HOUSE OF COMMONS
CANADA

PARLIAMENTARY TASK FORCE ON REGULATORY REFORM

DISCUSSION PAPER

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I BACKGROUND

A. MEMBERSHIP OF THE TASK FORCE

On May 23, 1980 the House of Commons created a Special Committee Task Force on Regulatory Reform. Seven Members of Parliament were appointed: Douglas Anguish (The Battlefords-Meadow Lake), David Berger (Laurier), Charles Cook (North Vancouver-Burnaby), Howard Crosby (Halifax West), Pierre Deniger (Laprairie), Russell MacLellan (Cape Breton-The Sydneys) and James Peterson (Willowdale). Mr. Peterson was elected Chairman of the Task Force; Messrs. Cook and Berger were elected Vice-Chairmen.

B. MANDATE OF THE TASK FORCE

The Order of Reference issued by the House of Commons requires the Task Force

> to examine and report upon government regulations in order to minimize the burden on the private sector, including:
>
> - the objectives, effectiveness and economic impact and expanding scope of such regulations;
>
> - alternative techniques for achieving regulatory objectives;
>
> - ways by which overlap of federal and provincial jurisdictions may be eliminated.

C. IMPLEMENTING THE MANDATE

A tremendous range of government activity is covered by the term ''regulation''. Indeed, <u>all</u> activities of government might be considered to be regulatory. We are looking, however, at such regulation as the setting of prices, standards or conditions, entry or exit requirements, methods of production and disclosure of information. These regulatory activities may be carried out by a government department, such as Consumer and Corporate Affairs, whose responsibilities include regulation of labelling and hazardous products, or the Department of Fisheries, which regulates fishing licences and quotas and pollution controls in fishing waters. Other regulatory activity is carried out by federal regulatory agencies, which operate with varying degrees of independence. Some, such as the Canadian Transport Commission, which regulates such matters as airline routes and fares, are relatively independent of the Government. Others, such as the Foreign Investment Review Agency, merely advise the Government about regulatory decisions.

1. Focusing Our Inquiry

Parliament is particularly concerned about the burden that these regulatory activities may place on the private sector, which we define as including, among others, businesses, workers, consumers, environmentalists, etc. The creation of the Task Force and the urgency with which it must fulfill its mandate reflect the importance of the

issue of regulatory reform. In order to be able to make meaningful recommendations in our December Report on how to minimize regulatory burden, the Task Force has decided to focus on the process of regulation. We will be examining both the process of establishing regulatory schemes and the process of administering them. We believe that the best way to make a frontal attack on the burden of regulation on the private sector is to examine measures that will ensure greater control over the regulatory process and greater accountability for regulatory activity.

A particular concern of the private sector is the burden that comes from overlap, duplication or conflict of various regulatory requirements. This problem can arise when the private sector is affected by different requirements within the federal jurisdiction alone or by requirements from both federal and provincial jurisdictions. For each regulator, the requirements may make perfectly good sense. But for the individual or organization that is caught in between, the situation will justifiably be seen as unfair. The legal and economic issues involved here are complex. The Task Force is concerned that sufficient empirical studies may not have been completed in this area to enable it to make specific recommendations for reform in its December Report. It may be possible, however, for the Task Force to approach the matter from the perspective of organizing federal regulatory schemes in a way that might facilitate consideration of the impact overlap and duplication may have on the private sector. We invite specific examples of problems encountered by the private sector in this area.

2. Our Plan of Action

In this discussion paper, the Task Force is setting out some suggestions that have been made for reforms of regulatory activity. We have drawn these suggestions from a variety of sources, including official reports, conference papers and academic studies. To assist readers, a list of some of those publications normally found in libraries is set out in the Appendix. The extent and quality of this material was instrumental in persuading the Task Force that it could best fulfill its mandate by directing attention to and inviting comment on some of these specific suggestions.

We are anxious to have reactions to the suggestions from members of the private sector, federal departmental officials, members of federal regulatory agencies and their staffs. It should be stressed that these suggestions are not recommendations made by the Task Force. Instead, we are putting them forward for comment and testing in the light of public opinion. Some suggestions may eventually be discarded as unfounded or unworkable. New suggestions may emerge. In our December Report, however, we will be presenting specific recommendations for reform. By drawing on the work done by others and representations made to the Task Force, we will be able to present specific and

practical recommendations directed to the legislation or government action necessary to bring about desired reform.

HOW TO PARTICIPATE

The Task Force hopes that through wide circulation this discussion paper will provoke interest in the topic of regulatory reform and generate a constructive dialogue.

After reading the document, should you have questions please contact:

MR. DAVID COOK,
CLERK OF THE COMMITTEE,
ROOM 505 - SOUTH BLOCK,
HOUSE OF COMMONS,
OTTAWA, K1A 0A6
(613-995-9711)

The Task Force hopes to hear from as many interested parties as possible. Should you plan to submit a brief or request a hearing, please let us know of your intent to do so by **AUGUST 29, 1980**. We must receive your written brief by **SEPTEMBER 19, 1980**. The Task Force stresses that it must adhere to these dates as it has been ordered by Parliament to issue its Report no later than **DECEMBER 19, 1980**.

Following receipt of the briefs, the Task Force will be confirming its hearing schedule. We will be notifying all interested parties of our final plans during the week of **SEPTEMBER 22, 1980**, and will begin our scheduled hearings across the country during the week of **SEPTEMBER 29, 1980**. The Task Force tentatively plans to hold hearings in Victoria, Edmonton, Regina, Winnipeg, Toronto, Montreal, Fredericton, Halifax and St. John's. This is an extremely tight schedule with virtually no flexibility in altering deadlines for submissions and establishing dates for public hearings.

D. OUTLINE OF DISCUSSION PAPER

The suggestions listed below for your comment fall into several broad areas. The first area deals with access to information about regulatory schemes and the involvement of the public in regulatory decision making. We are concerned here with issues such as openness, responsiveness, and accountability. We will examine suggestions on private sector consultation, funding of ''public interest'' groups, and notice and comment procedures for new regulatory initiatives.

In the next two sections we will look at suggestions that have been made for better internal management of regulatory schemes. One set of suggestions involves assessing the costs and benefits of regulatory initiatives and then making these assessments available to the public.

Another set involves periodic review and evaluation of existing government regulatory activity.

Increasing the control and responsiveness of regulatory activity means emphasizing the role of Parliament. In Section V we present suggestions concerning parliamentary review of subordinate legislation (commonly referred to as ''regulations''). Other suggestions relate to Parliament's review of assessments of regulatory initiatives or evaluations of existing regulatory programs. We consider the potential for parliamentary involvement based on review of annual reports or departmental estimates. The concept of a ''regulatory budget'' is also raised.

The next group of suggestions relates to regulatory agencies, which are known by a variety of names such as commissions, boards, and tribunals. The relative independence of some of the more prominent agencies presents particular problems with respect to accountability. The suggestions presented explore the use of specific policy mandates in legislation, policy directives from the Government, and the question of appeals of agency decisions to the Cabinet. Suggestions relating to the appointment process and agency procedures follow. In particular, issues of procedural fairness, representation of interest groups, notice to the public and the need for written reasons for decisions are noted.

The last section addresses regulatory duplication and overlap. The suggestions in this section include legislative clauses providing for supersession, legally binding agreements between jurisdictions, and provisions for ''one stop shopping'' when multiple approvals are required.

II IMPROVING INFORMATION AND INVOLVING THE PRIVATE SECTOR

INTRODUCTION

Government regulation inevitably imposes costs on all parts of the private sector. Yet the private sector is not always consulted or informed about regulatory activities. Ensuring the opportunity for public participation in the regulatory process may be one way to address this problem. Effective public participation is impossible without adequate, timely information, but useful information has not always been available to the public or to Parliament. There are a number of suggested reforms intended to enrich the information available concerning regulatory activity and to facilitate public participation in regulatory decision making.

SUGGESTION 1 - OFFICIALS OF FEDERAL DEPARTMENTS AND AGENCIES SHOULD CONSULT WITH INTERESTED INDIVIDUALS AND GROUPS AS EARLY AS POSSIBLE WHEN REGULATORY INTERVENTION IS CONTEMPLATED.

COMMENT: The federal government is often accused of failing to consult ''adequately'' before taking regulatory action. What does the private sector expect in the way of consultation? Are these expectations realistic? Have there been specific instances in which adequate consultation might have avoided problems or are these accusations simply a matter of ''sour grapes'' when advice is not followed? When is consultation ''adequate''? Would it be a good idea to set formal internal rules imposing an obligation to consult? What should the rules state? Should there be penalties for failure to follow the rules? Should the Government consult on every regulatory initiative? Should consultation procedures be the same for different departments or agencies? When should consultation begin? Who should be consulted? How long should consultation continue? Should information provided to the Government by private sector interests during consultation be made available to the public?

SUGGESTION 2 - THE FEDERAL GOVERNMENT SHOULD ESTABLISH A SYSTEM TO ENSURE THAT ADVANCE NOTICE IS GIVEN OF NEW REGULATIONS MADE UNDER FEDERAL STATUTES.

COMMENT: The Government can give advance notice of new regulatory legislation in a variety of ways, and there is usually ample time for public review and comment while Parliament considers a bill. However, similar safeguards do not generally apply to subordinate legislation. Should the Government follow the example in the United States and publish a ''regulatory calendar'' in which notices of upcoming major regulations are consolidated? Would a system of individual notices be easier to implement? What types of statutory instruments should be subject to the advance notice requirements? Should the system apply to rules issued by regulatory agencies? Should advance notice requirements apply to all new regulations or only those that are expected to have

significant impact on the private sector? What would constitute a ''significant impact''? When should notice be given? Sixty days, ninety days, or one hundred and twenty days before promulgation? How should notice be given? Would publication of a notice in the Canada Gazette really accomplish much? Would it be better to insert announcements in trade journals or in newspapers? What information should be provided in any notice? Should comments on proposed regulations provided to the Government be made available to the general public? If there is a change in the proposed regulation, should the entire procedure be repeated?

SUGGESTION 3 - THE FEDERAL GOVERNMENT SHOULD ENSURE THAT ''PUBLIC INTEREST'' GROUPS CAN PARTICIPATE ADEQUATELY IN THE FEDERAL REGULATORY PROCESS BY PROVIDING FUNDING AND/OR OTHER SUPPORT.

COMMENT: Many of the reforms suggested in the area of government regulation would put a premium on effective participation in the regulatory decision-making process by private sector interests. It is suggested that ''public interest'' groups would be put at a disadvantage under these circumstances and should, therefore, be provided with government assistance. Do business interests generally enjoy an advantage in the regulatory process? What are the reasons? What could be done to counteract these problems? Is assisting ''public interest'' groups a proper role for government, the regulated industry or a combination of both? What has been done in other jurisdictions? Would funding of ''public interest'' groups create more problems than it would solve? How should the Government choose which groups to fund? On what basis should funding be provided? Should the Government exercise any control over the use of funds by the groups? Would such government control undermine the independence of these groups? Would it be fair to hold the Government politically accountable for the use of funds by recipients? What do federal departments and agencies do in this area at the present time? How have they resolved these problems? Are the ''public interest'' groups satisfied with the arrangements? Do business interests feel that existing arrangements are fair?

SUGGESTION 4 - PARLIAMENT SHOULD ENACT, WITHOUT DELAY, A FREEDOM OF INFORMATION STATUTE THAT WILL ENSURE, SUBJECT TO LIMITED EXCEPTIONS, PUBLIC ACCESS TO INFORMATION CONCERNING GOVERNMENT REGULATION.

COMMENT: Full access to information by both Parliament and the general public will be essential if the Government is to be held accountable for its regulatory activities. Would general freedom of information legislation, such as Bill C-43, the Access to Information Act introduced on July 17, 1980, ensure public access to the types of reports and information called for in various regulatory reform proposals? What types of information should be made available to ensure accountability for regulatory decisions? What legislative guarantees would be

necessary? What have other jurisdictions done in this area? What types of exemptions from disclosure should be available to the Government? Should the public have full access to material filed by other parties or prepared by staff of regulatory agencies in connection with any particular matter? Under what circumstances should federal departments or agencies be able to withhold information they have collected regarding the performance of regulated enterprises? How do federal departments and agencies handle this problem now? Have there been any problems?

III INTERNAL MANAGEMENT: IMPROVING THE GOVERNMENT'S ASSESSMENT OF PROPOSED REGULATORY INITIATIVES

INTRODUCTION

In the past governments may have been guilty of responding to demands for regulatory intervention without fully appreciating the consequences. When a problem is raised, the instinctive response may be to regulate. ''Shoot first--ask questions later.'' Perhaps it would be better to reverse the order. Governments should assume the responsibility for properly assessing and making available information on the economic and social effects of their new regulatory initiatives.

SUGGESTION 5 - A SPECIAL REGULATORY IMPACT ANALYSIS, ASSESSING THE COSTS, BENEFITS AND DISTRIBUTIVE EFFECTS OF A PROPOSAL, SHOULD BE PREPARED FOR EVERY PROPOSED NEW FEDERAL STATUTE OR REGULATION EXPECTED TO HAVE A SIGNIFICANT IMPACT ON THE PRIVATE SECTOR.

COMMENT: Under the federal SEIA program (Socio-Economic Impact Analysis) administered by the Treasury Board Secretariat, a special form of analysis is required for all new ''major'' regulations (subordinate legislation) in the area of health, safety and fairness. Those that are expected to impose private sector costs of less than $10 million are not subject to SEIA procedures.

Several authorities have recommended that the SEIA program be expanded to other areas of regulation, such as rate making. Would a wider program of analysis for federal regulations that impose significant costs really meet the concerns of the private sector? Or would it just provide employment opportunities for economists? Has the existing SEIA program worked? Can the system be bypassed easily by departments? Is the system audited by anyone? How is it enforced? Are existing controls sufficient? Have federal departments found the system workable? What does the private sector think of it? How much has it cost so far and what benefits has it brought?

Are the existing requirements for analysis realistic? Are we expecting too much from cost-benefit analysis? Can we trust the results? Does the Government have properly trained persons to carry out the analyses? Should the analyses be carried out in the originating departments, as is now the case, or in a central operation? Should economic cost be the sole criterion for determining which regulations are subject to the requirement? Aren't distributive effects (i.e., who ''wins'' and who ''loses'') just as important? Should distributive effects be broken down on the basis of region, province, or riding?

Could the scope of the existing system be expanded without creating chaos? How many analyses could we expect per year under an expanded system? Would the Government have sufficient personnel? What would the

estimated cost be? Should the system apply to the rule-making activities of federal agencies? Should any adjustments be made to the existing system--perhaps raising the economic cost threshold, or simplifying the analysis required? How well have similar systems in the provinces or in the United States worked?

The prime source of regulatory powers, of course, is a statute. A statute receives a certain type of scrutiny when it is passed by Parliament. Should a regulatory statute also be subject to an impact analysis? Should amendments to regulatory legislation also be covered? Should all regulatory statutes or amendments be subject to this requirement? If not, what selection criteria might be employed if analyses were required only in some cases? Do originating departments already perform this type of analysis when developing legislation? Would draft statutes likely contain sufficient information to allow useful analysis? Would any changes in methodology be necessary? Should the Government be required to table each analysis together with a bill on First Reading? Would it be better to wait until Committee stage? Would other procedural changes in Parliament be necessary or desirable to facilitate consideration of bills supported by such analyses?

SUGGESTION 6 - COPIES OF EACH REGULATORY IMPACT ANALYSIS AND THE DRAFT REGULATIONS SHOULD BE PUBLISHED IN ADVANCE AND MADE AVAILABLE FOR INSPECTION AT FEDERAL GOVERNMENT OFFICES THROUGHOUT THE COUNTRY.

COMMENT: Simply preparing an internal analysis of a new regulation might not be enough. Input from the private sector might aid the government in making a final decision on proposed regulations. The federal SEIA program incorporates a ''notice and comment'' procedure in which draft regulations and a summary of the impact analysis are published in the Canada Gazette sixty days before promulgation. Is a ''notice and comment'' arrangement a good idea? How well have the existing SEIA arrangements worked? Is the sixty day time period adequate for public input? Is publication in the Canada Gazette an effective means of communicating with the public? What types of responses have been elicited under the SEIA program? Who has responded? Is anything useful being learned through the responses? Has the Government made any changes in proposed regulations as a result? Should representations made to the Government by individuals or groups be available to the general public? Would it be useful for the Government to publish a summary of all representations made to it? Should the Government be obliged to respond to comments? Should this type of ''notice and comment'' procedure be applicable to all federal agencies? Would any adjustments in the procedure be necessary? Could this system be expanded to include statutes?

IV INTERNAL MANAGEMENT: ENSURING PERIODIC GOVERNMENT REVIEW OF REGULATORY ACTIVITY

INTRODUCTION

It has been suggested that, to some degree, both farmers and governments must husband their respective crops. For instance, as a new harvest is brought in, the farmer ensures that only ''good'' apples are added to the barrel. But he must also check over his existing stock of apples periodically and discard any that have turned ''bad''. Governments' efforts to control the burden of regulation should follow much the same procedures. Proper analysis of proposed new statutes and subordinate legislation is essential, but the need to re-evaluate the existing stock of regulatory programs should not be forgotten. The original ''needs'' that prompted regulatory action might have disappeared--new ones might have evolved. The legislative tools provided by Parliament might no longer be up to the job. Objectives now being pursued by government regulators might not have been those in the minds of parliamentarians when the legislation was originally enacted.

SUGGESTION 7 - FEDERAL GOVERNMENT DEPARTMENTS AND AGENCIES SHOULD PERIODICALLY REVIEW AND EVALUATE THEIR VARIOUS REGULATORY ACTIVITIES.

COMMENT: A comprehensive system for evaluation of both expenditure and regulatory programs in federal departments and agencies was instituted by the Government in September, 1977. The Office of the Comptroller General has overall responsibility for instituting and administering this system. What progress in setting up the system has been made to date? Have any evaluations of regulatory programs been produced? Where are they? Has the Government made any changes in the programs as a result? Will the requirement to perform such evaluations be responsive to the concerns of the private sector? What is the existing schedule for evaluation of federal regulatory programs across all departments and agencies? How often must a program be reviewed? Should the timing be adjusted? Could ''sunset'' legislation be used to trigger evaluations? Can we expect objective evaluations if, as is now the case, the evaluations are performed by the departments and agencies themselves? Should outside consultants be used? Why not have the evaluations performed by an ''independent'' central agency of the Government? What safeguards are built into the system to combat the apparent conflict of interest that now exists? Could anything else be done? Is there an effective audit of the system? What are the penalties for non-compliance? Who is held responsible within each department or agency? Are the existing controls sufficient? What types of questions are asked in the evaluations? Are these the ''right'' questions for regulatory programs? Is the methodology for the evaluations standardized? Should it be? Should the evaluations be made public? What procedures

should apply? Would public access result in ''whitewash'' evaluations? What safeguards should be built in? Should the Government be required to take action on the basis of the evaluation reports? How could this be done?

V A HEIGHTENED ROLE FOR PARLIAMENT: THE NEED FOR ACCOUNTABILITY

INTRODUCTION

When Parliament enacts new regulatory legislation it often delegates authority to make subordinate laws, commonly referred to as ''regulations''. These subordinate laws add ''flesh'' to the ''skeleton'' provided in the statute itself. Parliament has a legitimate right, perhaps even an obligation, to review the manner in which the delegated authority has been exercised. Such a review is essential if the concept of ''political accountability'' is to have any real meaning. In reality, Parliament does relatively little to discharge its proper function in this area. However, a number of suggested reforms could put a spotlight on the regulatory actions of the Government and the bureaucracy. The reforms would also implicitly place on Members of Parliament a significantly greater responsibility for the consequences of regulatory intervention.

A. PARLIAMENTARY ASSESSMENT OF NEW REGULATIONS

SUGGESTION 8 - ALL REGULATIONS PROMULGATED UNDER FEDERAL STATUTES SHOULD BE AUTOMATICALLY REVIEWABLE BY AN APPROPRIATE STANDING COMMITTEE OF PARLIAMENT.

COMMENT: Under the Canadian Statutory Instruments Act, most regulations are automatically referred to the Standing Joint Committee on Regulations and other Statutory Instruments. The criteria employed by the Committee limit its review to the ''legality and propriety'' of the measures. Should Parliament have the right to review, on its own initiative, the policy and substance of any subordinate legislation? Is it realistic to expect anything much from such reviews if the government of the day holds a majority in Parliament? Are the existing Standing Committees suited to such a job? Would any procedural or structural changes be desirable? How could we allocate the regulations among the Standing Committees? Would Joint Committees of the House and Senate likely do a better job? Would a ''Committee of Committees'' be a useful coordinating mechanism? Would automatic referral ''overload'' Parliament? Could Parliament's administrative support handle the workload? How much would this proposal cost? Would expert staff be needed? Should staff be permanently attached to the Standing Committees? Should there be separate staff for each party? Should Parliament, after conducting such a review, be able to nullify regulations by a negative resolution of disallowance? Should Parliament be able to amend regulations? Should regulations be subject to parliamentary approval before taking effect? Should these procedures be available for all or only some regulations? Which ones?

SUGGESTION 9 - EVERY REGULATORY IMPACT ANALYSIS PREPARED BY THE GOVERNMENT, AS WELL AS THE ACCOMPANYING DRAFT

REGULATIONS, SHOULD BE AUTOMATICALLY REVIEWABLE BY PARLIAMENT.

COMMENT: Parliament obviously cannot review every regulation imposed upon the private sector by the federal government. If the job is to be done at all, some filtering mechanism will be required. Since only the most major regulations would be subject to the Government's internal regulatory impact analysis system, one solution would be for Parliament to select from among these regulations. One added advantage would be that the impact analyses prepared by the Government would provide much of the information necessary to allow parliamentarians to carry out a proper review. As in the previous suggestion, however, several important issues are raised.

Should Parliament have the right to review, on its own initiative, the policy and substance of any regulation? Is it realistic to expect anything much from such reviews if the government of the day holds a majority in Parliament? Are the existing Standing Committees suited to such a job? Would any procedural changes be desirable? How would the regulations be allocated among the Standing Committees? Would the creation of Joint Committees be a good idea? Would a ''Committee of Committees'' be a useful coordinating mechanism?

Would review of new regulations ''overload'' Parliament? Could Parliament's administrative support handle the workload? How much would it cost? What would we gain? Would expert staff be needed? Should they be permanently attached to the Standing Committees? Should there be separate staff for each party? Should Parliament, after conducting a review, be able to nullify the relevant regulations by a negative resolution of disallowance? Should Parliament be able to amend the regulations? Should regulations be subject to parliamentary approval before taking effect? Should the duration of the ''notice and comment'' period provided in the Government's regulatory impact analysis system be extended if Parliament decides to conduct a review of the regulation in question? Assuming Parliament cannot do both well, would it be more important for it to review new regulations proposed by the Government or to review evaluations of existing regulatory programs?

SUGGESTION 10 - THE GOVERNMENT SHOULD, WHEN INTRODUCING NEW LEGISLATION BEFORE PARLIAMENT, TABLE DRAFTS OF PROPOSED REGULATIONS THAT WILL BE REQUIRED FOR A REGULATORY SCHEME.

COMMENT: Arguing that flexibility is essential, there has been a tendency for governments of all levels to introduce ''skeleton'' regulatory legislation that is designed to rely on regulations for detailed control. Parliamentarians (of all parties) have expressed the view that the Government should make its full intentions clear by allowing Parliament to study the ''flesh'' as well as the ''bones''. Have there been instances in which private sector interests have been handicapped in preparing their submissions to Parliament on new

legislation by the absence of draft regulations? Are there any good reasons for not following the practice suggested above? Would it inordinately delay the preparation, consideration and enactment of new legislation? Would it be possible, necessary, or useful to enshrine the procedures through appropriate amendments to the Standing Orders of the House of Commons?

B. PARLIAMENTARY REVIEW OF EXISTING REGULATORY ACTIVITY

SUGGESTION 11 - ''SUNSET'' CLAUSES SHOULD BE INSERTED IN FEDERAL REGULATORY LEGISLATION TO ENSURE THAT PARLIAMENT HAS THE OPPORTUNITY TO RE-ASSESS THEM ON A REGULAR BASIS.

COMMENT: Effective parliamentary oversight of the Government's regulatory activity will be essential to ensure meaningful accountability. One way to make certain that Parliament has the opportunity to assess the success or failure of a regulatory scheme is to insert a ''sunset'' clause in its enabling statute.

The garden-variety sunset clause terminates a government's legal authority to carry out a regulatory activity after a specified period of time (e.g., five or ten years). Positive action to renew the legislation is required if the activity is to continue. Should sunset clauses be used in all regulatory legislation? Should they be included in only new regulatory statutes or should existing statutes be amended as well? Would the Government and Parliament be able to cope with the workload? What criteria should be employed if selective use of sunset provisions is considered preferable? Should sunset clauses be used in both enabling legislation and in regulations?

There are a few sunset provisions in federal legislation. How well have they worked? What experience have other jurisdictions, such as the United States, had with this type of mechanism? Would the fact that we have a parliamentary system make us more or less susceptible to problems encountered elsewhere? Are there any procedural adjustments that might facilitate constructive parliamentary review.

Would sunset clauses that threaten to ''kill off'' regulatory activities put too much pressure on the government of the day and simply result in pro forma review by Parliament? Could less threatening types of sunset provisions be utilized? How would they operate? What criteria should determine when they would be employed?

SUGGESTION 12 - PARLIAMENT SHOULD REVIEW EVALUATIONS OF THE GOVERNMENT'S EXISTING REGULATORY PROGRAMS.

COMMENT: A good program evaluation report would be an excellent foundation on which to base any parliamentary review of existing regulatory activity. Again, a number of important issues must be considered. Should Parliament review only special evaluations carried

out for it by its own employees, by consultants, or by the Government under its program evaluation system? Would the possibility that Parliament might review any internal evaluation ensure that no embarrassing information appeared in any report?

Should parliamentary review be carried out by the Standing Committees or by a new Special Committee that could develop expertise in the area of program evaluation? Would a Joint Committee of the House and Senate be more likely to operate in a non-partisan fashion? Would a non-partisan approach necessarily be a more constructive approach? Should referral of program evaluations to a parliamentary committee be automatic? How many reviews could be carried out by a committee each year? Should the committee have permanent staff? What sort of expertise would be desirable? Should the committee staff be divided among parties?

What types of questions should be covered in the evaluations reviewed by Parliament? If Parliament reviews the Government's internal evaluations should it be consulted on the questions addressed and the methodology employed? Should Parliament be involved in determining the time-table for the internal program evaluations carried out by the Government? To what extent could ''sunset'' clauses be used to trigger parliamentary review of regulatory program evaluations?

C. OTHER AVENUES OF PARLIAMENTARY INVOLVEMENT

SUGGESTION 13 - THE ANNUAL REPORTS OF ALL FEDERAL DEPARTMENTS AND AGENCIES SHOULD BE AUTOMATICALLY AND PERMANENTLY REFERRED TO THE APPROPRIATE STANDING COMMITTEES OF THE HOUSE OF COMMONS.

COMMENT: An annual report should provide a good overview of the regulatory activities carried out by a Government department or agency during the previous year. Most departments and agencies are legally obligated to submit annual reports to Parliament. However, no parliamentary committee has the right to review an annual report unless it is authorized to do so by the House of Commons. Consequently, few such reports are scrutinized by Parliament. Would it be useful to have all annual reports permanently referred to appropriate Standing Committees? Would it be useful for the Government to standardize the content of annual reports? What sort of information should the reports contain in the area of regulatory activity?

SUGGESTION 14 - THE FORM OF DEPARTMENTAL AND AGENCY ESTIMATES, AND THE PROCEDURES GOVERNING PARLIAMENTARY APPROVAL OF THE ESTIMATES, SHOULD BE CHANGED TO FACILITATE PARLIAMENTARY CONTROL OVER THE GOVERNMENT'S REGULATORY ACTIVITY.

COMMENT: Historically, Parliament has exerted control over the Crown by controlling its right to raise and spend money. Before Parliament supplies the Government with operating funds for an upcoming year, its

committees review the estimates in which departments detail their expenditure plans. Just as parliamentary review of annual reports and public accounts looks at what has been done, parliamentary review of the estimates focuses on what will be done. Can Parliament really hope to exert much influence on Government's regulatory activities through the estimates approval process? Would changes in parliamentary procedures strengthen Parliament's hand? Is complete or partial denial of funds too severe a measure to employ if adjustment rather than cessation of regulatory activity is the objective?

SUGGESTION 15 - THE FEDERAL GOVERNMENT SHOULD PRODUCE AND PARLIAMENT SHOULD GIVE APPROVAL TO A ''REGULATORY BUDGET'' THAT ESTABLISHES LIMITS ON THE LEVEL OF COSTS THAT ANY DEPARTMENT OR AGENCY CAN IMPOSE ON THE PRIVATE SECTOR THROUGH ITS REGULATORY ACTIVITIES.

COMMENT: It is now accepted that regulation is a relatively ''cheap'' way for governments to intervene in the private sector. The compliance costs that must be borne by the private sector can be as much as twenty times the administrative costs of government. Just as Parliament sets spending limits for federal departments and agencies, perhaps it should set limits on the extent to which the Government can ''spend'', through regulatory activity, the resources of the private sector. The concept of a ''regulatory budget'' originated in the United States in direct response to concern about the increasing impact of government regulation on the private sector. Is such a system necessary in Canada? Could we make a regulatory budget work in practice? What types of methodological problems would we face? Could we ensure that the system would not be circumvented? Does the Government now have the sufficient professional expertise to operate such a system? What would it cost to develop, implement, and administer a regulatory budget system?

VI REGULATORY AGENCIES

INTRODUCTION

The regulatory agency is arguably the most visible actor in the regulatory process. Most Canadians are aware of the existence of such agencies as the Canadian Radio-television and Telecommunications Commission (CRTC), the Canadian Transport Commission (CTC), and the National Energy Board (NEB). Regulation by an agency presents particular difficulties that are not present when a government department regulates. A minister is responsible for his department and regulatory decisions taken by a department can be the subject of direct review in Parliament.

A regulatory agency, however, may be relatively independent of control over its decisions by a minister or cabinet. This ''independence'' raises questions about the accountability of the agencies. Furthermore, the generally independent nature of some of our most prominent agencies makes the issue of the quality of appointments to those agencies an important one.

A. POLICY AND ACCOUNTABILITY

The relationship between the independence and the accountability of agencies may hinge on the way in which policy is established for these agencies. Policy is a general guide for decision making. It has many sources; for example, it may be found in the enabling legislation, subordinate legislation, or even in informal communications, such as speeches. These policy guidelines can be conflicting and ambiguous. Confusion and ambiguity may be further increased by appeals to the Governor in Council (in effect, the Cabinet), which may overturn a regulatory decision reached after due consideration and a public hearing.

SUGGESTION 16 - THE POLICY MANDATE OF AN AGENCY SHOULD BE CLEARLY STATED IN ITS ENABLING ACT.

COMMENT: At present, too many enabling statutes of regulatory agencies contain broad, vague, and even conflicting mandates to the agencies. Is it possible for Parliament to be more specific when it enacts these statutes? Can the variety of situations and issues that agencies face be reduced in a statute to a list of factors for consideration? Do political realities and compromises ensure that agency mandates will remain vague? Would tightly drawn mandates conflict with the basic purposes for setting up regulatory agencies? Would more specific mandates enhance accountability over agencies?

SUGGESTION 17 - ALL RELEVANT LEGISLATION SHOULD CONTAIN A PROVISION EMPOWERING THE GOVERNOR IN COUNCIL TO ISSUE, BY ORDER,

POLICY DIRECTIVES THAT MODIFY, CHANGE OR VARY THE POLICY ESTABLISHED IN THE LEGISLATION.

COMMENT: Is some method other than statutory amendment necessary to provide new policies? Is a directive from Cabinet the most expedient process? Should the Government be permitted to change policy through this method? Or is a policy directive better suited to clarification of policy? What other methods might the Government use to transmit policy? Can accountability be adequately recognized through such a procedure? Should an agency be able to request a policy directive from the Government? What would the appropriate procedure be if an issue that required a directive arose in the context of an adjudicative hearing by an agency? Should the Government be permitted to stop the hearing until the policy question is resolved?

SUGGESTION 18 - THE PROCEDURE FOR A POLICY DIRECTIVE SHOULD PROVIDE FULL OPPORTUNITY FOR COMMENT BY THE PRIVATE SECTOR ON PROPOSED POLICY CHANGES.

COMMENT: Would this procedure result in undue delay when quick action is necessary? Could this be as cumbersome and time-consuming as a legislative amendment? Should provision be made for public comment in emergencies? Would policy directives be appropriate for all regulatory agencies? Should there be different models for altering policy based upon the nature of the agencies' responsibilities? In other words, should different models be established for agencies that also have an advisory responsibility as opposed to agencies that have only judicial or adjudicative responsibilities? Should public hearings be held? Who would hold such hearings? Should the Government be bound by the results of the hearing?

SUGGESTION 19 - ALL RELEVANT LEGISLATION SHOULD BE AMENDED TO PROVIDE THE GOVERNOR IN COUNCIL WITH THE POWER TO REVIEW THE DECISIONS OF REGULATORY AGENCIES ON THE GROUNDS THAT THEY FAILED TO CONSIDER OR IMPROPERLY APPLIED POLICY SET OUT IN THE GOVERNING LEGISLATION OR ALTERED BY A POLICY DIRECTIVE.

COMMENT: The controversial issue of Cabinet review of regulatory agency decisions is appropriate to this section dealing with policy. Cabinet review has traditionally been restricted to an examination of the manner in which a policy has been applied. It is further restricted as only particular decisions of the CRTC and the CTC can be reviewed. This stands in contrast to the general availability of judicial review of agency decisions on the grounds of error in law or jurisdiction. Is Cabinet review of an agency decision justifiable on the grounds that the party responsible for enunciating policy should have the power to review how the policy has been applied? If so, should Cabinet review be expanded to include decisions of all federal agencies? If not, how is the notion of accountability to be reconciled with the inability to

review the application of stated policy? Should any sort of procedural requirements be applied to the process? Should all interested parties have access to representations made by other parties to Cabinet? Should ''interested party'' include interveners? Would groups who lack funds or political connections be put at a particular disadvantage by this procedure? Does Cabinet review lessen public respect for the agency? Does it lower the morale of the agency? Does judicial review have the same effect?

B. APPOINTMENTS AND PROCEDURE

INTRODUCTION

Given the large number of agencies (over 100 at the federal level and, depending on the size of the province, from 40 to 80 in each of them) public attention to and awareness of agency activities will vary widely. Regardless of the visibility of the various regulatory agencies, this Task Force is very interested in exploring proposals for reform directed at the individuals who comprise the agencies and the manner in which they conduct their affairs.

SUGGESTION 20 - THE APPOINTMENT PROCESS TO POSITIONS ON AGENCIES COMPOSED OF GOVERNOR IN COUNCIL APPOINTEES SHOULD BE FORMALIZED. THIS FORMAL APPOINTMENT PROCESS SHOULD PROVIDE THAT: (a) JOB DESCRIPTIONS BE PREPARED FOR EACH POSITION DESCRIBING IN SUFFICIENT DETAIL THE RESPONSIBILITIES OF THE POSITION AS WELL AS THE DESIRED QUALITIES OR EXPERTISE AN APPOINTEE SHOULD POSSESS; (b) THE GOVERNOR IN COUNCIL CONSULT WITH THE PRIVATE SECTOR TO SOLICIT POTENTIAL NOMINEES; (c) THE GOVERNOR IN COUNCIL ENSURE THAT THE APPOINTEES ON A PARTICULAR AGENCY COLLECTIVELY WILL REPRESENT THE RANGE OF INTERESTS THAT BEAR UPON THE DECISIONS TO BE MADE.

COMMENT: The issue of appointments recognizes that individual agency members are central to successful achievement of regulatory objectives. Furthermore, any lack of public confidence in the individual members of regulatory agencies will reflect on public confidence in the regulatory process itself. Would an open consultative process improve the quality of agency appointees? How could open consultation on appointments best be accomplished? Does the process of federal government appointments to the judiciary provide a good example? Who should be consulted? How would all the interests to be consulted be identified? Are there dangers with particular interests being accorded direct representation on agencies? Would it make any difference since one member can be outvoted? Would the appointment of a representative of one interest require balancing by appointment of a representative from an opposing interest? Would qualified individuals be reluctant to subject themselves to public scrutiny? Should an appropriate parliamentary committee hold hearings on appointments? Should Parliament affirm, or

have the right to disallow, an appointment? Should removal of an agency appointee only take place on the resolution of Parliament?

SUGGESTION 21 - AGENCY PROCEDURES SHOULD BE REVIEWED TO ENSURE THAT PROCEEDINGS ARE CHARACTERIZED BY ''FAIRNESS''.

COMMENT: A duty of basic fairness is emerging as the accepted requirement for administrative proceedings. In specific procedural terms, what does ''fairness''require? To what extent should requirements differ among different agencies? Should a basic minimum be established by an Administrative Procedures Act? Should the procedures of agencies be standardized? Or should procedures of agencies performing similar functions be similar?

SUGGESTION 22 - ALL INFORMATION NECESSARY FOR DECISION MAKING SHOULD BE BEFORE AN AGENCY TO ASSIST IT IN MAKING ITS DETERMINATION.

COMMENT: A full range of information and awareness of various opinions should enable an agency to make better regulatory decisions. How does an agency know that it has adequate information in order to make its decision? Are agencies ''captives'' of the regulated firms that supply them information? Should agencies have more powers or resources so they may develop their own information? Is this practical in complex and sophisticated areas, such as energy supplies? Are there examples of agencies making decisions on obviously inadequate information?

SUGGESTION 23 - THE GENERAL PUBLIC, AS WELL AS IDENTIFIABLE INTERESTED GROUPS, SHOULD BE MADE AWARE OF A PARTICULAR MATTER THAT IS UNDER CONSIDERATION BY AN AGENCY.

COMMENT: What methods might be used to notify the public of regulatory matters under agency consideration? Would publication in the Canada Gazette be sufficient? What other, more innovative methods could be used? What experience do agencies already have with unconventional notice techniques? Have agencies in other jurisdictions experimented with such techniques? If so, did the results provide for more participation from the public and/or better decision making? Are there any present legislative limitations on unconventional notice procedures? Would the requirement of giving notice result in undue costs to the agency? How many people would have to be notified before the ''general public'' is considered to be aware of the matter? Would such notification cause delays?

SUGGESTION 24 - REPRESENTATION BY A FULL RANGE OF RELEVANT PRIVATE SECTOR INTERESTS SHOULD BE BEFORE AN AGENCY TO ASSIST IT IN MAKING ITS DETERMINATION. TO ENSURE THAT THIS OCCURS, FINANCIAL OR OTHER ASSISTANCE TO CERTAIN ''PUBLIC INTEREST'' GROUPS SHOULD BE PROVIDED.

COMMENT: As noted in the Comment under Suggestion 3, it is alleged that ''public interest'' groups face obstacles in participating in the regulatory process. Are these obstacles unique to these groups? Would financial assistance eliminate these obstacles? Would other forms of assistance be adequate or more appropriate? Would awarding costs be a solution? Could the problems associated with ''public interest'' intervention be solved by the appearance of the federal Attorney General before regulatory agencies on behalf of the public at large. Should an Office of the Public Interest Advocate be established within the Government?

SUGGESTION 25 - AGENCIES SHOULD BE REQUIRED TO PROVIDE ADEQUATE WRITTEN REASONS FOR THEIR DECISIONS. THESE REASONS AND ALL THE RELEVANT INFORMATION ON WHICH THEY WERE BASED SHOULD BE AVAILABLE TO THE PARTICIPANTS AND THE PUBLIC.

COMMENT: How would the determination that reasons are ''adequate'' be made? Would extensive written reasons encourage appeals? Would such a requirement overload agencies? Should agencies be required to publish all their decisions or only ''major'' decisions? What is ''major''? Should the reasons be published or would access on request be sufficient? Would requirements for the degree of public availability differ among the different agencies? How useful are decisions made in specific cases to an interpretation of an agency's mandate?

VII FEDERAL AND PROVINCIAL JURISDICTIONS

INTRODUCTION

One of the most frustrating (and costly) problems facing the private sector is trying to satisfy both federal and provincial regulators at the same time. The frustration that comes from dealing with duplicative or overlapping regulatory schemes can quickly turn to outright hostility when compliance with the requirements of one jurisdiction results in prosecution by another. The costs can be high and the uncertain constitutional defences available provide little comfort to the person caught in the middle of a tug-of-war between two governments. Each jurisdiction runs the risk of losing a useful regulatory scheme because of an adverse court decision. The only clear winners may be the lawyers.

Overlap, duplication or conflict of regulatory requirements can also occur within a single jurisdiction. Although this problem should be less frequent, it is far less justifiable. There are no easy answers to these problems, but a number of reform proposals might be considered. These could help the private sector cope with the multiple regulatory requirements that arise both between and within jurisdictions. The Task Force would be interested in learning of specific cases in which these problems have arisen.

SUGGESTION 26 - IN THE FEDERAL JURISDICTION WHEN DIFFERENT PROVISIONS IN REGULATORY STATUTES AND REGULATIONS CREATE THE POTENTIAL FOR CONFLICTING DECISIONS, THERE SHOULD BE EXPLICIT PROVISION FOR ONE ENACTMENT TO SUPERSEDE.

COMMENT: This suggestion applies to multiple legislative provisions within one jurisdiction. Section 31 of the recent Transportation of Dangerous Goods Act is one example of legislation that takes precedence over other regulatory enactments. Is this an effective method of eliminating conflict or duplication? What other provisions could be made to ensure this?

SUGGESTION 27 - DIRECT NEGOTIATION SHOULD TAKE PLACE BETWEEN JURISDICTIONS WITH THE VIEW TO ACHIEVING FORMAL AGREEMENT ON APPROPRIATE REGULATORY MATTERS. THEREAFTER ANY POWER, DUTY OR FUNCTION OF A MINISTER OR AGENCY TO WHICH THE AGREEMENT APPLIES SHALL BE EXERCISED IN ACCORDANCE WITH THE APPROVED AGREEMENT.

COMMENT: There is precedent for this suggestion. In 1976 the Governments of Manitoba and Canada entered into an Agreement regarding certain matters involving cable television companies. The Canadian Radio-television and Telecommunications Commission had jurisdiction over the companies. The outstanding issue became the extent to which the Commission was required to take the Agreement into account in its

decisions. Section 7 of Bill C-16 of the Fourth Session of the Thirtieth Parliament, the Telecommunications Act, recognized such Agreements and provided that an Agreement could require the Commission to exercise its powers in accordance with the Agreement. Would Agreements such as this provide a method for considering provincial concerns in federal agency decisions? Is this an undue interference in the regulatory process? Or does an Agreement ensure agency accountability? Could a series of Agreements lead to conflicting mandates for an agency? Would it lead to inconsistent treatment for parties from different provinces? Is this necessarily a bad thing? Which Agreement would take precedence if parties from several provinces were before an agency? Should third parties be able to enforce Agreements? Should third parties be able to raise an Agreement as a defence in legal proceedings?

SUGGESTION 28 - WHEN ANYONE IN THE PRIVATE SECTOR REQUIRES APPROVALS OR AUTHORIZATIONS UNDER MORE THAN ONE REGULATORY SCHEME, THOSE APPROVALS AND AUTHORIZATIONS SHOULD BE CONSIDERED IN ONE UNIFIED PROCEEDING.

COMMENT: It is particularly wasteful for an enterprise in the private sector to have to seek approvals or authorizations under a number of different regulatory schemes in order to conduct its business activities. Could various regulatory agencies or departments jointly consider the application in one proceeding? If agencies have jurisdiction over only limited phases of a matter, could they come together as a joint panel? If they produced one decision, would it truly reflect all the factors that the individual agencies were supposed to consider? Are there legal or other impediments to such a proposal? Are there fields in which such a process would be inappropriate? Could public participation be accommodated in this process? Are some of the initiatives in the field of transportation satisfactory? What improvements could be made in this model? Do other examples exist? Would it be more appropriate to establish a separate agency that would act as a binding arbitrator? What other models might be appropriate? Would combining appropriate regulatory schemes (in one jurisdiction) under one authority solve any problems? Which areas might be amenable to being combined in this way?

APPENDIX

The publications on this list should be available in many Canadian libraries, and particularly university libraries. The studies or working papers of the Law Reform Commission of Canada can also be ordered from the Commission, 130 Albert St., Ottawa, K1A 0L6. Many of the other publications are available in bookstores or can be ordered.

We have arranged the list according to which publications we found most helpful in the preparation of the various sections of the discussion paper. While this is by no means an exhaustive survey of the works on government regulation, we hope it will be useful to those readers who may wish to pursue the subject in greater depth.

Section I Background

G. Bruce Doern, ed., The Regulatory Process in Canada (Toronto: Macmillan of Canada, 1978).

G. Bruce Doern, Rationalizing the Regulatory Decision-Making Process: The Prospects for Reform, Working Paper No. 2, Regulation Reference, Economic Council of Canada (Ottawa, September 1979).

Economic Council of Canada, Responsible Regulation, an Interim Report (Ottawa, Minister of Supply and Services Canada, November 1979).

Douglas G. Hartle, Public Policy Decision Making and Regulation (Montreal: Institute for Research on Public Policy, 1979).

Law Reform Commission of Canada, Independent Administrative Agencies, Working Paper 25 (Ottawa: Minister of Supply and Services Canada, 1980).

Ontario Economic Council, Government Regulation, Issues and Alternatives 1978 (Toronto, 1978).

Margot Priest, W.T. Stanbury and Fred Thompson, ''On the Definition of Economic Regulation'' in W.T. Stanbury, ed., Government Regulation: Scope, Growth, Process (Montreal: Institute for Research on Public Policy, 1980).

W.T. Stanbury, ed., Studies on Regulation in Canada Montreal: Institute for Research on Public Policy, 1978).

Section II Improving Information and Involving the Private Sector

G. Bruce Doern, Rationalizing the Regulatory Decision-Making Process: The Prospects for Reform, Working Paper No. 2, Regulation Reference, Economic Council of Canada (Ottawa, September 1979).

Economic Council of Canada, Responsible Regulation, and Interim Report (Ottawa: Minister of Supply and Services Canada, November, 1979, Chapter 6.

David Fox, Public Participation in the Administrative Process, a study prepared for the Law Reform Commission of Canada (Ottawa: Minister of Supply and Services Canada, 1979).

Larry M. Fox, Freedom of Information and the Administrative Process, Research Publication 10, prepared for the Commission on Freedom of Information and Individual Privacy (Toronto, September 1979).

Robert T. Franson, Access to Information, Independent Administrative Agencies, a study prepared for the Law Reform Commission of Canada (Ottawa: Minister of Supply and Services Canada, 1979).

T. Gregory Kane, Consumers and the Regulators: Intervention in the Federal Regulatory Process (Montreal: Institute for Research on Public Policy, 1980.)

Law Reform Commission of Canada, Independent Administrative Agencies, Working Paper 25 (Ottawa: Minister of Supply and Services Canada, 1980).

David J. Mullan, Rule-Making Hearings: A General Statute for Ontario? Research Publication 9, prepared for the Commission on Freedom of Information and Individual Privacy (Toronto, August 1979).

J. Murray Rankin, Freedom of Information in Canada, Will the Doors Stay Shut?, a research study prepared for the Canadian Bar Association (Ottawa: Canadian Bar Association, August 1979).

Section III Internal Management: Improving the Government's Assessment of Proposed Regulatory Initiatives

G. Bruce Doern, Rationalizing the Regulatory Decision-Making Process: The Prospects for Reform, Working Paper No. 2, Regulation Reference, Economic Council of Canada (Ottawa, September 1979).

Economic Council of Canada, Responsible Regulation, an Interim Report (Ottawa: Minister of Supply and Services Canada, November 1979), Chapter 6.

Section IV Internal Management: Ensuring Periodic Government Review of Regulatory Activity

Canada, Royal Commission on Financial Management and Accountability (Lambert Commission), Final Report (Ottawa: Minister of Supply and Services Canada, March 1979).

Economic Council of Canada, Responsible Regulation, an Interim Report (Ottawa: Minister of Supply and Services Canada, November 1979), Chapter 6.

Section V A Heightened Role for Parliament: The Need for Accountability

Robert D. Anderson, ''The Federal Regulation-Making Process and Regulatory Reform, 1969-1979'' in W.T. Stanbury, ed., Government Regulation: Scope, Growth, Process (Montreal: Institute for Research on Public Policy, 1980).

Canada, Royal Commission on Financial Management and Accountability (Lambert Commission), Final Report% (Ottawa: Minister of Supply and Services Canada, March 1979).

G. Bruce Doern, Rationalizing the Regulatory Decision-Making Process: The Prospects for Reform, Working Paper No. 2, Regulation Reference, Economic Council of Canada (Ottawa, September 1979).

Economic Council of Canada, Responsible Regulation, an Interim Report (Ottawa: Minister of Supply and Services, Canada November 1979), Chapter 6.

Law Reform Commission of Canada, Independent Administrative Agencies, Working Paper 25 (Ottawa: Minister of Supply and Services Canada, 1980).

Standing Joint Committee on Regulations and other Statutory Instruments, Fourth Report, Minutes of Proceedings and Evidence, July 1980.

Fred Thompson, ''Regulatory Reform and Deregulation in the United States'' in W.T. Stanbury, ed., Government Regulation: Scope, Growth, Process (Montreal: Institute for Research on Public Policy, 1980) for discussion of ''sunset'' clauses and a ''regulatory budget''.

Lucinda Vandervort, Political Control of Independent Administrative Agencies, a study prepared for the Law Reform Commission of Canada (Ottawa: Minister of Supply and Services Canada, 1980).

Section VI Regulatory Agencies

Caroline Andrew and Réjean Pelletier, ''The Regulators'' in G. Bruce Doern, ed., The Regulatory Process in Canada (Toronto: Macmillan of Canada, 1978).

Canada, Royal Commission on Financial Management and Accountability (Lambert Commission), Final Report (Ottawa: Minister of Supply and Services Canada, March 1979).

Economic Council of Canada, Responsible Regulation, an Interim Report (Ottawa: Minister of Supply and Services Canada, November 1979), Chapter 5.

David Fox, Public Participation in the Administrative Process, a study prepared for the Law Reform Commission of Canada (Ottawa: Minister of Supply and Services Canada, 1979).

Hudson N. Janisch, ''The Role of the Independent Regulatory Agency in Canada'' (1978), 27 University of New Brunswick Law Journal 83.

Hudson N. Janisch, ''Policy Making in Regulation'' (1979), 17 Osgoode Hall Law Journal 46.

T. Gregory Kane, Consumers and the Regulators: Intervention in the Federal Regulatory Process (Montreal: Institute for Research on Public Policy,1980).

Law Reform Commission of Canada, Independent Administrative Agencies, Working Paper 25 (Ottawa: Minister of Supply and Services Canada, 1980).

David J. Mullan, Rule-Making Hearings: A General Statute for Ontario? Research Publication 9, prepared for the Commission on Freedom of Information and Individual Privacy (Toronto, August 1979).

Richard J. Schultz, Federalism and the Regulatory Process (Montreal: Institute for Research on Public Policy, 1979).

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Lucinda Vandervort, Political Control of Independent Administrative Agencies, a study prepared for the Law Reform Commission of Canada (Ottawa: Minister of Supply and Services Canada, 1980).

Section VII Federal and Provincial Jurisdictions

Economic Council of Canada, Responsible Regulation, an Interim Report (Ottawa: Minister of Supply and Services Canada, November 1979), Chapter 2.

Richard J. Schultz, Federalism and the Regulatory Process (Montreal: Institute for Research on Public Policy, 1979).

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