increased rapidly during the period of the debate. Every edition of the journal published during this period contained articles commenting on the proposals. In this way, an important educational and informational service was provided to its members.

In addition to these functions, the Foundation also served as a recruiting agency for the Government. It has already been noted that J.R. Brown, Senior Policy Adviser to the Minister of Finance was selected from a list of names submitted by the Foundation to the Minister. Moreover, the staff hired by the parliamentary committees which examined the White Paper proposals included Ronald Robertson, a former Director of the Foundation. Other staff who were employed on a temporary basis by the Departments of Finance and National Revenue to conduct special studies and to prepare reports were hired through the Foundation.¹⁰ The support function provided by the Foundation during the White Paper debate was very significant. The inter-locking membership between the governmental and business sectors allowed the Foundation to act as an important channel of communication in the policy-making process.

¹⁰Debates of the House of Commons, October 22, 1969, p. 11690.

The Institute of Chartered Accountants provided similar services, at its own expense, by preparing a Continuing Education Course on the White Paper for its members. In addition to presenting the course to the members of the House Committee, the Institute also presented a brief outlining its views on the tax reform proposals before the Committee. Its position, however, was a 'neutral' one. It was explained in the brief that:

The Canadian Institute of Chartered Accountants' interest in improvement and reform of the Canadian tax structure is sufficiently well-known so as to require little implication. It is exemplified by its having maintained a Standing Committee on Taxation for over 20 years. One of the Committee's main functions is a regular examination of taxation legislation and its administration together with an annual review of tax changes. It has, either on its own or in conjunction with the Taxation Section of the Canadian Bar Association, made regular representations to successive Ministers of Finance and National Revenue in that connection. These submissions have also dealt with policy, loopholes, anomalies and other problems in our tax laws and made recommendations for the improvement of our tax system...We do not have the resources comparable to those of the Government to examine and evaluate the economic and revenue effects of tax changes, but we believe our professional experience has particularly equipped us to appreciate the merits of many of the proposals and to foresee the difficulties and problems inherent in others. It is in this area of practical application of taxation legislation that our profession is able to make the greatest contribution, in the interests of both the taxpayer and the tax administrator.¹¹

¹¹"Submission by the Canadian Institute of Chartered Accountants to the House Standing Committee on Finance, Trade and Economic Affairs", Minutes of Proceedings and Evidence, June 1, 1970, #49, pp. 49:98-9.

Many independent firms prepared data and analyses which were forwarded to the Department of Finance.¹² The Institute of Quantitative Analysis at the University of Toronto was commissioned to do a series of six studies on various aspects of the White Paper proposals. Moreover, a host of seminars, study sessions and panel discussions were sponsored by associations such as the Tax Foundation and the Institute of Chartered Accountants for their members.

The activities of these groups contributed to the White Paper debate in a number of ways. In the first instance, they served an informational function, not only in promulgating the Government's proposals, but also in providing informed commentary and criticism. Secondly, they provided assistance to the Government by acting as extra-bureaucratic research organizations. It is doubtful that, without the assistance of these groups, the Government could have conducted the elaborate analysis of the proposals that it did.

The majority of groups and organizations that participated in the White Paper debate, however, were business, corporate and industrial associations promoting special interests. The main centres of their activities were the parliamentary committee hearings. The degree of this kind of public participation was unprecedented.

¹²For example, the firm of Clarkson, Gordon and Co. prepared two documents for its clients and staff. One, "Tax Reform in Canada", compared the White Paper proposals with the recommendations of the House and Senate Standing Committees' reports. The information later appeared in the form of a free publication issued from the Information Office of the Department of Finance.

During the public hearings of the Royal Commission on Taxation, 217 submissions from companies and organizations and 85 commentaries from individuals had been presented.¹³ During the public hearings on the White Paper, the number of presentations to the committees far surpassed that of the Royal Commission hearings. For example, three different kinds of submissions were made to the House Committee. These included: 224 briefs presented by representatives of companies and associations;¹⁴ 292 briefs submitted to the Committee in written form by companies and individuals;¹⁵ and 1,077 letters of recommendations and comments sent to the Committee from individuals.¹⁶ The Senate Committee heard 118 briefs presented by representatives of companies and associations¹⁷ and received 225 briefs which were not presented.¹⁸

¹³Report of the Royal Commission on Taxation, 1966, Vol. I, "Appendix A", pp. 121-130.

¹⁴Eighteenth Report of the Standing Committee on Finance, Trade and Economic Affairs, "Respecting the White Paper on Tax Reform", October 1970, Appendix "A", pp. 99-107.

¹⁵Ibid., Appendix "B", pp. 108-112.

¹⁶Ibid., Appendix "C", pp. 113-127.

¹⁷The Standing Senate Committee on Banking, Trade and Commerce, "Report on the White Paper Proposals for Tax Reform", September 1970, Schedule "A", pp. 83-85. Of the 118, 78 presentations were the same as the ones presented to the House Committee.

¹⁸Ibid., Schedule "B", pp. 86-90.

In spite of the large number of participants, the general thrust of most presentations was to oppose those proposals which affected special interests. As a result, a great deal of repetition occurred in the presentations. For example, an excerpt from one of the steel companies' briefs typifies the approach that was taken:

We--Algoma, Dofasco and Stelco--are directly concerned about the proposals made in the White Paper on Taxation to reduce drastically the mining incentives as they affect iron ore. Quite naturally, we also have a more general interest in the White Paper since it advocates major changes in the whole tax system which would affect the Canadian steel industry as it would many other businesses and groups. At this time, however, we wish to draw your urgent attention to the probably consequences for the Canadian steel industry of the proposed sharp curtailment of the mining incentives. There is no doubt that the changes in the mining incentives set out in the White Paper would have a major negative effect on iron ore mining in Canada. Nor is there any question that, through their impact on the costs and earnings of the steel companies, the proposed changes in the mining incentives would significantly weaken the competitive position of the Canadian steel industry and inhibit its expansion in future years. Such developments would lessen the contribution this basic industry could otherwise make to a stronger Canadian industrial structure in a period of Canada's economic history when industrial strength should have a very high priority. No government studies of the impact of the proposed changes in the mining incentives on iron ore mining or on the Canadian steel industry have been made available. It is, therefore, not clear whether the unfavourable economic consequences which would flow from these changes were foreseen by the authors of the White Paper and regarded by them as an acceptable price to pay. We frankly doubt whether

the probable consequences were in fact anticipated, since it is difficult indeed to imagine them as being acceptable.¹⁹

Brief after brief presented by representatives of some forty mining and petroleum companies reiterated the opinion that the Canadian economy would suffer if mining incentives were discontinued. The threat of economic depression was used as a means to argue for their special interests. This kind of argument was also advanced by other business and industrial organizations.

Other groups devoted their briefs to very specific grievances which related to individual interests. As a representative of the Law Society of Upper Canada stated before the Committee:

The brief of the Law Society is confined to the proposals that professional persons should be required to report their income on an accrual basis rather than a cash basis and that they should be required to bring into income their so-called inventory of unbilled time...²⁰

It is respectfully submitted that the reasons adduced in the White Paper for depriving the profession of the use of the cash method in reporting income are not persuasive in the face of the manner in which the profession carries on its activities and the statute should not be changed in this regard. More

¹⁹"Submission by the Algoma Steel Corporation, Limited, Dominion Foundries and Steel, Limited and the Steel Company of Canada Limited", Minutes of Proceedings and Evidence, Standing Committee on Finance, Trade and Economic Affairs, May 7, 1970, #40, Appendix "B-2", p. 40:126.

²⁰Comments of Mr. W.G.C. Howland, Treasurer of the Law Society of Upper Canada on "Submission of the Law Society of Upper Canada", Ibid., May 12, #41, p. 41:6.

particularly, the Law Society, speaking on behalf of the whole profession, is strongly of the opinion that it would not only be oppressive but impractical to require the use of the accrual method as it relates both to unbilled time and unpaid accounts in computing lawyers' professional incomes.²¹

These types of briefs were offset, but not very dramatically, by submissions from such organizations as the Canadian Labour Congress, the Canadian Welfare Council, the Ontario Confederation of University Faculty Associations and the Vanier Institute of the Family. These groups were more receptive to the proposals and were concerned that the reform did not go far enough. In general, however, the response from groups and associations which were promoting their own special interests outweighed the response from the advocates of tax reform. For the most part, the Committee hearings served as a forum for 'right wing' groups.

As previously mentioned, many groups which presented briefs to the parliamentary committees were also involved in lobbying activities behind closed doors in the Minister's and official's offices. Their activities were formally sanctioned to some extent in that they had been asked by the Government to participate in this way. For example, Mr. Brown on the Department of Finance stated before the House Committee that:

At some time in the process we would like to make available a more detailed paper on the workings of the provisions for mining and petroleum industries; however, we have asked to meet with the technical

²¹Ibid., pp. 41:100-101.

committees from the mining associations and the petroleum associations. They also want to meet with us to talk over the various types of holdings and transactions that need to be accommodated so we can discuss with them, given the principles enunciated in the White Paper, the exact method in which various ones would fit into those principles.²²

Although the group representatives were provided access to senior civil servants in this way, the private consultations also allowed the bureaucrats to acquire technical information from them.

Most newly-formed groups which participated in the debate were those which organized in direct reaction to the White Paper. There were only a few of these, but what they lacked in numbers was compensated for in terms of publicity. Perhaps the best-known one which emerged was the Canadian Council for Fair Taxation, "an organization of small businessmen and women, professional people and other interested Canadians". Mr. John F. Bulloch, a 36 year old Toronto teacher and part-time executive was the catalytic force behind the organization of a nation-wide movement set up to oppose the White Paper on taxation. Bulloch had written a letter to Benson, shortly after the White Paper was published, protesting that the proposals would have a serious effect on Canadian businesses. A few days later he published an advertisement in the Toronto Globe

²²Testimony of J.R. Brown, (Senior Tax Adviser, Department of Finance), Minutes of Proceedings and Evidence, Standing Committee on Finance, Trade and Economic Affairs, January 29, 1970, #16, p. 16:6.

and Mail publicly expressing his opposition to the proposals. Within two days, he had received so many calls from businessmen that a nucleus of a national organization was formed and Mr. Bulloch was named General Secretary and Director.²³

The aims of the Council were to press for Mr. Benson's withdrawal of the White Paper, to ensure that individual M.P.'s of all parties understood that only by opposing the White Paper would they earn the support of Council members in every riding across Canada, and to make Ottawa understand that indiscriminate spending and taxation by government had to be curbed.²⁴ As a report from the Council explained:

The Canadian Council for Fair Taxation was formed because of a growing feeling among thousands of Canadians that the White Paper's public relations approach to tax reform was undertaken in such a way as to win massive public support on the assumption that only a small percentage of the population would uncover the significance of the so-called proposals...No brief or counter proposal is going to change the government's mind about the "hard-core" proposals. Only a strong organized national opposition will accomplish this change.²⁵

The Council's activities were wide-ranging. In the first instance, it organized regional offices across the country.

²³Correspondence, Mr. John Bulloch, Canadian Council for Fair Taxation, May 1970.

²⁴Taken from an advertisement in the Toronto Globe and Mail, February 4, 1970, p. 6.

²⁵Guardian, (publication of CCFT), Vol. 1, #2, (April 1970), p. 8.

These were generally formed following public rallies held in major cities. The rallies attracted hundreds of people at a time.²⁶ The aim of the Council's membership drive was directed toward attracting one million members. However, no figures on actual membership were ever released.²⁷ The Council also established a Speaker's Bureau that made arrangements for prominent individuals, who were willing, to speak to clubs, trade societies, or professional organizations on the subject of the White Paper. Finally, the Council prepared and presented a brief to the parliamentary committees.

Another example of a group which organized in response to the White Paper was 'Pensioners Concerned Canada'. This group was a very loosely-knit organization of pensioned Canadians. Its main activity was a letter-writing campaign which was organized on a nation-wide basis. This group was opposed to the proposed taxation of pension income. Although substantial amounts of

²⁶The Winnipeg Free Press reported that a crowd of 600 turned out to a rally in February. Ibid., Thursday, February 19, 1970, p.1. The Guardian reported similar turnouts at rallies held in Port Credit and Belleville, Ontario. See "Tax Rallies pack them in", The Guardian, p. 2.

²⁷Individual and company memberships were available at a fee from \$10 to \$500. In addition to rank and file support solicited by the Council, it also co-opted representatives from major business interests to its Board of Directors. One example was J.D. Barrington, a director of: Algoma Steel Corp., Gulf Oil Canada Ltd., Canadian General Investments Ltd., Excelsior Life Insurance Co., KamKotia Mines Ltd., Leitch Gold Mines Ltd., National Trust Co., Ltd., and the Mining Association of Canada. Ibid.

correspondence flowed into the Minister's office and was indexed, this group did not have a very great influence in effecting changes in the proposals.²⁸

There were some opinion leaders who became involved in the debate on an individual basis. For example, one publishing firm contracted Mr. I.H. Asper, a Winnipeg tax lawyer and columnist for the Report on Business section of the Toronto Globe and Mail, to write a book about the White Paper.²⁹ The book, The Benson Iceberg: A Critical Analysis of the White Paper on Tax Reform in Canada, appeared less than four months after the White Paper was tabled in the House. Although Mr. Asper presented a strong argument against many of the White Paper proposals, he did not take a totally negative approach, but rather used the book as an opportunity to debate the proposals. Moreover, he continued this

²⁸Interviews, Information Office, Department of Finance, Ottawa, June 1971.

²⁹The publishers, Clarke, Irwin & Co. Ltd. made this comment "In asking Mr. Asper to present his views and analysis in this book, we have selected a knowledgeable and articulate spokesman. Although it might have been desirable to publish a full and exhaustive analysis of the White Paper and all of its potential implications, we have chosen to produce a much more direct and simplified analysis, in order to place before Canadians the fundamental issues in a minimum of time. As a result, this is the first book published on tax reform in Canada. The publisher hopes that most Canadians will acquaint themselves with the White Paper and make their views known to their elected representatives so that Parliament will have an effective expression of public opinion as a guide in making changes in the tax laws." See I.H. Asper, The Benson Iceberg: A Critical Analysis of the White Paper on Tax Reform in Canada, (Toronto: Clarke, Irwin, & Co., 1970), preface.

participation by the means of his column in the Globe and Mail.³⁰

He expressed his attitude toward the debate in this way:

When the Government tabled its tax reform proposals, it was predictable that public reaction would move through several stages of development. Expression of preliminary options soon gave way to the current heated debate. As this period of examination and review now appears to be settling down, it becomes possible to restore perspective and get down to the essential business of reaching a national consensus. If the Government is sensitive to public opinion it should have no difficulty in reframing both its tax concepts and specific proposals to satisfy those valid criticisms directed at the plan by a substantial number of responsible Canadians...If the program is successful, Government in Canada will be very much improved, laws will not be imposed upon a docile or frustrated public, they will be designed and shaped by it. It then becomes important to all concerned regardless of political stripe and without reference to the quality of the tax program proposed in the current white paper, to make certain that, notwithstanding what changes are required to make tax reform acceptable, the white paper method is not destroyed in the process.³¹

Another novel response came from a London, Ontario insurance agent, Colin Brown. He ran a one-man advertising campaign opposing the White Paper. His advertisements were placed in all the major newspapers across Canada. They contained coupons which the reader was invited to cut out, fill in his name and send to his member of Parliament. These coupons asked for the

³⁰An interesting byproduct of Mr. Asper's participation in the tax debate was his election as leader of the Manitoba Liberal party on October 31, 1970. The White Paper process may have served a recruitment function in that it provided a political aspirant an opportunity for exposure on an issue.

³¹Report on Business Section, Toronto Globe and Mail, Thursday, March 19, 1970, p. B2.

withdrawal of the White Paper proposals. Over six thousand of these coupons were sent to Mr. Benson's office. Some Opposition members of Parliament received as many as fifteen hundred.³²

Few attempts were made to establish organizations which were in favour of tax reform to offset the activities of the anti-reform groups. Robert Stanbury (M.P.-York Scarborough) attempted to organize one such group in his constituency.³³ Although this and other such activities were not very successful, they provided one more means of creating public awareness of the tax debate.

Nevertheless, these examples of public response represented, by and large, the articulate and financially well-endowed sectors of the community who have an enhanced capacity to participate and who perceive a sense of efficacy in participation.³⁴ What happened to the 'silent majority' and the minority poor when the debate was mobilized?

The Canadian Institute of Public Opinion conducted a poll in January 1970, two months after the Paper was released and found that 52 per cent of those polled had heard of the White

³²T.C. Douglas's office compiled three sets of form letters to send out to individuals who responded in this manner. Interviews, June 1970.

³³Interview, Torrance Wiley, Liberal Party of Canada, May 1971.

³⁴See Rick Van Loon, "Political Participation in Canada: 1965 Election", Canadian Journal of Political Science, Vol. III, #3, (September 1970), pp. 376-399.

Paper.³⁵ In June 1970, a special poll conducted by the Canadian Institute of Public Opinion, but commissioned by Colin Brown, found that 57 per cent had heard of it.³⁶ Within this group, 30 per cent approved of the proposals, while 48 per cent disapproved. The poll was broken down into three geographic regions. It showed that 59 per cent of those questioned in the Maritimes had not heard of the White Paper, while in Western Canada over 70 per cent had heard of it. The poll also showed that the level of awareness was higher among upper- and middle-income groups and executive and professional categories than the lower-income groups and labour segments.

Considering the effort the federal Government put into the campaign to publicize the Paper and the extensive reporting it received in the major newspapers across the country and on radio and television, the fact that nearly half of the Canadian public had never heard about it is revealing. Ronald Anderson, of the Toronto Globe and Mail made this comment:

If this experiment in participatory tax reform proves anything, it is that the tax system is much too complicated to be understood and discussed knowledgeably by any substantial part of the population...Furthermore, taxes cut too close to the bone for the question of reform to be examined rationally and impartially. To most taxpayers, the important single fact about the income tax is the size

³⁵Reported in the Ottawa Citizen, January 10, 1970, p. 8.

³⁶"Public Attitudes Towards the Government's White Paper on Tax Reform", June 1970, mimeo. The questionnaire consisted of 25 pages. Responses were grouped according to geographic region, professional status and income categories.

of the annual levy, and the only reform that would be worthy of the name would be a cut in taxes.³⁷

The problems of informed public response and participation in the debate were compounded by the difficulty of the subject matter and the lack of effective machinery to conduct the debate with the unorganised and inarticulate sectors of the community. As a result, the articulate groups such as those who appeared before the parliamentary committees had the greatest impact on the final decisions of the Government. The reports of the parliamentary committees, upon which the Government based its final legislation, reflected most of the arguments and opinions of the 'opposers' who had dominated the hearings. As previously discussed, the mining and petroleum industries received more immediate attention for the Finance Minister announced changes in the proposals respecting their interests even before the debate was concluded. The organizations which called for the withdrawal of the proposals were considered less seriously. Their activities were considered as a 'communications gap' in the debate.

Thus, although large number of groups and individuals became involved in the public debate on tax reform, only a small percentage actually had any impact on the Government's final decisions. Nevertheless, the debate did stimulate widespread interest in and

³⁷Ronald Anderson, "Viewpoint", Report on Business Section of the Toronto Globe and Mail, February 18, 1970, p. B2.

discussions of the proposals. The extent to which Canadians had at least heard of the White Paper was significant.³⁸

In sum, public participation in the White Paper debate had a three-fold impact. It provided for an exchange of information between affected and interested groups and the Government. It helped to stimulate public interest in, and increase the level of public awareness of, the Government's policy proposals. It provided an opportunity for interested groups and individuals to influence Government policy.

Thus, participation, however elitist, in the White Paper debate on tax reform contributed to the Government's policy-making process. It did allow room for compromise with the Government in that the final legislation contained most of the major recommendations of the House Committee Report. This kind of compromise did not occur with the groups that participated in the Indian policy debate to be discussed below.

³⁸In comparison with studies prepared for the Task Force on Government Information in 1968, the fact that 57 per cent of Canadians had heard of the policy reflected a much higher level of awareness than that found earlier. In one survey of the Task Force, only 41 per cent of the sample knew that income tax was the responsibility of both levels of government. See "To Know and Be Known", Vol. II, pp. 47-88.

B. Indian Policy

The public debate on the White Paper on Indian policy provides a striking contrast to the participative pattern that evolved in the tax debate. Unlike the tax debate, initially there were few organized groups or individuals who were capable of engaging in an informed discussion on the Indian policy statement. Although it had been expected that the 1968 consultation meetings on the "Choosing A Path" questions would have seen the development of such groups, this did not occur. The Government, therefore, found it necessary to embark on a new round of consultations. It was hoped that the White Paper process would not only serve as a means of focussing discussion on Indian problems and mobilizing support for the Government's policy, but also would act as a catalyst for effecting greater participation from Indian groups.³⁹ The barriers to participation that had to be overcome, however, were almost insurmountable.

Historically, the Indian people have not played an active role in Canadian politics and this fact was one of the major obstacles which affected the White Paper process. As the Hawthorn Report comments:

The basic reason for the absence of Indian pressure on governments for most of the post-Confederation period is simply that they were outside the federal

³⁹Interviews, Office of the Minister of Indian Affairs and Northern Development, July 1971.

and provincial political system. They lacked the federal franchise until 1960 and with the exception of Nova Scotia, the provincial franchise until the post World War II period. As a consequence, they lacked even that minimum ability to influence the political authorities which comes from being on the voters' roll. Although there was a certain logic involved in Indian political exclusion due to the special system of administration to which they were subject, and the fact that they did not receive a number of the services provided by federal and provincial governments for other citizens, the result was to place them in virtually a colonial relationship to government. As their capacity to make effective demands was severely restricted the best they could hope for was benevolence. For many Indians, the combination of political exclusion and a special system of administration came to be psychologically coupled with a lack of identification with the political system of the larger society, and with a tenacious emphasis on their own unique status. The extent of this was dramatically revealed when the extension of the federal and provincial franchise to Indians was met with little popular acclaim, much suspicion and occasional hostility. Not only did the absence of the franchise deprive Indians of a basic incentive to political activity, but it meant that when it was extended Indians and political parties had had very little experience of each other. The extension of the franchise constitutes the beginning, not the end, of a process of providing Indians with the same capacity as Whites to influence the content of public policy.⁴⁰

Until very recent times Indian demands were channelled through the Indian agent⁴¹ who, in turn, would either deal with them or refer them up the hierarchy. Gradually, the Government began to deal directly with the band councils which include legally recognized spokesmen for each band, but because of

⁴⁰Hawthorn, A Survey of Contemporary Indians of Canada, Vol. I, p. 364.

⁴¹This was the practice adopted in colonial times and used up until 1933.

the large numbers of bands in existence⁴², this proved to be a very confusing and unco-ordinated system. The alternative to these approaches was to develop Indian organizations that could act as political pressure groups.

Although there has been a long history of Indian attempts to develop their own organizations to advance their causes on either a local or national basis,⁴³ the creation of stable and representative organizations which could speak with authority for the Indian people did not really emerge until the federal Government began to provide financial support for these groups in 1969. Indian poverty, geographic dispersal, language differences, adult illiteracy and parochialism were all hindrances to the development of strong organizations. In an attempt to rectify this problem some "friends" of the native people established the Indian-Eskimo Association of Canada in 1960.⁴⁴ The Association was non-political but it did help in providing publicity and concern for the Indian cause. Similarly, other support organizations emerged during the late 1950's and early 1960's, but none specifically directed to political action.

⁴²There are approximately 560 bands in Canada. See Department of Indian Affairs and Northern Development, "Indian Affairs Facts and Figures Booklet", (1970), p. 1.

⁴³ See W.I.C. Wuttunee, Ruffled Feathers, (Calgary, Alberta: Bell Books Ltd., 1971), pp. 14-22. See also Hawthorn, A Survey of Contemporary Indians of Canada, Vol. I, p. 364.

⁴⁴It was an outgrowth of the National Commission on the Indian Canadian and was set up in 1957 by the Canadian Association for Adult Education.

Most of the activity in the area of Indian organizational work has occurred in Western Canada. The earliest organization took place in British Columbia where, as early as the 1850's, Indian organizations were in existence. In Alberta, an Indian Association was organized in 1939 but until 1968 was influenced mainly by non-Indians. The Saskatchewan Indian Association was formed in 1944. By 1970, two associations were in existence: one formed by an amalgamation of the original Saskatchewan Indian Association of 1944 and the Treaty Protective Association; and the Saskatchewan Native Alliance, a new group. The Manitoba Indian Brotherhood grew out of the previous Indian Association of Manitoba. Like many other Indian organizations, it did not become an effective association until it began receiving federal grants. Indian organizations were also in existence in the rest of the provinces at the time the White Paper was issued, but the degree of their influence and political activity could, at best, be described as uneven.⁴⁵

Another major handicap which had inhibited effective participation by the Indians in consultation efforts prior to 1969 was the lack of a strong national organization which could speak with one voice for the Indian people. The National Indian Brotherhood was established in 1969 to fill this gap. Although there had been a number of attempts prior to this time

⁴⁵See Wuttunee, Ruffled Feathers, p. 18.

to create a national organization⁴⁶, the National Indian Brotherhood structure which was accepted at the annual meeting of Indian organizations in July 1969, created, for the first time, a truly national representative body. As Harold Cardinal has commented:

The creation in 1969 of the National Indian Brotherhood symbolizes the beginning of the end of the struggle by the Indians of Canada to achieve unity. Its founding marked a significant milestone, for in spite of the differences among Indians throughout the country and despite three centuries of isolation from each other, the Indians of Canada finally have succeeded in developing an organization through which they can talk with each other and through which they can negotiate from strength with the federal government.⁴⁷

The membership of the organization is based on its provincial affiliates rather than on the concept of individual membership. The provincial organizations appoint delegates to the national meeting who, in turn, form the National Indian Brotherhood. From these delegates, an executive is elected.⁴⁸ Representation is based on a formula of five thousand people, or a portion thereof, to each delegate. The national body cannot act on matters of provincial or territorial concern unless it has expressly been invited to do so by the member organization

⁴⁶The National Indian Council was the best known of these. It was established in 1961. It had three major aims: to promote Indian culture; to unite Indians; and to serve Indians and their organizations. It was largely through the efforts of this organization that many Indian associations were established.

⁴⁷Cardinal, The Unjust Society, p. 107

⁴⁸Executive members are elected for two-year terms. The permanent office of the Brotherhood is maintained in Ottawa.

affected. On all issues of national scope, however, the Brotherhood has been accepted as the official spokesman organization for Indian people in Canada.⁴⁹

Thus, when the White Paper was published, it was the National Indian Brotherhood which issued the initial response to the Government's proposals. As the press release outlined:

We are here before you saddled with a heavy responsibility--but it is a responsibility that Canadians share with us. One hundred years from now our grandchildren will reap the consequences of the actions we take in these next few days--just as we are the inheritors of a legacy brought about by the actions of our forefathers. Our forefathers acted in good faith, believing that the people they dealt with were of similar mind. We too have acted in good faith with your elected and appointed representatives believing that they too were dealing in good faith. When two partners deal in such a manner, it is presupposed that the two parties are on a some-what equal basis--free to make their own decisions; free to make their own mistakes. In these past dealings we do not feel we took part in any decision-making process and that the Minister has made a mistake. We appreciate the Minister's concern, and do not question his good will. We agree with many of the arguments he has advanced for change in Indian policy. Indeed, we realize that some changes are inevitable no matter how we may feel about them. But in their present form, the policy proposals put forward by the Minister of Indian Affairs are not acceptable to the Indian people of Canada.⁵⁰

⁴⁹The Department of Indian Affairs was one of the main proponents of the formation of this organization and was one of the first to recognize it as the legitimate spokesman organization of the Indian people.

⁵⁰National Indian Brotherhood, Press Release, June 26, 1969, p. 1.

Provincial Indian associations followed the lead taken by the Brotherhood in renouncing the White Paper.⁵¹ In large part, the outright rejection was a result of the suspicion and distrust the Indians had of the Government's intentions with respect to the Paper. It appeared to them that the white man, who had promised consultation and involvement in the drafting of new policy, was once again speaking with forked tongue. However, neither the National Indian Brotherhood nor the provincial associations were in a position to formulate and present counter-proposals. They needed time to organize, to consult and, most of all, to arrive at a common agreement among themselves on the alternatives which would be acceptable to them.⁵²

⁵¹See Globe and Mail, June 26, 1969, "Ottawa plan to abolish treaties, move out of Indian affairs in Five Years", pp. 1 and 3.

⁵²It was recommended in the Brief of the Canadian Friends Service Committee that: "The confusion as to the legal basis of native claims and the questions about the legal assumptions under-lying the new policy clearly justify the request of the National Indian Brotherhood for funds for legal research. If meaningful consultations are to occur between native peoples and the Government, the native organizations must have full access to legal advice. The Government has many lawyers at its disposal, including those on the staff of Indian Affairs. Surely consultations at this point in our history should not be able to be attacked on the basis of inequality of bargaining positions, a criticism frequently made of the early treaty negotiations... We therefore feel...that the Federal Government should immediately agree to provide funds to the NIB, apart from any other funds being provided to that organization for the designated purpose of legal research..." See "Brief in Response to the Indian Policy Statement of the Canadian Government of June 1969", Canadian Friends Service Committee, December 12, 1969, mimeo, p. 7.

The funds for activities of this kind were not forthcoming immediately.⁵³ As previously mentioned, it was not until September 1969 that the Minister of Indian Affairs received the authority to make these grants. This marked the beginning of a period of accelerated subsidization of Indian associations for these purposes.⁵⁴ It also created instances of inter-bureaucratic conflicts as departments other than Indian Affairs began granting funds to Indians for the same purposes. The Citizenship Branch of the Department of Secretary of State became actively involved to the point that one official remarked that "1970 was 'Indian year' in Ottawa".⁵⁵

⁵³Mr. Chrtien announced in the House in July 1969 that a request had been put before Treasury Board at that time. See Debates of the House of Commons, July 11, 1969, p. 11114.

⁵⁴In 1969-70, a total of \$718,235 was made available to the associations by the Department. See Department of Indian Affairs and Northern Development, Annual Report 1969-70, p. 163. In 1970-71, the amount of consultation funds was increased to \$1,678,858. See Department of Indian Affairs and Northern Development, Annual Report 1970-71, (Ottawa: Queen's Printer, 1971), p. 41.

⁵⁵Interview, Alan Thomas, Executive Assistant to the Hon. Robert Stanbury, Minister without Portfolio in charge of Citizenship, December 1970. For 1970-71, \$300,000 was included in the budget of the Citizenship Branch for Indian participation. See National Finances 1970-71, (Toronto: Canadian Tax Foundation, 1970), p. 243. In 1971-72 fiscal year, this amount was increased to \$2,100,000. See National Finances 1971-72, (Toronto: Canadian Tax Foundation, 1971), p. 269. See also a letter from the Hon. R. Stanbury, Minister without portfolio in charge of Citizenship in the Minutes of Proceedings and Evidence, Standing Committee on Indian Affairs and Northern Development, November 26, 1971, #36, Appendix "LL". In that letter the policy of the Secretary of State Department with respect to funding Indian associations was outlined as well as the amounts of money which were allocated to each association.

The money granted was used by the associations to hold consultation meetings, hire consultants and conduct research into legal problems.

Although the Minister had begun a series of private and public consultations with Indian groups across the country immediately following the release of the White Paper, the formal 'public' debate did not materialize until the following year. As previously mentioned, the first formal detailed response to the Government's policy came from the Indian Association of Alberta. The Red Paper, "Citizens Plus", was the first expression of the militant attitude that was to become characteristic of Indian groups which responded formally to the Government's White Paper. In the preamble to the document, this statement was made:

In Alberta, we have told the Federal Minister of Indian Affairs that we do not wish to discuss his White Paper with him until we reach a position where we can bring forth viable alternatives because we know that his paper is wrong and that it will harm our people. We refused to meet him on his White Paper because we have been stung and hurt by his concept of consultation.⁵⁶

The Red Paper was against everything which had been proposed in the Government's White Paper. It crystallized the attitude of the registered treaty Indians of the prairie provinces toward the policy statement and re-inforced the position taken by the National Indian Brotherhood a year earlier. Over three hundred

⁵⁶"Citizens Plus", A presentation by the Indian Chiefs of Alberta to the Right Honourable P.E. Trudeau, Prime Minister and the Government of Canada, (June 1970), mimeo, p. 1.

Indian delegates, including representatives from the National Indian Brotherhood, attended the presentation meeting in the Railway Committee room of the House of Commons. The whole exercise was a coup de force on the part of the Indian associations.

The effect of this presentation has already been noted. The Prime Minister publicly announced that the Government would not force the policy on anyone. This marked a turning point in the 'debate' because now it was evident that pressure from the Indian organizations was starting to influence the Government in ways intended by the Indians.

As one journalist commented:

In the past year, Indian leaders from coast to coast have condemned the White Paper, some in the quiet sober fashion of an older generation, some in the militant, provocative fashion of a new generation. The criticism, in total, was very little short of unanimous. In the face of it, Trudeau apparently decided he had little choice but to stand, as he did last week in the railway committee room of the Parliament Buildings, with 350 Indians and their chiefs looking on, and put the much tormented policy out of its misery. He did that when he told the Indian people that while the White Paper represented the best thoughts of his government on their future, it obviously wasn't good enough since they didn't accept it.⁵⁷

However, Indian organizations continued to pressure the Government until the Minister responsible officially withdrew the policy. For example, when the Union of British Columbia Chiefs presented the British Columbia Indian position paper

⁵⁷See B. Tierney, "Our policy on the Indians is now being discarded", Ottawa Citizen, Tuesday, June 9, 1970, p. 6.

on November 17, 1970 to the Minister of Indian Affairs, they had adopted the position taken by the Alberta Association. One of main objections of British Columbia Indians was that the policy did not reflect suggestions made by Indian delegates at the 1968 consultation meetings. It was stated that:

We disagree with any unilateral attempt by government to extricate itself from its obligations for our people. The special relationships that have developed between Indians and the Federal Government carry immense moral and legal force. To terminate the relationship would be no more appropriate than to terminate the citizenship rights of any other Canadian. This historic relationship cannot be abridged without our consent.⁵⁸

Most of the lobbying activity, however, was conducted behind closed doors. The Indian associations used their 'Cultural Conferences' as important strategic planning sessions to devise the means and methods of approaching the Government, especially the Minister.⁵⁹ At the same time, the visitations of Indian chiefs to the Minister's office were organized on a systematic basis. In one case, an Indian leader refused to meet with the Minister or his deputy when asked in order to show his disapproval of the Government's policy.⁶⁰

⁵⁸The Union of British Columbia Indian Chiefs, "A Declaration of Indian Rights--The British Columbia Indian Position Paper", Vancouver, November 1970, mimeo, p. 1.

⁵⁹See Department of Indian Affairs and Northern Development, Press Release, March 16, 1970, #1-69153, "Indian People to Hold Cultural Conference". It was at this meeting that Harold Cardinal was able to organize and get support from other Indian associations for the Red Paper which was presented to the Government later that year.

⁶⁰Mr. Cardinal began a personal vendetta with Mr. Chrétien and Mr. Macdonald, who was then Deputy Minister. His strategy was to disagree with everything they said or did in order to get them to withdraw the policy statement.

As a result of the widespread publicity given to the conflict between the Government and the Indian people by the media and the lobbying activities conducted by the National Indian Brotherhood and the provincial associations, the Minister of Indian Affairs formally announced the retraction of the White Paper proposals in March 1971.⁶¹ The White Paper process had failed in the attempt to provide acceptable policy guidelines for the Indian people, but it had succeeded in politically mobilizing a previously alienated and oppressed group of Canadian citizens. The funds provided by the federal Government had enabled the Indian people to emerge as militant and outspoken critics of every action of the Government respecting Indian policy.⁶² The frustrations of a hundred years now emerged in a challenge to the legitimacy of the political system. It had been stated following the June 1970 confrontation that:

The extent of Indian alienation became visible when Indian politicians this year flatly rejected the government's new proposals for equal status with other Canadian citizens. They do not want equal status--they want more. They want financial compensation; they are insisting on 'treaty rights', which mean essentially a guarantee of their right to remain Indian. Primarily they are asking for self-determination. Their arguments have a familiar ring to them. They are the arguments used by Quebec to obtain special status and in their purest form, by Rene Levesque's

⁶¹See a speech by the Hon. Jean Chrétien, Minister of Indian Affairs and Northern Development, "The Unfinished Tapestry--Indian Policy in Canada", p. 11.

⁶²See Minutes of Proceedings and Evidence, Standing Committee on Indian Affairs and Northern Development, 1970-71, #36, pp. 36:38 to 36:42 for a breakdown of funding for Indian associations.

Parti Quebecquois....Indian separatism is not as absurd as it may sound. It already exists. All it lacks is a political structure and ideology.⁶³

However, the doors of consultation and negotiation did not close when the White Paper process ended. Instead, the Indians began to demand consultation on their own terms. They were determined to hold the Government to its promise of participation irrespective of what the costs might be. The submission by the Manitoba Indian Brotherhood to Mr. Chrétien in October 1971 would indicate that these demands are being met. This submission, from the point of view of the Manitoba Brotherhood, marked the first phase of a meaningful dialogue on Indian policy with the Government. It was stated in the submission that:

During the past year, the Government of Canada, the Government of Manitoba and the Manitoba Indian Brotherhood established a Tripartite Committee in order to facilitate discussion between the three agencies on matters of mutual concern. Indian participation in such a committee is based on the belief that through discussion and an exchange of ideas it should be able to bring about a better understanding of the problems plaguing a large segment of our society. Our participation, however, is conditional upon certain guarantees, in particular, the guarantee by both the Federal Government and the Provincial Government that no decision, no agreements, no transfer of responsibility will be undertaken by the two governments without the prior knowledge and consent of the Indian people of Manitoba.⁶⁴

⁶³Heather Robertson, "100 Years After the Treaties: Should the Conquered Celebrate?", Canadian Dimension, Vol. VII, #1 and 2, (June-July 1970), p. M9.

⁶⁴Wahbung: Our Tomorrows, by the Indian Tribes of Manitoba, (October 1971), p. 201. The submission was made available to the public at a cost of \$5.00 a copy.

It is likely that this approach will set the pattern for the future.⁶⁵

In the final analysis, the White Paper on Indian policy acted as a catalyst in promoting Indian participation in the policy-making process of the federal Government. Indian organizations finally emerged as influential political groups which could articulate the aspirations and needs of a largely inarticulate minority group. Although support had been provided by organizations of 'friends of Indians', in the main, the 'participative role' was played by the Indian associations themselves. The process was one of conflict, mistrust and confrontation which caused substantial embarrassment to the Government, but it resulted in a political victory for the affected clientele.

Harold Cardinal stated emphatically:

The Indian has reached the end of an era. The things that we hold sacred, the things that we believe in, have been repudiated by the federal government. But we will not be silenced again, left behind to be absorbed conveniently in to the wretched fringes of a society that institutionalizes wretchedness. The Buckskin Curtain is coming down.⁶⁶

⁶⁵Other provinces have also attempted to establish similar tripartite committees. In some cases the co-operation has not been as successful as in the case of Manitoba. For example, the open dispute between Mr. Chrétien and Mr. Cardinal in November 1971 did not further or facilitate relations between the federal Government and the Alberta associations. See Minutes of Proceedings and Evidence, Standing Committee on Indian Affairs and Northern Development, Thursday, November 25, 1971, #35.

⁶⁶H. Cardinal, The Unjust Society, p. 162.

Unless they act arbitrarily, the Government and Parliament must now wait for the Indian people to take the initiative in formulating new Indian policy. They have to be prepared to give support to Indian organizational efforts and program proposals, but they cannot give directives. To do otherwise would be to renege on the Government's commitment to meaningful participation.

II. Conclusions

Two very different patterns of participation occurred in the public debates on tax reform and Indian policy. In the former case, the majority of interested groups and individuals that participated did so in an effort to influence changes in the tax proposals in their favour. Only a minority of groups were interested in attempting to provide information on the proposals and to stimulate public discussion and support. The general public was excluded mainly because no effort had been made by the Government or the parliamentary committees to seek a representative sample of opinion.

On the other hand, the White Paper debate on Indian policy resulted in a completely new pattern of participation in policy-making in which the Indians claimed the right, not only to parti-

cipate, but to make the decisions directly.⁶⁷ The rejection of the Government's statement on Indian policy clearly exemplifies how the participation of Indian groups resulted in a challenge to the legitimate authority of the Government. The Indians were able to use the process of participation as a means of gaining access to and, in part, control of, the process of making policies which affected them.

We have now examined the impact of the White Paper process on policy actors in the governmental, parliamentary and public sectors. The next chapter will seek to outline how the provincial governments were involved in the White Paper debates on tax reform and Indian policy. Their participation in the process highlights an interesting aspect of federal-provincial relations in Canada.

⁶⁷Support for the principle of self-determination cannot be ascribed to all Indian associations. It existed in varying degrees. The National Indian Brotherhood was sympathetic to this point of view. The more militant associations like the Manitoba Indian Brotherhood and the Alberta Indian Association made no excuses for supporting it. They wanted the rights and the benefits to be gained from being a heretofore oppressed minority. Interviews and conversations with George Manuel, President, National Indian Brotherhood (July 1971), Dorothy Boddy, Executive Assistant to Dave Courchene, President, Manitoba Indian Brotherhood, (November 1971), Harold Cardinal, President, Alberta Indian Association, (October 1971) and William Wuttunee, Calgary lawyer and member of the Cree tribe, (March 1972).

CHAPTER EIGHT
THE WHITE PAPER PROCESS AND
FEDERAL-PROVINCIAL RELATIONS

The distinctive feature of federal systems is that public decision-making is divided between two levels of government, neither of which can dictate the decisions of the other. But despite the formal division of decision-making, decisions taken by the central government and decisions taken by the unit governments affect the same people and, therefore, affect one another. Because of this interdependence, the two levels, though they cannot dictate one another's decisions, can and do seek to persuade, influence and bargain with one another.¹

The process of direct negotiations between the executives of different governments, which has been termed 'executive federalism', has been one of the more recent developments in intergovernmental relations in Canada.² The recognition that there were few policy areas in which the activities of one level of government did not affect the interests of the other provided the impetus for the greater institutionalization of formal committee structures at the political and official levels which occurred during the 1960's in Canada.³ The impact that these

¹R.J. May, "Decision-Making and Stability in Federal Systems", Canadian Journal of Political Science, Vol. III, No. 1, (March 1970), p. 74.

²D.V. Smiley, Constitutional Adaptation and Canadian Federalism since 1945, Documents of the Royal Commission on Bilingualism and Biculturalism, No. 4, (Ottawa: Queen's Printer, 1970).

³See E. Gallant, "The Machinery of Federal-Provincial Relations: I", Canadian Public Administration, Vol. VIII, No. 4. (December 1965), pp. 515-526; R.M. Burns, Report on Intergovernmental Liaison Fiscal and Economic Matters, Institute of Intergovernmental Relations, Queen's University, (Ottawa: Queen's Printer, 1969); and G. Veilleux, Les relations intergouvernementales au Canada, 1867-1967: les mécanismes de co-operation, (Montreal: Presses de l'Université du Québec, 1971).

developments have had on federal policy-making has become a topic of some controversy.⁴ However, the extent to which policy-making has become a function of these Committees' work is becoming more apparent. As Professor Smiley has commented:

Despite the inherent difficulties in working the institutions of co-operative federalism, it is significant that in the past two years a very large volume of public policy has resulted from the collaborative procedures. Agreements of fundamental importance have been reached in respect to contracting-out, public contributory pension plans and important aspects of economic direction and control. Important changes appear to be coming in the fields of medical insurance and public assistance. The agreement to set up the Tax Structure Committee was a major achievement in this direction and one can be reasonably optimistic that this committee will have some measure of success in attaining the ambitious objectives set out in its terms of reference. I am not here stating that these actual and anticipated policies resulting from the process of co-operative federalism were the appropriate responses of the government concerned to the demands upon them. Rather, I would argue that the record indicates that these procedures of joint decision-making have not in the recent past imposed insuperable barriers to the formulation and implementation of public policies of fundamental importance.⁵

The use of White Papers during the Pearson era was one means employed to facilitate federal-provincial consultations. This function was carried over by the Trudeau Administration but, with respect to the 'participative' Papers under discussion,

⁴ See Burns, Report on Intergovernmental Liaison. See also Richard Simeon, Federal-Provincial Diplomacy: The Making of Recent Policy in Canada. (Toronto, University of Toronto Press, 1972).

⁵ D.V. Smiley, Constitutional Adaptation and Canadian Federalism since 1945, p. 112.

a more public involvement of provinces was encouraged. The White Paper process was intended to extend the practice of consultative decision-making.

This chapter will examine how the provincial governments participated in the policy debates on tax reform and Indian policy. It will attempt to show that, although the White Paper process was conceived of as a means of effecting a participative approach to policy-making, the federal nature of the Canadian political system acted as a constraint on the federal government's attempt to achieve that objective.

I. Provincial Involvement in the White Paper Process.

With respect to the White Paper debates, the provinces may be viewed as 'interest groups' in the federal policy-making system. However, they were interest groups with a difference. The provinces are independent political units each within its own separate sphere of jurisdiction and influence. Each province represents a variety of special vested interests--political economic, social and ideological--which it must defend and/or promote.⁶ Provincial governments can also act as lobbies for interest groups within their own

⁶ See Simeon, Federal-Provincial Diplomacy, p. 10, where he states: "Canada's ten provinces are vigorous, activist units, jealous of their powers and anxious to use them. Related to this is the crucial--and growing--role federal-provincial interaction plays in the development and implementation of major national policies."

jurisdiction. By acting as an intermediary force, they can enhance the cause of one group over another. The provinces have greater 'resources', political and economic, at their disposal and may use tactics and strategies which far surpass those of a private organization or association.

Furthermore, provincial demands can be backed up with sanctions which may harm the operations of the federal government. Because they are co-ordinate, yet independent, units of a larger political system and because their co-operation is necessary in those areas where federal policy touches on provincial matters, it can be expected that their involvement in the two White Paper debates to be discussed below would have a significant impact on the federal government's policy-making activities.

A. Tax Reform

The White Paper on tax reform was the result of widespread debate and consultation on the Carter Commission recommendations which had taken place following the release of the royal commission study. During this period, the federal and provincial governments had discussed the recommendations at regular meetings of the Federal-Provincial Conferences of Finance Ministers and the Tax Structure Committee⁷

⁷The Tax Structure Committee, established in October 1964, was a committee of Ministers of Finance and Provincial Treasurers. It received staff support from the Continuing Committee on Fiscal and Economic Matters made up of senior officials from both levels of government. It was given the task of conducting a joint review of the whole field of federal-provincial fiscal relations including such topics as future revenue and expenditure needs and the effectiveness of the existing division of revenues. For a discussion of the work performed by the Continuing Committee staff for the White Paper discussions see R.B. Bryce, "Notes for a Talk to the Conference of the Institute of Public Administration, Fredericton, N.B., September 8, 1972", mimeo, pp. 13-16.

and had exchanged information and opinions with respect to them. Moreover, a number of the provinces had undertaken their own studies on tax reform. Thus, when the White Paper was released, it contained this comment:

7:15 In recent years, most of the provinces have had reviews made of their tax systems by special committees, consultants or royal commissions. Many suggestions for reform have resulted. Only in Ontario and Quebec, which administer their own income tax law in whole or in part, did these reviews and recommendations deal at any length with the basic structure of the income tax. The Minister of Finance and his officials have reviewed these reports and recommendations and wish to record here their appreciation in particular of the work of the Smith Committee, the Ontario Legislative Committee and the Belanger Commission. 7:16 On a number of occasions provincial Ministers of Finance and Provincial Treasurers have given to the Minister of Finance and his officials, the benefit of their views on some of the work and recommendations of the Royal Commission on Taxation, as well as on several of the general issues arising from that work. These representations have been appreciated and carefully studied. However, we have not felt free to put forward our thinking on these issues or others for their consideration nor have provincial representatives been asked to comment on specific questions of interest to us. With this paper we place our views before the provinces and we look forward to detailed discussions with provincial representatives on particular questions. 7:17 The government has taken particular note of the Ontario White Paper on the Reform of Taxation, accompanying the Ontario Budget of March 4, 1969. This official policy document has been useful in preparing this paper and we would like to comment on a number of its points.⁸

These activities combined with the fact that provincial governmental expenditures continued to increase and surpass those of the federal government⁹, made the provinces a very vital group to be

⁸"Proposals for Tax Reform." 1969. p. 83

⁹See R.M. Bird, The Growth of Government Spending in Canada. (Toronto: Canadian Tax Foundation, 1970), pp. 13-38.

consulted on the tax reform proposals.

By and large, the discussions between the provinces and the federal government were as much a part of the intergovernmental consultative process which has become a central feature of national policy-making as they were a part of the public debate on the White Paper. The ^{public} activities of the provinces centred around the several federal-provincial ministerial conferences held during this period^{9A} and the hearings of the parliamentary committees. The most important of these were the three Federal-Provincial Ministers' Conferences held in February, June and December of 1970. The province presented briefs and took public postures at these meetings which had a profound impact on the course, as well as the content, of the tax debate.

The opposition tactics and strategies which were employed by the provinces during the course of the debate had a dual political significance. On the one hand, the provinces were concerned about their own electoral welfare and thus had to take the part of representatives from business and industry who received favoured tax treatment from the province and who were responsible for much of the economic development and growth within any one particular provincial boundary. On the other hand, the provinces had a vested interest in the process of policy formulation that was being pursued by the federal Government by its use of White Papers. Because of their direct

^{9A}The private discussions at the official level were conducted through the Continuing Committee on Fiscal and Economic Matters. See Bryce, "Notes for a Talk to the Conference of the Institute of Public Administration, Fredericton, N.B.", September 8, 1972, mimeo.

involvement in the tax-sharing arrangements with the federal government, the provinces had to make their claim as equal partners to full involvement in this process.¹⁰ They were, therefore, 'interest groups' in a double sense of the word-- they had their own political concerns to think of, but, at the same time, some of those concerns over-lapped with the interests of private groups which were opposed to the proposed federal policies.

As early as December 1969, the provinces entered into the debate on the White Paper. It was at the Federal-Provincial Constitutional Conference held at that time that the Premiers of Alberta, Saskatchewan and British Columbia issued a joint statement condemning the federal proposals.¹¹ However, it was not until February 1970 that the formal battle lines were established. At the Federal-Provincial Finance Ministers' Conference held that month, most of the provinces responded by presenting briefs attacking the federal proposals. This

¹⁰The "Ontario proposals for tax reform in Canada", a White Paper presented by the Ontario Government by the Hon. Charles MacNaughton, Treasurer and Minister of Economics, (June 1970), expressed it this way: "'One Canada' does not mean the federal government alone. It means the federal and provincial governments in partnership. Whether we have, in effect, one or several Canadas in the seventies will be determined in large measure by the nature of national tax reform." *Ibid.*, p. 3

¹¹See Simeon, Federal-Provincial Diplomacy. He comments that one of the rules of the federal-provincial 'game' is not to gang up on the federal government. This particular case he states was an exception to that rule. *Ibid.*, p. 229.

attack was led by the Province of Ontario who identified one of the key issues around which the public debate between the federal government and the provinces was to revolve. The Ontario brief to the federal government stated:

At the December meeting of the Tax Structure Committee, Ontario presented its views on the White Paper proposals for Tax Reform. In that presentation we called attention to the major revenue gains (tax increases) which are incorporated in the package of income tax reforms. We also stated that our analysis of the proposed reforms shows that the revenue gains (tax increases) will be far larger than the \$630 millions estimated in the White Paper itself. In view of this wide difference of opinion on such a key dimension of tax reform, Ontario requested the federal government to provide much greater detail and documentation in support of the White Paper revenue estimates. We now reiterate that request. It is essential that the revenue and incidence effects be spelled out as fully and accurately as possible so that there can be informed discussion and analysis of the tax reform proposals, both by governments and by the taxpaying community at large.¹² (*Italics are those of the author*)

The position taken by Ontario was reiterated in the briefs of the other provinces. The comments ranged from concern about an increased tax load on the taxpayer to the ill effects that would accrue to particular resource-based industries.¹³

¹² "Revenue Impact of the Federal White Paper Tax Reform Proposals" presented by the Hon. Charles MacNaughton, Treasurer of Ontario and Minister of Economics, to the Ministers of Finance meeting, February 2-3, 1970, mimeo, p. 1.

¹³ See submissions of the other provinces. The "Submission of the Province of Nova Scotia to the Meeting of Ministers of Finance concerning the Federal Government's Tax Reform Proposals", February 2-3, 1970, mimeo, contained this comment: "The proposals directed toward the mining industry may have the effect of seriously discouraging further exploration and development of minerals in Nova Scotia...We submit that both federal and provincial levels of government have a responsibility to respect the rights of investors in Canadian utilities to ensure that they receive equitable treatment, particularly when the utilities are controlled by and owned by Canadians." pp. 8 and 12.

Repeatedly, the point was made that the proposals did not pay sufficient attention to economic regional differences and the effect of the proposals on economic growth in different parts of the country.

The high point in federal-provincial confrontation was reached at the Federal-Provincial Finance Ministers' Conference held in Winnipeg, June 3 to 5, 1970. It was at this meeting that the dual concerns of the provinces reached a peak.¹⁴ Several weeks before this meeting, Ontario had released its own White Paper setting out counter-proposals on tax reform and a 41 page booklet of working papers on previous consultations, which were made available to interested parties from the Treasury and Economics Department at Queen's Park.¹⁵ The purpose of the provincial white paper was to describe the major Ontario proposals in a reasonably comprehensive fashion. It was in this document that the province's concern with process became evident:

Canadian federalism places the responsibility for the welfare of Canadians on two levels of government-- federal and provincial--and provides that each level has an equal right to raise needed revenues through income taxation. The income tax is one of the most pervasive influences in our society, the form and level of income taxation is a significant instrument in determining the nature of our society and economy... A national debate on taxation has been going on for some time. The Ontario Government has contributed to

¹⁴"Ontario and Quebec Fire Tax Volley...Big Guns Open Up Here on Federal White Paper", Winnipeg Free Press, Friday, June 5, 1970, p. 1.

¹⁵David Anderson, "Ontario to ask full discussion of tax reform proposals in June", The Globe and Mail, Saturday, May 2, 1970, p. 3.

this debate on a number of previous occasions. Now, in presenting its proposals for comprehensive national tax reform, the Government hopes that they will be considered along with the federal white paper, by all Canadians, by the federal and other provincial governments and by the two Parliamentary Committees studying tax reform...¹⁶

The Ontario White Paper of June 1970 did not receive much public attention. As one journalist commented at the time:

Public reaction to a white paper containing Ontario's proposals for tax reform has had quite a different public reception. There was a brief flurry of discussion a couple of weeks ago when it was presented. The discussion already seems to have ended. That is a pity, for it seems to indicate that participatory democracy has distinct limitations.¹⁷

Although Ontario was claiming that by issuing its own white paper proposals it was contributing to the public debate, it was also apparent that other motives were involved.¹⁸

Nevertheless, the position of Ontario, supported by the other provinces, was clear. Constitutionally the provinces could claim equal access to the income tax field. Because

¹⁶"Ontario Proposals for Tax Reform in Canada". p. 1.

¹⁷F. Robertson, "Much Theory Spells Little Public Debate", Report on Business Section of the Globe and Mail, Thursday, June 18, 1970, p. B2.

¹⁸See A.R.A. Scace, "Ontario Proposals for Tax Reform" in Canadian Tax Journal, Vol. XVIII, #4. (July-August 1970) pp. 310-318. He states that: "Although many are outwardly attractive, it is apparent, upon closer scrutiny, that they are just as deficient as their federal counterparts--if not even more so. To the extent that certainty should be the chief objective, their generality and lack of precision has done nothing to resolve the central problem. A choice must soon be made. Unfortunately, the Ontario Government has not really provided an alternative. We should all therefore expect a spring election." Ibid., p. 318. In fact the election was held in October 1970.

any change in the federal income tax law would, therefore, affect provincial law, it was paramount that the provinces should be consulted by the federal government on proposed reforms such as those contained in the White Paper. That was their right whether taken from the point of view of the constitutional distribution of powers or from the practical point of view of political bargaining positions.¹⁹

Other issues raised at the June 1970 conference by the provincial governments exemplified the other 'interest group' role that the provinces played in the debate. The government of Manitoba represented by NDP premier, Ed Schreyer, defended the working people.²⁰ Alberta's Treasurer, A.O. Aalborg, strongly criticized the proposals respecting capital gains, proposed changes in tax concessions to mining and oil companies, taxation of utilities and the plan to abandon the special low rate of corporate tax on the first \$35,000 of company's profits.²¹ The

¹⁹For a description of how constitutional issues form part of the overall strategy of federal and provincial policy actors see Simeon, Federal-Provincial Diplomacy, Chapter Seven, "The Issues", pp. 146-161.

²⁰"Manitober Paper--Specific Propositions in Respect of Tax Reform". June 3, 1970, Federal-Provincial Research Branch, mimeo, p. 8.

²¹"Submission of the Province of Alberta to the Federal-Provincial Finance Minister's Meeting", June 3, 1970, mimeo.

province preferred to support economic growth through private enterprise.²² British Columbia supported Alberta's position.²³

Without exception the provinces were critical of the increased tax revenues suggested in the federal White Paper and the proposals respecting capital gains, public utilities, and resource-based industries. The extent to which the provincial governments served as the mouthpieces for corporate interests was reflected in the Quebec brief presented at the June Conference and later tabled with the House Committee on Finance Trade and Economic Affairs.²⁴ The section of the Quebec brief which dealt with the extractive industries included the following paragraphs:

No subject seems to have aroused greater controversy and concern than that of changes proposed in the taxation of mining companies---We have even received numerous briefs on this subject. Several expansion plans entailing in total several hundred million dollars, have been postponed or so we are told and are likely never to materialize because of the implications of the tax reform.

It is very difficult to judge how well-founded are the fears that the mining industry harbours with regard to the White Paper. One thing is certain: its tax burden

²²Mr. Aalborg was reported to have said:"Because our own analysis indicates that the proposed system would have an adverse effect on our provincial economy and therefore on the welfare of all Albertans, we cannot support the major reform proposals in the White Paper as a package", "Alberta assails total-reform idea of tax change, wants it shelved." The Globe and Mail, Saturday, June 6, 1970, p. B2.

²³Ibid.

²⁴Minutes of Proceedings and Evidence of the Standing Committee of the House of Commons on Finance, Trade and Economic Affairs, # 90, August 4, 1970.

would be increased by the application of the reform. Projects that give promise of yielding a certain rate of return under the present taxation system would be less competitive compared with similar investments in other countries. They could then be delayed or simply be discarded. Quebec cannot afford to lose promising investments in this fashion. As I [Premier Bourassa] indicated at the outset, a fresh start for our economy is a fundamental and primary objective.²⁵

The contents of these briefs revealed the many political factors involved with respect to the provinces' positions on the federal White Paper. Ideological differences were in evidence. Concern for greater public revenue was also apparent. Concern for economic, and hence political, stability may be ascribed as the most important influence which prompted the provinces to support the position of interest groups within their jurisdictions. In addition to the mining and public utility companies, it was reported that the pulp and paper industries were also able to 'get the ear' of provincial premiers.²⁶ The 'public debate' therefore from the provincial standpoint was very much an exercise in federal-provincial bargaining and negotiation.

The issue which provoked the most open conflict between the federal government and the provinces was the rate schedule contained in the federal White Paper which projected revenue increases that would accrue with the implementation of the proposals. The battle was fought essentially between Mr. Benson and Mr. MacNaughton, Provincial Treasurer of Ontario and their

²⁵Ibid., p. 90:137.

²⁶Interviews, Officials in the Federal-Provincial Relations Division, Department of Finance, Ottawa, August, 1971.

respective officials. The events of this conflict included the following exchanges.

A week after the June Conference of 1970 Mr. Benson sent a letter to the Commons and Senate Committees studying the White Paper on Tax Reform.²⁷ The letter dealt at length with Ontario's charges with respect to the differences between the estimates of the two governments on revenue increases arising from the White Paper proposals. On June 18, Mr. Benson sent a letter to provincial treasurers and finance ministers dealing with the same subject.²⁸ In this letter, the federal government reassured the provinces that no increases such as those suggested by Ontario would occur, but it did indicate its intention to keep the revenue increase matter open. As Mr. Benson remarked in his letter to the provinces:

The final point which I feel I must mention concerning the Ontario estimates is that, although they are put forward as estimates of the effect of individuals on all Canadian taxpayers, their estimates of the effect on individuals are based upon a sample of tax returns from residents of Ontario. Canada is not made up of ten Ontarios...We believe our national sample of taxpayers gives us a more accurate picture of the makeup of incomes accross the country, and therefore more accurately reflects tax revenues that can be anticipated as a result of proposed changes in personal income tax. I would like to emphasize that on the basis of what we understand of the Ontario figures, I see no reason--with the possible exception of the medicare item--to increase my revenue

²⁷ Department of Finance, News Release, Ottawa, June 11, 1970, 70-76, mimeo.

²⁸ Department of Finance, News Release, Ottawa, June 18, 1970, 70-79, mimeo.

estimates. We will continue to examine the rationale for the Ontario figures and if any part of it is persuasive we will take into account when drawing up the rate schedules incorporated into the government's tax reform legislation.²⁹

The dispute was finally resolved privately at the official level after public charges had been made by each side that the other would not permit access to necessary information.³⁰

It was at this point that the provinces, in particular Ontario, accelerated their activities in the public debate. Ontario Provincial Treasurer, Charles MacNaughton, introduced Ontario's counterproposals in the Ontario legislature and openly debated them there.³¹ The provincial governments also made public appearances or submitted briefs to the parliamentary committees as another means of voicing their opposition to the federal White Paper. Ontario presented its brief on June 23, 1970. The Province of Quebec, which has a policy of not sending representatives to appear before federal parliamentary committees, did make available a position paper presented by Premier Robert Bourassa to the Federal-Provincial Conference of Finance Ministers in Winnipeg in June 1970. The Quebec brief was published as evidence by the House of Commons Committee on August 4.³²

²⁹ Department of Finance, News Release, June 18, p. 6.

³⁰ Crane, "Benson decries Ontario figures, refusal to analyse differences". Report on Business Section of the Globe and Mail, Friday, June 19, 1970, p. B2.

³¹ Crane, "Provincial right to big tax way is reiterated by MacNaughton" Report on Business Section of the Globe and Mail, Wednesday, June 24, 1970, p. B2.

³² Minutes of Proceedings and Evidence, Standing Committee of the House of Commons on Finance, Trade and Economic Affairs, #90, August 4, 1970, pp. 90:126-90:149.

The Province of Alberta sent a brief to the Committee which had also previously been presented to Finance Minister Benson. It was published as evidence on August 6.³³ Representatives of the Government of Saskatchewan appeared on July 22 before Sub-committee A which at the time was conducting its Western hearings in Regina.³⁴ The Province of New Brunswick made representations to Sub-committee B on July 20 when it was conducting its regional hearings.³⁵ Prince Edward Island and British Columbia did not submit papers. The briefs received from Newfoundland, Nova Scotia and Manitoba were not published. No provincial briefs presented to the Senate Committee were published.

As a result of these efforts, the provinces had made an intended impact on the White Paper debate. In the first instance, their activities of promoting the interests of particular groups affected by the proposals resulted in a modification of the proposals even before the reports of the parliamentary committees conducting the public hearings on the proposals were released. The federal government issued two press releases in August 1970 which reflected the significance of provincial involvement in the dialogue.³⁶

³³ Ibid., #92 August 6, 1970, pp. 92:39-92:131.

³⁴ Ibid., Sub-Committee A. #76, July 22, 1970, pp. 76:7-76 and 76:152-160.

³⁵ Ibid., Sub-Committee B. #74, July 20, 1970, pp. 74:95-74:138 and 74:161-74:175.

³⁶ Department of Finance, News Release, Ottawa, August 5, 1970, #70-97, mimeo, and Department of Finance, News Release, Ottawa August 26, 1970, #70-105, mimeo.

From that point the 'public' debate between the federal and provincial governments subsided. The federal proposals continued to be discussed at federal-provincial finance minister's conferences until the final legislation was introduced in the House in June 1971, but for the most part, the attitude of the provinces appeared to have mellowed. They were now prepared to sit down and discuss the content of the proposals in a constructive fashion.³⁷

While the public activities of the provinces were directed toward achieving political and economic gains, the private activities, although they also included negotiating and bargaining, provided for an opportunity to exchange information about financial circumstances between the two levels of government, something which has seldom been done in the past. This activity was conducted at both the ministerial and official levels and on bilateral as well as multi-lateral basis.

³⁷ Three more Finance Ministers Conferences were held before the federal government introduced the tax reform legislation in June 1971. The meetings in September and December, 1970 and February 1971 focussed on more technical issues. The tone of the briefs presented at these meetings was more receptive to positive discussions. No charges were made by the provincial governments that the federal government was attempting to deceive the public by greatly increasing the tax burden. This attitude was further reflected in the briefs presented to the Federal-Provincial Finance Ministers meeting in July, 1971 immediately following the introduction of the new legislation. As "The Statement by the Hon. W. Darcy McKeough, Treasurer of Ontario and Minister of Economics, at the Meeting of Ministers of Finance: Ottawa, on the Federal Tax Reform, July 12-13, 1971", mimeo, commented: "On the question of the overall design of the federal tax plan we are, of course, pleased at the extent to which the federal government has moved significantly from its original white paper proposals." *Ibid.*, p. 2.

In sum, the activities of the provincial governments in the White Paper process on tax reform were directed toward gaining a share of the decision-making power in the federal governments policy-making process. To this end the governments exploited the public nature of the process to promote their interests. Once their activities appeared to be successful in achieving these ends, they shifted their focus of attention to the more established format of consultation which had been developed during the 1960's, but with a new perspective. The role of the provinces was summed up by the Ontario government in one of its briefs to the federal Minister of Finance:

Let it be understood that we are proposing a new approach; an approach that has now become essential. It will require new and unaccustomed habits of thought and action by all governments. It will not mean, however, a weaker federal government less able to act in the national economic interest. In our view, the lasting strength of Canadian federalism does not rest on the power of coercion but on the power of persuasion. The federal government is not weakened by genuine exchange and a willingness to accept new ideas. We must define national goals and seek to achieve them by persuasion and by consensus.³⁸

The public debate gave the provinces the opportunity to openly criticize the proposed tax reform policy of the federal government. Because the provinces played a more forceful role than any other sector of the public in the debate, their views were enhanced at the expense of those of the latter, except in those instances where private interests used the provincial governments as mouthpieces for their grievances. The constraint that this placed on the participatory process envisaged by

³⁸"Submission of Ontario Government", Friday, June 5, 1970. pp. 2 - 3.

the federal Government is obvious. In order for meaningful participation to occur between the federal Government and the governed there must be some element of equality among the parties involved. Just as the views of established and financially well-endowed groups outweighed the views of the less organized individuals and groups in the public sector discussed above, the provinces influenced the discussions more than any other interested group or individual involved in the debate.

Similarly, the provincial governments acted as restraints in the White Paper process on Indian policy to be discussed below. Their involvement, however, was not a public one. Rather, it followed a pattern which was linked to an attitude based on historical experience taken by the provinces towards the Indian policy issue.

B. Indian Affairs.

Provincial involvement in the White Paper debate on tax reform was conducted extensively at both the public and private levels. The provinces took positions on the proposals almost immediately after their publication and consultations and negotiation sessions quickly followed. This did not occur with respect to Indian policy. In fact, the provinces never did become involved in a public discussion of the proposals with the federal Government. Consultations were carried out at the ministerial and official levels but these were private and generally involved issues surrounding specific programs sponsored or proposed by the federal Government.

The reason for these developments may be found, in part, in the historical position of the native Indians in Canada. Constitutionally, the position is quite clear. Section 91 (24) of the British North America Act allocates the responsibility for "Indians and Lands Reserved for the Indians" to the federal Government. The federal Indian Act of 1874, which, despite subsequent revisions and modifications, is still in effect today, sets out the legislative guidelines which institutionalized the tradition that Indians were wards of the Crown, exclusive federal responsibilities and, as a consequence, beyond the scope of provincial competence.³⁹ The legislation made them subject as a people not as individuals. Federal services, therefore, were provided to Indians as a group segregated from society, rather than to individuals who belonged to that society.

The federal Government, shortly after the Second World War, began to pursue a policy that was intended to result in the extension of provincial services to the Indian people. By bringing the Indians more fully into the provincial framework of law and services, it was felt that their status as full-fledged Canadian citizens would be enhanced. In effect, the policy was one of decolonization.⁴⁰

One of the basic problems of effecting this transition was the general indifference of the provinces to and their

³⁹The most recent revision of the Indian Act was done in 1952 following the parliamentary inquiries on the Act. See Indian Act. R.S.C. 1952, c. 149.

⁴⁰"History of Indian Policy in Canada", Department of Indian Affairs and Northern Development, mimeo, p. 5.

ignorance of the Indian situation. As the Hawthorn report pointed out in 1966:

While such provincial ignorance has been partially overcome by the extension of the franchise in all provinces but one, the growth of provincial involvement in the provision of services and the development of more effective and frequent communications with the Indian Affairs Branch than formerly prevailed, it remains true that most provinces are still groping their way to an improved understanding of Indians and to a definition of the role they can most appropriately play...The provinces, of course, are not monolithic. They present no concerted united front to the federal Government. They differ in their willingness to change traditional assumptions that Indians are outside the purview of their concern. Where concern does exist it expresses itself through different channels from province to province. Each province has its own unique position with respect to the weight which should be given to the various provincial services in alleviating the depressed conditions of Indian communities. These differences in provincial outlook complicate the task of the federal Government which, with its Canada-wide vision, is constantly searching for uniformity in its relations with the provinces.⁴¹

Another factor which has also acted as a barrier to the extension of provincial services to the Indians has been the rather tenuous and weak identification that the Indian people have had with the provincial governments. For historical reasons, Indians have been almost exclusively oriented to Ottawa. They have been living as if they were in a unitary state. Until they can be shown that provincial governments can be trusted in their treatment of the Indian people, they can be expected to manifest little enthusiasm for any project involving the

⁴¹Hawthorn, A Survey of Contemporary Indians of Canada, Vol. II, p. 346.

transfer of services from one level of government to another.⁴²

Nevertheless, the commitment of the Indian Affairs Branch to the principle of maximum extension of provincial services compatible with provincial priorities and Indian wishes has created a substantial level of intergovernmental involvement in this policy area, mainly through the device of joint programs. For example, from the mid-thirties to about 1950, the emphasis had been on collaborative arrangements concerning wildlife resources. During the 1950's educational programs were the main focus. More recently, the focus has shifted to welfare and community development programs.⁴³

⁴²In 1967, Martin O'Connell (Liberal MP-former Minister of Labour) stated the federal position thus: "Perhaps the most serious obstacle of all to Indian progress towards a contemporary life as equal Canadians is our misconception of the proper role of the provinces. It is commonly thought that Indians are the sole responsibility of the federal government. This misconception of the true role and responsibility of the provinces is shared all around the circle by governments themselves, by most Indian people and by the general public. It results in a special intense relationship of Indian people with Ottawa and an almost total exclusion or severely attenuated and indirect relationship with the provinces. This is an indefensible and discriminatory arrangement which denies equality before the law and which is without foundation in the constitution. The situation results from historical reasons and from political pressures on Ottawa to do more. The more it does, the more it tends to lock Indian citizens into an unequal and separate existence. This unacceptable division of federal-provincial functions is neither required nor justified by the constitution nor by the treaties. It should neither be tolerated by Indians nor by the general public", in "Indians and the Provinces", The Canadian Forum, (June 1967), pp. 58-60.

⁴³Hawthorn, A Survey of Contemporary Indians of Canada, Vol. II, pp. 347-50. See also Department of Indian Affairs and Northern Development, Annual Reports, 1960 to 1970.

During the 1960's some efforts were made to establish consultative machinery to serve these programs. In 1964, at a Federal-Provincial Conference on Indian Affairs, it was agreed that Federal-Provincial Co-ordinating Committees would be established in most provinces to co-ordinate work in which the two levels of government were collaborating.⁴⁴ A Federal-Provincial Division was also created in the Indian Affairs Branch to provide overall co-ordination of activities in this area. The establishment of eight Regional Advisory Councils in 1965 helped to provide for three-way consultation between the federal and provincial governments and the Indians on policies and programs affecting the Indian people. However, the success of these committees was reported to have been moderate to poor.⁴⁵

The most important cases of federal-provincial consultation prior to 1969 were those respecting joint arrangements on specific programs.⁴⁶ The key factor which has governed relations between the federal and provincial governments here had been the provision of incentives by the federal Government to the provinces to encourage their participation in these schemes.

⁴⁴This was the first and last federal-provincial conference held on this policy area. As a result of the meeting, committees were established in seven provinces. See "Statement for Federal-Provincial Conference on Poverty", Department of Indian Affairs and Northern Development, Ottawa, 1970, mimeo, pp. 12-14.

⁴⁵See Hawthorn, A Survey of Contemporary Indians of Canada, Vol. II. pp. 350-352.

⁴⁶See Department of Indian Affairs and Northern Development, Annual Report, 1967-68, p. 61, and Annual Report, 1969-70, pp. 105-164.

The federal government, although it had been generous in its contributions to the costs of these programs, had required that the provinces also contribute on a cost-sharing basis. There were often strong differences of opinion over the formula used to determine the distribution of the costs.⁴⁷ These types of agreements had tended to blur the responsibility and task of public control. They had often created the situation where no one had been particularly responsible for decisions, and where there had been no specific electorate to whom decision-makers could be held clearly responsible. The upshot of this was to leave the Indians at the mercy of the political manoeuvrings which occurred whenever the federal government negotiated a new agreement with the provinces. In most, if not all cases in the past, the Indian people were excluded from such deliberations.

Until 1969 the relationship between the federal government and provincial governments respecting Indian policy could be summarized as follows: First, the provinces differed in their response to federal initiatives in extending provincial services to the Indian people. Each province had its own set of general priorities by which competing demands on limited funds and limited staff was assessed. Secondly, co-operative relations

⁴⁷ For a critical examination of the problems of a cost-sharing program in the Government of Canada, see J.A. Corry, Difficulties of Divided Jurisdiction, prepared for the Royal Commission on Dominion-Provincial Relations. 1939, and D.V. Smiley, Conditional Grants and Canadian Federalism, (Canadian Tax Foundation, Toronto, 1963), #32.

between governments could not be achieved by coercion. The agreements had to be voluntary and hence took place within a bargaining context which excluded Indian participation. The autonomy of the provinces implied that the incorporation of Indians into the provincial framework of services would not succeed unless sufficient incentives existed so that the relevant provincial decision-makers would perceive a net gain in extending such service to Indian communities. However, even if these incentives were present, no guarantee existed that the Indian people would be willing to accept the services in a co-operative or positive fashion.

This, then, was the setting within which the White Paper debate on Indian policy at the federal-provincial level was to take place. As mentioned above, the White Paper set out the federal proposal for the transfer of the responsibility for Indians to the provinces to be accompanied by the provision of requisite federal funds. However, on the basis of the preceding discussion, it is not surprising that the policy proposals were met with little enthusiasm from the provincial governments.

Generally speaking, the initial response of the provinces to the federal White Paper was one of 'wait and see'. The negative reaction of the provincial and national Indian associations to the proposals, especially as they respected the

extension of provincial services to the Indians,⁴⁸ served to protect provincial self-interest. The provinces did not have to come out and say they did not want to bear the responsibility or the costs of the proposed policy,^{for} the Indians said it for them. In fact, it has been suggested by one writer that the provincial governments, and in particular the province of Alberta, secretly encouraged the provincial Indian association to oppose the policy.⁴⁹

The private consultations between Mr. Chrétien and his officials and representatives from the provincial governments were directed toward working out programs that would extend services to Indians in the provinces.⁵⁰ At no time was there

⁴⁸ See "Une nouvelle politique federale", Le Devoir, Montreal, jeudi 26, juin 1969, pp. 1-2.

⁴⁹ W.I.C. Wuttunee, Ruffled Feathers, p. 58

⁵⁰ These meetings were held throughout the summer and fall of 1969. See Press Release, Department of Indian Affairs and Northern Development. Ottawa, July 24, 1969. 1-6945. "Federal Grants to Provincial School Boards for Indian Education", and Annual Report 1969-70, Department of Indian Affairs and Northern Development. An examination of the Debates of the House of Commons for the four month period following the publication of the White Paper revealed that the programs of particular interest to the federal and provincial governments were those respecting Community Development Projects. See Debates of the House of Commons, June 25, 1969, p. 10582; June 26, 1969, p. 10644; July 3, 1969, pp. 10781-2; July 10, 1969, pp. 11058-9.

any public conflict or confrontation between the two levels of government over what the federal government was attempting to do. The provinces chose not to become embroiled in such a politically-sensitive issue as this one. In the eyes of their electorates, to reject the federal White Paper would be tantamount to endorsing racial discrimination in Canada; to accept it would create distrust and suspicion among the Indian people who might, in turn publicly embarrass them.

The positive consultative relations which did develop as a result of the White Paper debate were the establishment in some provinces of tripartite councils. In those provinces where interest and concern for the Indian people had been manifest for a number of years preceding the publication of the White Paper, definite efforts were taken by provincial officials to become involved in co-operating in this way with the federal government and the Indians.

For example, provincial interest in Indian problems has traditionally been lowest in Quebec and the Maritimes. The Ontario government, on the other hand, has been actively involved in co-operative schemes especially in the area of social welfare. It was in the Western provinces, however, where the greatest provincial initiatives were taken.⁵¹ In the

⁵¹It is also in these provinces where Indian organization is most advanced and progressive. The presence of effective Indian associations has helped in stimulating provincial interest and providing a political context for Indian problems.

provinces of Alberta, Saskatchewan, and Manitoba tripartite councils were established. It is submitted that through the work of these councils, the consultation and discussion which were intended to occur, but did not take place during the White Paper debate, will finally be achieved. The Manitoba Brotherhood has offered this projection:

The scope and ability of the Tripartite Committee to operate as an effective vehicle of discussion and negotiation is strictly based on a trust relationship that could be easily compromised by any arbitrary acts on the part of either government and would certainly terminate should the two governments enter into any agreement, formally or informally without our knowledge and consent...We would caution that the existence of the Tripartite Committee in no way absolves or relieves either government of their responsibilities and obligations and that the fabric of that trust relationship is fragile at best. History has shown the Indian that it is often easy to talk about progress but government's ability to deliver upon its promises seldom matches its intent.⁵²

In sum, federal-provincial relations respecting the White Paper process on Indian policy were affected only minimally by the public debate. The process did serve, however, to stimulate provincial interest in the policy area and, at least, to initiate some bilateral discussions in an area that had been ignored for some time.⁵³

⁵² See Wahbung: Our Tomorrows, Manitoba Indian Brotherhood, October, 1971, p. 201.

⁵³ Shortly after the White Paper was published, a question was raised in the House by Andrew Brewin (MP-NDP) which requested the date of the last meeting of the Federal-Provincial Committee on Indian Affairs. Mr. Chrétien responded that the committee had not met since September 4, 1968. See Debates of the House of Commons, July 2, 1969, p. 10740-41.

However, the willingness of the provinces to accept responsibility for the extension of their services to the Indians was uneven and conditioned by a number of pertinent political factors.

In the first instance, most provinces were unwilling to accept an additional responsibility which involved accepting an additional financial burden. Secondly, the political context which the Indian associations created around the policy proposals made it inadvisable for the provincial governments to become involved in any public discussion of the White Paper. As a result, provincial premiers and government officials chose to meet privately with Minister of Indian Affairs and co-operate with him, albeit in varying degrees, in working out socio-economic programs of benefit to the Indian people.

II. Conclusions.

The federal-provincial policy-making activities surrounding the White Paper process on Indian Affairs differed substantially from those surrounding the White Paper process on tax reform. In the latter case, the provincial governments were extremely active in employing the entire range of federal-provincial consultative procedures including a new practice, i.e. presenting briefs to parliamentary committees. The provinces acted as interest groups in a double sense. On the one hand, they were concerned, for their own political reasons, with being actively involved in a joint decision-making process into which they had a substantial input. Not only were the issues of tax

revenue and economic development at stake, but also the status of the provinces with respect to federal-provincial policy-making. On the other hand, they were also concerned with maintaining positions of electoral strength within their respective provincial boundaries. This they did, by attempting to placate the grievances of interest groups for whom they acted as intermediary spokesmen in discussions with the federal Government. The provinces perceived the need for extensive involvement in the White Paper debate and acted accordingly.

In the case of Indian affairs, very little in the way of active provincial participation occurred. Traditionally, the provinces had shown little interest in the problems of this policy area. There were few instances of joint consultative procedures, those that did exist had been used only sporadically. Moreover, the federal government had traditionally been the initiator of joint consultations in this area and, as a result, the provinces continued to play a passive role with respect to the consultative efforts made by the federal Minister. The White Paper process did serve to create an interest in some provinces, but it was only after the policy proposals had been withdrawn that some of the provinces began to become involved in joint consultations with the federal government and the Indian people in a meaningful way.

In both instances, the nature of federal-provincial relations acted as a constraint on the federal government's attempts to make policy changes. This situation was more pronounced in the case of tax reform but it was also evident with respect to Indian policy. Even if the government had received approval from the Indian people for its proposals, it would still have required provincial co-operation to implement the policy. On the basis of previous experience with the provincial governments, it is doubtful that the federal government could have achieved this objective. The existence of ten autonomous political units within the larger national political system, by definition, implies limitations for 'participative policy-making' at the federal level.

The discussion in the last four chapters has focussed on 'how' the White Paper process affected the activities of particular policy actors in different sectors of the system. There has been little discussion of the relationship of the policy itself to the response evoked from these various groups and individuals. In order to explain 'why' the White Paper processes on tax reform and Indian policy developed as they did, it is necessary to examine in greater detail the substantive policy in each case. The next chapter will seek to analyse the relationship between policy content and policy process.

CHAPTER NINE
THE POLICY OUTCOMES OF THE
WHITE PAPER PROCESS

The first Trudeau Administration had intended that the White Paper process on tax reform and Indian policy would provide for a participative approach to policy-making. A comparison of the actual developments during the two policy debates has revealed that the patterns of participation and involvement which occurred in each case were substantially different. Both the amount and the form of response from the policy actors in the different sectors varied in each debate. As a result of the different kinds of response, limitations and constraints were placed on the outcome of the White Paper process in these two areas.

These findings raise an interesting, yet essentially unexplored, question: In what ways does the relationship between how policy is made (policy process) and the kind of policy which is made (policy content) influence the outcome of policy-making activities? Few studies of policy-making have attempted to analyse this question and yet it would appear to be a critical feature in determining whether a particular policy process is appropriate for different kinds of policy.¹

¹One of the main advocates of this approach to the study of policy-making is Theodore Lowi. His central contention is that policies determine politics or the process by which a policy is made. See T. Lowi, "Decision-Making versus Policy Making: Toward an Antidote for Technocracy", Public Administration Review, (May/June 1970) pp. 314-325 and T. Lowi, "Four Systems of Policy, Politics and Choice", Public Administration Review, (July/August 1972), pp. 298-309.

In view of the different impacts of the White Paper process in the two cases being examined in this study, an assessment of the relationship between the substantive policy and the policy process in these two cases would add an important dimension to the analysis of this kind of policy-making approach. This chapter will include an examination of that relationship and an assessment of the influence that it had on the outcome of the White Paper process on tax reform and Indian policy.

I. The Relationship Between the White Paper Policies and the White Paper Process.

In the following discussion, the main substantive features of the policies on tax reform and Indian affairs and the manner in which they affected participation in the policy debates will be examined. It will be shown that the substantive policy was a key variable in determining the ability of the various sectors to achieve the objectives ascribed to the White Paper process in each case.

A. Tax Reform.

Taxation--the means by which a government implements decisions to transfer resources from the private to the public sector--is a major instrument of social and economic policy. It has two goals: to distribute the cost of government fairly by income classes (vertical equity) and among people in approximately the same economic circumstances (horizontal equity); and to promote economic growth, stability and efficiency.²

Generally speaking, the functions of the Government with respect to tax policy are to ensure an efficient use of resources,

²J.A. Pechman, Federal Tax Policy, Revised edition, (New York: W.W. Norton & Co., 1971), p. 5.

to establish an equitable distribution of income, and to maintain the economy at high levels of employment with reasonable price stability.³ The priorities which governments assign to these functions may give rise to conflicts of interest within and between the goals and objectives assigned to a particular tax policy. For example, a tax policy which promotes an equitable distribution of income may, in turn, inhibit economic growth. On the other hand, a tax policy which promotes economic growth may create problems of inequitable income distribution and even unemployment. Somehow, government decision-makers must find a balance between the different economic objectives which will provide for an acceptable solution.

The ethical basis of taxation must also be accommodated in the formulation of the policy.⁴ The incidence of a tax is its ultimate division of burden, its total effect on all prices and other economic dimensions. Tax policy, therefore, is redistributive in the sense that it involves choosing between who will benefit and who will sacrifice. It is a class issue in that different income groups in society will be affected by the policy in different ways. Joseph Schumpeter made this point explicitly when he wrote: "...nothing shows so clearly the

³See W.E. Oates, Fiscal Federalism, (New York: Harcourt, Brace Jovanovich, 1972), pp.3-20; and R.A. Musgrave, The Theory of Public Finance: A Study in Public Economy, (Toronto: McGraw-Hill, 1966), Chapter One.

⁴See R.M. Bird, "The Tax Kaleidoscope: Perspectives on Tax Reform in Canada", Canadian Tax Journal, Vol. XVIII, #5, (September-October 1970), p. 444.

character of a society and its civilization as does the fiscal policy its political sector adopts..."⁵ In deciding how resources needed for social wants shall be taken away from all the various classes of individuals in society, the government must consider, and will be influenced by, the dominant political and economic norms and values of the society.

Thus, when the question of tax reform is raised, the important questions for taxpayers are "Whose taxes?" and "How much?" From the standpoint of the politician, the determination of who will get the disproportionate share of benefits and who will pay the disproportionate costs is of great interest as he makes decisions in the midst of contending issues. The political function is one of evaluating the conflicting interests of different regional, economic, income and occupational groups against competing public values respecting equity, rate of economic progress, etc. All these factors must be weighed and choices and compromises made in determining what pattern of objectives is to be promoted. Economic analysis forms only one part of this process. As Professor Bird has commented:

The point is that tax reform is much more than an exercise in economic analysis or tax technique; it is an intensely human and social phenomenon which, as we have seen in recent years, touches many people to the quick, at least in passing, and provokes them to outraged defence against what they perceive to be violation of their innermost values...it is surely true that few things so clearly reveal the naked play

⁵J.A. Schumpeter, History of Economic Analysis, (New York: Oxford University Press, 1954), p. 769.

of vested interests in any country as do attempts to change an existing fiscal structure. Tax reforms, like tax systems, thus in a sense reflect "national character"--one of those almost meaningless but, nevertheless, useful catch-all concepts which even social scientists sometimes must use to capture the myriad influences shaping policy and politics that cannot be neatly separated out and dissected by conventional analytical tools.⁶

The tax reform proposals set out in the White Paper of 1969 focussed on four major objectives: equity, neutrality, voluntary compliance and federal-provincial co-operation. The Paper contained this description of these goals:

They include a fair distribution of the tax burden based upon ability to pay; steady economic growth and continuing prosperity; the recognition of modern social needs; widespread understanding of and voluntary compliance with tax laws, combined with enough detail to block loopholes; and, finally, a system that can and will be used by the provinces as well as Canada.⁷

Although a detailed analysis of all the proposals respecting these basic objectives would not be possible within a single chapter, the following brief presentation of the highlights of the tax reform proposals will serve for purposes of discussion here.

(i) Equity

Equity, vertical and horizontal, was interpreted by the Government to mean a fair distribution of the tax burden on individuals based on the principle of ability to pay. It was stated in the Paper that:

⁶Bird, "Tax Kaleidoscope", p. 444.

⁷"Proposals for Tax Reform", 1969, p. 6, para. 1.6.

Fairness in taxation implies two principles. First, it means that people in similar circumstances should carry similar shares of the tax load... Fairness also requires that people with higher incomes, people who are better off, should be expected to pay in taxes a larger share of their incomes than persons with lower incomes. This concept of "ability to pay" is embodied mainly in the personal income tax as a progressive graduated tax having increasingly higher rates as income increases.⁸

To this end, the Government put forward two major proposals: one respecting basic exemptions and tax rates; the second, respecting capital gains tax.

In the first instance, it was recommended that the basic personal exemption should be raised--\$1,400 instead of \$1,000 for a single taxpayer and \$2,800 instead of \$2,000 for a married taxpayer.⁹ As a result, it was projected that 750,000 Canadians would be removed from the tax rolls. Other proposals provided for certain deductions for the expenses of child care to working mothers as well as for a deduction of 3% of employment expenses to a maximum of \$150. The tax rate schedules were to be changed so as to reduce the burden on low-income taxpayers and to increase it on others. The transition point for a married taxpayer with two children was to be at approximately \$9,100.

The recommendation respecting capital gains, included for the first time in Canadian tax law as a part of personal income,

⁸Ibid., p. 6, paras. 1.8 and 1.9.

⁹Ibid., p. 9, para. 1.25.

proposed to tax this source of income, but not to tax all gains at the same rates.¹⁰ The most important sources of this tax were to be gains on investments such as bonds, mortgages, agreements for sale and rental real estate and gains on shares of closely-held Canadian corporations, both of which would be fully taxable, and gains on shares of widely-held Canadian companies which would be taxed at half-rates.¹¹

Another proposal provided for the revaluation of the accrued but unrealized gains on shares of widely-held Canadian corporations every five years. There were other less important recommenda-

¹⁰"Depending on the nature of the asset, all or part of the gain would be included in income and taxed at the taxpayer's marginal rate". *Ibid.*, p. 38, para. 3.13.

¹¹'Closely-held corporations' were considered to be "the incorporated proprietorship or partnership with three conditions: a) one class of shares; b) all shareholders must be individuals resident in Canada or corporations incorporated in Canada; c) if some shares are held by Canadian corporations, those corporations must have the same fiscal year-end as the corporation itself". *Ibid.*, pp. 48-9, paras. 4.19-4.24. 'Widely-held corporations' were defined as follows: "1) All corporations with shares listed on a prescribed Canadian stock exchange on the day the White Paper is published would be deemed to be widely-held corporations; 2) All corporations which subsequently list their shares on these exchanges would become widely-held corporations on the day on which their shares are so listed; 3) Corporations which can meet specified tests concerning the number of shareholders and the number of shares held by those shareholders could elect to be classified as widely-held corporations. The Minister of National Revenue would have the power to designate other corporations as widely-held corporations if they meet certain tests relating to number of shareholders, dispersal of shares and public trading in shares....5) Once a corporation is classified as a widely-held corporation, it would always remain a widely-held corporation". *Ibid.*, p. 52, para. 4.43.

tions including the taxation of income from the sale of personal items with a value over \$500.

(ii) Neutrality

Neutrality in taxation is closely related to equity and means that the tax system should not favour one taxpayer over another. In other words, people in essentially different circumstances should bear appropriately different tax burdens and people in essentially similar circumstances should bear similar taxes. These circumstances would be purely economic and would not recognize the various ways by which people came to be in them. In the words of the Carter Report, for taxation purposes, "a buck is a buck is a buck", i.e., tax neutrality. The application of this concept assumed that the tax system should not be used as an incentive for, or a deterrent against, anything. The system should not be used as a flexible fiscal tool in encouraging small business, the extractive industries or any other form of economic activity.¹²

In order to achieve this objective, the Carter Commission had recommended the full integration of corporate and personal

¹²This view was expressed in the White Paper in this way: "The second main objective of tax reform is to see that the tax system does not interfere seriously with economic growth and productivity. Taxes by their nature cannot always promote all our economic goals, but they should interfere as little as possible with incentives to work and invest and with the directions our economy follows in meeting demands of consumers and foreign markets". Ibid., p. 7, para. 1.10.

income taxes. The White Paper proposed full integration for closely-held corporations and half integration for widely-held corporations.¹³ A further proposal provided for the elimination of the special low rate of tax on the first \$35,000 of corporate income.¹⁴ Although the proposals provided for continued tax incentives for the extractive industries,¹⁵ most of the privileges which these industries had previously possessed had been eliminated by other proposals. Finally, the White Paper provided for favourable treatment to pension plan, mutual funds and registered retirement savings plans. Capital cost allowances which were in force when the White Paper was published were retained.

(iii) Voluntary Compliance

Another very practical goal is to design our tax system so that taxpayers can and will comply with it voluntarily. The vast majority of taxpayers comply in all respect with the income tax laws;

¹³"The objective of the proposals for closely-held corporations is to put them as nearly as possible in the same tax position as their competitors. In other words, to design a system that will produce the same tax on a Canadian whether he carries on his business in his own name or whether he incorporates it". *Ibid.*, p. 48, para. 4.20; and "By and large, a Canadian widely-held public corporation competes with other public corporations. In this league it is natural for the competition to bear a corporation income tax and we consider it likely that some level of corporation tax is passed on to customers in the price which the corporations charge for their goods and services". *Ibid.*, p. 40, para. 4.34.

¹⁴*Ibid.*, p. 11, para. 1.41.

¹⁵*Ibid.*, p. 64, para. 5.23-5.24.

we must maintain their willingness to do so and protect their interest against others who may exploit loopholes in the law. This means the system must be simple enough for the taxpayer to understand but detailed enough to block opportunities for abuse. Our tax laws must be trusted, the burdens they impose must, in the end, enjoy public acceptance, and their administration must be seen to be efficient and impartial.¹⁶

In all respects, the White Paper proposals were intended to tighten up the tax laws and close the loopholes. The recommendations directed towards achieving this objective focussed on capital gains and 'expense account' living.¹⁷ In some cases, it was questionable whether the reforms in this area made the law more complicated rather than simpler.¹⁸

(iv) Federal-Provincial Co-operation

One entire chapter of the White Paper dealt with "Co-ordination with the Provinces". The federal Government's concern about this issue was directly related to the problem of divided jurisdiction in the area of taxation. It was stated in the Paper that:

It is the government's view that both jurisdictions should retain access to wide powers of taxation. Constitutional taxing powers should not be allocated between the provinces and Canada according to some prediction of fiscal requirements. Requirements change and are

¹⁶ Ibid., p. 7, para. 1.14.

¹⁷ Ibid., p. 61, paras. 5.9 and 5.10; and p. 69, para. 5.54.

¹⁸ For example, the proposals in para. 3.15 set out a "valuation day" on which personal items would be assessed and included in an individual's income. The administrative difficulties in enforcing such a law were shown very early in the debate to be insurmountable.

very difficult to predict. The actual use of the tax fields constitutionally available to both jurisdictions will depend upon the circumstances of the time, and ultimately on the judgments of the people and their representatives in Parliament and the legislatures.¹⁹

However, the government has also recognized and stated that this broad approach to the division of taxing powers called for harmonizing spending and taxing policies if the interests of the taxpayer are to be protected. Governments must consult on fiscal matters and indeed they have consulted more frequently and extensively in recent decades. More discussion will be necessary, and is planned, to decide upon and to implement the proposals for tax reform set out in this paper.²⁰

The proposals on this subject acknowledged the importance of federal-provincial co-operation in the area of policy implementation. The White Paper served as a preliminary stage to the joint revision of the tax-sharing agreements between the provinces and the federal Government.²¹

These issues constituted the major thrust of the tax reform proposals. Basically, they focussed on only one aspect of the tax system, i.e., federal income tax, and to that end relatively extensive reforms affecting individuals, companies and corporations were proposed. The objective of the proposals was to provide for

¹⁹Ibid., p. 80, para. 7.2.

²⁰Ibid., p. 80, para. 7.3.

²¹This was concluded at the Federal-Provincial Meeting of First Ministers held November 15, 16, 17, 1971 after the Income Tax Bill had been introduced in Parliament. See "Transcript of the Prime Minister's Press Conference following the Federal-Provincial Conference", November 17, 1971, mimeo, and "Notes for Remarks by the Prime Minister of Fiscal Arrangements, Agenda Item 2", November 16, 1971, mimeo.

a more even distribution of the tax burden between different income classes and groups in Canada. The debate which ensued was, to some extent, predictable. As Mr. Benson commented when the process was over:

That the White Paper provoked one of the most intense public debates in recent years should have surprised nobody. Indeed, the process highlighted one of the inherent contradictions surrounding the realization of a fair and equitable tax system: philosophically, everybody is in favour of the concept of equity, but, from a practical viewpoint, the individual is constantly demanding lower taxes. As Louis Eisenstein observed, 'our taxes reflect a continuing struggle among contending interests for the privilege of paying the least'.²²

There were three general areas of dispute which arose during the course of the debate. These included conflicts of private interests, competition of alternative public purposes, and differences in economic analysis and beliefs. Often all three issues were combined in the arguments presented by business and industrial interests and the provincial governments.

As previously noted, the response to the White Paper proposals resulted in tremendous protests from those who were benefitting from the inequities and distortions of the old tax system. The plea for special consideration was heard from nearly every group or organization which presented briefs to the parliamentary committees. The questions which were raised over and

²²"Notes for an Address by Finance Minister E.J. Benson to the Advisory Board of Tax Management", Waldorf Astoria, New York City, Thursday, June 24, 1971, mimeo, p. 2.

over in the debate focussed on the issue of the degree of equity and neutrality needed in a tax system. The extent to which too much emphasis on equity would be detrimental to economic growth was an argument which was heard repeatedly.

The proposed tax on capital gains was also criticized by business interests as being tantamount to economic suicide. Even though most of the attacks on the capital gains tax proposal recognized its inevitability, that did not deter these groups from advocating modifications to the full gains tax proposal. The strongest criticism on this issue was directed to the proposal for five-year revaluations of the shares of widely-held corporations. There was also criticism of the proposed tax on gains arising out of the sale of personal residences.

Another controversial area in the proposals was the taxation of corporations and their shareholders. The concept of income integration was resisted so strenuously that the Government yielded its position even before the debate was over. The extractive industries and several of the provinces were strongly opposed to this proposal even though it was originally designed to reduce the "double taxation of corporate source income in those cases where the corporation had, in fact, paid tax".²³

²³ Ibid., p. 5. It was also noted by the Minister that the arguments against this proposal focussed on its complexity. Mr. Brown, Senior Tax Policy Adviser at that time, commented that it wasn't the complexity of the proposal that created this reaction, but rather, the unwillingness of its critics to be receptive to such innovative concepts.

Without exception, the proposals were criticized from the point of view of how they would detrimentally affect the group or groups concerned. The provinces, no less than other organized interests, responded in this way. The former were primarily interested in the implications of the proposals for their own financial positions. For them, not only was the issue of tax money at stake but, also, the issue of economic development and growth. The inter-play of ideological and political factors added to the concern of the provinces with the federal policy.

The extent to which these kinds of responses were not congruent with the objective reality of the situation has been criticized at some length by Professor Bird. He has stated that:

...one might state as a general rule that predicted irreversible social catastrophes as a result of tax changes somehow seldom occur. This fact has not, however, prevented the usual outcries concerning the possible disastrous consequences to Canada of adopting the "radical", "untested" and "dangerous" White Paper reforms or, even worse, the Carter reforms. Such statements from representatives of some of the largest and best-known enterprises in the country have far outweighed in the media and the public eye more reasoned appraisals. The assurances of economists that "...the various prophecies of unmitigated disaster are simple nonsense", while in my view entirely correct in stressing the resilience of the Canadian economy and its ability to absorb much greater shocks than those entailed by the adoption of the White Paper...proposals, seem to have done little to soothe the savage breast of the taxpayer...Nevertheless, I believe that much of the current controversy about tax reform in Canada, by both proponents and opponents of the proposed changes, can fairly be characterized as looking backward--the opponents

with nostalgia to the low-tax, small-government world that will never come again, and the proponents to the incredible perversions and distortions of rationality and fairness that constitute much of the present tax system.²⁴

The impact that the difficulty and complexity of the subject matter had on the pattern of participation has already been discussed. Because the average citizen did not understand the meaning of rate schedules, dividend credits or concepts such as equity and neutrality apart from the impact he was told they would have on his pocketbook, it could be argued that taxation was a subject best left to the experts, accountants and lawyers. Thus, the technicality of the tax policy isolated it from meaningful public discussion.

It was to be expected, therefore, that the Government established the best rapport with those groups who had the technical expertise and resources. They included the large corporate interests which dominated the public hearings of the parliamentary committees and the private sessions held by the Minister and his officials in their offices. These groups had the additional advantage of being able to speak the language of tax reform at a sophisticated level.

The difficulty of the subject matter also had an impact on the ability of the parliamentary committees to function in an effective fashion. As noted earlier, the Senate Committee, composed mainly of former tax lawyers, did not find the discussions a burden. The House Committee, on the other hand,

²⁴Bird, "Tax Kaleidoscope", p. 451.

was clearly at a disadvantage in this regard. A combination of ignorance and inexperience caused its members to over-react, as its report indicates,²⁵ to the arguments put forward by many of the large companies and corporations.

The complex nature of the tax proposals served, not only to 'dis-enfranchise' large numbers of individuals from participation in the process, but also, to distort the significance of the representations and views which were made known. The nature of the policy, therefore, affected the extent to which the objective of widespread and representative participation in the policy process was achieved.

Consequently, there was a reciprocal influence between the policy content and the policy process. Just as the controversial and complex nature of the policy had affected the policy process, the resulting process, in turn, influenced the

²⁵See Eighteenth Report of the Standing Committee on Finance, Trade and Economic Affairs, "Respecting the White Paper on Tax Reform", 1970. It was stated that: "This difference in approach to equity, we surmise, arises essentially from the difference in perspective between, on the one hand economists and governments who tend to the total economic view, and on the other the taxpayer, who not unnaturally reasons from his particular circumstances to overall general conclusions. As a result, we have seen taxpayers who would face increased tax burdens under the proposals reason that because the proposals would have an adverse economic impact on them or their activities, there would be an equal or even greater adverse economic impact on the whole private sector of the economy. That this attitude was sometimes carried to extremes and even dramatized to the point of destroying credibility does not alter the fact that it exists." Ibid., p. 10.

the kind of changes which were made in the substantive policy. An examination of the changes made in the Government's proposals when they became legislation reveals a series of piecemeal modifications, which, taken separately, may be viewed simply as concessions to special interests. Many of the special interest proposals had been of a nature that no one of them would have had a large adverse effect on the proposed reform package. However, when they were combined, the result was a significant dilution of the Government's original objectives in the tax reform process.²⁶

The shift in emphasis in the Government's position respecting the objectives of tax reform was also made apparent. In the Budget Speech of June 18, 1971, in which Mr. Benson introduced the new legislation, he presented the objectives of the Bill in this order:

A tax system must be sensitive to the economic and social needs of this country. It must not stand in the way of steady and continuous growth and economic prosperity. In some cases, it must do more--it must stimulate sectors of our economy which need incentive. A tax system must distribute the tax burden in an equitable manner, based upon ability to pay. Furthermore, it must not only be fair, it must be seen to be fair... I believe that the proposals which I will introduce this evening represent a reform of our tax system which will deal with many of its shortcomings. They will also reflect a consensus about what Canada's tax system ought to be in the 1970's...²⁷

²⁶For a summary of the changes that were made in the proposals as a result of the debate and the committee reports, see Appendix A, "Tax Reform Synopsis", p. 368 below.

²⁷Hon. E.J. Benson (Minister of Finance), Debates of the House of Commons, June 18, 1971, p. 6893.

The tax reform recognizes that we live in a private enterprise system in which effort and initiative must be rewarded if our society is to work effectively and efficiently. I believe that we have succeeded in striking a viable balance between equity and enterprise.²⁸

Nevertheless, although the process resulted in a more 'conservative' reform package than was proposed in the White Paper, the fact that any reform was achieved at all is noteworthy.²⁹

In sum, the substance of the tax reform policy had a significant impact on the outcome of the White Paper process in this policy area. Because of the redistributive intent of the proposals, tremendous conflict between groups which were adversely affected and the federal Government occurred. Not only did these participants have the resources and influence to argue for their special interests, they were also able to dominate the discussions. The support they received from the provincial governments and the publicity given to their views by the media also enhanced their participative role in

²⁸Ibid., p. 6908.

²⁹For example, a commentator on the American political system has stated: "Incrementalism is a characteristic of tax policy just as it is a characteristic of expenditure policy. A review of major tax decisions of the federal government over the last decade clearly indicates the obstacles to significant change in the tax structure...In 1964, Congress passed the Revenue Act of 1964 which was supposed to achieve tax reform as well as tax reduction. Yet the political controversies engendered by the reform proposals were so great that reform provisions had to be jettisoned from the tax bill in order to obtain any tax reduction." See Thomas R. Dye, Understanding Public Policy, (Englewood Cliffs, New Jersey: Prentice-Hall, 1972), pp. 221-3.

the debate. The Government, therefore, was required to proceed in an incrementalist fashion in formulating its final legislation. Thus, the relationship between the policy process and the policy content was a reciprocal one and affected the outcome of the White Paper process on tax reform in important ways.

Let us now examine the nature of the relationship between the policy content and the White Paper process regarding Indian policy. The nature of the issues in this case differed from those in the tax debate but, as will be discussed below, they were equally provocative.

B. Indian Policy

The Indian policy proposals, as contained in the White Paper, attempted to outline a comprehensive revision of the law as it affected the legal, economic, social and political status of a particular minority group. The Government proposed to achieve this objective by removing the obstacles and providing greater opportunities to the Indians for cultural self-fulfillment and socio-economic development. To this end, financial resources would be made available and would accompany changes in the law.

From the Government's viewpoint, the issue was simply one of granting equal status to the Indian people; of elevating their station in life to a level comparable to every other Canadian. This had been the official policy of the Government since World

War Two. It had also been the underlying premise of the 1968 consultations which were conducted with Indian groups across Canada. In the booklet, "Choosing a Path", it was stated explicitly that:

The government wants to make it possible for you to live your lives and conduct your own affairs as freely as other Canadians. The government wants the Indian people to have full equality of opportunity with other Canadians in every way...³⁰
Full equality of opportunity means that Indian people should be able to mingle freely with their fellow countrymen; that they should enjoy equal political freedom and privileges and should have the full benefit and responsibility of Canadian citizenship.³¹

This policy was reiterated in Mr. Trudeau's "Statement on the Just Society" in 1968. When the White Paper appeared in June of the following year, the same theme was continued. The commitment of the Government to this proposal was described at length in the Paper:

This Government believes in equality.. It believes that all men and women have equal rights. It is determined that all be treated fairly and that no one shall be shut out of Canadian life, and especially that no one shall be shut out because of his race. This belief is the basis for the Government's determination to open the doors of opportunity to all Canadians, to remove the barriers which impede the development of people, of regions and of the country. Only a policy based on this belief can enable the Indian people to realize their needs and aspirations. The Indian people are entitled to such policy. They are entitled to an equality which preserves and enriches Indian identity and distinction; an equality which

³⁰"Choosing a Path", A Discussion Handbook for the Indian People, p. 3.

³¹Ibid., p. 7.

stresses Indian participation in its creation and which manifests itself in all aspects of Indian life.³²

To this end, the Government proposed to repeal the Indian Act, wind up the Indian Affairs Branch in the Department of Indian Affairs and Northern Development, turn the responsibility for Indians over to the provinces, make funds available for Indian economic development as an interim measure, and, finally, to appoint a Land Claims Commissioner to settle claims with respect to Indian lands.³³ Underlying all these measures was the premise of equal status. It was claimed that:

The policy rests upon the fundamental right of Indian people to full and equal participation in the cultural, social, economic and political life of Canada. To argue against this right is to argue for discrimination, isolation and separation. No Canadian should be excluded from participation in community life, and none should expect to withdraw and still enjoy the benefits that flow to those who participate.³⁴

The policy position expressed by the Government was morally, as well as politically, significant. A fundamental and basic right of a group of human beings was in question and although the Indian people were to be given the 'choice' of determining how they might achieve equality, equality was being prescribed as the basic premise upon which the 'good life' could be obtained.

Many assumptions derived from this position. In the first place, it was assumed that equal status was what the

³²"Statement of the Government of Canada on Indian Policy", 1969, p. 6.

³³Ibid.

³⁴Ibid., p. 8.

Indians wanted. As the quotation above states, to argue otherwise was tantamount to arguing for discrimination and segregation. Secondly, it was assumed that the best way this equality could be achieved was to repeal and/or change the laws presently in existence which provided for separate treatment for Indians. In other words, the White Paper was proposing a holistic approach to the solution of the so-called Indian problem. Its intent was to set up a new way of life for the Indian according to white man's rules and values.

The Government had claimed that its policy was based on what the Indians had been saying at the consultation meetings held in 1968. An analysis of the position papers and discussion at those meetings show that, indeed, all the issues were covered at the consultation meetings.³⁵ Although there was very little consensus of Indian opinion respecting the different issues, whether economic development, education or Indian treaties and legal rights, particular grievances and points of view were brought forward. But, whereas the Government chose to interpret those concerns as a basic desire for equality for Indian people, when the proposals came forward the Indians were opposed to what the Government intended to do. The reasons for this were essentially two-fold.

³⁵ See "Government Statement on Indian Policy June 25, 1969: Comparison with Remarks Recorded at Consultation Meetings on the Indian Act". Department of Indian Affairs and Northern Development, (March, 1970), mimeo.

In the first place, Indian reaction reflected the attitude of distrust based on previous experiences with the Government. Harold Cardinal of the Alberta Indian Association represented this position to the extreme:

Our people no longer believe. It is that simple and it is that sad. The Canadian government can promise involvement, consultation, progressive human and economic development programmes. We will no longer believe them. The Canadian government can guarantee the most attractive system of education. We will not believe them. They can tell us their beautiful plans for the development of local self-government. We will shrug our disbelief. The government can create a hundred national Indian advisory councils to advise us about our problems. We will not listen to them. We will not believe what they say. The federal bureaucrats can meet with us one thousand times a year, but we will suspect their motives. We will know they have nothing new to say. We will know they speak with forked tongue.³⁶

There was substance to this distrust in view of the Government's actions in drafting the White Paper. Secondly, it was coupled with the fear the Indians had of the implications of the White Paper proposals.

If an analogy were to be found for the impact of the policy proposals on the Indian clientele, it could best be expressed in terms of electric shock therapy. For over one hundred years, the Indian people had received protection and services from the federal government. On the reserves, they had been isolated from political involvement, federal or provincial. They were told what they could or could not do

³⁶ Cardinal, The Unjust Society, p. 27.

with respect to their lands and their treaty rights. They were a dependent people. In effect, what the White Paper proposed was a complete change in the laws governing Indian life. From the standpoint of the Indians, it was felt that the policy provided no guarantees that the rights and privileges they had had in the past would be honoured in the future by either the federal or provincial governments.

An excerpt from the parliamentary committee proceedings on the Alberta "Red Paper" exemplifies some of the specific areas of concern that the Indians had:

Chief Adam Soloway (Indian Association of Alberta)
The White Paper states: The legislative and constitutional basis of discrimination should be removed.
Chief John Snow (Treasurer, Indian Association of Alberta):
The Red Paper states: The legislative and constitutional basis for Indian status and rights should be maintained until such time as Indian people are prepared and willing to renegotiate them.
Chief Soloway: The White Paper states: There should be a positive recognition of the unique contribution of Indian culture to Canadian life.
Chief Snow: Our Red Paper states: These are nice sounding words which are intended to mislead everybody. The only way to maintain our culture is for us to remain as Indians.
Chief Soloway: The White Paper states: Services should come through the same channels and from the same government agencies for all Canadians.
Chief Snow: The Red Paper states: Indians have a right of access to the same services as are available to all Canadians plus those additional rights and privileges which were established by the British North America Act and by subsequent treaties and legislation.
Chief Soloway: The White Paper states: Those who are furthest behind should be helped most.
Chief Snow: Our Red Paper states: These promises are bait to catch us in the trap of the rest of the policy. The federal government is trying to divide the Indian people so it can conquer us by saying that the poorer

reserves will be helped most. Indian people and the organizations they support should be given the resources and the responsibility to determine their own priorities and future lines of development.

Chief Soloway: The White Paper states: Lawful obligations should be recognized.

Chief Snow: Our Red Paper says: If the government meant what it said, we would be happy. But it is obvious the government has never bothered to learn what the treaties are and has a distorted picture of them. The government shows it is willfully ignorant of the bargains that were made. Lawful obligations, including those concerned with aboriginal rights, unfulfilled promises and treaty provisions should be recognized.

Chief Soloway: The White Paper states: Control of Indian lands should be transferred to the Indian people.

Chief Snow: Our Red Paper states: We agree with this intent but we find that the government is ignorant of two basic points. The government wrongly thinks the Indian Reserve Lands are owned by the Crown. These lands are "held" by the Crown but they are Indian lands. The second error the government commits is making the assumption that Indians can have control of their land only if they take ownership in the way ordinary property is owned. Control of Indian lands should be maintained by the Indian people, respecting their historical and legal rights as Indians.

Chief Soloway: The White Paper states: The government would be prepared to...propose to Parliament that the Indian Act be repealed and take such legislative steps as may be necessary to enable Indians to control Indian lands and to acquire title to them.

Chief Snow: Our Red Paper says: We reject the proposals that the Indian Act be repealed. It is essential to review it but not before the question of the treaties is settled and there is a consensus with the Indian people respecting their historical and legal rights as Indians.

Chief Soloway: The White Paper states: ...make funds available for Indian economic development as an interim measure.

Chief Snow: Our Red Paper states: We say it is not realistic to suppose that short-term assistance with economic development as an interim measure will be adequate. The promise of substantial funds must be followed by actually making these monies available for Indian social and cultural, as well as economic development, with the emphasis in each case to be determined by the Indians concerned. The government should give special consideration to the proposed Alberta Indian Development System, as a possible pattern of Federal-Provincial-Indian co-operation in community development.

Chief Soloway: The White Paper states: ...wind up that part of the Department of Indian Affairs and Northern Development which deals with Indian Affairs. The residual responsibilities of the federal government for the programs in the field of Indian Affairs would be transferred to other appropriate federal departments.

Chief Snow: Our Red Paper states: We believe the Department of Indian Affairs, in its present archaic and paternalistic form, should be wound up. There should be established instead a smaller federal Indian agency more closely attuned to the needs of Indian people and responsible primarily for ensuring that the Queen's promises with respect to treaties and lands are kept.³⁷

The very name of the Red Paper, "Citizens Plus" implied the kind of perception the Indians had of the policy. The phrase, "Citizens Plus" had been coined by the Hawthorn study.³⁸ In that context it had been used to describe the fact that: "Indians should be regarded as 'citizens plus'; in addition to the normal rights and duties of citizenship, Indians possess certain additional rights as charter members of the Canadian community."³⁹ Although the Government chose to ignore the findings and recommendations of the Report, it became the basis upon which Indian attitudes toward the White Paper were to be built. The issue for the Indians therefore was one of special status, not equal status.

The claim of aboriginal rights became the focal point of the rebuttal. Until this was recognized by the Government, the Indians were not prepared to discuss any policy proposal.

³⁷ Minutes of Proceedings and Evidence, Standing Committee on Indian Affairs and Northern Development, 1969-70, June 4, 1970, #25, pp. 25:8 to 25:10.

³⁸ Hawthorn, A Survey of Contemporary Indians of Canada, Vol. I, p. 13.

³⁹ Ibid.

All other claims made by the Indians, whether they respected treaties, medical care or land use, stemmed from this so-called inalienable right. It was the Government's attitude concerning this claim that caused the greatest provocation among the Indians.

The position outlined in the White Paper did not acknowledge aboriginal claims. The policy statement, in effect, destroyed any claim non-treaty Indians, especially those in British Columbia, might have to land or other services.⁴⁰ The proposals respecting land claims as they affected treaty Indians were almost as devastating. The White Paper contained the following comments on this issue:

Many Indians look upon their treaties as the source of their rights to land, to hunting and fishing privileges, and to other benefits. Some believe the treaties should be interpreted to encompass wider services and privileges, and many believe the treaties have not been honoured. Whether or not this is correct in some or many cases, the fact is the treaties affect only half the Indians of Canada. Most of the Indians of Quebec, British Columbia, and the Yukon are not parties to a treaty. The terms and effects of the treaties between the Indian people and the Government are widely misunderstood. A plain reading of the words used in the treaties reveals the limited and minimal promises which were included in them. As a result of the treaties, some Indians were given an initial cash payment and were promised land reserved for their exclusive use, annuities, protection of hunting, fishing and trapping privileges subject (in most cases) to regulation, a school or teachers in most instances, and, in one treaty only, a medicine chest. There were some other minor considerations such as the annual provision of twine and ammunition...The significance of the treaties in meeting the economic, educational, health and welfare needs of the Indian people

⁴⁰ For breakdown of the Indian tribes covered by treaties as well as the provisions outlined in both the pre- and post-confederation treaties see "The Canadian Indian", a booklet prepared by the Indian Affairs Branch of the Department of Indian Affairs and Northern Development, March 1966, mimeo, pp. 4-8.

has always been limited and will continue to decline. The services that have been provided go far beyond what could have been foreseen by those who signed the treaties.⁴¹

The most radical group of Indians who denied the right of the Canadian Government to have any legislative authority over their lands and who made some of the strongest claims during the debate that the Government had violated their respective treaty rights were some members of the Six Nations Confederacy in Ontario. The border incidents at the St. Regis Reserve during 1969 and 1970 indicated the militancy of some of these groups.⁴² However, more reasoned response came from the National Indian Brotherhood. Its approach was to undertake research to look into this problem.⁴³

At the General Assembly meeting the National Indian Brotherhood and provincial Indian associations held in Regina

⁴¹"Statement of the Government of Canada on Indian Policy" 1969, p. 11.

⁴²For a discussion of the incidents and a historical account of the treaty and land claims made by these bands, see M. Posluns, "Conflict at Akwesasne" in Canadian Welfare, #2, (1971) pp. 4-9 and p. 27. These bands still adhere to provisions of Jay's Treaty of 1791. See also Wuttunee, Ruffled Feathers, pp. 97-102.

⁴³In 1969, the National Indian Brotherhood established "The National Committee on Indian Rights". It was staffed mainly by Indian representatives but engaged expert legal advisers for its work. See "Memo of the Federation of Saskatchewan Indians to the Executive Council Meeting of the National Indian Brotherhood", Ottawa, June 14-15, 1971, mimeo, pp. 1-2.

in July 1971,⁴⁴ the extent to which the Indians were prepared to go in making demands for these rights was revealed. The theme of the conference was "Emergence of the Developing Indian Nations: The Indian Peoples as Developing Nations, and Aboriginal Rights". This theme was pursued in both the business discussions⁴⁵ and in the presentations of several guest speakers of international reputation.⁴⁶ One of the briefs presented by the National Indian Brotherhood entitled "Aboriginal Title" made the position of the Indian most explicit:

A. The Indian View. Prior to colonial settlement in North America the Indian tribes were independent sovereign political entities. In both Europe and North America the internal political structures of the nations and the systems of landholding varied. In both there were explicit national boundaries. North America, before the colonial period, had a complete set of political boundaries, as mutually understood and recognized as the political boundaries of Europe. A primary element of political sovereignty was tribal possession of territory. Although in the colonial legal system the tribal territorial rights were seen as the basis of all Indian rights, Indian people see their distinct rights as flowing from the historical reality of political sovereignty.⁴⁷

⁴⁴ Since 1970, a General Assembly of Indian organizations and associations has been held annually during the month of July.

⁴⁵ See National Indian Brotherhood, Press Release, Regina Saskatchewan, July 2, 1971, mimeo, pp. 1 - 2.

⁴⁶ Ibid. These included: Vine Deloria, author of Custer Died for Your Sins, who spoke on "Aboriginal Rights and Pluralism"; Victor Nazario, an associate of Ivan Illich in Mexico, who spoke on "The Philosophy of Independence"; and His Excellency Abbas K. Sykes from the High Commission of Tanzania who spoke on "Aspects of Tanzania as a Developing Nation".

⁴⁷ National Indian Brotherhood, "Aboriginal Title", Brief presented to the General Assembly, Regina, Saskatchewan, July 13, 14, 15, 1971, mimeo, p. 1.

The paper then went on to discuss the contrary arguments expressed by the Government on aboriginal claims. The conclusion of the brief was that the real objection of the Government in recognizing aboriginal title was that it would cost too much:

A number of Government people feel this is the basic reason for the present government's coolness to aboriginal claims. It is the most understandable and the least principled objection. It must, however, be understood that it is the least defensible objection on pragmatic or political grounds...Legal, symbolic and economic justice are all served by a recognition of aboriginal title.⁴⁸

The meeting was a milestone in Indian political development in Canada. It was well organized and widely publicized. Many of the specific proposals put forward by the Indian leaders were directed at changing the power relationship between this minority group and the Government.⁴⁹ The White Paper debate had been terminated for over a year by this time, but the Indians were now just beginning to respond to the public dialogue in a meaningful way. The policy statement had succeeded in providing the impetus for Indian involvement. Consequently, the Indians began to discuss what they considered to be the substantive issues of Indian policy.

⁴⁸ Ibid., p. 14.

⁴⁹ One proposal suggested by George Manuel, President of the National Indian Brotherhood outlined a system of parliamentary representation based on New Zealand constitutional practice by which aboriginal groups are provided with a fixed number of seats in the legislature. (There are 4 Maori seats in the New Zealand legislature). See "Report on the National Indian Brotherhood President's Tour of New Zealand and Australia," presented by Chief George Manuel, Regina, July 14, 1971, mimeo, pp. 24-25.

The Government had intended that its Indian proposals would alter the entire system of regulation governing Indian life in Canada. The ability of the Indian people to continue as a distinct cultural group would have been severely circumscribed. They would have been forced, from their viewpoint, into becoming Canadians without any special claims as an indigenous charter group. The demands they made, therefore, were not just on the basis of special vested interests, they were made from a broader perspective of the Indians' role in Canadian society.

As a result of this conflict of cultures, the Indians felt compelled to challenge the legitimacy of the authority of the federal Government. They began to deny the right of Government involvement in their affairs until they had achieved a consensus among themselves on the kind of policy they desired. The federal Government was forced to withdraw its proposals as a result of the political pressure brought to bear by these groups and to proceed in effecting reforms only in those areas which the Indians approved.⁵⁰

⁵⁰ For a description of particular program changes which the Department of Indian Affairs and Northern Development undertook during 1970-71 in an effort to respond to the Indians' rejection of the White Paper, see "An Address by the Hon. Jean Chrétien, Minister of Indian Affairs and Northern Development on the occasion of the Annual Meeting of the Big Brothers Association of Canada", Peterborough, Ontario, June 11, 1971, mimeo, pp. 4-7.

As in the case of tax reform policy, the relationship between the policy content and the policy process on Indian affairs influenced the outcome of the White Paper debate but with different results. The policy proposals were rejected because they did not represent the attitudes nor protect the interests of the affected clientele. The process of policy-making was altered as the Indians began to demand a different substantive approach to policy in this area. In sum, the nature of the Government's policy caused the White Paper process to break down, but, at the same time, the Indians became better organized and subsequently started to develop their own policies.

II. Conclusions

In this chapter, an attempt has been made to provide an explanation of the differences in the White Paper process on tax reform and the one on Indian policy. In each case there was a reciprocal influence between the policy content and the policy process which determined the pattern of participation and the outcome of the White Paper debates. In the case of tax reform, the debate was conducted essentially along income class lines. The arguments which were heard, represented disproportionately the interests of the wealthy, 'capitalist' class in Canada who were interested in maintaining their economic distinctiveness at the expense of other income earners. Changes were made in the proposals to

accommodate the interests of private groups as well as the provincial governments. As a result, the redistributive objectives of the proposals were significantly diluted. Some increased progressivity of the income tax law was achieved, especially through capital gains tax, but this was offset by the reintroduction of 'loopholes' which benefitted those groups, in particular business interests and the mining industries, that would have been 'severely' affected had the proposals been implemented in toto.

In contrast, the debate on Indian policy was a direct conflict between the federal Government and the Indians. The 'debate', such as it was, was essentially a game of power politics between two sectors representing different cultural outlooks. By rejecting the Government's policy, the Indian groups intended that the policy should be replaced by one which better reflected the goals and aspirations of the Indian people, not those of the Government.

The discussions contained in Section Two have attempted to provide a detailed analysis of how policy-making was conceived of by the first Trudeau Administration, how the 'White Paper process' was intended to facilitate and improve government policy-making and how the different sectors of the policy-making system were involved in the White Paper process on tax reform and Indian policy. The extent to which the substantive policy influenced, and was influenced by, the White Paper process in each case has also been examined.

The preliminary conclusions which can be drawn from the analysis in this sector indicate that:

1. The White Paper process only partially facilitated the Government's policy-making activities. In each case, the Government provoked response and received information from the groups who were affected by the policy, but at the same time, it did not receive sufficient public support to implement far-reaching reforms. Rather it had to approach each policy area in an ad hoc, piecemeal way.

2. The role of Parliament was partially improved as a result of the tax debate. The public hearings of the two parliamentary committees and the discussions of the proposals in Parliament did allow parliamentarians to be actively involved in the public aspects of the policy-making process. On the other hand, parliamentary involvement in the Indian policy debate was minimal.

3. The involvement of the public sector was enhanced in varying degrees by the debates. The White Paper process on tax reform mobilized groups which traditionally have tried to influence governmental decisions in this policy area. In the case of Indian policy a new set of political interest groups was formed and mobilized. This was perhaps the most significant outcome of that debate.

4. Federal-provincial consultative relations were enhanced as a result of the White Paper Process on tax reform. The

sharing of information as well as decision-making authority was extended to areas not previously included in the purview of federal-provincial policy-making. Once again, the White Paper debate on Indian policy did not promote this objective of the White Paper process. The provinces, because of their own self-interests, chose not to become involved.

5. The nature of the policy content was a key variable in explaining why the policy processes developed as they did. Simply because the Government had decided that these two White Papers would form part of an attempt to promote 'participative' policy-making, it could not be expected that the actual policy processes would develop in a similar fashion. The reaction and response to the Papers in each area were largely determined by the intent and consequences that the policy had for the affected clientele.

In order to evaluate the utility of the White Paper process in the Canadian parliamentary system, an analysis of the costs and benefits of this approach must now be made. The concluding section of this study will examine the effects and implications of the use of White Papers, in particular participative Papers, for the policy-making process of the Government of Canada.

SECTION THREE:
AN EVALUATION OF
THE WHITE PAPER PROCESS

CHAPTER TEN
THE CONTRIBUTIONS OF
THE WHITE PAPER PROCESS:
ITS COSTS AND VALUES

The White Paper process was a novel feature of the policy-making system of the first Trudeau Administration. The preceding analysis of the cases of tax reform and Indian policy has shown that this approach to policy-making had unintended as well as intended consequences. The White Paper process in these two policy areas was subject to both success and failure. On the basis of the discussion of these White Paper experiments, it is now possible to assess the utility of this approach to public policy-making.

The purpose of this chapter is to provide an evaluation of the nature of the costs and benefits of the White Paper process to the policy-making activities of the first Trudeau Government. The implications that these costs and benefits have for the future use of the document and a proposed alternative technique that could be used in place of the White Paper process will also be examined.

I. Costs

A. Delay

Although one of the major concerns of the Trudeau Government was to develop a capacity to anticipate problems and gain 'lead time' in its policy-making activities, the White Paper process on tax reform and Indian policy created substantial delays in Government policy-making in these two areas. There were two kinds of delay which were created by the use of these Papers. One kind was the result of internal policy activities; the other was caused by the public debates.

In the first instance, it has previously been noted that all recent White Papers have been the result of internal policy reviews based on the recommendations and findings of investigatory bodies such as royal commissions, task forces or interdepartmental committees. The fact that a White Paper is presented indicates that the government is either not satisfied with the results of the report or feels that it is necessary to refine the proposals it wishes to endorse. The ability of the government to take immediate action is therefore postponed. Further investigations of the findings must be conducted within and between departments; discussions must be held in Cabinet; drafts must be written and revised to meet the approval of senior departmental officials and,

ultimately, Cabinet ministers; and finally, these documents must be translated. (The latter delay is one excuse the Government has often used to justify postponements in tabling the Papers.)

In the case of the White Paper on tax reform, the senior policy officials in the Department of Finance took two years to develop proposals on the Carter Report which were acceptable to Cabinet.¹ In contrast, the White Paper on Indian policy was formulated more expeditiously during a brief six month period. However, it had been preceded by several years of attempted policy consultations between the Government and the Indian people.

The other kind of time lag which resulted in these two cases was due to the public debates. By involving Parliament, the public and the provincial governments in policy discussions, valuable time was lost in making and implementing decisions. Delay occurred for a number of reasons. It took time for the Government to publicize its proposals and to convince the public that it intended to discuss its proposals in good faith.²

¹An interesting byproduct of the delay caused by internal reviews is the 'white-papering' of policy ideas which can occur while a Paper is passed from committee to committee. The White Paper on tax reform provides a good example of this. The recommendations of the Carter Report were substantially modified and 'papered over' as a result of the drafting and redrafting of the White Paper proposals. Much of the substance of the Carter Report was lost as the bureaucrats tried to accommodate the diverse views of their political masters.

²As noted earlier, in the case of Indian policy the Government tried unsuccessfully for two years to convince the Indian people of its sincerity and desire to consult in good faith. The failure to do so prevented the Government from conducting meaningful public discussions on the policy proposals.

There was delay in organizing the machinery for debate. For example, it took nearly six months for the House Committee which examined the White Paper on tax reform to prepare and organize for its public hearings. Time was also lost during the initial stages of both debates as established groups prepared briefs and presentations and as new groups were formed. It took nearly two years for the Indian people to develop organizations which would allow them to participate in a meaningful way. Finally, the public hearings and private consultations prolonged the process. No time limit had been set for the public discussions. Rather, they were allowed to continue until the Government was prepared to take action on the policy proposals in each case.

As a result, the public debate on tax reform delayed the introduction of legislation by more than two years. As the Prime Minister remarked in a speech to the Canadian Manufacturers' Association in 1971:

Major tax reform has been advocated and talked about in Canada since the establishment by Prime Minister Diefenbaker of the Carter Commission in 1962, yet nothing of substance was actually done about tax reform until 1968. As you know, the government's tax proposals will be laid before Parliament in ten days time. I should have preferred a time lapse of three months instead of three years, just as some of you would like a new factory to be conceived, designed and constructed in months rather than years. We all know, however, that proper consultation and preparation takes time and that short cuts are dangerous...If the answers are not all available today, it is largely because the questions weren't asked until yester-

day. Nor will answers be speeded as a result of criticism. What is necessary are carefully considered and formulated proposals and alternatives.³

Bill C-259, which embodied the modified White Paper proposals in legislative form, was introduced in the House of Commons on June 18, 1971 by the Minister of Finance. It was passed under closure on December 17, 1971 after 50 days of stormy debate in the House,⁴ and became effective January 1, 1972. Thus, the tax review process took ten years to complete.

In the case of Indian policy, the time lag for policy implementation created as a result of the public debate is still undetermined. As previously discussed, when the Government withdrew its policy proposals, the Prime Minister indicated that no legislative action would be taken until such time as the Indians expressed their consent.

Consequently, the time lag created by the use of participative White Papers affected the Government's ability to respond quickly to major social problems.⁵ By committing

³"Notes for Remarks by the Prime Minister to the Canadian Manufacturers' Association", Toronto, June 8, 1971, mimeo, pp. 7-8.

⁴Debates of the House of Commons, Friday, December 17, 1971, p. 10592.

⁵Paul Hellyer (P.C.-Trinity), a former Liberal Cabinet minister, has contended that most delays in policy-making are unnecessary. He has claimed that a one-year time frame is all that is needed to identify a problem, conduct research, hold public hearings, and draft policy proposals and/or legislation. Based on his experience with the Task Force on Housing in 1968, he expressed the view that, although the one-year time frame prevents a complete compilation of data respecting a problem, the 80% to 90% which is collected is enough to formulate a policy. According to this view, a White Paper process is simply a means of delaying immediate action. Interview, Hon. Paul Hellyer, June 1971.

itself to a process of review and public discussion, the Government was repeatedly delayed in its attempts to implement its reforms. In fact, it could not speed up the process because it had promised that the proposals would be changed if the debates revealed that changes would be necessary. Therefore, the Government, with a few exceptions in the case of tax reform, had to wait until the debates had run their course before announcing final decisions.

The debates revealed the inefficiency and slowness of the process of participative policy-making. It would have been more expeditious, particularly in the area of tax policy, for the Government to have introduced legislation in the House instead of conducting a debate on the White Paper. In view of the previous hearings of the Carter Commission, it is questionable whether the public debate on tax reform was really necessary. The White Paper process in this area was a repeat performance on a larger scale of the activities of interest groups that had appeared before the Carter Commission.

For purposes of comparison, the chart on the following page indicates the time lags which resulted in the case of each White Paper issued during the first three sessions of the 28th Parliament. It reveals that White Papers, especially participative Papers, may be inappropriate techniques to use in policy areas, such as tax reform, where more immediate action may be desirable. If the amount of time needed to identify the parameters of a

SCHEDULE OF TIME LAGS: POLICY INITIATION TO POLICY ACTION*

<u>Policy Area</u>	<u>Initiation of Review</u>	<u>Publication of White Paper</u>	<u>Legislative or Policy Action</u>	<u>Time Lag in years</u>
Price Stability	Interdepartmental Committee, August 1967	December 1968	Establishment of Prices and Incomes Commission by order-in-council, June 1969	2
Indian Policy	First consultations in 1965	June 1969	Proposals withdrawn, March 1971	6
Veterans Pensions	Committee to Survey the Work and Organization of the Canadian Pension Commission (Woods Report) 1965**	September 1969	Bill C-203, January 1971	6
Tax Reform	Royal Commission on Taxation (Carter Report) 1962**	November 1969	Bill C-259, June 1971	9
Unemployment Insurance	Committee of Inquiry into the Unemployment Insurance Act (Gill Report) 1962	June 1970	Amendments to existing legislation introduced in 1970-71 session	9
Foreign Policy	Interdepartmental Committee 1968	June 1970	Consideration of program changes following completion of the White Paper	2
Income Security	Committee of Inquiry into Income Security (Willard Report) 1968**	November 1970	Amendments to existing legislation introduced in Bill C-202, December 1970.	2
Defence	Interdepartmental Committee 1968	August 1971	None--decision on NATO taken in April 1969	3

*Source: Debates of the House of Commons, 1968-72.

** Denotes date that the study was undertaken, not the date the report was published.

problem, develop a solution and see it carried through to its implementation is too great, the Government is unable to achieve its objective of reform and legislative change, or may achieve it so much later and in such diluted form that there is a clear cost of delay.

B. Political Costs

The appearance of indecisiveness on the part of the first Trudeau Administration was another effect created by the White Paper process. While recognizing the element of political risk involved, the Prime Minister felt justified in adopting this particular style and approach to policy-making. During an interview with Charles Lynch of Southam News, Mr. Trudeau encountered this exchange:

LYNCH: ...Does it occur to you that out of events in the last three years people seem to prefer decisive action? People, I mean the people at large. I think of Premier Davis in Ontario on the school question, or on the Spadina Expressway. I think of Nixon in the U.S., with his economic policies. Their popularity seems to go up when they take these kinds of actions. Yourself last October--very decisive and wham--right through the roof on popularity. Is it possible that, what I call white paper technique that you've almost pioneered in government, of proposing issues in the broad and saying let's discuss this and out of it we'll distill a policy, gives an impression of indecision and the people prefer a harder line?

TRUDEAU: That's a very serious question, and I've asked it of myself in the past six or eight months several times. I would merely answer it now by saying that I certainly don't want to change, but I think other people, other governments, other parties may look at our experience and say that people don't want to participate as much as they say they do...We had consultations on everything. We had white papers

so that the people could be involved. We let the taxation reform be in front of the people for a year and a half in the form of a white paper...I can only say that I have no intention of changing the style. But other people may want to draw the conclusion from our experience that Canadians say they want to participate but that they don't want to participate all that much. They like, as you say, decisive action. I would say only that we will act decisively when it is urgent to act decisively. Otherwise, I would rather get people to understand their problems and solve them with the government.⁶

Theoretically, it may be desirable for the Government to 'get people to understand their problems'. On the practical level, however, the consequences may not be beneficial to its political interests. The appearance of inaction and indecisiveness did affect the Government's popularity.

As previously discussed, the people who 'got to understand the issues better' as a result of the White Paper process were those who had special interests to protect. Because of the nature of the policies, the public debates generated opposition against, rather than support for, the Government's policy-making endeavours. The debates, particularly the one on tax reform, provided an opportunity for Opposition M.P.'s, the public and the provincial governments to openly criticize the federal Government's policy proposals. When changes were made, as in the case of tax reform, or when the policy was withdrawn, as in the case of Indian policy, the result was a considerable loss of political face and credibility on the

⁶"We've tried to go to the bottom of every issue", Interview reported in the Ottawa Citizen, Saturday, October 30, 1971, p. 7.

part of the federal Government.⁷ In its efforts to accommodate special interests in the tax case, for example, the Government neglected to ensure that the interests of the general public and groups that would have benefitted from the proposals were served.

There were other effects of the White Paper process in these two areas which resulted in political costs to the Government. It has already been noted that the Liberal Party did not play an active role in the White Paper process. The Party was not involved in the formulation of the policies. Nor did it become involved in the White Paper debates. On the one hand, the proposals were statements of preferred policy and, for this reason, it was not considered appropriate for the Party to criticize those proposals. The Party had made its input by discussing policy goals at several party conferences held during this period. It was now expected to stand behind the Government's policy proposals directed toward the achievement of those goals. On the other hand, the proposals were not definite Government policy. The Party could disseminate information on the proposals, though for the most part, this was handled through the Ministers' offices; it could encourage public participation in the debates and hold information seminars and discussion sessions; but, it could not become actively involved in generating support for the proposals because it did not know what proposals the Government would finally endorse.

⁷It has been claimed that these developments contributed to the outcome of the October 1972 general election. Interview, Torrance Wylie, National Director, Liberal Party of Canada, December, 1972.

The Party could also have served a useful purpose in representing the views of the less articulate sectors in the debates. In the White Paper process on tax reform, the majority of taxpayers did not have a voice in the dialogue. The discussions were dominated by a small elite from business, industry and the professions. Although the Opposition parties, through their members of Parliament, did defend the interests of the 'under-represented' sectors in the debate, the political party of the Government was not actively involved in representing the interests of disadvantaged groups, including those groups and individuals that supported the Party.⁸

C. Parliamentary Costs

Although the White Paper process was intended to involve Parliament in government policy-making, in the case of Indian policy, the Government, in effect, by-passed Parliament and appealed directly to the affected clientele. As a result, Parliament's role as a representative institution was downgraded.⁹

⁸Ibid. The White Paper on tax reform was discussed at a number of party forums held in different parts of the country, especially in Ontario. There was concern expressed at some of these meetings that the proposals did not go far enough to effectively redistribute the tax burden. Such concern, however, did not have an impact on the Government when the final legislation was drafted. For a critique of the Party's lack of influence on the policies of the Trudeau Government, in particular, the tax proposals, see Stewart, Shrug: Trudeau in Power, pp. 88-104.

⁹By pure coincidence, the tabling of the Indian policy statement occurred at a time when the morale of the members of the House was at a very low point. It was at this time that Mr. Trudeau quipped: "I think we should encourage members of the Opposition to leave. Every time they do, the I.Q. of this house rises considerably...When they get home, when they get out of Parliament, when they are 50 yards from Parliament Hill, they are no longer honourable members--they are just nobodies, Mr. Speaker." See Debates of the House of Commons, July 25, 1969, p. 11635.

Instead of using the White Paper process as an opportunity to enhance the representation of Indian interests in the House of Commons, the Government chose to try to deal directly with the Indian people.¹⁰ As Mr. Dinsdale (P.C.--Brandon-Souris) commented in the House on another occasion:

Unfortunately the Prime Minister's version of participatory democracy seems to be to appeal directly to public opinion rather than the slower and more difficult process of parliamentary discussion. I believe that one thing in this process of change which has brought about so much confusion in the nation has been the tendency of the government to an increasing extent to downgrade the principle of responsible government which is absolutely essential if Parliament is to continue to play the unifying role that the Prime Minister mentioned in his speech when he said this institution of parliament is designed to resolve the differences that are wracking the Canadian community at the moment.¹¹

On the other hand, the major cost which accrued to Parliament as a result of the White Paper process on tax reform related to the considerable time and energy which had to be devoted to the Committees' hearings by parliamentarians, especially the members who served on the House Committee. Committee work in the Commons, particularly if it involves membership on five or six committees can be an extremely onerous burden on the member of Parliament who must also try to keep in touch with his constituency and to meet the demands made

¹⁰As noted above, demands have been made for Indian seats in the House of Commons. More recently suggestions have been made that Indian senators should also be appointed.

¹¹Walter Dinsdale (P.C.--Brandon-Souris), Debates of the House of Commons, October 28, 1969, p. 227.

by his constituents.¹² The tax debate had the effect of over-burdening already over-burdened back-benchers.

As noted earlier, the House Standing Committee on Finance, Trade and Economic Affairs held 146 meetings during an eight month period. The Committee formed two sub-committees which travelled across the country holding public meetings during the summer recess. This was done, in part, because conflicts had occurred between the time schedule for the Committee hearings and the sittings of the House. The use of the summer recess for work that should have been conducted during the normal course of the session created annoyance among some of the Committee members.

In spite of the large size of the Committee's staff, its members were burdened with the problem of finding time to investigate and become informed on issues which were raised in the briefs presented to them. The Committee should have decided to devote its full time to the White Paper as soon as it was tabled in the House and should have taken sufficient time during the initial months following the Paper's publication to inform itself on the substantive issues of the document through more intensive briefing sessions with departmental officials and outside sources. Committee staff should have been engaged at the outset. Criteria governing the selection of briefs to be presented should also have been established. In these ways,

¹²For a discussion of committee activity in the first session of the 28th Parliament, see Thomas Hockin, "The Quiet Revolution: The Role of Standing Committees in the House of Commons since 1966", in Orest Kruhlak, et.al., The Canadian Political Process, (Toronto: Holt, Rinehart and Winston, 1970), pp. 383-397.

the members' work would have been expedited and the time-consuming exercise of hearing and reading what were often repetitive briefs could have been avoided.

D. Financial Costs

The financial costs of the White Paper process on tax reform and Indian policy were of two kinds. In the first instance, there was a perceived economic cost to the country as a result of the tax debate.¹³ It was claimed that the length and the nature of the tax debate caused fear and uncertainty in the business community and influenced business and industrial leaders to delay decisions on proposed investment and capital development.¹⁴ The result was a slow-down in the economy. Although it is not possible to judge the extent to which this claim was valid, the fact that the Government responded relatively quickly to the mining industries' demands would appear to indicate that these companies were able to present a convincing case to the Government that it was. It would also indicate that there may be economic hazards of publicly debating government proposals on sensitive economic issues such as tax reform.

¹³The costs which are referred to here relate to the White Paper process and should be distinguished from the costs which, it was claimed, would result from the policy.

¹⁴Unfortunately, this information is second-hand. It is based on interviews with the Minister of Finance and his departmental officials, not the main parties in the action. It was the former's claim that the representatives of the mining industries, public utility companies and some business firms told them that no new investments or dealings would occur until such time as the Government made definite policy pronouncements on the tax proposals.

The second kind of financial cost resulted from the process of participation in these two cases. The costs which accrued to the Government and Parliament included the money spent for publicizing the policy proposals and the salaries and travel expenses of ministers, parliamentarians, government officials and committee staff that participated or assisted in the two policy debates. However, it is not possible to estimate these costs in dollar terms because the amounts of money spent on these kinds of activities are included in the regular operational and administrative items of the budgets of government departments and Parliament and are not identified as separate items in the government's accounts. A recent financial statement of the Government's expenditures indicates that amounts spent on these items from 1970 to 1972 did increase, but what proportion of the increase was caused by the White Paper debates is not identifiable.¹⁵

There were also financial costs to the groups and individuals that participated in the public discussions. In order to participate, money had to be spent on staff to conduct research and prepare briefs and, often, on travel to the public hearings. In the case of the tax discussions, these costs were borne by the organizations and groups that participated from their own resources. In some instances, such as the Canadian Council for

¹⁵See Public Accounts of Canada for the fiscal year ended March 21, 1972, Vol. I, (Ottawa: Information Canada, 1972), pp. 9:19, 9:21, and 9:35, and Estimates for the fiscal year ending March 31, 1974, (Ottawa: Information Canada, 1972), pp. 18-2 to 18-14.

Fair Taxation and Colin Brown's 'anti-reform' movement, substantial amounts of money were raised through public solicitations.¹⁶

In the case of the Indian policy debate, the Department of Indian Affairs and Northern Development and the Secretary of State Department provided funds to the Indian organizations to allow them to organize, hold conferences and undertake research. The provisions of funds out of general government revenue for these purposes now amounts to millions of dollars each year. Although the amounts are not significant in terms of total government expenditures, the provision of funds for such purposes does raise the question of the appropriateness of using the taxpayer's dollar in this way. By setting the precedent of public funding for political purposes, however, the Government will now have to accept its implications for future attempts at participative policy-making.

It is interesting to note that demands have been made for the establishment of a Canada Council for Voluntary Associations.¹⁷

¹⁶John Bulloch refused to give the author any figures on the amount of money raised for the CCFT. Mr. Brown estimated that his advertising campaigns cost several hundreds of thousands of dollars. Personal correspondence, May and June 1970.

¹⁷In November 1971, the author attended a seminar on Voluntary Associations in the Political Process sponsored by the Committee on Voluntary Action of the Canadian Association for Adult Education and subsidized by the Citizenship Branch of the Secretary of State Department. At the meeting, a coalition of 'new groups' represented at the time submitted proposals for the establishment of such a Council. It was their contention that the poor and under-privileged classes in society should have access to funds as required. The underlying objective of such action would be to change the power structure of society. Citizen control of government programs such as Local Initiatives and Opportunities for Youth was also advocated as a means for promoting equal opportunity.

The argument has been presented that groups which wish to organize for the purpose of participating in the political process have a right to be funded. Moreover, it has been argued that the money should be made available out of general government revenue by an independent organization on an unconditional basis. Although it may be difficult to get support for such a proposal, funding is, nevertheless, the logical conclusion to the argument of the proponents of participatory democracy who believe that citizen participation in the political and policy-making process should be maximized.

II. Values

A. Provision of Policy Information

The White Paper was originally used as a means of providing information on public policy to Parliament and the public. This function has remained basic to its use as a policy device and was a primary value of the two Papers examined in this study. The significance of this value is reflected in a statement contained in the Report of the Task Force on Government Information:

Information is the basis upon which the public may follow the activities of the State, and know of its own rights. Information from the government is the basis for feed-back which allows the constant adjustment of governmental planning. This relationship

requires the use of appropriate techniques of information exchange to ensure that the government is aware of reactions to its programmes.¹⁸

The provision of policy information through the use of White Papers helps to create an awareness of policy issues among parliamentarians and the public and to encourage an exchange of information with the affected clientele. The White Papers on tax reform and Indian policy provided parliamentarians with a basis for discussion of the Government's policy proposals in these areas during the debates in the House and the Senate and during the deliberations and hearings of the parliamentary committees. Similarly, they facilitated consultation and debate with affected parties and the provincial governments.

As a result, the White Paper process helped to establish countervailing sources of information and analysis. A noteworthy feature of the tax debate, for example, was the substantial amount of information and commentary on the tax proposals which was received by the Department of Finance from outside groups and provincial governments. Moreover, the publication of the federal White Paper on tax reform prompted the Ontario Government to issue one of its own. Information of this nature was considered by the federal Government in the formulation of the tax legislation. It was in this way that the White Paper process helped to improve the Government's final policy and to promote a mutual exchange of information with some of the provinces in

¹⁸"To Know and Be Known", Vol. II, p. 23.

a policy area of common concern.

B. Social Change

Another major benefit of the White Paper process was its educational effect. By providing information to Parliament and the public in the form of a White Paper and by encouraging people to participate and feel involved in making decisions, the Government hoped that the White Paper exercise would make people better understand the problems and be more receptive to change. As Mr. Trudeau explained:

...basically societies need security; they need to feel that everything is going to be all right... the only way of avoiding that increasing gap between the desire, the expectation and the fulfilment... is by repeating the truth to the people and getting them to understand and to participate in the decision --not in order that it be better, but in order that they realize for themselves that their expectations cannot be fulfilled and that the problem is more difficult of solution than their dreams would reveal.¹⁹

The public debates on tax reform and Indian policy exemplify how the Government, by creating an awareness of and an interest in the issues, was able to establish an environment for public acceptance of change. One astute observer, Richard Bird has offered this assessment of the tax reform debate:

...in such matters familiarity tends to lead eventually to acceptance. The idea of taxing capital gains, for instance, has now been

¹⁹"Transcript of the Prime Minister's Interview with James Reston of the New York Times", Ottawa, December 21, 1971, mimeo, pp. 1-2.

around long enough to overcome people's deep-seated reluctance to accept rapid changes in matters which, they think, concern them intimately and individually. It seems less likely that the integration of personal and corporate taxes has yet achieved the requisite degree of familiarity and acceptance. A close reading of the proceedings of the Commons and Senate Committees now considering the White Paper makes it impossible to be very optimistic about how general such acceptance now is or how deep it goes. Nevertheless, it seems clear that, while the ethical approach of the Carter Commission to tax reform may have initially alienated many Canadians who (unlike most economists) did not share this particular value framework, the power and clarity of their argument has, within a few short years, made this approach much more acceptable to both government and people than I would have predicted. The White Paper and the probability that its main proposals will be enacted are proof of this acceptability. To one who believes that rationality is better than irrationality...this is a most optimistic finding: whatever happens in the way of actual tax change, at least we have seen that careful policy analysis can change the character and to some extent the outcome of the policy process. This has not always been evident in the past.²⁰

The outcome of the Indian policy debate also revealed how the Government, by provoking a public discussion of the policy issues, was able to establish an environment for change. The Government's withdrawal of its policy statement was forced upon it by a previously inarticulate group of people. The fact that the Indian associations are now preparing themselves for change and can discuss possible changes with the

²⁰Bird, "Tax Kaleidoscope", p. 453.

Government is as important to the Government in making policy as it is to the Indian people in attempting to influence policy-making and policy outcomes.

Thus, although the Government's attempts to generate widespread public support for its policies in these two areas had limited success, the White Paper process did serve a valuable function in preparing the affected clientele for future reform. The public discussions provided a means whereby public attitudes and values could be changed. The strategic value of the process to the Government, therefore, was of a long-term, rather than a short-term, nature.

C. Improvement of Parliamentary Control and Scrutiny

It has been noted that the White Paper process was only partially successful in improving committee performance, particularly in the House of Commons. While difficulties were encountered and duplication of effort with the work of the Senate Committee did occur, the House Committee on Finance, Trade and Economic Affairs did serve as a major forum for the public debate on tax reform. The fact that there was apparent collaboration between the Minister and the Liberal Committee members when the report was drafted, however, points out a potential danger for committees involved in a process such as this one. Unless they operate more independently, they could become mouth-pieces for advocating Government policy.

In contrast, the House Committee on Indian Affairs did take

a more independent stand in drafting its report on Indian education. In this case, collaboration also occurred but it was with the National Indian Brotherhood, not the Government.²¹

It is unrealistic to argue that, under a system of Cabinet government, parliamentary committees can become totally independent investigatory bodies. Nevertheless, their deliberations on White Papers, especially participative Papers, can help them enhance their role in the policy-making process. Irrespective of Government control of committees through committee chairmen and party discipline, the fact that a White Paper normally represents Government policy proposals as opposed to legislation can provide for a more flexible approach to committee investigations. In those areas where the Government is not yet committed to a definite policy, committee work should be better organized to allow for public hearings when they are deemed appropriate. Staff services should be engaged on a regular basis to provide assistance to the committees. Consideration could also be given to utilizing the support services of the research offices of Opposition and Government back-benchers for this purpose.²²

²¹The charge could also be made that the Committees served as mouth-pieces for group interests. In the case of Indian policy, the effect was beneficial in that the Indians were an inarticulate sector of society. However, in the case of tax reform, the Committees' hearings were dominated by articulate and financially well-endowed groups. The extent to which the interests of other groups were not represented as a result of this had a detrimental effect on the outcome of the Committees' work.

²²For a discussion of the activities of these offices see Edwin R. Black, "Opposition Research: Some Theories and Practice". Canadian Public Administration, Vol. 15, #2, Spring 1972, pp.24-41.

The White Paper process did improve the Opposition's ability to scrutinize executive action in a very real way. It is interesting to note, for example, the number of opportunities that a White Paper process creates for questions to be asked on government policies. The stages at which such opportunities arise follow this pattern: an announcement is made by a Cabinet minister that a White Paper on a particular policy is to be tabled; the Opposition begins to raise questions respecting the timing and content of the document; there is a delay in the preparation of the Paper; the Opposition raises more questions; the Paper is tabled; demands are made for supplementary papers, and questions on the proposals themselves are raised; the Paper is referred to a Standing Committee for discussion and public hearings; and, finally, the Committee report on the Paper is discussed in the House.

At each of these stages of the White Paper process, the Opposition was provided an opportunity to raise questions and/or initiate discussions on the proposals. For example, following the publication of the White Paper on tax reform, approximately 300 questions were asked by the Opposition during the period from November 1969 to January 1972 on the item of capital gains tax alone.²³ The exposure to parliamentary scrutiny that the Government's policies received as a result of the White Paper process was greater than would have been the case with legis-

²³See Indexes to the Debates of the House of Commons for the four sessions of the 28th Parliament, 1968-72.

lation which, once introduced, is discussed only in committee and sometimes in the House at report stage. Generally, only minor amendments occur in the latter case.

The White Paper process revealed that this kind of approach to policy-making has real and potential values for Parliament. The extent to which the values were realized and benefits accrued was the result of the actions and response of the parliamentarians themselves. The White Paper process presented an opportunity for improving the role of Parliament. Members must now learn how to take advantage of such opportunities. Pressure can be brought to bear on the Government to publish more of these documents. Members of Parliament have the right to such information and should take the initiative by requesting that White Paper reports on major policy issues be presented regularly.

D. Public Influence in Policy-Making

The justification for participative policy-making is derived from the belief that democracy is a method as well as a set of principles and that practical involvement in the procedures of democracy is necessary for the political development and growth of the citizen. It is further believed that every individual has the potential to develop a sense of political awareness and to participate in the affairs of government. Any effort, therefore, which seeks to involve individuals in political matters is necessarily 'good' and this

consideration may over-ride undesirable consequences such as delay or financial costs.

One of the objectives of the White Paper process was to create a more 'open' approach to public policy-making. The direct involvement of the public in the discussion of policy proposals in these two areas was intended to help people not only to understand the problems but also to enable them to influence the Government's final decisions and, hence, increase their sense of political efficacy.

The policy debates did motivate a large number of people to participate. Participation in the tax debate took many forms and involved large numbers of people through meetings, seminars, parliamentary hearings and private consultations. However, those groups who actually influenced Government decision-makers were only a small minority of taxpayers. They were groups and individuals who, for the most part, are recognized as part of the established power structure.²⁴ The debate, therefore, did not result in any significant redistribution of power or influence between different groups and classes of individuals in society. In fact, the position of the established groups in the process was further enhanced by the publicity given to their arguments by the media and by the support, in some cases, of the provincial governments.

²⁴For an interesting discussion of the question of interest group legitimacy see R. Presthus, "Interest Groups and the Canadian Parliament: Activities, Interaction, Legitimacy and Influence", Canadian Journal of Political Science, Vol. IV, #4, (December 1971), pp. 444-460.

As a consequence, this kind of interest group activity served as a means of supporting the status quo and had a conservative impact on the final policy outcome.

In contrast, the White Paper process on Indian policy not only created an awareness among Indians of the Government's policy, but it also resulted in political gains for the newly-emerged Indian organizations. The creation of group structures which could effectively manipulate the decision-making process within the executive-bureaucratic arena was one of the main benefits derived from the opportunity to participate. The awakening of an Indian political consciousness in Canada was prompted, in large part, by the attempt to publicly discuss a major overhaul of the Government's Indian policy and programs.

Thus, the participation process on Indian policy proved to be a useful means of mobilizing a previously inarticulate clientele to bring attention to their particular concerns. The White Paper process could be used in the same way in other policy areas where the interests of poverty and welfare groups or ethnic minorities, for example, have previously been neglected. The Government should place more emphasis on using the process to encourage all classes of citizens, particularly the under-privileged, to participate.

The opportunities created by a White Paper process for the participation of interested citizens and affected clientele and of representatives from the provincial governments in

discussions on proposed government policy are the most significant potential benefit that such a process has for public policy-making. The process helps to publicly expose the activities of federal politicians and bureaucrats and to encourage public discussion of the government's activities. As a recent report of the Economic Council of Canada indicated:

The increased use of "White Papers" by the federal government in recent years has most certainly stimulated a great deal more public discussion on various complex subjects. The federal government's expressed wish for participation must be matched by a high degree of openness at all levels of government about policy-making. One of the central requirements for developing a well-informed electorate is that there must be an increasing willingness and competence on the part of officials and politicians to discuss basic policy issues in the public arena.²⁵

In this way, the federal Government can be responsive to the needs of Canadian society and to the political and constitutional realities of the federal system. Its policies can be based on a wider selection of alternatives presented through public discussions and, hence, can be made to serve the broader public interests of society.

In sum, the White Paper process in these two areas was an experiment in participative policy-making. If the Government intends to pursue this type of policy-making approach, new

²⁵Economic Council of Canada, Eighth Annual Review, "Design for Decision-Making", (Ottawa: Information Canada, 1971), p. 85.

'rules of the game' are needed. In order to avoid political embarrassment yet encourage widespread participation, the Government must be prepared to specify more precisely the features of a policy which are negotiable and the manner in which public discussions will be held. It will have to decide the extent to which it is willing to sincerely encourage and support public participation to make it effective. Above all, the Government and Parliament must avoid allowing the process to be exploited as a means of serving privileged groups in society by ensuring that a representative sample of opinions and views are solicited and received.

III. Conclusions

The conclusions which can be drawn from the first Trudeau Administration's experience with the White Paper process are important to the future use of the document. White Papers are valuable techniques for providing information on policy issues to Parliament and the public. To the extent that such documents are publicly discussed and debated, they are important devices for making citizens aware of policy issues and for getting them involved in the political process. Nevertheless, this investigation of the White Paper process had led the author to suggest the following guidelines for the future use of the Paper.

1. White Papers containing factual information on existing government programs and policies and/or future forecasts and

trends of the same should be issued on a regular basis. This use of the document is a valuable means of making policy information available to Parliament and the public and is important in all policy areas of national concern.

2. White Papers containing government proposals for policy changes should be restricted to policy areas where the Government i) has the time to wait for public reaction, ii) requires the public acceptance of its proposals before an effective implementation of the policy can occur, or iii) desires to encourage the participation of inarticulate or under-privileged sectors of society. This would include most areas of social welfare policy.

In areas of economic or fiscal policy, for example, government activities should be presented in the form of informational White Papers to Parliament for parliamentary discussion. Because of the length of the process, a public discussion of proposed policies in these areas would not allow the Government the necessary flexibility to act quickly or to modify its proposals in the face of external influences--political or economic. If consultations are required at the pre-policy stage they should be conducted on a selective basis. The Government's experience with the White Paper on 'Policies for Price Stability', for example, supports the conclusion that this would be a more appropriate procedure to follow in such policy areas.

3. White Papers should not be used as a means to appeal directly to public opinion. This practice may serve to enhance

the role of the Executive, but at the expense of Parliament. White Papers are, after all, parliamentary techniques, not election pamphlets or public relations propaganda. If they are used to appeal directly to the public, the debates can become pre-election campaigns to which parliamentarians must respond accordingly. As a result, the chances that government policy will receive informed and responsible analysis or scrutiny are greatly reduced.

Therefore, when White Papers containing policy proposals are tabled in the House and referred to appropriate standing committees, it is the House that should decide if a public debate is to be held and it should be the responsibility of the committees to conduct the public hearings. Presentations, whether from interested groups and individuals or from provincial governments, should be channelled through the committees to the House and to Cabinet. Above all, the main focus of debate should remain in Parliament. It is the institution which represents the Canadian electorate and it is the body to which the Executive is responsible for its policies.

4. White Papers containing proposed government policies should continue to be used as a means of facilitating federal-provincial activities in areas of mutual concern or where responsibility for a policy area is shared. The discussion of such documents at federal-provincial ministerial meetings, however,

should be advisory in nature. Agreements should not be reached at such meetings which would constrain the activities of the parliamentary committees examining the proposals.

If the Government desires to provide for greater openness in the conduct of its affairs and to communicate directly with the affected clientele on policy issues, then other techniques should be explored. White Papers, including participative Papers, are too closely associated with final government policy to allow for a truly pre-policy debate or examination of the issues. The publication of Green Papers, outlining policy alternatives rather than policy preferences, could be considered as a suitable device for provoking discussion before any decisions on a policy or policy direction have been made. As previously discussed, the experience of the British Government has shown that such Papers are useful means for sounding out public opinion before policy preferences are identified. In this way, they can be used as part of the government's long-range planning process.

There are a number of criteria which could be applied to the use of Green Papers by the Government of Canada. For example, they could be used in policy areas where:

1. the provincial governments have primary responsibility yet the federal government desires to promote information exchange and discussion of the issues;²⁶

²⁶The Ministry of State for Urban Affairs is presently preparing a Green Paper which, if issued, will be the first one of its kind. It is intended that the document will be discussed at the Tri-Level Conference on Urban Affairs to be held in October 1973.

2. there are no definite preferred policy options because the problems have not been clearly identified or analysed but the government wants to prepare the public for possible future reform;

3. a public discussion of policy goals and objectives is deemed to be desirable.

In order that government documents of this kind could be widely discussed, however, there is an obvious need for the creation of different kinds of public forums which would include the participation of members of political parties, parliamentarians and Cabinet ministers as well as interested individuals in the discussions. Such forums could be of a temporary or permanent nature depending on the policy area. Meetings could be held on a regional basis to ensure representative participation. They would not preclude the discussion of such documents before more conventional bodies such as parliamentary committees and federal-provincial conferences. Rather they would supplement the work of these bodies and help provide some indication of public opinion on the issues before a policy is developed. In this way, the government could avoid some of the costs and consequences of the White Paper process.

In the final analysis, there continues to be a need for greater consultation between the government and the governed. The White Paper is only one means of informing and consulting

Parliament and the public. Other informational and participative techniques must be developed for an environment that demands increasingly responsive policy structures. Although the policy-making process will be lengthened as a result of participation, the greater public involvement in issue formulation, policy-making and policy implementation will provide for an earlier warning of any serious discontent. In this way, the Government will be better able to reduce errors and adjust its activities to meet the changing needs of a changing society.

APPENDIX 'A'

Tax Reform Synopsis

Tax Reform Synopsis*

* Source: "Summary of 1971 Tax Reform Legislation",
presented by Hon. E.J. Benson, (Ottawa: Queen's
Printer, 1971).

PERSONAL

ITEM	OLD LAW	NEW BILL
Single taxpayer — basic exemption	\$1,000	\$1,500
Married taxpayer — basic exemption	\$2,000	\$2,850
Spouse's income	Spouse's exemption of \$1,000 reduced \$1 for every \$1 that income exceeds \$250.	Spouse's exemption of \$1,350 reduced \$1 for every \$1 that income exceeds \$250.
Married exemption for supporting dependant	\$2,000 when unmarried taxpayer supports dependent child or dependent relative.	\$2,850 — Dependant must live with taxpayer. Exemption reduced where dependant has income over \$250.
Children under 16	Parent deducts \$300. If child's income is over \$950, excess may be added to parent's tax (notch provision).	Parent deducts \$300 which is reduced \$1 for every \$2 of child's income over \$1,000.
Children over 16	Parent deducts \$550. If child's income is over \$950, excess may be added to parent's tax (notch provision).	Parent deducts \$550 which is reduced \$1 for every \$1 of child's income over \$1,050.
Other dependants	Taxpayer deducts \$300 or \$550, depending on dependant's age. If dependant's income is over \$950, excess may be added to taxpayer's tax (notch provision).	Taxpayer deducts \$300 or \$550 depending on age of dependant, and reduces exemption as above if dependant's income exceeds \$1,000 or \$1,050.
Unmarried clergymen	Deduct \$1,000 if fulltime servant employed in dwelling.	No deduction.
Elderly taxpayers	Additional \$500 exemption if age 70 or over.	Exemption increased to \$650 and extended to taxpayers age 65 or over. Guaranteed income supplement made exempt.
Special deduction	Individuals who are blind or are confined to bed or wheel chair are allowed a special deduction of \$500 a year.	Special deduction increased to \$650 a year.
Child care expenses	No deductions.	Up to \$500 per child under 14 or over 14 and infirm with a limit of \$2,000 per family. Deductions may not exceed 2/3 of income of parent claiming deduction. Receipts needed. Deducted by mother unless unable to work. Payments to dependants or to relatives under 21 do not qualify.
Employment expenses	Very limited; e.g. union dues.	3% of gross employment income up to \$150 deductible.
Expenses when working away from home	Amounts received from employer by construction workers for board, lodging and transportation at distant sites not taxable.	Old law extended to all employees.

INCOME

COMMONS REPORT	SENATE REPORT	WHITE PAPER
\$1,400	\$1,400 only if taxpayer's income does not exceed \$3,000.	\$1,400
\$2,800	\$2,800 only if taxpayer's income does not exceed \$8,500.	\$2,800
Same as White Paper.	Same as White Paper.	Spouse's exemption of \$1,400 reduced \$1 for every \$1 that income exceeds \$100.
Same as White Paper.	Same as White Paper.	Similar to bill but exemption \$2,800.
Same as White Paper.	Same as White Paper.	Similar formula but reduction started at \$900.
Same as White Paper.	Same as White Paper.	Similar formula but reduction started at \$950.
Same as White Paper.	Same as White Paper.	Similar formula but reduction started at \$900 or \$950.
Same as bill.	Same as bill.	Same as bill.
No change from old law.	No change from old law.	No change from old law.
No change.	No change.	No change.
Similar to bill but deduction allowed only to parent with lower earned income. Would include care for incapacitated spouse.	Similar to bill.	Not allowed to father if mother unable to provide care or for children over age 14. Limited to 2/3 income of parent with lower income.
Similar to bill. Would allow alternative of itemized expenses.	Similar to bill.	Similar to bill.
No comment.	No comment.	Promised some tax relief.

PERSONAL

ITEM	OLD LAW	NEW BILL
Moving expenses	Employer may deduct as business expense. No deduction by employee.	Employees and self-employed may deduct from income from new job with one year carry-over. Must move 25 miles closer to job. Special rules for students.
Medical expenses	Allowable expenses deductible to the extent they exceed 3% of net income. Insurance premiums not deductible. Expenses reimbursed by government plans not deductible. Employers' contributions to public hospital plans and some medical plans result in taxable benefit; contributions to private plans do not.	List of allowable expenses increased to include training institutions for disabled persons and prescribed appliances and equipment. Premiums to plans other than government are classed as medical expenses. Expenses for which taxpayer has been reimbursed under a plan not classed as medical expenses. Employers' contributions to all government plans result in taxable benefit.
Unemployment insurance	Contributions not deductible; benefits not taxable.	Contributions deductible; benefits taxable.
Club fees, convention expenses, entertainment costs	Generally deductible by persons carrying on a business or profession.	Yachts, lodges and club dues disallowed; geographical restrictions placed on conventions.
Charitable donations	Donations to registered charitable institutions limited to 10% of net income. Donations to federal and provincial governments deductible without limit.	Limit on donations 20% of net income. Donations to national amateur athletic associations qualify. Same provisions for donations to governments.
Pension plans, registered retirement savings plans and deferred profit-sharing plans	Limit on deductible contributions of \$1,500 for pension plans and profit-sharing plans and \$2,500 for retirement savings plans. Foreign-source income of pension plans and profit-sharing plans may not exceed 10% to qualify for tax-free status. Some restrictions on investments of pension plans and profit-sharing plans. No restrictions on investments of retirement savings plans. Special rules for taxing lump-sum withdrawals from pension plans and profit-sharing plans.	Limits increased to \$2,500 for pension plans and profit-sharing plans and to \$4,000 for retirement savings plans. 90% of assets of all plans must be Canadian. Penalties for having more than 10% foreign assets; not necessary to dispose of present excess foreign assets. Investments of retirement savings plans to be restricted on same basis as profit-sharing plans. Withdrawals taxed at ordinary rates (but may average or defer tax under new rules). Special rule for present accumulations in pension and profit-sharing plans.

INCOME

COMMONS REPORT	SENATE REPORT	WHITE PAPER
Similar to bill. Recommended that certain time must be spent in new location.	Similar to bill.	Similar to bill but without one year carry-over or reference to students.
No comment.	No comment.	Did not increase list of eligible expenses.
Same as bill.	Same as bill.	Same as bill.
Same as bill.	Same as bill.	Same as bill.
Same as bill.	Same as bill.	Same as bill.
Same as bill.	Same as bill.	Same as bill.
Same as bill.	Same as bill.	Same as bill.
Tighter enforcement of existing laws, continued deduction of proven entertainment expenses and geographical restrictions for conventions.	Retain old law with better enforcement to prevent abuse.	Similar to bill, but entertainment and convention costs not deductible.
No comment on limit except that it should be removed for gifts to Canadian public institutions. Suggested extension of list of registered organizations.	No comment on limit. Would enlarge list of registered organizations.	Did not increase limit on donations.
Recommended a switch to benefit based contributions as soon as feasible.	Recommended further study of benefit based contributions.	Did not increase contributions.
Similar to bill.	Similar to bill.	Similar to bill.
Similar to bill.	Similar to bill.	Similar to bill.
Special averaging for payments on death.	Under certain conditions withdrawals tax-free. Suggested more generous rules for taxing lump-sum withdrawals from plans.	Did not provide special rule for present accumulations or for income averaging annuities.

PERSONAL

ITEM	OLD LAW	NEW BILL
Fellowships, scholarships, bursaries	Not taxable unless related to employment.	Taxable with an annual exemption of \$500.
Training allowances	Not taxable.	Taxable except for living away from home allowance.
Research grants	Not taxable unless related to employment.	Taxable with deduction for research expenditures.
Benefit from personal use of automobile provided by employer or business	Taxed in some circumstances.	Minimum value set for personal use.
Income maintenance insurance	Not taxable if received from an insurance company.	Taxable if employer contributes to premiums, but with a deduction from benefits for premiums paid since 1967.
Income averaging	Special rules for special types of receipts. Five-year block averaging for farmers and fishermen.	General averaging for all taxpayers whose income in a year exceeds four-year average by 20% and immediately preceding year by 10%. Income of each preceding year deemed to be not less than \$1,600. Also special forward averaging for certain receipts through the acquisition of an income-averaging annuity. Averaging for farmers and fishermen will continue as in the old law. Present special rules remain for three or five years.
Servicemen	Special rules — taxed on a monthly basis.	Treated as ordinary taxpayers.
Rate schedule	Rates (including provincial tax at 28%, old age security tax and other special taxes) from 14.8% to 82.4%. Surtax on foreign investment income — 4%.	Rates (including provincial tax at 30%) from 22.1% to 61.1% in 1972. In years 1973-76, federal rate of 17% on first \$500 reduced in steps to 6%. Surtax on foreign investment income eliminated.

INCOME

COMMONS REPORT	SENATE REPORT	WHITE PAPER
Same as bill.	Should not be taxable.	Taxable, with no exemptions.
Same as bill.	Same as bill.	Same as bill.
Same as bill.	Should not be taxable.	Same as bill.
Similar to bill.	Retain old law with better enforcement to prevent abuse.	Similar to bill.
No comment.	No comment.	No provision.
Agreed with White Paper.	One type of averaging for general use, similar to that granted to farmers and fishermen under the old law; and a special formula for lump-sum receipts from plans. Retain present special averaging for lump-sum business receipts but restrict to small corporations.	Averaging if income exceeds four-year average by 33 1/3%. Restrictions for persons formerly dependent and for those under age 25. No provision for income-averaging annuities.
Same as bill.	Same as bill.	Same as bill.
Approved White Paper, but recommended top rate of 60% and no phase-in. The 50% rate to cut in at \$30,000; the 60% rate at \$60,000.	Reduce top rate to 50% for combined federal and provincial taxes. No increase in tax for middle income groups. Eliminate 4% surtax on foreign investment income.	Rates (including provincial tax at 28%) from 21.76% to 51.2%. Top rates to 81.92% in 1972 but reduced over five-year period.

CAPITAL

ITEM	OLD LAW	NEW BILL
General rule	Not taxed.	One-half capital gains to be included in income. One-half losses deductible from gains. Losses not deducted in the year are carried back one year and forward indefinitely. Individuals may also deduct up to \$1,000 of losses each year from other income.
Valuation Day		General rule: cost basis of asset to be higher of original cost or fair market value on V-Day in determining gains and lower of cost or market in determining losses. For bonds, etc., cost in these rules is amortized cost. Taxpayer may elect to use fair market value on V-Day for all assets.
Homes		No tax on sale of principal residence and one acre of land or additional land surrounding residence if proven necessary to enjoyment as residence. Farmer has alternative to deduct \$1,000 per year on home and farm.
Works of art, jewellery, etc.		\$1,000 minimum cost per item or set of items. Losses allowed against gains from similar assets and excess carried back one and forward five years with same restriction.
Other personal property		\$1,000 minimum cost per item, or set of items. Losses not allowed.
Shares		Same as general rule.
Bonds, mortgages, agreements for sale, etc.		Same as general rule. Deep discounts half-deductible to issuer.
Windfall gains	Capital gains from gambling, sweepstakes and the like not taxable; losses not deductible.	No change.
Rollovers (carry-over of basis and deferral of gain)		Rollovers permitted for: <ul style="list-style-type: none"> — expropriation and destruction — transfers to an 80%-owned corporation — liquidation of a wholly-owned subsidiary — certain amalgamations and corporate reorganizations — transfers to a partnership — certain dissolutions of partnerships.
Gifts		No deemed realization for gifts to spouse; on subsequent sale, capital gains tax paid by donor. Deemed realization at time of other gifts.

COMMONS REPORT	SENATE REPORT	WHITE PAPER
Similar to bill but more gains fully taxable.	Short-term (less than year) gains and losses treated as ordinary income. Long-term gains tax not to exceed the lower of 25% or rate of taxpayer. Long-term capital losses deductible only from long-term capital gains, subject to three-year carry-back and eight-year carry-forward	Capital gains to be brought into income and taxed at personal rates; losses to be deductible from any income. (See exceptions). One-year carry-back and five-year carry-forward.
Similar to bill. Suggested safe haven rules to reduce valuation problems.	Cost basis of asset to be higher of original cost or fair market value on V-Day for determining both gains and losses. Suggested safe haven rules to reduce valuation problem.	V-Day to be announced near commencement of new system. Fair market value on V-Day will be the basis for calculating subsequent gains and losses. Exceptions for bonds, mortgages and agreements for sale.
Same as bill without farmer's option.	Lifetime exemption of \$50,000 for principal residences and \$75,000 for farms and orchards owned by farmers.	\$1,000 exemption per year plus \$150 (or actual cost) annual improvement allowance. Rollover for one year where sold in connection with a change in job.
Same as bill.	\$5,000 minimum cost per item.	\$500 minimum cost per item. Losses restricted to prior, current and immediately subsequent year.
Same as bill.	\$5,000 minimum cost per item.	\$500 minimum cost per item.
Similar to bill.	Reject principle of distinguishing between closely-held and widely-held corporations. Gains and losses on both taxed as provided under general rule and only when an asset is sold.	Full gain taxable on shares of closely-held corporations; full loss deductible. Half gain taxable on shares of widely-held corporations; half loss deductible. Gains and losses on shares of widely-held corporations accrued every five years.
Full gain taxable on bonds, mortgages and agreements for sale; losses fully deductible. Transitional rules for recovery of cost.	Same as general rule.	Full gain taxable on bonds, mortgages, debentures, agreements for sale. If proceeds on disposal less than cost or amortized cost on V-Day, recovery not taxable.
No comment.	No comment.	No change.
Similar to bill.	Rollover provisions should be broadened.	Similar to bill.
Similar to bill.	No deemed realization. Cost basis to donor plus gift tax thereon flows through to recipient.	Deemed realization at fair market value at date of gift.

CAPITAL

ITEM	OLD LAW	NEW BILL
Bequests		No deemed realization for bequests to spouse. Deemed realization at death for other bequests. Special rule for depreciable property.
Arrivals and departures		Taxpayers moving to Canada will value their assets at that time for the purpose of calculating subsequent gains or losses. On leaving Canada, deemed realization except for assets on which a non-resident is taxable by Canada. First \$5,000 exempt. Alternatively, taxpayer may elect to be taxed as if resident of Canada in year of actual disposal, provided reasonable security given at time of departure.
Averaging		Capital gains subject to general averaging and forward averaging provisions.
Estate taxes	No tax on first \$50,000. Maximum rate of 50% reached at \$300,000. No tax on transfers to spouse.	Federal estate and gift taxes eliminated.

COMMONS REPORT	SENATE REPORT	WHITE PAPER
Similar to bill.	No deemed realization. Cost basis to deceased plus estate tax thereon flows through to heirs.	Transferred to heirs at cost plus death duties applicable to any accrued gains.
Suspend tax for temporary residence (three years or less). Departures should have option of deemed realization or to continue to be taxed as residents of Canada, with security given to ensure payment of tax.	No deemed realization on leaving Canada.	Base value of assets for capital gains measurement will be fair market value on arrival day. Taxpayer leaving Canada deemed to have sold assets at fair market value.
Same as bill. Capital gains may be averaged.	Similar to bill. Capital gains may be averaged.	Same as bill. Capital gains may be averaged.
Exempt first \$150,000. Broaden rate bracket so that 50% rate applies at \$800,000.	Abandon estate tax field to provinces.	No changes proposed.

CORPORATIONS

ITEM	OLD LAW	NEW BILL
Rates of tax	21% on first \$35,000 and 50% on balance, (plus temporary 3% surtax).	General rate 50% in 1972 reduced by one percentage point annually to 46% in 1976. If eligible for small business incentive, 25% on first \$50,000 of business income (see below).
Ordinary dividends paid by Canadian corporations to resident individuals	Individual shareholders can deduct a tax credit of 20% of dividends.	Dividend tax credit increased to 33 1/3% and included in income.
Ordinary dividends paid by Canadian corporations to resident corporations	Dividends from one "taxable Canadian corporation" to another one generally tax-exempt.	Dividends remain generally exempt. However, dividends received by private corporations from non-subsidiaries are subject to a special tax of 33 1/3% which is refunded when dividends are paid to shareholders. For every \$3 of dividends, \$1 of tax is refunded.
Investment income of private corporations (other than dividends)	No special rules, assuming corporation is not a "personal corporation".	Taxed at general rate. Refund of 25 percentage points when dividends are paid to shareholders. For every \$3 of dividends paid, \$1 of tax refunded.
Special dividends by private corporations out of capital gains	No provision.	One-half of capital gains taxed as investment income and rules for refund of one-half of tax will apply. The other half may be distributed tax-free to shareholders as a special dividend.
Small business incentive	Rate of 21% on first \$35,000 available to all corporations.	Rate of 25% on the first \$50,000 of business income available only to Canadian-controlled private corporations. Low rate not available to the extent funds used for non-business purposes and low rate ends once \$400,000 of before-tax earnings have been accumulated after 1971.
Other special distributions	Corporations can pay special taxes, generally at 15%, on portions of their undistributed income, and thereafter distribute the remaining 85% to their shareholders tax-free.	Corporations can pay a special tax at 15% on all or any part of their undistributed income on hand at the start of the new system. The remaining 85% can then be distributed to shareholders tax-free. This distribution would reduce the opening value of the shares for capital-gains tax purposes. Once the 15% tax has been paid on all pre-1972 undistributed income, capital gains that relate to 1971 and before can also be distributed tax-free to shareholders. This distribution will similarly reduce the opening value of the shares. The special taxes would not apply to post-1971 earnings.

AND SHAREHOLDERS

COMMONS REPORT	SENATE REPORT	WHITE PAPER
General rate 50%; low rate of tax should be replaced by new incentives for Canadian-controlled closely-held corporations.	General rate 50%, but the low rate of tax should be retained for the first \$35,000 of business income of small business corporations.	All corporations pay tax at the rate of 50%.
Generally, all dividends would be subject to half integration.	Dividend tax credit retained, but modified. Credit would be 25% on the first \$500 of dividends, 20% on the next \$4,500 and 15% on the excess.	Shareholders would receive credit for all or half of corporation taxes paid, under a system of integrating the tax paid by corporations and shareholders.
General rule is that dividends between corporations should be taxable at the rate of 33 1/3% and should be subject to half integration. If a corporation has 25% or more ownership of another corporation, dividends should be tax-exempt.	Dividends from one corporation to another to be tax-exempt, with special rules to prevent undue accumulation of portfolio dividends.	Dividends from one corporation to another are taxable, and carry full or half credit for corporation taxes paid: full credit if the dividend is paid by a CHC and half credit if the dividend is paid by a WHC.
No special rules.	No special rules.	No special rules.
No special rules.	No special rules.	No special rules.
See rates of tax above.	See rates of tax above.	No special provisions.
Similar to bill.	Similar to bill.	Similar to bill.

MINING AND

ITEM	OLD LAW	NEW BILL
Exploration and Development		
Principal business taxpayers	Can deduct Canadian exploration and development expenses in the year incurred or in any subsequent year.	No change.
Non-principal business	Generally, are allowed to deduct exploration and development expenses only from mining and petroleum income, with an unlimited carry-forward.	These taxpayers will be allowed to accumulate Canadian exploration and development expenses in a separate asset class and to deduct annually the greater of: <ul style="list-style-type: none"> — income from mining or petroleum, including royalties and proceeds from mineral properties, or — 20% of the unclaimed balance.
Foreign exploration	Generally, no deduction for foreign exploration and development expenses, other than drilling expenses for certain foreign oil and gas wells.	Foreign exploration and development expenses will be accumulated in a separate asset class and all taxpayers will be able to deduct annually the greater of: <ul style="list-style-type: none"> — foreign income from mining or petroleum or — 10% of the unclaimed balance.
New mines		
Three-year tax exemption	Income exempt for first three years.	Existing exemption limited to income earned before Jan. 1, 1974.
Accelerated depreciation	No provision.	Assets related to a new mine (e.g. mine buildings, machinery and equipment, a refinery, and townsite facilities) may be included in a separate asset class and an annual deduction made equal to the greater of: <ul style="list-style-type: none"> — income from the new mine, or — 30% of unclaimed balance. This accelerated depreciation also applies to most assets related to the expansion of an existing mine where the milling capacity is increased by at least 25%.
Operators' Depletion	Most operators of mineral or petroleum resources are entitled to claim a depletion allowance of 33 1/3% of production profits. Special rates for coal and gold.	Present system of depletion continues until end of 1976. Thereafter, depletion will have to be earned at the rate of \$1 for every \$3 of eligible expenditures. <p>Eligible expenditures include all Canadian exploration and development costs, capital assets (except townsite facilities) acquired after Nov. 7, 1969 related to a new mine or major expansion, new facilities acquired after Nov. 7, 1969 to process mineral ores to a stage beyond which they were previously processed in Canada.</p> <p>Depletion earned but unclaimed can be carried forward indefinitely in determining future depletion.</p>

PETROLEUM

COMMONS REPORT	SENATE REPORT	WHITE PAPER
Same as bill.	Same as bill.	Same as bill.
Same as bill.	Recommended an increase in the rate to 30% from 20%.	Same as bill.
No comment.	No comment.	No comment.
Same as bill.	Retain exemption but reduce it to 75% of earnings of first three years.	Same as bill.
Similar to bill, but recommended that expenditures on new mine be deductible from any mining income, not just income from new mine.	Similar to bill.	Similar to bill, but did not provide for townsite assets or refineries or for expansion of an existing mine.
Similar to bill.	Present rules should apply for 10 years for properties now owned and operated. Thereafter taxpayers should be allowed a basic 20% depletion allowance and the earned depletion concept would only apply in calculating the maximum depletion of 33 1/3%.	Same as bill, but no automatic depletion for properties acquired after Nov. 7, 1969.
Similar to bill.		Eligible expenditures limited to exploration and development in Canada and new mine assets.
Taxpayers should be allowed to establish a bank of earned depletion at the start of the new system, calculated by reference to past exploration and development expenses less depletion allowed.	Same as bill.	Same as bill.

MINING AND

ITEM	OLD LAW	NEW BILL
Non-operators' depletion	Non-operators receiving royalties or rentals computed by reference to production from mining or petroleum properties are entitled to a 25% depletion allowance.	Non-operators depletion at the rate of 25% continues until the end of 1976. Thereafter such rentals and royalties will be treated as production income and be eligible for 33 1/3% depletion, subject to the earned depletion rules.
Shareholders' depletion	Shareholders of certain mining and petroleum companies are allowed to exclude from income 10%, 15% or 20% of dividends received.	Repealed.
Purchase of mineral rights	No deduction.	Included with exploration and development expenses, but do not earn depletion.
Sale of mineral rights	Generally tax-exempt.	Proceeds taxable. For rights held at start of new system, 60% of proceeds taxable if sold in first year, 65% in second year, and so on until the ninth and subsequent years when full proceeds are taxable.
Prospectors and Grubstakers	Proceeds on sale of mining properties are exempt from tax.	Exemption from tax is withdrawn. Where property is sold to a corporation in exchange for shares of that corporation, prospectors or grubstakers may elect to pay no tax at that time; they are deemed to have a zero cost basis for the shares and to pay capital gains tax on the proceeds of disposal. The corporation is then deemed to acquire property at no cost.
Provincial tax abatement	Provincial tax abatement is now 10% and provincial mining taxes are deductible in computing taxable income.	After 1976, an extra tax abatement of 15% on mining income, and mining taxes will not be deductible.

PETROLEUM

COMMONS REPORT	SENATE REPORT	WHITE PAPER
Same as White Paper.	Retain old law for interests held on Nov. 7, 1969.	Repealed.
Same as bill.	Same as bill.	Same as bill.
Same as bill except that these costs should earn depletion.	Same as bill except that properties acquired directly from the Crown should earn depletion.	Same as bill.
Same as bill except that certain tax-free transfers should be permitted between related companies.	All mineral rights owned on V-Day should be valued at that time and subsequent disposals subject to capital tax only.	Same as bill.
Continue exemption for prospectors.	Continue exemption for both.	Same as bill.
Same as bill.	No comment.	No comment.

BUSINESS AND

ITEM	OLD LAW	NEW BILL
Interest on money borrowed to buy shares		
Corporations	Corporations are not allowed to deduct interest on money borrowed to buy shares in other corporations.	Corporations will be allowed full deduction for this interest.
Individuals	Individuals are allowed to deduct interest on money borrowed to buy shares in corporations.	Full deduction of interest is continued for individuals.
The "Nothings"	Certain expenditures, called "nothings" are not deductible in the year incurred because they are capital in nature; and they are not depreciable because they do not give rise to an asset that is listed in one of the capital cost allowance classes. Examples of these nothings are goodwill, franchises for unlimited periods and incorporation costs.	A new 10% capital cost allowance class is created for "nothings". One-half of the cost of these assets will be depreciable, in line with the one-half rule for taxing capital gains and deducting capital losses. This new class will only apply to costs incurred after the new system commences.
Sale of goodwill	Proceeds on sale of goodwill are generally tax-exempt.	Proceeds on sale of goodwill owned at the commencement of the new system will be included in income to the extent of 20% if sold in the first year, 22½% if sold in the second year, 25% if sold in the third year, and so on until the thirteenth and subsequent years when 50% of the proceeds will be included in income. One-half proceeds of sale of goodwill connected with a business acquired or commenced after start of new system credited to "nothings" class.
Entertainment and related expenses	Deduction allowed for reasonable entertainment expenses, membership costs and similar expenses provided they are incurred to earn income.	No deduction for social and recreational club fees, or costs of yachts, fishing camps and other recreational facilities. Deduction for entertainment and conventions similar to old law, except for geographical restriction on conventions.
Depreciation		
Gifts	A gift of depreciable property is deemed to be a sale at fair market value.	No change except that on gifts of depreciable property to a spouse, the spouse is deemed to acquire the property at its tax cost.
Bequests	On bequests of depreciable property, beneficiary is deemed to acquire property at fair market value for purposes of future depreciation. No recaptured depreciation to deceased.	On bequests to a spouse, beneficiary is deemed to acquire property at its tax basis. On bequests to other persons, deceased is deemed to have sold the property at tax basis plus one-half of any accrued gain and beneficiary to have acquired property for that amount.

PROPERTY INCOME

COMMONS REPORT	SENATE REPORT	WHITE PAPER
Approved White Paper.	Similar to bill.	Interest allowed as a deduction to the extent of dividends received.
Approved White Paper.	Approved White Paper.	Interest allowed as a deduction to the extent of dividends received.
Similar to bill, except that all of cost would be depreciable.	Similar to bill except that all cost would be depreciable, with the proviso that the legislation be broad enough to allow the inclusion of all "nothings". Also, goodwill should not be treated as a "nothing", but should be treated in the same manner as land which is not depreciable.	Similar to bill except that all cost would be depreciable.
Should be no retroactive taxation of goodwill owned at commencement of new system. Minister of National Revenue should be prepared to approve changes in the valuation of goodwill included in existing sale agreements.	Goodwill should be valued on V-Day and when sold the gain or loss would be subject to the normal capital gains tax rules.	Similar to bill except that all proceeds would be taxable after the transition period.
Similar to bill.	Similar to bill.	More restrictive than bill; would have denied a deduction for entertainment and convention expenses.
No change from old law.	Recipient of gift should acquire property at its tax basis to donor plus any gift taxes paid.	No change from old law.
Deemed realization at death. Beneficiary depreciates property based on fair market value.	Same as White Paper except that the depreciation base should be increased by estate taxes on the property.	Beneficiary is deemed to have acquired property at its tax basis.

BUSINESS AND

ITEM	OLD LAW	NEW BILL
Rental property	All rental buildings are included in one of two capital cost allowance classes, depending on the type of construction.	A separate class is created for each rental building costing \$50,000 or more.
Termination of class	A terminal loss is deducted only when all assets of a particular class have been sold.	No change from old law.
Losses from holding property	Losses from holding property are fully deductible as long as property is held for the purpose of earning income.	No deduction from other income for loss incurred on real property held primarily to earn rental income if the loss resulted from depreciation. Also no deduction from other income for loss incurred on holding undeveloped real property (e.g. vacant land) as a capital investment, if loss resulted from interest and property taxes. The interest and property taxes can be added to the cost of the property.
Consolidated returns	No provision for consolidated returns.	No provision for consolidated returns.
Taxpayers in the professions	Individuals and corporations earning professional income are entitled to compute income according to the "cash basis".	Professional income will be computed under the accrual basis, except that work in process may be excluded. There are transitional rules to cover the deferred income at the start of the new system.
Farmers and fishermen		
Cash basis	Farmers and fishermen are entitled to compute their income on a cash basis.	No change.
Averaging	Farmers and fishermen are entitled to special income-averaging provisions.	No change.
Basic herd	Farmers are entitled to classify a herd of animals as a capital asset, "basic herd", and gains and losses are treated as capital gains and capital losses and are therefore tax-exempt.	Farmers will have an opportunity to establish a basic herd as at December 31, 1971. Basic herds will be valued on V-Day and any proceeds of disposal up to this value will be exempt from tax. Proceeds in excess of this value will be treated as farming income and eligible for the special forward averaging.
Straight-line depreciation	Farmers and fishermen may use straight-line depreciation instead of diminishing balance depreciation and thereby avoid recaptured depreciation. Gains on disposal of depreciable assets are treated as capital gains.	Straight-line depreciation phased out.

PROPERTY INCOME

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COMMONS REPORT	SENATE REPORT	WHITE PAPER
Increase limit from \$50,000 to \$100,000.	No change from old law.	Same as bill.
Similar to White Paper.	Similar to White Paper.	At any time taxpayers could write down the net book value of a class to the aggregate of the original costs of the assets on hand. This write down would have to be made in any year in which control of a corporation changes.
Similar to bill.	Similar to bill except that provisions should only apply to property acquired after new system starts and should then only apply to taxpayers who are not in the business of renting property.	No deductions from other income for a loss from holding property, if that loss resulted from deducting depreciation, interest or property taxes.
Consolidated returns should be permitted on payment of a tax premium.	Consolidated returns should be permitted without payment of a tax premium.	Partnership option permits consolidated returns in certain circumstances.
Similar to bill.	Cash basis should be retained.	Similar to bill except that work in process had to be included.
Same as bill.	Same as bill.	Same as bill.
Same as bill.	Same as bill.	Same as bill.
Retain "basic herd" provisions.	Approved White Paper.	Because of full taxation of capital gains, the "basic herd" provision is no longer required.
No comment.	Same as bill.	Same as bill.

BUSINESS AND

ITEM	OLD LAW	NEW BILL
Hobby farmers	A taxpayer whose principal business is not farming may deduct only \$5,000 of farming loss annually from other income.	Similar to old law except that property taxes and interest which are not allowed as operating losses can reduce subsequent capital gains on sale of farm, but would not be allowed to create a capital loss.
Trusts	<p>Trusts taxed at same rates as individuals although no deductions allowed for personal exemptions.</p> <p>Income received by a trust which is payable to beneficiaries in year received is taxable in the hands of the beneficiary, not the trust.</p> <p>Income on which a trust has paid tax can usually be distributed to beneficiaries without additional tax.</p>	<p>No change for trusts created by will.</p> <p>For trusts established by living persons, retained income taxed at higher of 50% or personal rates.</p> <p>For trusts existing at start of system that do not receive additional property, retained investment income taxed at personal rates.</p> <p>Former treatment continued, and certain beneficiaries may elect to treat a prescribed portion of the retained income as their personal income and not trusts' income.</p> <p>No change.</p> <p>On trusts for spouse, deemed realization on death of spouse. Other trusts, deemed realization every 21 years.</p> <p>Special rules for valuing trust interests for capital gains tax purposes.</p>
Partnerships		
Partnership income	Partner taxed on his share of partnership income.	Similar to old law, with changes in computing partner's share of depreciation.
Interest in a partnership		Sale of partnership interests will give rise to capital gains or losses; special rules for computing tax basis and V-Day value.
Investment corporations	Investment corporations pay 21% tax on all taxable income. Dividends paid to shareholders eligible for dividend tax credit.	Canadian dividends received are exempt. Investment income and full capital gains taxed at 25%. Dividends paid eligible for dividend tax credit. Special capital dividends occasion refund to corporation of capital gains tax paid and treated as capital gain to shareholders.
Incorporated open-end mutual funds	Can qualify as investment corporation, otherwise treated as ordinary corporation.	<p>Can qualify as investment corporation. If not qualified, dividends received subject to 33 1/3% refundable tax; full capital gains taxed at 25%; other income taxed at 50%. Dividends paid eligible for dividend tax credit.</p> <p>Redemption of shares occasions refund to corporation of capital gains tax paid and treated as capital gains to shareholders.</p>

PROPERTY INCOME

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COMMONS REPORT	SENATE REPORT	WHITE PAPER
Same as bill.	Same as bill.	Same as bill.
No recommendations.	Retain old law.	Trusts which accumulate income taxed at a flat rate of 50% (with lower rates in special circumstances). Recommended further study.
No comment.	No comment.	No comment.
Similar to bill.	Similar to bill.	Most mutual funds will be WHCs and dividends received will be taxed in the same manner as receipts by other WHCs. Capital gains distributions will be permitted to shareholders to the extent of capital gains made by fund and these distributions will carry a 33 1/3% credit. This capital gain distribution would be half taxable to individual shareholders.
Similar to bill.	Similar to bill.	Taxed as above for investment corporations.

BUSINESS AND

ITEM	OLD LAW	NEW BILL
Unincorporated mutual fund trusts	Same rules as for other trusts.	Similar to old law except realized capital gains may be allocated to unit holders. Unallocated capital gains taxed at 25%, tax refunded as units redeemed. Gains on redemption of units treated as capital gains to unit holders.
Co-operatives (including caisses populaires and credit unions)	New co-operatives exempt from tax for first three years. Income for tax purposes reduced by patronage dividend with limit that taxable income must at least equal the excess of 3% of capital employed over interest paid, other than to banks or credit unions. Caisses populaires and credit unions are now exempt from tax.	Three-year tax exemption is withdrawn. Patronage dividends can reduce income to 5%. Caisses populaires and credit unions to be taxed in way similar to co-operatives.
Investment income of clubs and other non-profit organizations	Certain non-profit organizations such as golf clubs, professional associations and trade and business associations, are now tax-exempt on all income.	Investment income in excess of \$2,000 of certain social and recreational clubs will be taxable.

PROPERTY INCOME

COMMONS REPORT	SENATE REPORT	WHITE PAPER
Similar to bill.	Similar to bill.	Unincorporated mutual funds will be treated as CHCs or WHCs.
<p>Approved White Paper proposal.</p> <p>Half integration rules should apply to taxable patronage dividends paid out of taxed earnings. Small business incentives should apply to eligible co-operatives.</p>	Recommended further study.	<p>Withdraw three-year exemptions.</p> <p>Increase interest rate to reasonable market level.</p> <p>Interest deductions for patronage dividend limitations include only interest on loans from members.</p>
Similar to bill.		Caisses populaires and credit unions to be taxed as co-operatives.
Suggested further study.	<p>Only net investment income in excess of \$5,000 should be taxed.</p> <p>Complete exemption should be given for organizations that are better classified as charitable organizations.</p>	Full taxation of investment income.

INTERNATIONAL

ITEM	OLD LAW	NEW BILL
FOREIGN-SOURCE INCOME OF CANADIANS		
Foreign tax credits	Foreign income taxes paid are deductible from Canadian tax up to the effective Canadian tax on the foreign income. No provision.	Similar to old law except that after 1975 foreign tax credit on investment income of individuals is limited to 15%. Excess over 15% will be a deductible expense. If foreign taxes paid on business income exceed the foreign tax credit available, the excess can be carried forward for up to five years.
Taxes paid to political subdivisions	No provision.	Foreign income taxes paid to political subdivisions either deductible as an expense or included in foreign tax credit calculations, depending on circumstances.
Dividends from foreign affiliates	Dividends received by a Canadian corporation from a foreign affiliate are exempt from tax.	Dividends out of pre-1976 earnings exempt from tax. Dividends out of post-1975 earnings exempt if paid out of profits earned in a treaty country; if from non-treaty country, wholly or partially exempt depending on level of foreign taxes.
Grandfather clause		Non-exempt dividends received after 1975 may be treated as a return of capital to the extent of the cost basis of the shares of the foreign affiliate at the end of 1975. For projects undertaken by the end of 1975 relief will be given on dividends for taxes spared under incentive legislation of developing countries.
Passive income	No provision.	After 1972, Canadian shareholders of a foreign affiliate will be required to include in income their share of the affiliate's investment income and capital gains for the year.
Foreign business corporations	Exempt from tax. Dividends paid by these corporations are not eligible for the dividend tax credit.	Exemption reduced to 4/5 of taxable business income in 1972, 3/5 in 1973, and so on until eliminated in 1976 and subsequent years. Dividends paid after 1971 are eligible for the revised dividend tax credit.
TAXATION OF NON-RESIDENTS		
Withholding Tax	Standard withholding tax on investment income paid to non-residents is 15%. Dividends paid to non-residents by a corporation with a degree of Canadian ownership are subject to a 10% withholding tax.	Beginning 1976 standard rate increased to 25%, lower rates by treaty. Withholding tax rate continues to be 5% less than rate otherwise applicable.

INCOME

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COMMONS REPORT	SENATE REPORT	WHITE PAPER
Similar to White Paper.	Retain old law.	Similar to bill.
Similar to bill.	Similar to bill.	Similar to bill.
Same as White Paper.	Same as White Paper.	To be covered by tax treaties on a reciprocal basis.
Similar to bill.	No change from old law.	Similar to bill except that the date was the end of 1973.
Similar to bill.		Similar to bill.
No provision.	No provision.	No provision.
Similar to bill.	No provision.	No provision.
Restrict passive income rules to diverted income.	Rejected White Paper proposal, but recommended that old law be applied more strictly to curb abuses. Should help Canadian exporters.	Similar to bill except that passive income included "trans-shipment profits".
Similar to bill.	Similar to bill.	Similar to bill.
Similar to bill.	Retain old law and eliminate withholding taxes on interest payments to arms-length foreign lenders.	Similar to bill except that January 1, 1974 suggested date for increase.
No comment.	Similar to bill.	No comment.

INTERNATIONAL

ITEM	OLD LAW	NEW BILL
Pension and similar payments	No withholding tax.	Subject to withholding tax. Exemption for \$960 of old age security payments and up to \$1290 annually of Canada or Quebec Pension Plan payments. Alternatively, non-resident may elect to pay tax on his Canadian income, other than investment income.
Canadian branch of foreign corporation	Pays a special 15% tax on after-tax branch profits, to the extent these are not re-invested in capital assets.	Beginning 1976, rate of tax 25% subject to treaty reduction. Allowance for reinvestment extended to working capital, made cumulative and subject to recapture.
Thin capitalization	No provision.	If the ratio of shareholders' equity to debt due to non-resident shareholders who have a 25% interest in the corporation is less than 1:3, part of the interest paid is not allowed as a deduction.
Non-resident owned investment corporations (NROs)	Taxed at 15%.	Income includes full capital gains that are taxable to non-residents, but not other gains. Beginning in 1976 tax increases to 25%.
	No withholding tax on dividends.	Dividends out of post-1971 earnings subject to normal withholding tax. The income taxes paid on earnings (only one-half of tax on capital gains) refunded to the corporation.
Capital gains	Capital gains are not taxable.	Non-residents are taxable on gains from Canadian real property, Canadian business assets, shares of Canadian private corporations and substantial interests of Canadian public corporations.

INCOME

COMMONS REPORT	SENATE REPORT	WHITE PAPER
Similar to bill without exemption.	Rate should be 15%.	Similar to bill without exemption.
Similar to bill.	Similar to bill.	Similar to bill.
Similar to bill.	Rate should continue at 15%.	Similar to bill.
Similar to bill .	Similar to bill .	Similar to bill .
Taxation of NROs should be equivalent to the tax paid by corporation's shareholders if they had personally received the income.	Retain old law.	Similar to bill except that increase in rate would take place in 1974. Same as old law.
Similar to bill.	Capital gains realized by non-residents should be exempt from tax, unless gain is related to a business carried on in Canada.	Similar to bill.

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E. Newspapers

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A. Books and Theses

B. Articles and papers, published and unpublished

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