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**FEDERAL GOVERNMENT RESPONSE TO CONSUMERISM
AND THE CONSUMER MOVEMENT IN CANADA:
A CRITICAL REVIEW**

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P R E F A C E

This study is based on some thirty interviews together with memos and reports collected in the history files and project files at Consumer and Corporate. The Departmental librarians were particularly helpful in locating other historical background materials. With the few exceptions noted in the text interviewees are not directly quoted. A draft of the present paper was circulated to a small group of those who had previously been contacted in the course of the research; this resulted in a number of substantial changes to the chapter concerned with grants to consumer groups. The author would like to thank all those who gave so freely of their time in providing information, points of view and clarifications although naturally the responsibility for the conclusions arrived at is his alone.

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INTRODUCTION

The concept of "the consumer interest" has proven to be a persistent source of frustration in social policy debate. Its seemingly universal appeal has been revealed upon closer inspection to consist of a kind of economic sleight of hand. Often touted as an umbrella for all the participants of the marketplace, it is nevertheless apparent that an unruly crowd of competing interests jostles for shelter beneath it. The consumer movement itself has not been all that clear about whether to view the consumer interest as a synonym for the public interest or simply as an inadequately represented part of the public interest. For its part government has tried to steer clear of advocating the consumer interest except in the broadest, vaguest manner possible, yet it has sought to gain political advantage by claiming to represent "the consumer" through the appointment of a Minister of Consumer (and Corporate) Affairs.

In Canada, as in the other liberal democracies, it has taken major economic dislocations like war, depression and, most recently "stagflation," to prod governments into responding to their citizenry as consumers. Traditionally reluctant to intervene in the economy beyond the setting of broad fiscal and monetary policies, governments have tended to subsume the consumer interest within their overall public interest function. Widespread marketing abuses went chronically unchecked due to this hesitancy to intervene except in times of emergency. In Canada, the way in which the federal system divided up the "commerce power" was a further barrier to government action in the consumer field.

The emergence of "consumerism" as, paradoxically, a special interest or pressure group, backed by public outcry against the ravages of inflation, finally spurred government to a level of response unprecedented in peacetime Canada. The political ferment of the 1960's provided the backdrop for a watershed in consumer protection, the establishment of a federal department. The question we must ask ourselves in the seventies is whether in fact the elusive consumer interest has been well served by government intervention. Has government given the consumer viewpoint appropriate weight in policy and law through the structures it has established? The aim of the present essay will be to begin a reappraisal of government's response to the consumer movement by critically reviewing the federal record in advocating the interests of consumers.*

* Throughout this paper the term "consumer advocacy" is used in the most general sense to imply vigorous representation of the (perceived) consumer interest vis-à-vis a given market situation or policy. In the final section (pp.50-63) the term is sometimes used interchangeably to mean formal advocacy proceedings before regulatory bodies. Hopefully it will be clear from the context which is meant.

I. THE FEDERAL GOVERNMENT AND THE CONSUMER MOVEMENT:
THIRTY YEARS OF DIALOGUE AND DELAY (1935-1965)

1. The Price Was Never Right

In responding to the consumer movement in Canada, government has in one sense responded to its own creation. Goldstein has recently reviewed the history of the movement and its major embodiment, the Consumers' Association of Canada (CAC) using the hypothesis that its relationship with government has been largely "symbiotic" (although at times antagonistic), characterized by a process of "elite accommodation."¹ Whatever the merits of this argument, there is no doubt that the consumer movement in Canada was founded with the financial and moral support of the Canadian Government.²

Government's moral support for consumer organizations stems from the suggestion, made by the Price Spreads Commission in 1935, that such groups be encouraged so as to concentrate the inherently diffuse consumer interest along the lines of other interest groups. "The difficulty of consumer action is that it is not an organized or special interest and has no representation other than the state," said the commissioners, who went on to point out that consumer groups, if they could be coaxed into existence, "would offer valuable help to the Government in the dissemination of information and the policing of the trade."³ (No national consumer group existed at this time, although CAC's founding body, the National Council of Women, had a long record of making suggestions by resolution and letter to government officials about the quality of consumer products and standards. At the 1919 Cost of Living hearings, witnesses were heard from the "Ottawa Citizens' Consumers League," which in common with CAC's National Executive of later years, was composed largely of civil servants and the wives of government officials.)

The Price Spreads Commission undertook its work in the depth of the Great Depression with the objective of recommending policies of national recovery. The American National Recovery Administration, with its consumer advisory councils assisting in the control of trade, had provoked a storm of reaction in the United States. The Commission, whose main concern was with spreads or disparities between prices paid to producers and those demanded of consumers, was wary of state control but came out strongly for rigorous administration of an amended Combines Investigation Act, for the purpose of retaining and restoring competition whenever possible.

Labour unions, the Co-operative Union of Canada and a few academics (including the co-op activist J.M. Coady) spoke for the consumer interest at the Price Spreads hearings which were heavily weighted with testimony from retail merchant associations, chain store managers and producer groups. Nonetheless, the chapter of the final report, "The Consumer," discussed sympathetically the whole gamut of standards and trade practices then troubling the consuming public. It was recommended that comparative product testing be undertaken at National Research Council laboratories and that the misleading advertising section of the Criminal Code be amended so as to delete the "wrongful intent" provision that had made prosecutions so inordinately difficult.⁴ But Royal Commissions, though appointed by governments, are of course only able to recommend: the product testing notion was not accepted while the latter measure had to abide some forty years of legal controversy before reappearing in Stage I of the Competition Act passed in 1975.

The Price Spreads commissioners recognized that poor coordination and enforcement of existing federal consumer regulations was due to "the lack of an adequate interested authority," so they proposed a Federal Trade & Industry Commission to carry out those functions.⁵ The Dominion Trades & Industry Commission set up in response to this was,

however, composed of former Tariff Board members who were disinclined to pursue consumer issues vigorously.⁶ (In any case, the strengthened anti-combines provisions charged to the DTIC were later declared ultra vires, unenforceable by the federal body.)

The Price Spreads Commission was the first government-appointed body to take a stance on the need for an active consumer voice from the private sector. Noting the inherent weakness of the consumer interest in relation to special interests, the Commission ventured that "every possible encouragement" be given by government to the development of consumer organizations.⁷

Government financial support for "a consumer organization," had to await the war emergency which brought direct control over the economy. In December 1941 the Finance Minister, responsible for the Wartime Prices & Trades Board (WPTB), called on Canadian women's groups to provide active support to the price ceilings program by forming a consumer branch to aid the Board in its work. (The Prices & Trades Board also did much to legitimize the role of retail and manufacturing associations as special interest lobbies by using these as channels of communication to their respective economic sectors.) When women who had served in this capacity decided to establish an ongoing, voluntary consumer association, the Finance Department funded the organizing meeting (sponsored by the National Council of Women) that founded the Canadian Association of Consumers.⁸

Fresh from the wartime experience of rationing and price ceilings, 1947's Select Committee on "Prices, Cost of Living & Inflation" went so far as to call for civilian price controls at the height of the post-war inflationary upsurge. Following on the heels of the Government's White Paper "Transition to a Peacetime Economy" and at a time when the Liberal government was politically vulnerable, the idea was

anything but welcome. As a result, controls were deferred indefinitely by setting up a Royal Commission on Prices, whose more muted recommendations in 1949 reflected the falling price trend that signalled the start of the prosperity boom of the fifties.⁹ The Prices Commission marked the first appearance of the CAC as a witness for the consumer. The Association used the occasion to advance the idea of continuing the work of the Wartime Prices & Trades Board in peacetime, by setting up a consumer prices monitoring agency. CAC was not the only consumer voice. An organization calling itself the "Housewives' and Consumers' Federation of Canada," and claiming to be a national body of "about 20,000" with headquarters in Toronto, also testified in favour of a return to price control. This group went further than CAC in its demands, calling for a prices "roll-back" and government curbs on excess profits.¹⁰

A decade later the Royal Commission on Price Spreads in Food Products reported to a Progressive Conservative government during the recession that followed several years of rising productivity and generally low prices. The widespread use of credit financing and promotional techniques to stimulate consumer demand had by this time become the mainstay of marketing. The Commission considered setting statutory limits on such expenditures by the food industry when they could be linked to excess profit rates, but in the end they rejected any major initiatives by government in regulating the private sector, whether by statute or marketing boards. Instead, a permanent "Council on Productivity, Prices & Incomes" was put forward and the Combines Investigation Act, perennial bone of contention, was to be extended to cover the effects of trade practices on food pricing.¹¹

The first of these presented no great difficulty. The National Productivity Council was shortlived but was replaced in 1964 by the more comprehensive Economic Council of Canada, which would later

play an important part in establishing a consumer affairs department.

Combines amendments were another matter altogether. Always politically volatile, the Combines Investigation Act had repeatedly been scrutinized and amended as market structure grew in complexity and mergers multiplied. The public hearings for the MacQuarrie Committee's overhaul of the Act (1949-51) pitted consumers, by that time represented by the Canadian Association of Consumers, along with farm producers and labour against industry and its lobbying associations. The MacQuarrie Committee advised extensive changes including a switch from criminal to civil law in order to facilitate convictions. Due to constitutional problems this is still the subject of political debate in 1977; the only major recommendations acted on at the time was a re-organization establishing the Restrictive Trade Practices Commission.¹²

The 1960 amendments to the combines law were caught in the same tug of war between interest groups. Business protest was so vigorous that the Tories withdrew the original bill. A formidable lobbying effort on the part of business associations convinced the Government to substitute amendments less contentious to the corporations.¹³ A comprehensive trade practices policy and control of misleading advertising would remain outstanding consumer problems for another fifteen years.

A sign that a few cracks were appearing in the official wall of polite indifference to consumers' interests was the appointment of a former CAC president (Walton) to the Food Price Spreads Commission. In Dawson's 1963 article on CAC she points out that Mrs. Walton's questioning of CAC members at the public hearings of the commission was "designed to bring out the desirability of establishing a consumer affairs department...with a Cabinet Minister responsible for it."¹⁴ A subsequent letter from the Association to the Commission argued for a "Consumer Information Service."

A section of the final report on Food Price Spreads entitled "The Problems of the Consumer" attempted to respond to "the consumer viewpoint." (It was not yet "consumerism.") The commissioners were of the opinion that most of the concerns expressed by CAC were already dealt with by existing federal statutes, and recommended only that an information and complaints office be set up at the Department of Justice where the Combines Investigation Act was administered.¹⁵ No such action was undertaken, however.

Government's response to this point could be described as sympathetic but non-interventionist. The federal power was willing to support a consumer organization of its choice - the CAC. It was willing to endorse this organization as a "channel of communication," to listen cordially to its representations at public hearings. What it was not yet willing to do was to follow through by mounting a full-scale effort to tighten up and coordinate trade practices laws. The voice of the consumer was beginning to be heard but not yet heeded.

2. Consumerism: Going the Government Route

The consumer movement reached its peak of activism and public visibility in the mid-1960's. For Canada, this was a time of rapid social change and cultural upheaval. Social protest gave expression to widespread feelings of alienation from traditional institutions, government among them, yet paradoxically the same decade witnessed unprecedented growth in federal and provincial governments with their attendant bureaucracies. The establishment of a federal department for Consumer & Corporate Affairs took place during the first of three major waves of federal re-organization and expansion.

Thriving universities sent many of the post-war generation of students into government, to which they brought newly acquired training in the social sciences, social policy and management studies. Even the political radicalism founded on a new awareness of economic inequity was channeled through government with the 1966 passage of the Company of Young Canadians Act. Going on the evidence of the proliferation of agencies, departments, advisory councils and regulatory tribunals, it would appear that by the time the sixties came to a close, there flourished amidst cynicism a faith in government's capacity to manage the disparities of Canadian society. The solution to the problems raised by consumerists and, a little later, environmentalists, was seen in law-making and regulation. The sixties were a time when protest found its vindication in the establishment of government agencies or departments only to be frustrated by their fragmentary mandates.

The sixties also brought a media explosion. The perennial influence of American culture and politics on Canada became still more pervasive. World-wide media exposure of the thalidomide crisis

and the rise of "Naderism" boosted public concern with consumer issues, bringing about a new awareness of the potential health and safety hazards associated with everyday household products. Consumers were wallowing in a sea of debt and persistent inflation was eating into already over-extended incomes. By 1966, "consumerism" had become the dominant social movement in Canada. After years of relative obscurity, the Consumers' Association along with other groups espousing consumer causes found themselves receiving unaccustomed attention from politicians and public alike.

A constant theme of CAC from the time of its founding had been the need to enlist the state in the consumer interest. A joint brief together with the National Council of Women to the 1948 Prices Commission asked for "a continuing agency...that would do independent (consumer) research."¹⁶ The request was reiterated to the Massey Commission a year later, again with no discernible effect. In the absence of government interest in a consumer agency, CAC provided a voluntary extension to the consumer standards sections of various departments (Agriculture, Fisheries, Industry, and Health & Welfare) sometimes playing critic while at others acting virtually as an arm of government.¹⁷ (This was the role envisaged by the 1935 Price Spreads Commission for consumer groups.) The relationship with the Food & Drug Directorate of Health & Welfare was particularly close. CAC made public demands for budget increases for the understaffed directorate, and CAC members were active on the Consumer Advisory Council appended to FDD in 1964.

Attempts to influence regulators were less rewarding. The Tariff Board, never sympathetic to CAC's argument for the elimination of import restrictions so as to allow the marketing of cheaper clothing,

made recommendations favouring the CAC's case only twice in a total of eight references through the 1950's.¹⁸ There were similar frustrations when competition policy was at stake. After half a dozen briefs on this subject between 1951 and 1959, the combines amendments of 1960 were a reminder that CAC did not pull much weight with government on this issue. (CAC started pressing for restrictions on resale price maintenance in 1951; some weak provisions against this practice were finally incorporated into the revised Combines Investigation Act in 1960.) On the one hand corporations have a keen interest in unrestrained merger capability and have always been able to mount a stronger lobbying effort. Government's primary concern has been the investors, not consumers. On the other hand, the Consumers' Association relied on the theoretical superiority of a degree of simple competition long departed from the present-day economy.¹⁹

CAC briefs tended to be vague about actual instances of non-competitive behaviour, focussing instead on the general categories of trade practices born of business collusion that disadvantaged consumers.²⁰ They were not alone in this regard. The Restrictive Trade Practices Commission's 1959 report of an investigation into the grocery retail trade was also vague and inconclusive; moreover, it came as a shock to the Croll-Basford Prices & Credit Committee seven years later when the vast extent of the Weston conglomerate holdings was revealed.²¹

Frustrated by the continuing lack of impact, CAC wrote the Prime Minister in 1960 asking that "there be set up within government... an organization whose chief concern would be the consideration of the effects of government policy on consumers."²² Government, it seemed, saw itself as dealing only in an indirect way with the consumer interest, as if this would emerge from the brokerage of special

interest demands simply on the grounds that those who made the key policy decisions were also consumers. CAC wanted a Minister to take the consumer viewpoint and defend it at Cabinet meetings, where this attitude of "we're all consumers" was proving to be a stumbling-block. The Association also felt that the diverse and uncoordinated market regulations already existing at the federal level could go a long way toward addressing consumer grievances if they were assigned a Minister and effectively enforced. Diefenbaker, however, was not interested. The Progressive Conservatives were still uninterested two years later when a question was put in the House by the NDP regarding possible federal participation in a CAC-sponsored consumer conference.²³

As a condition of their sustaining grant from the Department of Finance, the Consumers' Association was officially non-partisan, as befitted an organization claiming to represent a universal consumer interest. But the decision to go after government for a consumer affairs department entailed mobilizing some sort of political support. In part this could be accomplished through discussion with MP's at the constituency level by local and provincial chapters of CAC, but the key role lay with the CAC National Executive in Ottawa. Long involvement with the federal bureaucracy and the use of personal contacts and letters to influence Members of Parliament resulted in the establishment of many informal connections with the party most frequently in power, the Liberals. Soon after the Liberals regained power in 1963, Lester Pearson, who had served as secretary to the 1935 Price Spreads Commission, appointed the CAC's national president Mrs. A.F.W. Plumptre as consumer representative to the Economic Council of Canada. Pauline Jewett was a member of the CAC's national executive when she was nominated to run as a Liberal candidate but later resigned.²⁴ As an MP she appeared at a CAC annual meeting where she strongly endorsed the Association's call for a consumer affairs department.

It might be speculated that these informal affiliations helped prepare the groundwork for the eventual acceptance of a government consumer role within the Liberal party but this is not a matter of record. For all its dogged persistence in enunciating the consumer viewpoint, CAC proved unable alone to achieve the objective of persuading government to create a department. That event had to await the further deterioration of economic conditions which brought into play other pressure groups and an aroused public.

The trend toward a steadily increasing cost of living, and particularly the increased cost of credit, was the problem that put spurs to the consumer movement and government alike during the first half of the decade. The Federal Government had control over banking under the BNA Act but the staggering increases in consumer credit were emanating for the most part from private financial institutions like loan and mortgage companies that operated under provincial jurisdictions. During wartime, federal controls had been extended over consumer credit as a measure to help reduce inflationary spending but the last of these had been withdrawn in 1952 after the Korean war. Widespread indebtedness and reported abuses - mainly high interest rates deceptively presented to consumers at the time of purchase - prompted the convening of a Special Joint Committee of the Senate & the House on Consumer Credit (the Croll-Greene Committee) in March, 1964.

The Consumers' Association had presented a brief favouring greater federal control over consumer credit to a Royal Commission on Banking in 1962 and this case was reiterated to the Croll-Greene committee. The CAC was on relatively solid ground in this instance - the Royal Commission had recognized the need to revise the Small Loans Act and to set limits on interest rates, and the CAC had supported four unsuccessful truth-in-lending bills advanced by the Credit Committee's chairman, Senator David Croll - but again results were a

long time in coming and then only in watered-down form. A Bank Act amendment in 1967 finally made some provision for the disclosure of effective interest rates. Thorough revision of the whole field of consumer credit would have to wait another ten years for the Borrowers' and Depositors' Protection Act (which in turn has become the object of intensive lobbying and delay). In many ways consumer credit was a paradigm case of the problems consumer legislation of all kinds faced at the federal level; not only did effective intervention in the marketplace have to surmount the divisions between departments and the problems of shared jurisdiction between the federal and provincial governments, but each step along the way was subjected to assiduous lobbying activity by affected financial interests.

The Consumer Credit Committee was reconvened in March, 1966 under the joint chairmanship of Senator David Croll and Ron Basford, MP. Sharp rises in the consumer price index, especially in food items, provoked intense debate in the House throughout the spring of 1966 (see below) resulting in a broadening of the committee's scope to encompass an investigation of the causes of the rising cost of living.

The Consumers' Association, the Canadian Labour Congress, (CLC), the Co-op Union and the Canadian Federation of Agriculture (CFA) had appeared at the 1964 hearings to challenge, with variations of emphasis, the case put by finance companies and their association. The new hearings pitted these same groups, with somewhat greater divergence now apparent in their views, against food manufacturers and distributors. A significant new element, highly successful in terms of exerting political pressure even in the absence of support from the CAC and in the face of overt disapproval by the committee members, were the large number of consumer protest groups. A few of these had sprung from local CAC chapters without the sanction of the

Association's national executive. Others appear to have arisen by spontaneous combustion from the supermarket boycotts. Their impact was greatly enhanced by extensive and sympathetic media coverage which helped hammer home the message that ordinary citizens were increasingly seeing themselves as consumers and were getting angry about it.

The CFA and CAC both blamed food processors and retailers for price increases, with the CAC slating excess concentration in an industry noted for the use of expensive and deceptive promotion techniques.²⁵ CFA's main interest was in the maintenance of farm incomes although their brief also proposed that an ongoing commission be set up to carry out and publish research on food prices and other consumer problems. It was pointed out that a departmental structure might not be the ideal form for that purpose. (The kind of body CFA apparently had in mind was not to perform any regulatory functions.)²⁶ The Canadian Labour Congress, for its part, was preoccupied with steering the Government away from the temptation to apply wage and price controls, although the CLC magazine, Canadian Labour, had been editorializing for federal action on consumer affairs since 1963.²⁷

The CAC, sticking to its position against price control boards that had resulted in formal disaffiliation from the Association by the CLC in 1952, made a case for the control of prices by way of increased competition. Committee members queried CAC closely on the strength and nature of their membership; nevertheless they reacted favourably to the concept of a consumer affairs department. An important point in CAC's testimony was the need for government-funded research to offset the well-documented but biased cases put by the corporations.²⁸ The protest groups also supported direct intervention by government but tended to be skeptical about the departmental format. The "Canadian Consumers' Protest Association,"

for one, suggested a prices and consumer complaints board, composed of a "complete cross-section of Canadians," which would publicize corporate violations.²⁹

Although generally weak on problems of federal-provincial jurisdiction and on bolstering their economic arguments with adequate statistics (in part a reflection of the research problem alluded to by CAC) only the Consumers' Association and a few of the protest groups had any real grasp of the need for comprehensive legislation to protect the consumer.

Supplementing CAC testimony was that of the Association's past president, Mrs. Plumtre. She stated flatly that existing consumer sections of the Federal Government were basically "producer oriented." The only counterbalance to this she argued, was to have "a consolidated department concerned only with consumer policy and protection."³⁰ This point was re-emphasized in her outline of the basic prerequisites of consumer protection: while cooperation was needed between consumers and industry, "it is essential that the interpretation and administration of consumer legislation be done by consumer-oriented rather than industry-oriented officials."³¹

The presence of so many consumer representatives at these hearings marked a departure from previous federal inquiries where industry easily out-gunned the consumer interest with impressive delegations of legal talent. The question of whom CAC represented became academic in the atmosphere of protest that prevailed as the hearings crossed the country in the winter of 1967. If consumers could be ignored, voters could not.

II. THE CRITICAL CHOICE (1966-1968)

1. Consumer Affairs If Necessary But Not Necessarily....

The Speech from the Throne for the 27th Parliament outlined for Canadians an increasingly government-managed society. Pearson's Liberals proposed the re-organization or outright creation of numerous federal departments including, Indian & Northern Affairs, Manpower & Immigration, the Solicitor General and Energy, Mines & Resources and an agency to manage development aid abroad. A cost-shared health program was introduced in the form of the Canada Assistance Plan. A strategy for agricultural stabilization by way of marketing boards was announced (although the legislation would be delayed till 1970) and rather cryptic mention was made of a new department to be responsible for "legislation concerned with the conduct of business activity."³²

There was no indication that this lattermost action was to be taken specifically in the interest of consumers; in fact, subsequent debate revealed the government to be chary about being perceived as a consumer advocate. Beating back NDP motions to establish a consumer affairs department in conjunction with price-monitoring boards, the Liberals found themselves in a quandary. Apprehensive lest strong pro-consumer action alienate business by casting government in the role of economic policeman, they nevertheless found the political appeal of consumerism all but irresistible.

The cross-country hearings of the Croll-Basford Committee on Credit provided a unique political forum for highlighting the plight of consumers in an inflationary economy. This inquiry took on the trappings of a Royal Commission after its mandate was extended to prices (in September, 1966) and its interim reports fueled intense debate in the Commons. (The co-chairman, Ron Basford, went on to become, after John Turner, the second Minister for Consumer & Corporate Affairs in 1968.)

New Democrat Credit Committee member, Vancouver MP Grace MacInnis, was the most outspoken proponent of the consumer viewpoint in the House during this period. As her party's consumer critic - she was also a CAC member - MacInnis figured prominently in the debates in which the New Democrats urged incessantly that the Government create a "Consumer Affairs" department. The NDP had been calling for the designation of "a member of Cabinet, assisted by a research organization, to represent the consumer point of view on all issues" since their founding convention in 1961.³³

The first opportunity for a concerted effort on the consumer affairs question came in the spring of 1966, when the Government introduced a bill to establish a "Department of the Registrar General" at the height of the cost-of-living debate.* This expansion and re-organization of an existing Office of the Registrar General, repository of the Great Seal of Canada, was meant to coordinate regulations governing corporate activity, such as the Trademarks Act and the Companies Act. The New Democrats tried without success first to change the name of the proposed department to "Consumer Affairs" (to include the Bankruptcy legislation and the Combines Investigation Act), then to amend the Registrar General's duties in order to shift the focus to defense of the consumer interest.³⁴ The Government Organization Act passed in June; the Registrar General's title unchanged. Nevertheless it marked the beginning of a long-needed consolidation of consumer protection, bringing under one roof trademarks, patents, bankruptcy and, in a historic move out of the Justice Department, the Combines Investigation Act.

But the Government's intent with this legislation was clearly not primarily to articulate or defend the consumer interest. Summarizing the Government's position, Liberal Minister Guy Favreau maintained that "although one of the (Registrar General's) functions was to safeguard the rights and interests of consumers...limiting the title to 'Consumer Affairs' would be to unduly restrict the scope of jurisdiction."³⁵

* As early as January, 1963 NDP MP Tom Berger moved a private member's bill for a consumer affairs department, cf. Hansard, Vol. 3, p. 3164 (1963).

The Government also resisted moves to concentrate in one consumer department the scattered consumer standards sections at Food & Drug, Fisheries and Agriculture, arguing that these units should be left in their departments which already had the "specific expertise." There was also strong bureaucratic resistance, especially from the Health & Welfare ministry where the idea of moving the Food & Drug Directorate to a consumer department was extremely unpopular. (In 1968 the section of FDD dealing with economic fraud was incorporated into Consumer & Corporate Affairs after lengthy negotiation.)

With the consumer price index rising inexorably, Cabinet, in July, 1966 instructed the Economic Council to undertake studies of the interests of consumers "as they relate to the functions of the Registrar General's department...(and) in the light of the Government's long-term economic objectives." ³⁶ In addition, the Council was to re-examine competition and trademarks policies.

For a time the consumer debate cooled off in Parliament while the Economic Council's reports were awaited. Then in October came the nation-wide supermarket boycott by Canadian housewives, an event that received massive media coverage. At year's end, with the cost of living still on the rise, the Croll-Basford Committee reminded the government of the "urgent" need for establishing a "Consumer Affairs" department even before the completion of the ECC's work.³⁷ The Committee did not feel the Federal Government had the authority to directly control prices but drew attention to corporate concentration in the food industry, the proliferation of promotion gimmicks and the need for greater public disclosure of corporate information along with extended consumer protection.³⁸ In response to this, 1967's Speech from the Throne touched off a new round of heated debate, by promising, in the face of all that had been said on the subject, a department of "Corporate & Consumer Affairs."

Responding in June, 1967 to MacInnis' criticism of this inauspicious combination, Registrar General John Turner explained that the Government's concept of consumer protection took into account "the supply side and the demand side." Competition, weights and measures, packaging and labelling, disclosure and market practices all involved "the supply side," the corporations, while "the demand side" consisted of education to put the consumer in a better position to "protect himself."³⁹ Turner put this essentially laissez-faire attitude quite succinctly when he stated that "no department of government will be able to protect the consumer."⁴⁰ Most of the protection consumers had been clamouring for would be left to market forces assisted on their way to greater overall efficiency by a virtual department of the marketplace.

At this juncture the Economic Council released its first study, Consumer Affairs and the Department of the Registrar General, calling for a re-grouping of all consumer protection functions. A re-organized Registrar General would handle consumer complaints, carry out information and research programs, cooperate with the consumer movement and coordinate legislation dealing with consumer standards. All deceptive trade practice legislation would be the responsibility of the Registrar General, who would be charged with "representing the consumer point of view" on any government policies having an impact on consumers.⁴¹

The report recommended an innovative structure for the new mandate, proposing an "independent advisory council" with the autonomy needed to ensure a forceful presentation of the consumer viewpoint. The Council was to facilitate effective federal action in the face of the many political and constitutional obstacles anticipated.

The Economic Council envisaged that the Registrar General's department, as the main promoter of the consumer viewpoint within government, would act as a secretariat to this autonomous "Consumer Advisory Council" while providing the bureaucratic apparatus for administering

legislation. Coordination of other federal activity affecting consumers would be handled by an interdepartmental committee chaired by the Deputy Registrar General. This unique structure was designed to obviate bureaucratic expansion while maximizing participation; moreover, the undesirability of creating a mammoth new department was explicitly stated.⁴²

Privately the Government was divided on whether to emphasize the "corporate" or "consumer" functions of the proposed department. The Registrar General, John Turner, recommended to Cabinet in May, 1967 that the government "change the name of the department as forecast in the Speech from the Throne."⁴³ In its May 30 decision, however, Cabinet kept the original designation of "Corporate and Consumer."⁴⁴ In preparation for fall legislation on consumer affairs, contingency funds were requisitioned from Treasury Board in August and a "Consumer Branch" under the direction of staunch consumerist Eleanor Ordway, was set up within the Registrar General's department. With a staff of 26 (later expanded to 42) and a budget of only \$275,000 its responsibilities were policy development, complaints and enquiries, research, and the development of the interdepartmental committee to oversee the anticipated transfer of other consumer units into the department once the new bill was passed. The Consumer Branch became the core of the eventual Consumer Affairs Bureau.

In the fall of 1967 the Government hedged its bets, introducing on October 13 a bill to establish a "Corporate and Corporate Affairs" department, with a consumer advisory council to advise and assist the Minister.

The debate over the consumer affairs bill was a stormy one. Grace MacInnis, dismayed that a separate department for consumer affairs was not being offered, charged the Government with "throwing consumers into the same department with the corporations where presumably they could fight it out."⁴⁵ (In May, 1967, MacInnis had introduced a private members' bill to set up a "Consumer Affairs" department and abolishing a number of deceptive sales practices.)⁴⁶ Liberal backbencher Herb Gray got NDP support for an amendment to reverse the departmental title to read "Consumer and Corporate" but this was greeted as, essentially, window-dressing.⁴⁷ The bill was passed into law in December, and the Canadian consumer had, in MacInnis' words, "one department for the lion and the lamb."

Whatever its short-comings, the potential now existed for the Government to act as the consumer advocate if only it chose to do so. The corporate-consumer structure theoretically gave the Minister a divided loyalty inasmuch as the federal departmental system generally recognized a sectoral approach to societal interests, providing a department of government for the major ones, with Cabinet the final arbiter of the combined public interest. Still, consumer affairs was listed first among the Minister's duties in the bill, and Clause Two enjoined the Minister to carry out his duties and functions "in relation to consumer affairs" in such a way as to "promote the interests of the Canadian consumer."⁴⁸ It was landmark legislation in terms of federal responsibility for the functioning of marketplace but it remained to be seen what the Government would make of it.

2. A Department of the Marketplace

At its peak, consumerism was a "political fad" - to borrow Herb Gray's expression - that Ottawa could not afford to ignore. Prices, especially food prices, gave the consumer movement a stout stick with which to beat both the trade practices of industry and the indifference of government. But there was a serious drawback to seeing consumer issues in narrow price terms: it encouraged a tendency to frame the consumer interest in opposition to the interests of other economic sectors. This orientation forces trade-offs against the demands of other pressure groups, to the detriment of consumer protection.

This is not to suggest that the consumer interest is synonymous with the public interest. The interests of specific sub-groupings of consumers, namely those who are also producers and investors, must be weighed to determine "the public interest." However, considerations of social equity, public safety and simple fairness (i.e., ethical trade practices together with "market transparency" - accurate information about products and terms of sale) should dictate that the consumer interest be the supervening component of economic policy.

Long experience has shown that the consumer interest seldom prevails against more concentrated and politically salient interests unless its diffuse nature is somehow compensated for. Yet if structure, in effect, is policy, the consumer interest is hard-pressed to supervene even within the department nominally responsible for its defense.

On second reading of the "Corporate & Consumer Affairs" bill, Registrar General John Turner had been quite straightforward about the government's intentions with the new department. Calling it the first department to represent "the demand side of the market" he assured his listeners that it would not "displace other interests but add a new dimension."⁴⁹ Under the banner of "efficient allocation of resources" a department of the marketplace was thus added to the existing bureaucracies concerned with the corporate sector, namely, Finance and Industry, Trade & Commerce.*

* In theory, Finance deals with aggregate money flows, fiscal and monetary policies; Industry, Trade & Commerce with industrial development and aggregate production and trade flows. Consumer & Corporate sets the ground rules for market structure, ownership and organization of the market distributive system.

After a lengthy integration study, consumers were offered an expanded Consumer Affairs Bureau in October 1968 as their defender within a larger structure.*

This cautious approach was consistent with the go-slow advice preferred by senior officials. The Director of Investigation & Research for the Combines branch, D. Henry, advised the Registrar General in 1966 that "extreme care (would) have to be taken that the idea of a 'consumer program' is not over-sold, nor should the Minister allow himself to become known as a 'consumer ombudsman', at least for the present...(as) this could only lead to the encouragement of a multitude of irrelevant complaints and the transforming (of the new department) into a mere post-office."⁵⁰ In retrospect it appears this advice was heeded inasmuch as successive Ministers have begged off the role of consumer advocate; the Department may have been less successful at avoiding the fate of becoming "a mere post office." (see below, p. 50)

It is not possible to pin down an overall Departmental "philosophy" of consumer protection, but the basic elements of one can be found in various internal directives. In 1967 John Turner expressed the rhetorical hope that the Department would "be responsible to...and represent the consumer."⁵¹ The Consumer Affairs Bureau's 1976-77 "Work Plan" reveals that in rather general terms this is still the objective: a "Strategy" section reminds the reader that Clause Six of the Consumer & Corporate Affairs Act ("Duties of the Minister re Consumer Affairs") effectively makes the Minister "the consumer advocate." The strategy suggested is that of "encouraging and developing a competitive market system."⁵² (A tall order considering the fate of competition policy.)

More specifically, the Work Plan sets goals like the following:

- (i) "Adopting a preventative approach...through tougher enforcement of legislation.
- (ii) Closer cooperation with the provinces to avoid duplication.
- (iii) Encouraging a close working relationship with the voluntary sector."⁵³

A report from the regional offices included in the same work plan casts serious doubt on the feasibility of the first goal, enforcement. There is much grumbling about "understaffing" and one rapporteur declares

* There are four Bureaus at the ADM level: Corporate, Intellectual Property, Competition and Consumer.

flatly that "the effectiveness of each of the programmes is dangerously impaired."⁵⁴ The second has also proved elusive, although the recent announcement of the formation of a permanent Federal/Provincial Committee of Deputy Ministers may begin to alleviate some of the strains caused by federal legislation that was ill-matched to corresponding provincial initiatives. As for the "close working relationship with the voluntary sector," the current relationship between the Department and the Consumers' Association could almost be described as poisonous. In what amounts to a virtual abdication of the role of "consumer advocate," the Department has since 1973 followed a greatly misunderstood policy of "developing the capability within the consumer movement to represent the consumer interest at the national level."⁵⁵ This approach has been justified by a need to "re-voluntarize" the movement, ie., to refresh its "grass-roots" membership, in the interests of its own credibility, but the mutual alienation that has ensued suggests a mixture of motives not all that well comprehended by either side. Given the strained atmosphere that oftentimes prevails between the Department and CAC it is hard to see how the former can be knowledgeable about how the latter perceives the consumer interest at all. (see below pp. 54-63)

This confusion of purpose is an inevitable extension of the Department's unwillingness to itself advance the consumer viewpoint vigorously. This it can hardly do when its mandate is consistently interpreted by senior officials in such abstract terms as "facilitating good economic performance... (being) neither the proponent nor opponent of producer or buyer."⁵⁶ This kind of direction from the top vitiates occasional efforts at the Branch level to make a more active defense of the consumer. A historical summary prepared by Consumer Research Branch in 1969 described the fledgling Consumer Affairs Bureau as "dedicated to promoting the interests of the Canadian consumer." The report went on to state that the Bureau "has the function of acting as spokesman for the consumers' interests in its dealings with other departments...including minimizing the negative effect on the consumer of policies adopted for other purposes."⁵⁷

* Another irritant has been plain thoughtlessness on the part of federal officials. For example, the Nova Scotia Consumer Bureau staff were given all of three weeks to read and comment on the seven-volume study of competition and trade practices prepared by the Skeoch Committee in 1976. This sort of unilateral "consultation" with the provinces is not an exceptional case.

This spokesman's role was contingent on maintaining an active network of interdepartmental committees on which sat representatives of Consumer and Corporate Affairs. At one time or another the Department was on some twenty committees and task forces but the number has dwindled in recent years. Few of those committees involved defense of the consumer interest vis-à-vis other department's programs; for the most part the interdepartmental committees have been used as sounding boards to gauge the reactions of other departments to proposed consumer protection legislation.

The major joint-policy structure was the Interdepartmental Committee on Consumer Affairs (ICCA). A significant force between 1968 and 1970 when the Department was still organizing itself and a great deal of consumer legislation was being drafted, ICCA has since sunk without a trace. The Committee's last full formal meeting was in April, 1972 and with few exceptions it has been virtually inactive since. In May of 1973 the Deputy Minister, Blair Seaborn, suggested setting up a permanent secretariat for a more active ICCA but nothing much seems to have developed along these lines in the intervening years.⁵⁸ (Seaborn ventured that the reason the ICCA had met "less frequently in the past two years" - i.e., 1971 to 1973 - was "the lack of any new program proposals for discussion."⁵⁹ In fact these were the very years the Government was trying to find a formula for revising competition policy that would be acceptable to industry.)

It is difficult to judge the record of Departmental officials in their role as defenders of the consumer interest on other interdepartmental committees but the lack of consumer sensitivity of some legislation (viz. marketing boards in Agriculture) suggests that Consumer and Corporate has been well-nigh ineffectual. The main Committee (ICCA) the Department itself chaired, seems to have foundered partly on inter-departmental wrangles. One of the Committee's last controversies revolved around whether to release a study of "Factors Affecting the Cost of Eyeglasses and Dentures" to the public or even, as a compromise, to a restricted list of relevant professional organizations. Health & Welfare was the stumbling block on that occasion, protesting encroachment on provincial jurisdictions.⁶⁰ More recently these

two departments have collaborated more successfully (via the Consumer Council) on the question of food policy.

Regulation of the Canadian market was so long overdue by the time Consumer and Corporate was established that the new department had its work cut out for it from the start. In its first five years numerous pieces of legislation were drafted and passed into law. The Department virtually invented the legal framework of its own mandate with acts covering Hazardous Products, Packaging & Labelling, Bills of Exchange, and Textile Labelling among others. Changes were made to the Bankruptcy Act, the Small Loans Act and the Interest Act which were only partly under the Department's control. The Canada Corporations Act was substantially amended in 1969 and a Canada Standards Council was established in 1970. Top civil servants like Gordon Osbaldeston, Blair Seaborn and Michael Pitfield occupied the key posts while the Minister's position seemed to rotate through the Liberal Cabinet like a duty roster. In short there was sound and fury and while it would be unfair to say it signified nothing it certainly raised as many questions as it answered.

A 1976 study of the effectiveness of consumer laws* concluded that while federal legislation was more adequate than provincial, neither was satisfactory. Nor were existing laws being applied rigorously enough. This result should come as no surprise despite the passage of much new consumer legislation in the past decade. Consumer law expert Jacob Ziegel in 1973 outlined the basic problems when he wrote of the "pitfalls" of legislation in his article "The Future of Consumerism." Ziegel cited delays (legislation dealing with auto sales, credit and competition provide good examples) fragmentation, inadequate drafting of laws and methods of redress, poor enforcement and interdepartmental conflicts.⁶¹

Out of an exaggerated concern for the possible ill-effects of consumer legislation on industry, the Department has followed a "dilute and delay" policy, especially where significant changes in production and trade practices

* "Report of a Survey on the Effectiveness of Consumer Laws & Organizations" by Michelle Marois and Claude Masse; Jurimetric Research Group, Law Faculty of Université Montréal.

were demanded. In some cases delays have been justified but far too often they result from special pleading by industry (sometimes directly, sometimes through lobbying associations), and not from a rational assessment by way of Department-sponsored or independent research.

Some officials will admit that a paucity of good market intelligence, attributable to the absence of a Departmental economic research arm, makes it difficult for them to effectively challenge industry arguments.* There is no way to distinguish between bona fide need for delayed implementation of regulations and corporate foot-dragging. The Packaging & Labelling Act received Royal Assent in June, 1971 yet several of its provisions remain unproclaimed due to manufacturers' contentions that the regulations would prove financially crippling. This argument appears to have convinced someone, but, reasonable or not, the Research Branch is hardly in a position to question it convincingly. The setting of standards, a complex process involving trade-offs between higher quality, safer products versus higher consumer prices - invariably companies pass on the costs of improved standards to consumers - poses equally difficult problems of research credibility for the Department. The technical expertise is there but not the economic, leaving industry with the upper hand. Similarly, Consumer and Corporate has little product-testing capability, beyond grants to consumer groups like CAC, IPIC and the Toy Testing Council, leaving its Product Safety Branch unable to take pre-emptive action in applying the Hazardous Products Act. Here the Department is essentially reactive, as the case of lead in kettles demonstrated in 1974.⁶²

Much of the weakness of federal consumer law derives from federal-provincial jurisdictional splits, but even more fundamentally rests with the assumption that the individual consumer is the proper point of intervention. Despite the well-known fact that only a small minority of consumers pursue complaints to the point of resolution - the cost of doing so tends to outweigh the original loss on an individual basis - the laws are still formulated in a spirit of "consumer beware." Without high levels of enforcement, unlikely in these times of increasing fiscal restraint on government, most consumer law amounts to little more than a declaration of good intent.

*The Department's "Prices Group" does not perform this function. For a time consumer prices were included, albeit rather vaguely, within Consumer & Corporate's jurisdiction. Basford's 1968 white paper "Policies For Price Stability" led to the Prices & Incomes Commission which reported to Cabinet through the Consumer Affairs Minister. With the onset of hyperinflation in the seventies, price again became a hot political issue and was appropriated by the Food Prices Review Board, leaving behind a group of price advisors at the Department. In conjunction with Deputy Minister Sylvia Ostry, this group had a major input into wage and price control policies adopted by the government in 1975.

One area where government has had a record of taking direct action, however fecklessly, is in combines legislation. Yet the one serious attempt to regulate major business decisions in the public interest (though not, necessarily, in the consumer interest) - namely the Omnibus Competition Bill of 1971 with its powerful Competitive Practices Tribunal - met with almost total defeat at the Parliamentary committee stage. Besides being very badly drafted, the proposed legislation gave government what many in business felt were sweeping powers along with inadequate provision for appeal. The concept of a Tribunal to investigate and rule on mergers was met with unabashed horror from the business community which has since succeeded in stalling the bill, forcing the Government to break it into two stages, and watering down its main provisions. The Tribunal concept has been changed in the present legislation - now before Committee - to a "National Markets Board," more comprehensive but diluted in its power to control business. ⁶³

The Skeoch reports of 1969 (Economic Council) and 1976 (Consumer and Corporate Affairs) pioneered an approach to competition policy that was cognizant of limitations on the federal role and of the economic realities of a dispersed Canadian market. But unless the Government commits itself to a concerted effort to devise strong, enforceable trade practices legislation, the new emphasis on "economic viability" as the main criterion for competition policy threatens to become a rationale for continued consumer fraud and manipulation.

In these matters, who does the Department and the Government as a whole listen to? The audacious efficiency with which business scuttled the 1971 competition bill has not daunted consumer groups but it has left them in no doubt about where the real power to influence policy lies. The Department has made \$25,000 available to CAC to enable them to prepare a brief on the Stage II revisions of the current bill, but the Association could be forgiven any skepticism about the probable effects of their intervention. CAC attempts to intervene on the long-delayed Borrowers' and Depositors' Protection bill (BDPA) have been met with a six week silence followed by nominal acknowledgement from Departmental officials.

The pervasiveness of business lobbying in Canada has been gaining increased recognition in recent years. Trebilcock has pointed out that tax write-offs for lobbying amount to a public subsidy for what is often an anti-consumer activity which dwarf grant allocations to consumer groups by comparison.⁶⁴ (Some lobbying provides officials with needed information which tempers ill-conceived policies. The perennial problem is one of research: how to evaluate material from such patently biased sources?) In the case of BDPA the Department has been conscientious to a fault in consulting banks and finance companies, yet CAC, in which Consumer and Corporate is supposedly encouraging "a capability to represent the consumer interest at a national level" finds itself hard-pressed to get fair hearing.

How can the consumer interest be adequately represented? Only recently has research been commissioned to examine the theoretical problems involved. It was long argued that a "Consumer Affairs" department was needed in this country just because the consumer interest is inherently diffuse. Rather than treating this diffuseness as a challenge calling for direct compensatory action, the Government has institutionalized the consumers' weaker position in the marketplace. At the same time it has passed into law a large body of consumer protection legislation that remains symbolic in the absence of vigorous, consistent enforcement. This approach perpetuates the consumer's role as economic victim even as it claims to protect him.

III. TEN YEARS AFTER: CONSUMER ADVOCACY AND THE FEDERAL GOVERNMENT

1. The Canadian Consumer Council

The opportunity to have a federal consumer advocate was not entirely lost with the decision to establish a department responsive to the conflicting interests of the marketplace as a whole. The Government had one further chance to institutionalize the defense of the consumer interest in a meaningful way: the advisory council of Clause Seven in the Consumer Affairs Act.

The concept of an independent consumer council had been a source of contention from the time it was proposed in the Economic Council's report of July, 1967. Its four and a half years of active life coincided with the passage of most of the Government's new consumer legislation - and the notable non-passage of the Omnibus Competition Bill. As an independent critic, the Canadian Consumer Council contributed visibly to the debates sparked by these legislative initiatives, becoming in the course of events a thorn in the sides of successive Ministers. When the political aggravation of the Council's independence became sufficiently uncomfortable to the Department, the irritant was removed - or, more accurately, encapsulated - by a neat act of bureaucratic surgery.

Origins

1967 marked the beginning of the Liberals' "participatory democracy" theme and advisory councils were the order of the day. In the interests of participation but equally to circumvent the ballooning growth of bureaucracy, the Economic Council recommended a "independent advisory council" as the centrepiece of consumer affairs policy-making and evaluation. (see above p. 20).

The potentially crippling limitations of relying on the Federal Government for consumer protection - bureaucratic fragmentation, Cabinet secrecy and Ministerial solidarity - necessitated some kind of independent "conscience." Consumer Affairs, the Economic Council argued, would touch on sensitive and controversial areas, entailing direct federal intervention into the marketplace. A consumer council with access to both the public and the Government (since all Ministers, not only the proposed consumer affairs portfolio, had responsibilities affecting consumers) was seen as a way to keep the former informed and the latter responsive in the face of anticipated divergence of opinion.

The dual structure of Council plus Department would have been an innovative departure, allowing direct policy input on the part of representatives from various non-government sectors of society while the bureaucracy ("secretariat" to the council) provided an administrative apparatus. Through the summer of 1967 behind-the-scenes debate raged over the commanding role proposed for the council which the Registrar General's department considered unrealistic.

"The functions assigned to the Consumer Advisory Council appear far to exceed those that should properly be assigned to such a body" said one official in a confidential evaluation of the Economic Council's report.⁶⁵ Nevertheless the same report cautioned against placing representatives from agriculture and industry on a council, as these interests were already "not notably ineffective at getting points of view recognized."⁶⁶ The members of the proposed consumer council were supposed to participate as "informed individuals" but the Government conceded in advance that "some members would be associated with legitimate economic interests."⁶⁷ At no time was it publicly contemplated that the council would consist only of consumer advocates.*

* In 1968 the Prairie Provinces Cost Study Commission (the Batten Commission) recommended advisory councils composed entirely of consumer advocates to promote the consumer interest at the provincial level.

The related problems of composition and independence of advisory bodies got an early run with the rather differently structured Manpower Council which was debated just prior to the Consumer Affairs Bill. An amendment that would have required that Council's reports to be tabled in the House, giving its pronouncements an independent outlet, was defeated on the grounds that "the public interest" would thereby be impaired. Keeping the Council's work confidential, it was argued, would leave its members free to transcend their individual interest to work together.⁶⁸ The reasoning was a little facile, but a cautionary note had been sounded that would reverberate later with the Consumer Council.

Independence was the crucial condition. An autonomous council would be free to criticize both levels of government as well as business. While some feared it would quickly be reduced to impotence, there was hope that it could develop its own public constituency in a manner similar to the Auditor General's Office. The concept therefore held out the prospect of a collective "consumer advocate," the stronger if weighted toward consumer representatives in its membership.

An earlier Consumer Advisory Council, attached to the Food and Drug Directorate, had proved to be an exasperating experience for many of its members, due mostly to the lack of precise definition of the role it was to play in policy-making. The same problem dogged the Consumer Council from the outset. There were many attempts to clarify the functions of the proposed council, for the most part aimed at committing government to a strong pro-consumer voice. In the final debate over Clause Seven the Government's misgivings went all but unnoticed in the flourish of rhetoric about "the independent and important role" the Council would play, "assuring that the government was responsive... to the demands of both the consumers and economy."⁶⁹ Though not much emphasized,

an equally significant outcome of this debate was that the council-to-be was hedged in with a number of qualifications, including a stress on its advisory role "reporting to" the Minister, the decision to have a part-time chairman and dependence on the new Consumer and Corporate Affairs Department for support staff and budget. When the dust had settled, the consumer did in fact have a Council, exact scope unsettled by these stipulations, but "representative of various economic interests...and geographically balanced,"⁷⁰

The First Council

There was always a good possibility that a representative council with a public voice would be expected to become all things to all people, in accordance with the aphorism "consumerism is nobody's business just because it is everybody's." Perhaps sensing this the Government delayed appointments until the matter began to haunt them in the Commons. A chairman, Dr. David Leighton, was announced in October 1968, although he had been quietly chosen back in July by the previous (and first) Minister for Consumer and Corporate Affairs, John Turner; so quietly, in fact, that he first came to the attention of the new Minister, Ron Basford, at a news conference given to inform the media of the Government's plans for the Council.

By year-end the fledgling Consumer Council was embroiled in controversy though it had yet to transact any business. Declarations to the Press by Leighton that the Council would not act "as a rubber stamp" to the department, but that "it was appointed to have a very independent voice,"⁷¹ did little to still protests claiming the chairman himself was too closely connected to the business world.* Furthermore, it was pointed out that one of Council's members, the President of Burns Foods Ltd., was in a position of conflict of interest due to the involvement of one of his subsidiaries in a sub-standard product case.⁷² Soon after its first meeting was convened in Dec. 1968, MPs began to make

* Leighton was at that time about to assume presidency of the American Marketing Association; nevertheless, he became one of the core group of defenders of the Consumer Council's independence during the critical 1973 period. See p. 45.

suggestions about which issues the Council should tackle, bringing a rejoinder from the Minister that Council was "neither a regulatory nor investigative agency."⁷³

What, then, was the Council's role? In summarizing for Parliament the Government's goals for consumer legislation, John Turner had spoken of the need that "the consumer be given a strong and active representation in the councils of government... (so as to) become involved in debate on decisions affecting consumer interests."⁷⁴ But if the Consumer Council was intended as the means to achieve that "active representation," there were from the start serious flaws in its composition and, more importantly, in its conflicting functions.

The Council's make-up drew the ire of the Consumers' Association which resolved in May, 1970 to protest the unwieldy size and the inclusion in its membership of a number of representatives of business, advertising, and marketing boards along with advocates of the consumer interest.⁷⁵ Yet this mixed composition was in line with the Government's policy of seeking advice on consumer issues from all sectors of the marketplace, a policy which had in fact been urged upon the Government in the testimony of CAC's past president, Mrs. Plumptre, at the Croll-Basford hearings in 1967.⁷⁶

In September 1967, Gail Stewart, an economist who participated in the preparation of the Economic Council's report*, urged the Registrar General by letter to keep the proposed Consumer Advisory Council as independent as possible in the interest of public credibility. On the question of composition, she pointed out the benefits of a "mixed council" as opposed to

* In 1975 she was Executive Director of CAC.

one consisting solely of consumer representatives, "provided a predominance of consumer interests was maintained."⁷⁷ Although the majority of members were in fact genuinely concerned with consumer issues, the broadly representative composition sacrificed forceful advocacy for a policy of treating the consumer interest as one of several competing economic factors to be reconciled and diluted by a process of compromise within the Council itself. In the absence of any guiding framework addressing itself to the issue of the social responsibility of corporations, the inclusion of producers and businessmen could at best prepare the groundwork for corporate acceptance of increased legal intervention in marketing practices; at worst set consumer and industry representatives against one another in a contrived and strife-torn "dialogue." (By way of contrast, produce marketing boards, which in regulating supplies and stabilizing prices act first and foremost in the producers' interests, have been able to mount tremendous resistance against the addition of consumer representatives to their deliberations. It took 1975's egg storage scandal to bring about the token acceptance of Maryon Brechin, former CAC President, as consumer representative to CEMA. In 1970 the CAC had tried without success to amend the National Farm Products Marketing Act to allow for consumer input.)

Assuming for the sake of argument that the producer-consumer dialogue model was a reasonable, or at any rate, inevitable first step in making the consumer interest visible and publicly legitimate, the Council's functions were still contradictory. The terms of reference were for the first few years imprecise, but even when formulated (in April 1971) they simply defined in explicit form a fundamental problem: how to maintain a viable public stance while being essentially an advisory body to the

Minister. Council's advocacy role rested on its right to publish its research findings, and annual reports, these being the basis of Council's credibility in making informed recommendations. Yet if Council was not to usurp the Minister's responsibilities, the research and the recommendations would both have to be funneled through government's policy-making machinery becoming inextricably entangled in confidentiality along the way. The three functions of research, advice and public advocacy were from the very start in opposition.

The Consumer Council expended considerable time and energy in trying to "clarify" its terms of reference. When they were finally down in print they amounted in capsule form to two main points:

1. Council was "essentially an advisory body...(to aid) the Minister in advancing the interests of the consumer..."
2. Council could "undertake studies, commission research, hold public meetings, prepare reports...(and) publish such reports... after first having provided copies to the Minister who may on reasonable grounds advise Council that publication is not in the public interest." 78

These guidelines were arrived at after prolonged dispute, in the Council's third year of operation. Already (1971) the terms of reference showed a pronounced concern for the prerogatives of the Government, qualifying the Consumer Council's privileges while reaffirming Ministerial control.

How did these guidelines work out in practice? Council members for the most part felt themselves to be working in a vacuum contending with weak Ministerial contact (the Minister seldom attended Council meetings) and the regular disappearance of inquiries and reports into the Minister's office where they were sat upon.

The first few years of Council were a period of transition at the Department, a "game of musical Deputy Ministers" in the words of several former Council members. The outcome was that Council's dealings with the officials who controlled the flow of information to the Minister were a constant source of irritation. A demoralizing side effect of this shuffle of personnel was that Council was left leaderless for months at a time, especially between Leighton's resignation and the arrival of an Executive Director (David Bond) to replace him.

Occasionally Council's recommendations would filter through but by late 1971 almost any advice was taken to be criticism, particularly as some Council members had been publicly outspoken. Ministers - and there were four over the short life of the first Council - showed a tendency to move from seeking Council's advice towards using it as a sounding board for convincing Council members of the merits of proposed legislation. In part this resulted from the fact that for the first time in Canada a lot of new consumer legislation was being developed and enacted, in part it was the inevitable result of the awkward compromise in which the government had only partially acknowledged the need for some form of an institutionalized consumer advocate. The drift toward conflict with the Minister culminated in 1973 when disagreements between Herb Gray and the chairman Harold Buchwald erupted in the Press. Buchwald was determined to arrange for the release of studies prepared by Council researchers and to strongly protest the lack of Government initiatives to fill vacancies that were appearing on Council as memberships were allowed to lapse. The same year these tensions saw print in the annual report of the Consumer Council which accused the Government of "bureaucratic foot-dragging" leading to "effective burial" of some Council projects,⁷⁹ such as the Charter of Consumer Rights.*

* The Charter of Consumer Rights was one Council project that went nowhere. Originally requested by Ron Basford to provide the underpinning for overall advancement of the consumer interest, it took off from...(continued on page 39)

Council's private requests that its reports be tabled directly in the House and that members be permitted to testify at Parliamentary committees were denied on the grounds that their advance knowledge of legislation could lead to criticism that would embarrass the Government. What had started as an advisory group had evolved rapidly into an adversary one, until after four years Council and Government were at a stand-off.

If the Government was wary of dealing openly with this highly visible and publicly critical body, part of the blame must rest with Council's inability to focus its own energies. In the first place it was too big, at 25 members nearly double the size recommended by the Economic Council. This can be attributed to the government's obsession with balancing every conceivable factor, business and consumerist, advertiser and academic, Maritimer and Westerner. The method of appointment made a clash of conflicting interests within the Council unavoidable, although it may have been expecting too much to think there was any other way given the assumption that the Council was a compromise-worker. Since the Minister asked various organizations to "suggest" members, many of those so chosen naturally tended to represent their sponsor's interests, regardless of the formal appeal to participate "as informed individuals."

... Kennedy's 1962 Bill of Consumer Rights. In the final version, published in Council's 1972 Annual Report after four years of wrangling, the consumer was guaranteed the rights of purchase ("reasonable access to lawful goods"), information ("accurate facts"), fair value, free choice, safety and redress. Successive Ministers have withheld their endorsement of this document on the basis that it would be at best a "platitudinous" exercise which "would mean very little until translated into concrete programmes." (Or so at least was the opinion of the officials who prepared the Minister's briefing notes for a Consumer Council meeting in May, 1975.) Regardless of its hypothetical legal standing - problematic at best - such a charter could have served as a fundamental guideline for a Departmental philosophy that would stress the consumer interest. So effectively has this notion of a consumer rights charter - in essence a bill of economic rights for citizens - been buried that recent inquiries within the Department on this subject harked back to the Kennedy statement, apparently oblivious to the work of the Consumer Council in painfully advancing the original concept to a more comprehensive format.

As individuals, members were all prominent people in their fields, understandably restrained in directing their fullest efforts toward a council that sought their expertise on a part-time, unpaid basis and met only three or four times a year. The weaknesses created by members not doing their homework ~~were compounded~~ by the difficulty of maintaining continuity as memberships lapsed at irregular intervals. Meetings were beset by frequent and bitter dissension, with Council as a whole engaged in an incessant search for identity. The first chairman received sympathetic press coverage for his "disillusionment" at having to act "as a referee" at Council meetings, where, according to several accounts, "vocal groups dominated discussion... (which) pitted emotional consumer activists against cost-conscious businessmen."⁸⁰

Were those who spoke out in public engaged in "public posturing"? Or were they simply exercising a right that was integral to the Council's mandate? The Consumer Council displayed a microcosm: the fundamental conflicts of political values splitting society at large on the contentious issues surrounding the rights and responsibilities of consumers and corporations.

What is beyond dispute is that after four years, while the Government oscillated between impatience and indifference, the first advisory council to come along that wasn't tame foundered on its own internal discord. Business and labour representatives, alienated by what they thought of as the radicalism of some Council members, the slow process of decision-making and the overall impotence of the Council as an advisor, showed a marked decline in their attendance. By the time of the public outburst of business reaction against the proposed Competition Act, their numbers had dwindled on Council. The 1971 Annual Report voiced strong condemnation of the business backlash, noting with dismay the exaggerated capacity of organized, well-heeled corporate protest to make its influence felt on the

Government at the expense of the less-organized consumer interest.⁸¹ By that point, Council was not listened to seriously as a consumer advocate; moreover, it had lost its minimal usefulness as a mediator of conflicting interests.

In this debacle it is easy to lose sight of the fact that the Consumer Council did accomplish some things, even if there was much valuable work left unfinished. For the first three years of its existence Council mounted a relatively modest but increasingly diversified research effort, consisting of numerous small-scale studies on topics ranging from consumer education to the problems of low-income consumers. Rather more extensive work was done in the areas of consumer credit and misleading advertising, both of which were highlighted at successful public forums in various cities. These studies gave Council a basis for making a series of endorsements and reservations on consumer law proposed by the Minister as well as to make specific recommendations for legislation on its own. Council members have been unanimous in pointing out that their research capability, even if limited, was essential for credibility.

In 1970 there had been a flurry of consumer legislation from the Provinces and the Federal Government, accompanied by an exhortation from Ron Basford that Council concentrate its efforts on "the frontiers of consumerism."⁸² For this task, research capacity had to be increased despite misgivings within the Department where moves were afoot to establish an internal policy review function. Council's budget for 1972 jumped to \$150,000 nearly doubling over the previous fiscal year.⁸³ Most of this was earmarked for professional services. Council was now prepared to go beyond its previous studies of proposed legislation - in which it had a good record at closing loopholes in draft legislation - and embarked on an ambitious four-year program of research to study the representation of the consumer interest. Only the first two parts of the project - the consumer interest on

regulatory tribunals and on marketing boards - were completed by the time the Council was restructured in 1973. Some work was done on representing consumers to the licensed professions though it was not published, while the fourth part, government monopolies, has yet to be started.

The three studies which document the inadequacy of consumer representation at regulatory tribunals - published by the Council in 1972 and 1973 - also make numerous recommendations to improve the quality of the "public interest" decisions of these agencies. A consumer ombudsman, an office of the Consumer Advocate, the use of staff witnesses and government (or regulatory agency) funding of public interest and consumer intervenors were some of the options examined at length by the Consumer Council.⁸⁴ A powerful case was made for widespread regulatory reform in Canada but the Council, along with official concern for the consumer interest, was by this time in a state of advanced decline. The advocacy studies coincided with the most critical phase of Council's existence. Displays of independence had kept the trust of the consumer movement, even if widespread public recognition was not in evidence. But by 1973 its ability to provide a common focus for business as well as the consumer was at an all-time low. Council had begun to develop a strong pro-consumer identity, at great cost in antagonism and attrition among members. In addition, developments with the Department rendered the Council's policy advisory function superfluous. The Consumer Council as an autonomous body disappeared from view.

The Transition Period (1973-1974)

Throughout 1973 the Minister, Herb Gray, allowed memberships to lapse while his advisors contemplated the future of the headache they had inherited. Alerted by rumours that Council would be "re-structured," the Press was reassured that the absence of appointees

would not affect ongoing work. The consumer advocacy role of the Council received scant mention from the media though, as attention shifted to the Food Prices Review Board and the emerging anti-inflation program.

Early proposals for an outspoken Consumer Council had expressed hopes that it would be "a hair shirt for government" and certainly in its awkward semi-autonomous relationship with the Department it was worn with some discomfiture by the bureaucrats. During 1972 Consumer & Corporate Affairs was showing increasing reluctance at leaving intermediate and long-term policy planning functions in the hands of what officials felt was an outside group. Council could not really be part of the internal process whereby policy was devised and ultimately defended, because its autonomous status precluded this, as did its voluntary, appointed membership and infrequent meetings' schedule. Council's past record and its inclusion in the Department's submission to Treasury Board at a time when its budget was doubling to pay for adequate research no doubt strengthened the argument for internalization.

It was therefore recommended that Consumer Council become a personal advisory group for the Minister; concurrently, an internal planning-review group would be established to evaluate the policies of the Bureaux. The Consumer Council's Executive Director, David Bond, had himself suggested in 1972 that such a group, though publicly inaccessible, could act as a "consumer advocate within the Department where it counts."⁸⁵ Council itself would become a smaller body briefed at regular intervals by the Minister, its function being to comment "from its (more) detached perspective" on the Government's plans.⁸⁶ It was advanced that a private, consultative type of Council could be more streamlined, as the absence of any public voice would diminish the need to appear rigorously representative.

(Surely a practical advantage, though some might cavil at the narrowing of public access implied by this rationale.) Assuming that the Consumer Research Branch of the Department would handle the total research load, the re-constituted Council could be run with an 80% reduction in budget, not an insignificant consideration with austerity just around the corner. Finally, its potential for embarrassing the Minister would be greatly reduced although its ability to speak for the consumer was, supposedly, to remain unaffected. The disadvantages of revamping Council along these lines were also considered. Most serious would be the loss of a capacity to do interdepartmental and intergovernmental studies - a serious blow to Council's proposed four year study of the consumer interest and a decided weakness given the preponderant role of the Provinces in consumer law - and the "public relations problem" that such a restructuring would present in dealings with the consumer movement where the Government generally was under fire for its lack of openness.⁸⁷

Throughout the winter of 1973 the Council underwent yet another of the seemingly endless "reviews" of its role and purpose. The Chairman, Harold Buchwald, marshalled a last-ditch lobbying effort aimed at persuading the new Minister, Herb Gray, that an independent Council - with permanent staff, a \$1 million budget and the capacity to carry out and publish its own research - was essential to the consumer interest. Noting that business and labour representatives

had for some time been absent from their seats, he asked the Minister to appoint some twenty "well-qualified" members, geographically representative but, more importantly, "committed to the idea of...advancing the consumer interest through Council."⁸⁸ On the need for formal independence Buchwald had the support of former Council Chairman, Dr. David Leighton who urged Gray to give the Consumer Council "clear and unequivocal support."⁸⁹ Finally on June 11, 1973, the very day the Minister was presenting a \$100,000 grant for "consumer advocacy" to the Consumers' Association of Canada at their annual meeting in Calgary, the Consumer Council - or what was left of its membership - met in Ottawa. Here it was resolved to go for complete autonomy, leaving the advisory role for a smaller, internal "advisory committee." The preferred form was that of "a totally autonomous body outside the Federal Government structure as such...with a legal status... similar to that of the Economic Council of Canada."⁹⁰ Council members left no doubt in their resolution that they were dissatisfied with the political doldrums that were enervating the Council at that time.

The internal process of re-evaluation came to a head in October 1973, when the Deputy Minister, Michael Pitfield sent a summary critique of Consumer Council to the Minister, asserting that the Council had overstepped the mandate originally envisaged for it:

"When Turner described the role of the Council in the House in 1967, he made it clear that the recommendations of the Economic Council (for a visible and vocal Consumer Council) were not being completely accepted."⁹¹

The Deputy Minister went on to recommend a private advisory-style Consumer Council, to perform its tasks "without publicity and...to maintain complete confidentiality with respect to all discussions held, viewpoints expressed and courses of action suggested."⁹² An independent Consumer Research Council (CRC) would complement the advisory group. It would provide a liaison to academic circles

and be assigned to "(oversee) the successful completion" of the previous Consumer Council's four-part study of the consumer interest.⁹³

These recommendations were accepted by the Minister although some officials had reservations about a Consumer Research Council, objecting that it would inspire duplication of effort. In response to this the Minister insisted on an independent status for the CRC to counter in advance any criticism that research was being muzzled. This rationale in itself suggests the state of distrust which by that time prevailed between Government and the consumer movement.

The important consequences that the re-structuring of the Consumer Council had for the consumer movement are foreshadowed in the Pitfield memo of October 30, 1973. The Deputy Minister applauded the June award of \$100,000 for consumer advocacy to the Consumers' Association of Canada as a step in the direction of shifting the role of "public spokesman for the consumer interest.... (to) the grass-roots consumer organizations."⁹⁴ The mantle of consumer advocate that rested so uneasily on the Council was tossed back to the consumer movement; in fact, to the very organization that had spent much of its existence in trying to convince the Government to take up and defend the consumer interest. (It is not that anyone expected government to become the one all-embracing consumer defender or that the creation of the Department was ever expected to make CAC redundant; it is rather that a chance to develop a strong government consumer presence with close linkages to the movement had been lost. The move to revivify the CAC with "advocacy" grants tended to obscure the fact that the new policy masked a lost opportunity. See pp.54-60 for other aspects of this decision.)

By Spring 1974 a tripartite advisory structure had been installed at Consumer and Corporate Affairs although an adequate coordination mechanism for these never could be devised. It consisted of a Consumer Council reporting to the Minister and including as an ex officio member the chairman of the second body, the Consumer Research Council (CRC), funded through the Departmental budget. There was also a Policy Analysis Group which like the CRC reported to the Deputy Minister.

Advice and Consent (1974-1976)

1974 was a watershed year for advice at Consumer and Corporate Affairs. From the viewpoint of the consumer movement (which was by this time showing a tendency to splinter into a multiplicity of issue-oriented groups) public accessibility to policy was plummeting, seemingly in direct proportion to the growth in numbers of advisory bodies. All evaluative functions were in the course of that year reined in and divided up within the Department, the two most critical steps being the relegation of Consumer Council to purely advisory status and the separation of the Council from its research arm.

The societal problem of how to effectively advocate the consumer interest at the Federal level had been translated into a problem of Departmental policy; namely, deciding which consumer advocates in the private sector would be granted operating funds. Similarly, the evaluation of how the policies of other government departments might affect the consumer interest (a task previously taken on by the Consumer Council which had felt free to criticize when warranted) now became a muted internal exercise in evaluating how the policies of other departments would affect those proposed at Consumer and Corporate Affairs. In effect the Council's role was twice diminished from the original conception wherein it instigated legislative ideas and critically reviewed all governmental policy from the consumer viewpoint. From the Department's point of view, this was simply a matter of bureaucratic expediency. From the perspective of consumer advocates this was fine as far as it went but surely it did not go far enough: a more powerful and open process had been replaced by one that defied outside scrutiny.

Interdepartmental evaluation was assigned to an internal organ, the "Policy Advisory Division" (PAD) while a second group, the "Policy Evaluation Division" (PED) performed a parallel function for the Department's manifold Bureaux, Branches and Directorates. The fate of these two groups is pertinent to this account only insofar as it illustrates the principal problem of the approach they embodied,

a tendency to become ensnared in internal cross-purposes, weakened to the point of irrelevance. Within two years, the PAD had been reduced in size to a handful of senior policy advisors, while the PED, an early victim of the chronic difficulty Bureaux everywhere experience in coordinating the work of an evaluation component, had been abolished by January 1976.

The bifurcated version of the Consumer Council - the Council proper and the associated Consumer Research Council - did not fare any better. The CRC spent its first year just getting off the ground, trying to bring together a group of suitably qualified researchers from the universities who would at the same time be politically unobjectionable; i.e., not directly involved in consumer activism of some kind. This proved far from easy. After a year under desultory leadership, Michael Trebilcock, who was at the time chairman of CAC's Advocacy Committee, was hired to direct consumer research. The CAC took the position that the CRC guidelines were relegating consumer research to academic obscurity, and the Trebilcock appointment, which was viewed by some in the Association as creating a conflict of interest (i.e., an academic deciding which academics would be awarded contracts) precipitated a short-lived boycott of Consumer Council meetings by CAC representatives.

A detailed if rather esoteric research program was drawn up in 1975 and contracted out to various universities. The studies undertaken - one of them dealing with the consumer interest and the licensed professions which had been one of the former Council's unfinished projects - were evaluated using the academic referee system.

The Consumer Research Council lost its second chairman the next year and its work was discontinued except for a \$90,000 publication fund set aside to see completed studies into print.* No longer does there exist an independent body doing consumer research at the federal level. For the consumer movement, this is a serious matter inasmuch as its spokespeople have over the years repeatedly stressed the need for such research in order to provide the basis for effective presentation of the consumer viewpoint.⁹⁵

* The Romero report on federal-provincial relations in the consumer field and the Mitchell report on access to information were released winter-spring 1977. Other releases are planned in this series.

This lack of research capacity has also posed serious limitations on the Consumer Council members when briefing the Minister. This means the sessions are essentially for information purposes: the Minister briefs the Council. While criticism is listened to more seriously by officials (the new Council's status within Government having risen in direct proportion to its loss of public stature) it is difficult to pursue anything more ambitious than commenting on proposed legislations or presenting the occasional position paper. In the words of a former member "it's hard to identify any results."

The Minister is free to disclose more information to this group and the attendance of senior officials at meetings of the Council has shown a marked increase over the first Council's record. These improvements must however be weighed against the loss of a vigorous and seen-to-be-vigorous pursuit of the consumer interest. Even its members concede these limitations, but defend what they consider their useful role in acting as a countervailing force, albeit inaudible to the public, checking the process of dilution that so often enfeebles legislative efforts in their early stages. More recently, the Council has embarked on an interdepartmental project to study and coordinate federal food policy. This move signals a return to the members of a limited research capability under their control, but the notion of a consumer advisory council that performed the role of consumer advocate has been permanently shelved. It remains to examine some of the consequences of the 1973 decision to put the responsibility for advocacy back into the hands of the consumer movement.

2. Grants: From Education to Advocacy

Consumer Services Bureau's grants program has been preoccupied with a search for relevance and, more recently, accountability. Originally an ad hoc affair derived from supplementary estimates to help defray the mounting operating costs of the Consumers' Association of Canada, the program has been regionalized and diversified, growing in the process to just under one million dollars annually (fiscal year 1976-77). Still one of the Federal Government's smallest funding programs, it is probably unique in devoting more than half its resources to one organization. The CAC together with its Regulated Industries Program account for some \$450,000 of the yearly budget. Of the remainder, roughly half is divided amongst other national groups engaged in consumer education, testing and publication. These include IPIC ("L'Institut pour la Protection de l'Intérêt Consommateur") and the Canadian Toy Testing Council at \$50,000 and \$17,500 respectively. Two consumer advocate groups that utilize professional legal intervention - Phil Edmonston's Automobile Protection Association and Andrew Roman's Public Interest Advocacy Centre - also receive support of \$50,000 and \$100,000 annually. The other half - some 25% of the budget - is broken down by a demographic formula and parcelled out to the regional offices for the support of local groups.⁹⁶

It has been argued earlier that 1967's political decision to forego an activist consumer advocacy role for the Department has enfeebled consumer affairs policy. One consequence has been that the (Consumer Services) Bureau has been saddled for years with a mushrooming and embarrassingly ineffectual complaints and enquiries service. This has proved to be a source of all sorts of alarming statistics - there were 13,000 complaints in 1970, nearly 50,000 five years later - and not a little alienation among consumers using the service.

Box 99 has not been actively promoted since Ouellet was

Minister. The startling growth in numbers of complaints until that date calls into question the basic tenet of Government action in the consumer field; namely, that complaints arise from aberrations in the marketplace. The experience of Box 99 suggests on the contrary that "normal" business practices leave much to be desired.

The Department's philosophy, inasmuch as one can be said to exist, stresses the paramountcy of individual consumer responsibility. This laissez-faire attitude towards the consumer led to policies of complaints and enquiries and consumer education. The former did at least provide a profile of the mounting dissatisfaction of consumers; the latter, advanced as a "preventive" measure, begs the question of the relative power of seller and buyer. (A preventive approach cannot of course, prevent abuses unless it directly challenges those corporate practices that overpower, mislead and gouge the consumer.)

The Department chose to sidestep these issues, opting for a program of Consumer Help Offices (CHO's) which offered information, credit counselling, and direct mediation of complaints with local businesses. The CHO's were set up by contracting with existing community groups to provide the services. Begun as a pilot project under Eleanor Ordway's direction in 1972, the program expanded within two years to sixteen offices in every region of the country.

The Bureau saw the CHO's as an improved, community-oriented Box 99, which had the added virtue of providing more comprehensive services aimed specifically at the low-income consumer. The offices were presented to the public as "storefront" operations, so perhaps wonders were expected of them, but they received rather mixed reviews. At the local level, some of the more activist consumer groups, like Vancouver's Consumer Action League (since 1973/74 funded as a local project by Consumer and Corporate Affairs) complained of being ignored

in the planning and provisional evaluations of the program. Fielded on the perception - probably correct - that many people would be wary of approaching the Department's Regional Offices for help, the CHO's became increasingly redundant as the provinces established their own networks of consumer bureaux.

Given that complaints and inquiries were considered a priority by the Department, there was obviously some merit in making the service more accessible through regionalization. But the CHO's were a dubious proposition from the start for much the same reasons that Box 99 was a failure. Without a consistent policy of defending the consumer at the source of his problems - i.e., by strictly regulating the trade practices of the producers and distributors - consumer education becomes an all but futile remedial gesture. In effect, the CHO's became a means for passing the buck of complaints and inquiries back to the community, in lieu of tackling the more politically onerous task of confronting business.

The basic weakness of all consumer education/information programs lies in their seductive but unrealistic assumption that consumers in today's manipulative marketplace can become paragons of rational choice. Education is a relatively unchallenging approach - unless pursued by way of "counter-advertising" over the mass media by consumer groups - but its value could be felt by way of federal help to the provinces in broadening the range of services offered through their own consumer bureaux or by cooperating in the development of consumer education programs for use in the school systems. The first priority for the Federal Government should have been more assertive use of the regulatory and legislative tools that became available after the Department's founding, together with increased public discussion of the social costs of the marketplace, expanded access for consumers to the regulatory agencies and funding for formal consumer advocacy.

The consumer movement of the 1970's was evolving as one aspect of a "public interest advocacy" movement which also encompassed environmental concerns. Many of these groups rely for support on a wide variety of Government manpower and participation programs; nevertheless, these action-research or "constituency" groups are increasingly willing to confront industry and Government alike on a wide range of public policy concerns.

Broadly drawn spending guidelines gave the Consumer Bureau's grants program a flexibility that facilitated a gradual shift in policy towards support for more formal types of consumer advocacy. During the same period (the early seventies) a growing emphasis on project evaluation accompanied a trend toward professionalization in the Ottawa bureaucracy. Attempts to evaluate consumer education programs yielded only confused disagreement; different methodologies came to contradictory conclusions. It was getting increasingly difficult to identify concrete results.

In 1973, the bureaucratic frustration with the lack of meaningful evaluation coincided with the emergence of a political climate that was more conducive to consumer advocacy. It was the year of the oil embargo and double-digit inflation. A special Parliamentary committee was once again investigating "trends in food prices" while consumers took to the streets once again to boycott supermarkets. The Government's first attempt at serious reform of competition policy was in ruins after a thorough shake-down by corporate lobbyists. With most of the basic consumer protection legislation in place - even if the pronouncement of the regulations was being greatly delayed by industry protests - the Government was prepared to make some political gestures in response to the outcry for a more vigorous defense of the beleaguered consumers' pocketbooks. The talk was of "voluntary restraints" but wage and price controls were already being hotly debated.

Consumer and Corporate Affairs was in the throes of its third change of Ministers in five years. Two years of infighting with the Consumer Council were quietly culminating in the pulling of the Council's teeth by way of a "re-structuring" into a private Ministerial body and a separate Consumer Research Council. Following some sharp public exchanges with the outgoing chairman, Harold Buchwald, the new Minister, Herb Gray, released the third in a series of highly critical studies undertaken by the Consumer Council which detailed the sad state of consumer representation before regulatory tribunals.

Government was under pressure from all directions on consumer prices. Regulatory agencies constituted, even in the absence of an explicit economic controls program, a form of government control over the prices paid by consumers for a wide range of goods and services. The Consumer Council reported that consumers had poor access to these agencies: often deprived of fair notice of upcoming hearings, consumers had dubious legal standing in any case. Nor could they prepare briefs without assistance for research. The 1972 working paper "On the Question of Consumer Advocacy" recommended a "subsidized, decentralized" system of support for consumer representation.⁹⁸ A second report in June 1973 recommended that "a subsidized office of consumer advocacy" be set up within CAC "to be financed by a separate grant specifically earmarked for the sole purpose of consumer advocacy before federal departments, boards, tribunals and commissions."⁹⁹

Over the course of 1972-73 a committee of CAC's national executive began discussing means for extending the Association's traditional opposition to monopoly and trade restraint to include formal advocacy of the consumer interest in the regulatory arena. In meetings with senior officials of Consumer and Corporate Affairs, the committee received encouragement to embark on an advocacy program, and a grant increase was offered for the purpose. CAC formally requested the new funding, amounting to \$100,000 in addition to their existing allocation for operating expenses, in March, 1973. As former

CAC officers recall these negotiations, it was then understood that "consumer advocacy" would be broadly interpreted to include both legal intervention at regulatory hearings and fighting test cases in the courts to set precedents for consumer law, especially in the area of class actions.

At the time the augmented grant was presented by the new Minister, Herb Gray, at the Association's June annual meeting in Calgary, it is doubtful anyone fully appreciated the stresses that would shortly be placed on the CAC. Both its relationship to the Department and its internal structure were about to take a beating. This landmark grant represented a massive extension of the Association's long-standing dependence on the Federal Government; moreover, it had the effect of exacerbating internal tensions between those CAC members who supported the notion of relying on expert legal intervention versus those who adamantly resisted this approach as irreconcilable with the volunteer philosophy underlying the Association.

CAC's National Executive endorsed the formal advocacy program with misgivings. Many of them felt that the membership - more properly the readership of the magazine - would not support this type of activity. It was argued that the members expected product testing and the publication of Canadian Consumer to be the Association's priorities, whereas the advocacy program would (it was claimed) denigrate the role of the volunteers. Others within CAC felt on the contrary that formal advocacy might even increase membership by generating publicity around consumer issues which in turn would benefit the Association as well as all consumers in the long run.

At this point - June, 1973 - the advocacy program was the brain-child of a core group of professionals within the executive of an organization very much concerned about its volunteer status and its own survival. (Memberships had only increased since 1971 by the expedient of offering joint subscriptions to the American magazine,

Consumer Reports.) The latest changeover at Consumer and Corporate had brought in a new Minister (Gray) and Deputy (Pitfield) who were keen to see the Consumers' Association move quickly into the regulatory game. Internal disagreements at CAC were delaying the program - a chairman, Michael Trebilcock, was not appointed until late in August - while the Department was if anything pushing too hard to get the Association to move in a direction of its choosing. In the ensuing cross-purposes the CAC executive interpreted "consumer advocacy" to include virtually the entire range of activities in which CAC was already involved while Trebilcock got only \$35,000 out of the grant increase for formal interventions at regulatory hearings. Operations during the first year were hamstrung by a plethora of committees because the CAC did not at first alter its structure to take into account the special needs - such as a short response time in launching interventions - of its "Regulated Industries Program". These frictions were reflected in the relationship with Consumer and Corporate Affairs. In reaffirming the grant in June, 1974 for \$116,000 Herb Gray pointedly reminded CAC to give priority to advocating the consumer interest before tribunals of "the regulated industries". CAC was enjoined to spend the full amount of the grant allotment for this purpose.¹⁰⁰

A counsel, Andrew Roman (formerly a special assistant to the previous Consumer and Corporate Affairs Minister, Ron Basford) was hired by CAC in October, 1973 to prepare a one-year program of advocacy interventions. High on the list was the up-coming Bell Canada rate increase hearings before the Canadian Transport Commission. But controversy over whether expert advocacy posed a threat to the CAC's voluntarism continued unabated for over a year. The infighting culminated in 1975 with the establishment of a "Regulated Industries Policy Board" (the "RIP Board"), a quasi-independent entity which gradually developed a capacity to operate with less interference from the Association but still ultimately accountable to it. The following year (1976) a revised management structure was put in place which more closely integrated the activities of the RIP Board with those of the Association.

A clash of styles between the high profile RIP counsel, Roman, and the CAC National Executive resulted in his departure from the Association in 1976. Critical of the cumbersome structure at that time imposed by CAC on the RIP Board's decision-making process, Roman set up the Public Interest Advocacy Centre in October of that year supported by a \$100,000 annual grant from Consumer and Corporate Affairs. The timing for this move generated some strained feelings as the Consumer Bureau was engaged in its first attempt to evaluate CAC amid accusations that the Association's accounting procedures were inadequate. The waters were muddied further when it became known that a former CAC Executive Director, Robert Cross, was directly involved in the evaluation. Cross had left CAC to join the Department in the Fall of 1974, where he took charge of policy planning in the grants program. Highly critical of CAC management and dubious about the feasibility of running an operation like RIP from within a volunteer organization, it was Cross who recommended that the Public Interest Advocacy Centre be funded to complement and supplement the work of the Regulated Industries Program. The selling points of the new program were that it offered quicker response time in presenting cases at regulatory hearings - as the PIAC was not imbedded in the complex national structures of the CAC - yet it also offered a training program to develop advocacy skills in the volunteer sector.* Stung by these actions CAC intervened with the Minister to thwart the evaluation which, while long overdue, had placed the Department in the untenable position of undermining its own largest project and along with it the consumer movement.

*This aspect of Roman's program was delayed by time constraints on PIAC staff but has more recently gotten off the ground in collaboration with one of the Centre's client groups, the National Anti-Poverty Association. A guidebook "How to Prepare Cases for Administrative Tribunals" was written by Roman while he was retained as counsel to the CAC and has since been published by the RIP Board though not yet widely circulated due in part to a need to have the publishing costs subsidized.

There has been a continuing debate over the appropriate form by which to engage in consumer advocacy both effectively and responsibly. Those at CAC who have supported the RIP Board's work have often had to fight a rearguard action against some of their own members concerned that expert proceedings will freeze out the volunteers. After three years and some two dozen interventions the RIP Board appears reasonably well established within CAC, despite its prolonged growing pains. But there has been mounting concern on the part of Consumer Bureau officials involved in funding the program that RIP has not shown itself to be effective enough to merit the half million dollars thus far dispensed in its support.

Trebilcock reviewed RIP's activities in his 1975 article "Must the Consumer Always Lose?" and came up with a luke-warm assessment. Taking regulators to task for "pro-industry passivity" (Canada's answer to "regulatory capture" in the U.S.) he also warned that really effective advocacy might tempt government, the sole source of RIP funds, to back off.¹⁰¹ (Subsequent events suggest that government is more likely to proceed by a rather different route to forestall effective consumer challenges to regulators, as the current controversy over the Broadcasting Act attests. Here the Department of Communications is in the process of appropriating the CRTC's policy-making powers.) RIP participation in the challenge to the National Energy Board's appointment of Marshall Crowe was considered a signal success at the time, although its conflict of interest ramifications have not yet had any impact on the government's method of choosing regulators, as the Camu/CRTC example has more recently shown. A more significant RIP success was the April 1976 Supreme Court ruling in the London Cable TV case which has set an important precedent for the disclosure of corporate information at hearings as well as contributing to the entire judicial climate of such hearings by ensuring that they deal in a meaningful way with consumer interventions.¹⁰²

In the same vein, Roman's Public Interest Advocacy Centre has used the presentation of the cases of specific clients like NAPO and Inuit Tapirisat to greatly improve leverage for gaining disclosure of tightly guarded corporate financial dealings by appealing to the rules of relevance. Such information can then be used to build stronger cases, in turn benefitting all consumers whose interests are similar to those of the client in question. Probably the Centre's most widely recognized success was the disclosure of Bell Canada's haphazard credit-rating system at the recent (March-April, 1977) CRTC rate increase hearings. Both the PIAC and the RIP Board contested Bell's claim for higher rates in the light of the company's corporate holdings, a subject that will figure even more prominently in future CRTC hearings. Roman's intervention on behalf of NAPO was credited, in addition, with CRTC's roll-back on 20 cent payphones representing an annual saving of some fourteen million dollars to consumers.

Given the tangled history of these two advocacy programs and the limited funds available for their support it was probably inevitable that PIAC and the RIP Board would find themselves in rivalry with one another. CAC's claim has been that advocacy tactics are at best a necessary evil, most appropriately contained within the checks and balances of their national voluntary structure. This position has modified to the extent that management of the national office has been re-organized to accommodate RIP, but the more fundamental point remains one of "representativeness" as much as one of accountability. When RIP counsel (Greg Kane) argues a case "for the Consumers' Association" he is doing so for consumers in general, although cases unavoidably arise where the sheer diversity of consumer interests make such a claim rather arbitrary. The more streamlined Public Interest Advocacy Centre enjoys the advantage of being able to alternately represent the more clear-cut interests of specific clients on consumer and public interest issues. The result

is that Roman can more often than not point to concrete outcomes of regulatory hearings favouring his clients. Both approaches have been criticized for being, in opposite senses, "unrepresentative", whatever their merits: the lone professional advocate has clients but no constituency while the advocacy team working from within CAC theoretically has a wider base of support but is often hampered by the notion of an indivisible consumer interest prevalent in the Association.

If the controversy were simply a question of experimenting with rival techniques it would best be settled by funding them in tandem; after all, the object of the exercise is to try out a variety of ways whereby the consumer interest can be forcefully represented. The objective should not be to predetermine what that interest might consist of, but to challenge Government and its regulatory agencies to determine a more fairly balanced public interest. This is all the more important because there is still a tendency on the part of regulators to see both forms of consumer/public interest intervention as superfluous, inasmuch as some agencies see themselves erroneously as the repository of the public interest rather than its arbitrators.

The Department, sensitive to charges that it has fractured the consumer movement by its funding policies, has encouraged both groups to consult with one another - in fact Kane and Roman have taken pains to cooperate at hearings whenever possible - and to avoid appearing at the same hearings espousing directly conflicting views of the consumer interest. (Not that such conflicts can be ruled out given that a diverse consumer interest is a fact of life, but rather, in the interests of legitimizing this type of intervention by focussing on incremental reform of the regulatory process.)

The major hindrance to funding complementary projects continues to be money. The RIP Board is seeking an end to its experimental status and a decision from Consumer and Corporate Affairs to fund a permanent advocacy project. This is necessitated by the longer term

legal commitments required by some of the proceedings that have been undertaken. The Public Interest Advocacy Centre recently suffered through a lengthy delay in receiving its funding as well, and both organizations are feeling the disadvantages of operating on year-to-year grants. There is no doubt but that formal advocacy with its attendant research is expensive and that barring an increase in the size of the pot, further competition for funds is unavoidable. For its part, the Department is skeptical of the RIP Board's record, as it has increasingly been of many aspects of the Consumers' Association, and has been questioning whether the cases being pursued are significantly advancing the consumer interest. The Consumer Bureau has been requested to grant RIP a budget of close to \$300,000 for the upcoming fiscal year. This amount is slated for an expansion of the Regulated Industries Program, including a renewal of work - interrupted at CAC/ RIP Board request a year ago - relating to class action test cases. Given that the Consumers' Association itself is asking for a hefty increase of \$135,000 to a total of some \$450,000 for next year,* there is likely to be a freeze on funding at last year's level. The Department is considering guaranteeing core funding and project funds for another five years to both CAC and the RIP Board, but the future of support looks uncertain at best.

In the present state of armed truce that prevails between CAC and the Department these developments in the funding picture are likely to engender still more suspicion about the Government's motives and objectives. Stability and independence of funding for public interest and consumer advocacy may not be feasible within the existing grant-giving structure, in which case some combination of appeals by the CAC to the consuming public (and especially its own membership) together with a trust fund or endowment (suggested in 1972-73 during the original negotiations for the Regulated Industries Program) may be required to put advocacy on a firm footing.

* CAC has been carrying an operating deficit of \$277,000.

Nor should any such program of comprehensive support be restricted to CAC; on the contrary, guidelines would have to be developed so as to provide for public interest interventions by other competent organizations like the Public Interest Advocacy Centre, Automobile Protection Association and the smaller groups like the (Ontario) Public Interest Research Groups. (PIRGs - see below)

Another route attempted by intervenors has been to appeal directly to regulatory bodies for support. In 1975 Andrew Roman, then in his capacity as RIP Board counsel, tried to convince the Canadian Transport Commission to award costs to intervenors, in a bid to broaden the financial basis and accessibility for this type of advocacy. The question of whom such intervenors could truly claim to represent was one of the key points adduced by the Commission in its negative decision. Commissioner Gray's argument that the awarding of costs would amount to "funding" the public interest organizations had the effect of handing this political hot potato back to the Government.¹⁰³ (Subsequently the RIP Board (now Greg Kane) has applied to the CTC's Railway Committee on the question of awarding costs as a variation within funding decisions per se and currently awaits a decision on the matter.)

The problems inherent in Departmental funding are not however restricted to those organizations employing legal expertise at regulatory hearings. Some of the smaller, more militant groups have found their grants subject to political interference. The Consumer Complaint Centre in Kitchener, Ontario provides a case in point. Operated by one of the new public interest activist groups, Ontario Public Interest Research Group (OPIRG), this project was granted support on a one-year trial basis in 1975 upon presenting to the Bureau on expertly outlined program. The Centre won the praise of the local Chamber of Commerce in its first months, spurring them to arrange for the opening of Kitchener's first office of the Better Business Bureau.

In the course of its work with consumers, the Complaints Centre policy was to use mediation with the seller as their first line of consumer defense. If this did not resolve a problem, they would go a step further, by posting a notice detailing the alleged offense in the town paper. When this also failed, the offending business would be picketed.

The once-cooperative Chamber of Commerce objected to these tactics, and the Liberal M.P. for the area, Joe Flynn, whom the Chamber had supported in his campaign for office, felt moved to intercede at Consumer and Corporate Affairs. By coincidence, the project's coordinator was present in the offices of the Consumer Bureau when the grants officers were instructed not to consider the project for future funding.

The staff at the grants program are candid on the problem of interference, which is not, of course, unique to this Department. Nor is the incident just outlined entirely characteristic of the Department's response when a controversy erupts concerning one of its projects. The measured approach taken to last year's struggles within the Québec-based IPIC, rife with charges and counter-charges of "Marxism-Leninism" by various factions of the project's staff, may well have been a sign of greater maturity in handling funding to activist consumer groups.

Further growth in the advocacy component of the Bureau's grants budget - at present comprising 31% - may depend on the Government's priorities for the "post-controls" period. Another important factor will be the attitude of senior Departmental officials to the use of the Consumer Affairs Bureau for more vigorous Government intervention in the market. When wage and price controls are lifted, their replacement by a monitoring agency (as is presently contemplated) could be accompanied by a shift in economic policy toward the use of the revised competition legislation together with a higher profile for the regulatory agencies.

In recent years there has been a surge of academic interest in the reform of Canada's haphazard regulatory system. Consumer access, political accountability and economic performance are all under intense scrutiny from experts. The exact form consumer advocacy takes in future will depend partly on political initiatives taken at Cabinet level, and the Department's advocacy program will grow or diminish accordingly.

The funding of consumer advocacy and particularly the quantum jump in costs that began with CAC's Regulated Industries Program in 1973, has soured relations between government and a large part of the consumer movement - an ironic development considering the hopes expressed in an earlier day that Government would become the defender of the consumer. In 1967 much of the Department's program was based on the concerns the CAC had voiced over the years. More recently CAC criticism of consumer legislative initiatives - like the Borrowers' and Depositors' Protection Act (BDPA) - has been treated by officials as interference rather than as an honest attempt by the Association to play its role of informed critic. The unresponsiveness of those drafting legislation in some areas leaves the impression that the Department expects its grants to, in effect, buy the CAC's support or silence in the matter of new legislation.

The Department's legitimate demands for greater accountability from grants recipients, together with the rapidly mounting costs of advocacy programs complicate this picture somewhat. Ultimately the question of how to convincingly fund consumer advocacy in the private sector will have to be faced at the political level. Advocacy grants in themselves will continue to be shots in the dark until the Department moves toward the active defense of consumers' rights and away from the chimera of "marketplace efficiency" as its guiding rationale.

CONCLUSION

Can the Federal Government itself act, in even the broadest sense, as a consumer advocate? Clearly the possibility exists but judging from the record to date the answer would have to be no. Business and producer interests have been regularly consulted on matters of consumer protection in an effort to keep such initiatives "realistic"; at the same time, consumer input to policies affecting the marketplace, including at times those most affecting consumers, has often been granted only grudgingly, sometimes not at all. The prevalent attitude seems to be one which is held in thrall to the sheer "diffuseness" of the consumer interest. Nor is there much enthusiasm for challenging concentration of economic power in the name of the consumer.

To some extent this failure of nerve is understandable given Canada's economic circumstances. The Federal Government has always been reluctant to pass or enforce strict anti-combines laws lest it alienate business support by hampering economic development. Until the sixties that record was considered scandalous by knowledgeable critics but there was less agreement on what to do about it. CAC wanted stricter enforcement in order to re-create the classic economic paradigm of self-regulation by way of simple, or, at any rate, simpler competition. Business wanted an absolute minimum of government interference in merger activity, arguing the need for economies of scale. The left wanted more direct control over anti-competitive behaviour whether by breaking up monopolies or extending government monopoly. The Economic Council began and Consumer and Corporate Affairs has continued an approach to this key area of consumer policy which makes a virtue of necessity: government proposes to increasingly tolerate mergers if they can be shown to fall within certain broad "public interest" criteria. The new watchword is regulation of monopoly, not prevention.

Not all consumer law is as contentious as competition policy, but to business it all takes the form of some type of government regulation. The resurgence of "laissez-faireism" with its cry of "deregulation" threatens to undermine the little progress thus far made in the consumer field. Though much of the legislation is toothless, the Federal Government has now created ~~more~~ consumer law than it is prepared

to incur the cost of enforcing. In the present climate of divided opinion amidst economic stagnation, Government is prepared only to act as conciliator rather than as defender for the consumer interest.

The prevailing attitude at Consumer Affairs remains one of neutral non-combatant in the marketplace and direct, short-term funding of consumer advocacy is therefore liable to increasingly generate conflicts of interest between Departments on the one hand and the funded agencies representing consumers on the other. Present policies have a tendency to give with one hand while taking away with the other, in a vain attempt to compromise on all sides. Thus, the Minister can announce a "voluntary rust code" for auto manufacturers, in a move largely forced on him by the work of a Department-funded advocacy project, the Automobile Protection Association. (In 1976 APA brought a class action against the Ford Motor Company.) At the same time, the Department has tabled Stage II of the competition policy, wherein class actions are sanctioned but only under prohibitively expensive conditions, placing them all but out of reach in an effort to prevent "frivolous" court challenges to industry. In spite of the Department's willingness to fund the consumer advocates this crippling ambivalence pervades policy, sometimes causing the different Bureaux to cancel out one another's efforts.

The larger question of the failure of political will must be addressed to the Cabinet and the party in power. To the extent that further efforts at consumer protection demand greater costs be passed on to the public, strong initiatives in this field look politically unlikely. Lobbying has also grown in sophistication while the consumer movement has fractured, its most credible voice, the Consumers' Association of Canada, now almost totally dependent on government good-will. The Department of Consumer and Corporate Affairs, for its part, has found it impossible to manage an independent advisory body - the Consumer Council - without emasculating it to prevent political

embarrassment. Successive attempts to establish some form of evaluative capacity within the Department - ranging from the Policy Analysis Group to the Consumer Interest Study Group - have not proved able to garner enough support to operate effectively. Much more serious has been the mounting alienation between CAC and the Department, for the latter risks losing touch with an important source of views on the needs of consumers.

The consumer movement - inasmuch as one can still be said to exist as an identifiable grouping - has still to come to terms with the implications of professional consumer advocacy. If the high water mark of consumerism as a public phenomenon has indeed definitively passed, then the continued development of formal public interest advocacy is a welcome one. If the operation of the economy is bound to produce irreconcilable differences of interest, then the emergence of more accountable and consumer-accessible regulation will at least ensure that these differences are aired in the open. Whether they will be thus resolved is a much trickier question. At the very least some attempt must be made to reform the regulatory system itself; no amount of consumer advocacy can overcome the stacking of the deck whereby government appoints regulators from a limited and politically safe constituency.

The consumer interest seems bound to become one of those idealistic semantic generalities that mean all things to all people in the absence of citizen pressure on Government to take the initiative in defining and defending that interest. Looking beyond the temporary - if unavoidable - expedient of formal advocacy, renewed efforts must be made to appeal to the common interest. Beginnings have been made in the long process of evaluating the economic system in terms of its end-uses and social costs, and the concept of corporate responsibility is starting to be spoken in the same breath with consumer education. The consumer movement recognized early in the game that Government would be an indispensable ally for adequate consumer protection. The perennial weakness of consumers in the marketplace can be viewed as an unalterable fact of economic life or as a challenge to effectively and vigorously regulate the workings of the economic system.

PERSONS INTERVIEWED

(December 15, 1976 - April 15, 1977)

Consumer and Corporate Affairs (CCA)

Jonathan Cloud
Janet Davies
Elaine Howes

Formerly at CCA

Robert Cross
Harold McIlroy
Gordon Osbaldeston

Canadian Consumer Council Members

Marjorie Hartling
Dr. Allen Linden

Former Consumer Council Members

Harold Buchwald
Georgine Ulmer
Leonard Lee
Maryon Brechin
David Bond

Consumers' Association of Canada (CAC)

Barbara Sulzenko
Greg Kane (RIP Board) (D)
Robert E. Olley

Formerly CAC

Mrs. A.F.W. Plumptre
Gail Stewart (D)
Andrew Roman (D)
Maryon Brechin (D)

Others

Grace MacInnis (NDP)
David Robertson (OPIRG)

Interviewed Briefly

R.W. Maclean (CCA)
Dr. E. English (formerly CCA)
Herb Gray (former CCA Minister)
Prof. Lloyd Brown-John (Consumer
Council member)

Michael G. Trebilcock (formerly CAC)

(D) Commented on July draft of paper.

NOTES

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5. Ibid; pp. 246, 260.
6. Economic Council of Canada, "Interim Report on Competition Policy; Ottawa, Queen's Printer, 1969. (p.54); and Goff, C.H. "Corporate Crime in Canada"; Calgary, University of Calgary, 1976; unpublished MA thesis, Ch. 2.
7. Canada, "Price Spreads Commission" (1935); loc cit
8. Dawson, 1963; op cit; and Carol West Richardson, "Responses to Consumerism in Canada; Case Studies of Governmental, Business, and Voluntary Responses"; (Institute for Canadian Studies, 1974; unpublished MA thesis).
9. Goff, 1976; op cit, pp. 49-51.
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11. Canada, "Report of the Royal Commission on Price Spreads in Food Products"; Ottawa, Queen's Printer, 1959-60; Vol. 1, pp. 53 and 55.

12. Canada, "Report to the Minister of Justice from the Committee to Study Combines Legislation" (MacQuarrie Committee); Ottawa, Queen's Printer, 1952; (p.47). This structural division separated the functions of "judge" and "prosecutor" in the Act, giving the former to a Restrictive Trade Practices Commission and the latter to the Director of Investigation & Research.
Historical overviews relied upon here: MacQuarrie Report, pp.9-20; "Interim Report on Competition Policy", op cit, Ch. 4, and "Proposals for a New Competition Policy", Consumer & Corporate Affairs 1973 (Appendix A)
13. Thorburn, H., "Pressure Groups in Canadian Politics: Recent Revisions of the Anti-Combines Legislation", in The Canadian Journal of Economics & Political Science Vol. 30, No.2 (May) pp.151-174; and Wolfe, D. "Canadian Competition Policy: A Case Study in Public Policy Making"; University of Toronto, 1974; unpublished MA thesis.
14. Dawson, op cit; p.108, Footnote # 74.
15. Canada, "Food Price Spreads", op cit; pp.55-59.

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16. Canada, "Royal Commission on Prices", 1948-49; op cit;
Vol. 2, p. 2010. Also the letter dated Nov. 7, 1949 from
Mr. C.M. Wright, CAC President, to the Royal Commission on
National Development in the Arts, Letters and Sciences;
Public Archives, Ottawa.
17. Dawson; op cit, pp.109-11.
18. See Goldstein's "The Consumer Movement in Canada" (op cit, #1) on
the Consumers' Association and the divisive effects of tariff
policy in later years. One could speculate that one of the
reasons government failed for so long to take consumer advocates
seriously has been their attitudes toward tariffs. Since the
19th century's "national policy" of protecting Canadian industry,
successive federal governments have to some degree been
"protectionist" whatever the party in power. In contrast,
beginning with the appearance of C.J. Tully of the "Citizens'
Consumer League" before the 1919 Cost of Living Committee, the
major spokespeople of the consumer viewpoint have spent a great
deal of time and energy trying, for the most part in vain, to
convince governments to reduce trade restrictions.
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Before the Banking & Commerce Committee of the House of Commons";
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22. CAC, "Collected Resolutions..."; Ottawa, mimeo; p. 13.
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40. loc cit
41. "Consumer Affairs & the Department of the Registrar General",
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42. Ibid; p. 20
43. Memo to Cabinet, May 24, 1967 from Registrar General
(John Turner); on file DCCA/77
44. Record of Cabinet Decision, May 30, 1967 (copy dated June 2,
1967); on file DCCA/77
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46. Hansard, May 11, 1967; Vol. I, p. 60 (Bill C-43)
47. Hansard, November 17, 1967; Vol. IV, pp. 4394-5
48. Consumer & Corporate Affairs Act; Ottawa, Dec. 21, 1967;
Clause Six

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55. Ibid; Section 6, p. 1
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91. Memo from Michael Pitfield (DM) to Herb Gray; October 30, 1973; p. 1 Ottawa, Consumer and Corporate Affairs.
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