

QUASI-INDEPENDENT AGENCIES OF THE MANITOBA GOVERNMENT:  
THE ADMINISTRATIVE RELATIONSHIP

by

Frances Marie Gropp

A THESIS

Submitted to the

University of Manitoba

in partial fulfillment of the requirements

for the degree of

MASTER OF PUBLIC AFFAIRS

May 1987



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## ABSTRACT

This paper explores the thesis that the policies, procedures and practices which form the basis of interaction between a quasi-independent agency and the executive and bureaucratic arms of government have been established in an ad hoc fashion. These "administrative relationships" are not based on an accurate and complete body of knowledge about agencies; therefore, accountability is not as effective as it could be.

Case studies are presented of six agencies -- a major revenue-generating corporation, a council established to deliver a grants program, a licensing body, a quasi-judicial board, an organization designed to hear appeals and a group with an advisory role. Interviews were conducted with the purpose of collecting enough data about how agencies operate, and the environment within which they function, so as to form general recommendations which could reasonably apply to other agencies.

Eight recommendations have been developed, covering areas such as: annual reports, evaluation, accountability, administrative policies, legislative drafting, disestablishing agencies, orientation of appointees and on-going research activities.

Finally, the paper provides an acknowledgement that it is individuals -- politicians, bureaucrats, appointed members and members of the public -- who really shape agencies. It is to these people to whom we must look for an appropriate "set of relationships" rather than to exaggerate the attempt to find administrative relationships which cohere to all agencies.

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## CHAPTER I

### INTRODUCTION

This study is conducted from the perspective of a practitioner in the provincial civil service who is responsible for the development of government-wide administrative systems designed to meet a number of needs, sometimes conflicting. Of primary importance is that administrative policies and procedures facilitate the timely dispatch of government business in a cost-effective and efficient manner. A requirement of equal significance is that they contribute to an effective accountability regime. Administrative systems must satisfy the notion of fairness, partly through consistency of application, but they must also incorporate enough flexibility so that departmental delivery of government programs is not adversely affected. This final requirement means that the creation of administrative systems must not impair the manager in his or her rightful exercise of decision-making authority, or absolve the manager of responsibility for the outcomes of those decisions.

These particular characteristics of administrative policy reflect multiple and sometimes incompatible goals. It is difficult enough to balance these requirements in the most familiar of all administrative units - the department, but it is even more difficult when there is an "arm's length" relationship such as is the case with appointed boards, commissions, committees and corporations, i.e. non-departmental "agencies."<sup>1</sup> This arm's length feature of agencies, which is beneficial in some respects, increases the difficulties in developing effective administrative policies and procedures.

As frustrating and cumbersome as central management policies and procedures may at times be to the departmental official, at least the purpose of such policies, primarily the intent to ensure accountability, is for the most part understood and perceived to be legitimate. There is a recognition (sometimes a reluctant admission) of the value of consistency, cost control rules and policies and procedures which promote accountability.

When quasi-independent agencies are considered, however, the picture immediately clouds. We know that there still exists a requirement for accountability, but these agencies have been deliberately distanced from the political and bureaucratic arms of government. The standard accountability requirements appropriate for departments, may not be so for non-departmental agencies. The existence of a Board of Directors usually means that agency staff may relate quite differently to the Minister than do departmental officials, and there is usually less involvement of the bureaucracy's central agencies in the affairs of the non-departmental body. Even where there are strong reporting mechanisms to a Minister, the workload of most elected officials is often too heavy for a detailed scrutiny of agency activities. When this is the case, there cannot be much meaningful accountability to the Legislature and ultimately to the public since even basic questions cannot easily be answered. This situation, combined with an awareness that some independence is required, contributes to a perception that accountability in quasi-independent agencies is an area which is greatly in need of attention.

Before proceeding further, a number of terms used throughout this study should be defined. The term "administrative relationship", refers to the collection of policies, procedures and practices which are the basis of interaction



between an agency and the executive and bureaucratic arms of government. Of particular interest are those policies and procedures which may be applicable to more than one agency and which also have implications for an accountability system.

A second term is "government". In some contexts, "government" refers solely to the executive or elected (political) sector; and where that is the case, the term used is "executive government" or "political arm". Where "government" means the bureaucracy, that is so stated. On occasion, the distinction between the executive and bureaucratic arms is obvious enough so as to not require clarification. In other cases, to make a distinction is not important, because the concept of bureaucracy used throughout this study assumes that its function is to implement the policies and decisions of the executive government; in that sense they are "one". The argument that politicians are in reality controlled by the civil service, or that there is no one really at the helm (ie: things happen as a result of a kind of automatic bureaucratic momentum), must be debated in some other study.

In theoretical terms, the Legislature is the most significant part of the governing process since it is there that accountability is ultimately sought. As perhaps the kingpin in an effective accountability system, it is through the Legislature that Ministers directly and appointed officials indirectly are deemed to be held answerable to the public. While acknowledging the crucial role of the Legislature, to include an examination of it would create a task far beyond the scope of this study. The terms of reference of this study have, therefore, been limited to an exploration of that dimension in the accountability system which is largely administrative in nature, involving relationships between agencies and

the executive and bureaucratic arms of government.

The most striking factors which contribute to the difficulty in clarifying the administrative relationships of agencies are their diversity and numbers which must be taken into account. Manitoba alone has created over 200 quasi-independent bodies. Their tasks range from the high-profile responsibilities of Manitoba Hydro to those of quasi-judicial agencies like the Horse Racing Commission and the Manitoba Labour Board to those of the Advisory Committees on Apprenticed Trades. Organizational structure may also be variable, as well as their significance to the public purse both as a generator of revenue and as a body with the authority to spend.

Prior to presenting detail on the terms of reference of this study, a brief summary of the literature in this area will be provided. Although the body of literature is not extensive, the range of topics is broad. It can, however, be grouped under four main perspectives. While there is some overlap of concerns and solutions, this grouping is a useful tool in reviewing the literature, and it provides a background to the approach taken in this study.

The first such grouping is based on economic considerations. Here, we find that regulation is the key issue, due to the tremendous impact it can have on a sector of the economy. But, as the instances of regulatory intervention increase, so does external control over more and more aspects of our lives, and many writers have pointed out that the affects of regulation are far-reaching and not just limited to an economic impact.

The concerns over regulation have been summarized as being: cost (mainly financial, although restricting individual freedom may also be viewed as a cost); the conferring of rights (eg: a license) which could be difficult to withdraw;

accountability of the arm's length agencies created to do the regulating; and the possible "capture" of the agency by the industry it is intended to regulate.<sup>2</sup>

Other literature in the field of regulation is premised on the idea that we are over-regulated. Individuals and business are burdened with and restricted by regulations which are no longer, or never were, required. Most of these works prescribe some degree of regulatory reform, but many argue that complete de-regulation, or privatization, is the only solution.<sup>3</sup>

A second broad perspective in the literature focusses on the legal review of administrative actions. Most of this work has been undertaken by the Law Reform Commissions of Canada and the provinces. The concerns expressed in this portion of the literature have to do with the procedural fairness of agencies. It is often argued that processes are not always consistent and often there is not an adequate system to appeal decisions made by agencies.

Many agencies have far-reaching mandates with considerable impact on individuals, but due to the arm's length relationship, the usual accountability mechanisms involving the answerability of the Minister to the public through the Legislature are seen to be inadequate. The literature in this area does not tend to point out that if an effective accountability system were in place, most of the problems related to due process could be resolved. Rather, an expanded role for the courts is suggested as the appropriate remedial action.

The recommendations of the various Law Reform Commissions to deal with these problems would, if implemented, result in more formal, detailed and public (to some extent) proceedings. Decisions of agencies could be appealed to the courts. It is argued that if these recommendations were implemented, the affect would be to ensure fair (ie: consistent) treatment, to guard against the "capture"

of a regulatory body by an industry and to improve accountability.

Recommendations to place greater reliance upon the courts to ensure fairness and accountability of independent administrative agencies have met with several criticisms. The largest benefit may be to the legal profession, as the primary outcome would be an expanded role for the courts. In addition, formalized, court-like proceedings are costly and may be intimidating and confusing to most of the public. The process could be administratively cumbersome, thereby negating one of the often-cited rationales for using a non-departmental body, that of enabling greater operational flexibility.<sup>4</sup>

A third body of literature is concerned with the Legislature (or Parliament, federally) and its various components - Ministers, other Members, both back-benchers and the Opposition, and legislative committees. Typically, attention is centered on the role, structure and procedures of these institutions. The concern here is to enhance accountability of independent and semi-independent agencies to the people's representatives. More specific topics include: the nature and extent of reporting to the Minister; the issuance of policy directives; and the budgetary approval process. These specific topics are included in this portion of the literature because they are items which involve the Legislature and are not confined to the executive arm of government, nor do they necessarily involve discussions of the bureaucratic arm.<sup>5</sup>

The final perspective found in the literature addresses the role and place of agencies within the system and structure of the executive and bureaucratic arms of government. In this group, we find efforts to identify and to classify the wide variety of agencies as a preliminary step to the development of an appropriate accountability system. Some typologies prescribe the degree to which agencies

shall adhere to the administrative policies and procedures applicable to departments. The relationship between the Minister and a non-departmental body for which he or she is responsible is also discussed. The appropriate form of control is often a topic. Some authors have been concerned with the rationale for choosing this form to accomplish a public policy goal over other methods.

The desire to improve accountability is the usual motivation behind these studies. The resulting classification systems are based on a variety of criteria, including: degree of financial dependence on the Consolidated Fund; level of responsibility; primary function; need for operational flexibility and so on. The resulting typologies are matched to specified ranges of remuneration, auditing requirements and/or to schedules of mandatory administrative policies. Many of these systems or regimes have been developed by public administrators and vary considerably in sophistication and scope. The Federal Government, as well as the provinces of Saskatchewan, Manitoba and Ontario have all developed typologies which contribute to an accountability system to at least a small extent.<sup>6</sup>

A frequent criticism is that many of these regimes are based on an assumption that greater control of quasi-independent agencies is required, an assumption which is not defended or justified. Little, if any, description of the experience and problems of quasi-independent agencies is presented in these works to support the assumption. One can only concede the point made by John Langford,<sup>7</sup> who suggests that the greater control measures put forward by public administrators are primarily a knee-jerk reaction, rather than a well-thought out position based on astute observation and an analysis of the facts. Greater control may well be justified, but it must be based on thorough study.

While the pre-occupation with accountability for agencies may be justified, and although the response to this concern may have merit, it does not spring from an understanding of the complexities of quasi-independent agencies nor of the administrative policies which reflect an inter-locking set of relationships intrinsic to effective accountability. The accountability requirements proven to be appropriate for departments have been assumed to be appropriate for other administrative forms. What we have tended to see regarding the treatment of agencies has been a "reining-in"; the imposition of greater control in the traditional ways. Greater control regimes have been the primary policy output of the bureaucracy, as if they were a panacea. It is clear then, that an initial step out of the "more control" morass is to develop a more well-rounded understanding of agencies.

In this study, an attempt will be made to look at a broad range of agency experiences - not just their interaction with the bureaucracy and specifically its central agencies, but also with other aspects of their environment (the policy field, the public, the market, etc.), the effect of organizational structure and the impact of using the quasi-independent agency as the tool to accomplish a public goal. Perhaps this approach can produce guidelines which better reflect the conflicting needs of independence and accountability.

The issues related to the relationship of these agencies to the Legislature will not be addressed, partly because of the need to limit the scope of this study, but also because such an examination has less immediate practical application to a central management agency within the bureaucracy, and practical considerations have been the primary impetus for this study.

One of the biggest motivations for wanting to tackle this problem in a

systematic way is that the considerable diversity among non-departmental agencies makes generalizations at least unwise, if not impossible. It is not a question of merely preferring an orderly look at things - that motivation can only be partially justified; but a systematic view is a requirement if treatment of agencies is to be fair, consistent and justifiable. Certainly, this study is not based on the expectation that all problems can be answered, but rather that steps can be taken to improve the present situation. At the very minimum, efforts directed towards this problem can increase the knowledge which forms the base for a more responsible position on the issue of accountability as it relates to quasi-independent agencies.

Much of the work done on regime building for purposes of ensuring accountability, although necessary and useful, has largely been based on a narrow range of factors. For example, the work done in Ontario places a heavy emphasis on only a few characteristics: (1) the degree of dependency on the Consolidated Revenue Fund, (2) demonstration of a need to operate outside the central management practices and procedures established by Management Board; (3) degree of dependency on administrative support services of a ministry or department; and (4) the requirement that staff possess specialized expertise not normally found in government.<sup>8</sup>

Saskatchewan has classified its agencies into one of three broad categories based on relative levels of responsibility of the agencies. These three categories - high, medium and moderate - are broad, general groupings without well-defined criteria. The meaning of "level of responsibility" in the Saskatchewan scheme is not clear, but it is likely that the intent was to indicate various levels of scope or the extent of an agency's impact. The categories

are used to provide some consistency of remuneration (there is some variation within categories) to appointees of agencies with roughly comparable levels of responsibility.<sup>9</sup>

Literature specific to Manitoba non-departmental agencies is limited and deficient. Accountability has been addressed in a general sense, but a thorough analysis relative to agencies is lacking. One exception is a study conducted in 1968-69 as part of a task force on productivity.<sup>10</sup> This study provided useful definitions of the approximately 180 (at the time) "non-departmental units" and produced some recommendations directed towards those who may be responsible for establishing these bodies. These very general recommendations cover control nomenclature, role, objectives and terms of reference.

Other work on Manitoba quasi-independent agencies from within government involved the attempts to establish a uniform and more equitable level of remuneration for the appointed members to these bodies. These efforts resulted in a classification of agencies according to criteria thought to be important considerations in the establishment of remuneration.<sup>11</sup>

This classification of Manitoba agencies relies greatly on the level of responsibility as the main criterion for remuneration purposes. It does, however, also group agencies according to their primary function. While this classification was intended to assist in resolving the question of remuneration, it is useful as a starting point for purposes of this study.

### Methodology

The factors which shape the way quasi-independent agencies are accountable in practice are multiple. They may be political, legislative,



administratively expedient, cultural traditions, industry norms, market place exigencies or a result of personalities, skill and experience of those involved. This being the case, the approach in this study is to examine individually a number of agencies and to develop an understanding of the circumstances which have relevance to the "administrative relationship" as defined earlier in this study.

Since the number of case studies presented here must be limited, an overview of three groupings or categories of agencies will be provided prior to the case studies from each category. The overview is intended to assist in "rounding out the picture". This is important because although the detail possible from individual case studies is necessary, it is also a requirement to recognize, and avoid, the tendency to assume that such detail (and the conclusions developed) is typical of all agencies.

As part of the 1982 "Remuneration Study" (updated in 1986), all non-departmental agencies were grouped into one of three categories - 'A', 'B', or 'C'. These three categories reflect relative levels or degrees of responsibility. As an example, the Board of Manitoba Hydro, classified as an 'A' agency, has a greater level of responsibility relative to a 'C' agency such as the Agricultural Societies Advisory Board. The consequences of action by the Board of Manitoba Hydro are of larger significance than those of the Agricultural Societies Board because Hydro has a greater impact on the citizens of Manitoba than does the Societies Board. Hydro has a greater impact on the citizens of Manitoba than does the Societies Board. Class 'B' agencies like the Land Value Appraisal Commission, fall between these 'A' and 'C' type agencies in terms of their relative levels of responsibility.

Within these three categories, agencies were further identified as to their primary function. The functions identified were: judicial, regulation, licensing, appeal or advisory. There is some overlap of functions, for example, licensing may be viewed as a component of regulation and the sub-category "judicial" may more correctly be described as quasi-judicial or adjudicative. The sub-categories, as used in the "Remuneration Study", will be defined in full in the following chapters.

Agencies in the highest responsibility category, or 'A', were all identified as "Regulatory" (as broadly defined in that study), while agencies in the third or 'C' category were all placed under the "Advisory" function. This similarity of function means that the development of an overall profile of those categories is relatively straightforward.

The 'B' category agencies, however, are much more diverse in terms of their main function. They have been grouped under one of all five of the functions, rather than all under just one function, as is the case for 'A' and 'C' agencies. In order to develop an adequate understanding of 'B' agencies, a more thorough profile is provided, and a greater number of case studies are presented.

The agencies comprising the case studies were chosen to display a number of themes and characteristics. Central is their variety of purpose, size and nature of responsibility. Others are of interest because they demonstrate a major re-direction in policy by a government or reveal a need for such re-direction. Still others appear more routine and non-controversial by comparison, yet may be of equal importance.

The "Remuneration Study" categories were defined in the following way:

"A - Group 'A' Agencies have legislative authority for their establishment and have statutory responsibility for administering and managing a major program. The activities of many of these agencies are commercial in character, have their own operating budgets and, in all likelihood, their own hiring authority. Where they are not commercial in nature, agencies in this sub-category would be involved in delivery of a program which has a significant impact on an area of activity, often through precedent-setting decisions made by the agency. These agencies often report directly to a Minister rather than through the departmental structure." <sup>12</sup>

The 'A' agency chosen from this category is the Manitoba Lotteries Foundation. The Foundation was chosen because it has responsibility for the delivery of a program which is highly significant as a generator of revenue. It is also representative of comprehensive re-direction in policy by the government, thereby stimulating considerable controversy, and it is unique because it involves an activity which raises a moral issue in the minds of many people.

"B - Group 'B' agencies have legislative or ministerial authority for their establishment but have much more limited program responsibility when compared with Group 'A' agencies. Often regulatory, investigative, appeal or review, quasi-judicial or negotiating functions are handled by agencies with this level of responsibility. These agencies may have their own staff but would not be involved in any activity which would generate income other than a fee or other reimbursement for a service. Most of these agencies report through a Deputy Minister." <sup>13</sup>

As a representative of a judicial agency, The Manitoba Labour Board was chosen. This Board has also recently undergone major policy re-direction by the Government, and, like the Lotteries Foundation, is also controversial. In this case, the reason for re-direction stems from a philosophical base rather than a pragmatic one. It is not a revenue-generator, but has a powerful impact on the revenue-generating capacity of the private sector.

The Apprenticeship and Trades Qualifications Board is a long-standing 'B' agency identified as a licensing body, which has remained constant over many years. Although apprenticeship and the trades are still matters of importance today, this Board has not convened recently. The case study presents an opportunity to explore the reasons for this inactivity.

The Manitoba Arts Council is a regulatory body (as defined in the "Remuneration Study") which originated in the community in a much more simple form. It is also a long-standing agency, but one which is very active with a high-profile and a public image of independence from government.

The License Suspension Appeal Board is charged with an apparently routine but on-going task, considered important in Manitoba; interestingly, its counterpart is not found in other provinces. It reaches a broad spectrum of people in a situation not to their liking, thereby providing insights differing from those of other agencies.

"C - Group 'C' agencies have ministerial (or, in some cases legislative) authority for their establishment. These agencies do not usually require an operating budget because their primary function is to provide advice and recommendations to a Minister directly or through a Deputy Minister."<sup>14</sup>

The agency chosen from this category is the Council on Aging. Although a government is not bound by the out-put of a Board which is primarily advisory in nature, the quality of such advice is of significance to the political arm of government, and is not to be underestimated. Action taken on the recommendations of this agency could have far-reaching implications for our society.

Each case study involved interviews with at least two individuals, but for

some agencies, the number of interviews reached four. These persons were the Chairperson, the Minister's political aide and a departmental official. Many others were consulted: the Provincial Auditor's Office (both the pre-audit and post-audit people) individuals (civil servants or political aides) who were instrumental in setting-up or re-directing an agency, the Premier's Office and members of the community with whom the agency is interacting or serving.

Written material consulted includes Annual Reports and other documents produced by the agencies, the Main Estimates of Expenditure and Revenue, the Provincial Auditor's Annual Report and other material preliminary to his final report, departmental annual reports, the Statutes of Manitoba, government studies and correspondence, the administrative policy manuals of Manitoba and other provinces, and finally, various published articles and books in the field.

The value of the interviews was obviously greater where those interviewed had considerable knowledge of, or experience with, their agency and were willing to be candid. It is difficult to assess the amount of candour, because there is a very natural human tendency to "paint the best picture". This was particularly true of the Chairpersons interviewed; but others seemed more willing to be critical.

Two final points on the case studies: the picture they provide can only be of a certain point in time. Although some history of the agency is provided, a study over time may have resulted in different observations. Second, a more thorough and detailed examination than is feasible for this study may have produced a greater amount of useful data.

It is certainly recognized that the conclusions which result from the study of these particular agencies may not be applicable to other agencies, even to those

with a similar role and responsibility. It is hoped, however, that the process of examining these agencies will result in a more sound basis for recommendations on the treatment of quasi-independent agencies.

## CHAPTER II

### THEORY AND PRACTICE

The theory relevant to this study of quasi-independent agencies covers two topics: (1) the rationale for having chosen the agency form to accomplish a particular public goal, and (2) accountability of agencies. In this chapter, particular attention will be paid to the manifestation of these theories in practice.

Concerning the rationale for creating quasi-independent agencies, conventional theory provides a number of reasons why agencies are chosen as the method of reaching a particular public policy goal. The traditional reasons include: the need for administrative flexibility; a requirement that certain decisions be reached without political interference or even the appearance of interference; and the need for specialized staff not easily found within the civil service. To the extent that these reasons are still valid, they may provide some clues as to how these agencies may best "fit" into other aspects of government.

There may even be reasons for creating an agency which are not admitted to the public. For example, an advisory body may be appointed to give the appearance that the government is taking action on some matter, when in fact it only wishes to reassure a particular interest group or the public at large. Sometimes, the rationale does not seem to be particularly well thought out. For example, we find that the decision to establish some agencies is a reflection of the mood best exemplified by C. D. Howe's famous explanation: "That's the way we seem to do things around here."<sup>15</sup> If that quote is an accurate reflection

of the thought given to the decision to use the agency format, then we can only assume that at least some of the time, mere habit is the real "rationale" for creating an agency.

Whatever the reasons for creating agencies, the effect is to establish bodies which differ from departments in how they relate to the bureaucracy, the Minister and so on. It is for this reason that the rationale for creating agencies has relevance to this paper. Since agencies are treated differently than departments, "rationale" is an important factor which should be examined in greater detail. If the reasons for creating an agency can be understood, taking into account historical considerations, the popular mood of the time, economic realities and other factors, then the development of the most appropriate accountability system may be possible.

The second topic - accountability - has already been identified as a concern in the introductory chapter, but a closer look at accountability is useful in relation to the generally-accepted theory on the rationale for creating agencies. It is readily evident that accountability requirements and the practical implications of having created a quasi-independent agency do not mesh together well. It is difficult to develop practical measures which effect a happy marriage. It is important to reiterate that the motivation for reviewing agencies is not because the current arrangement is "untidy" but because the current arrangement lacks accountability. Standardizing rules and control may or may not rectify that; perhaps some other approach would be more successful.

These perhaps inherently incompatible concepts may result in administrative relationships which do not work well and which actually create more serious problems than they attempt to solve. The converse may also be true; it may be



demonstrated in reviewing individual agencies that their sets of relationships serve the non-departmental form very well, and that mandates are met and accountability requirements satisfied.

In theory, accountability is relatively straightforward. In a democratic parliamentary system, elected representatives are answerable to the public, through the Legislature. The requirement for answerability means that Ministers must explain and justify their actions and, traditionally, resign from the Legislature if they cannot do so. This requirement to be accountable is not only an individual responsibility but a collective responsibility as well, meaning that the Cabinet as a whole must retain the support of the majority in the Legislature.

While the theory may be uncomplicated, the structures and systems which are required to put accountability into effect are not. Accountability has been described as a "set of relationships" <sup>16</sup> through which authority and duties are established, a check is made of the exercise of that authority involving disclosure and justification of what takes place, followed with corrective action if necessary. This set of relationships comprising an accountability system involves all the players: the government-appointed board of an agency; the agency's staff; to varying degrees the bureaucracy; the Minister responsible; Cabinet; the Legislature and its committees.

To understand accountability in actual practice, these relationships must be examined in some detail. It is not only necessary to look at the agencies themselves, but also the role of other units in the bureaucracy - the Provincial Auditor, the Comptroller and the Departments of Finance and Crown Investments. Close examination of the political players such as Cabinet and the

Legislature will be left for another study, although it must be reiterated here that it is the Minister and Cabinet who are ultimately responsible. No claim of agency independence can ever completely absolve Ministers of that responsibility.

The relationships in an accountability system are not static or self-enforcing - they need "servicing" by enough personnel with enough time to make them work well. However, it has often been said that over the years, the number and complexity of government programs and policies have increased, including those implemented by agencies. It has been noted that it is becoming increasingly unrealistic to expect a Minister to always be fully informed of all aspects of the programs and policies under his or her jurisdiction. Therefore, the matter would have to be quite serious and indicate poor judgment on the part of the Minister before resignation would likely occur. More often than not, less drastic action is taken. A poor decision may be reversible or a new procedure established to prevent the error from recurring. So although the theory holds that a Minister can be called to account in the Legislature and may be compelled to resign, usually the penalty for mistakes involving the administration of a program is a loss of political reputation and perhaps a shift to a less important portfolio when the next Cabinet shuffle occurs. The real sanction has become a damaged reputation, rather than compulsory resignation from the Legislature.

If Ministers cannot be expected to have reams of detailed information at their fingertips when it comes to their departmental responsibilities, it is even less realistic to expect them to have a grasp of the details related to arm's length agencies.

Curiously however, that is not always supported by fact. Ministers have often been heard to say, in response to an Opposition member's question, that

they were "not concerned with the day to day business of independent agencies" even when the question concerns a matter of more substance than is implied by "day to day business." Yet, when Hansard is reviewed more thoroughly on any subject having to do with quasi-independent agencies, it is surprising just how much detail Ministers actually have at their fingertips. One cannot help but suspect that the put-off phrase is merely that, a political dodge, intended to provide the Opposition with as little information for its own purposes, as is possible. The dodge, however, should not be taken at face value, for it is no indicator of how much knowledge or factual information the Minister does possess.<sup>17</sup>

A second point about accountability concerns administrative policies. They are an important component of an accountability system, but the preventative nature of many such policies lessens their appeal to quasi-independent agencies. When the intent is to avoid or prevent the potential for abuse in a particular area, the rationale behind a specific rule may be somewhat obscure. As quasi-independent agencies tend to be less likely than departments to accept without question rules whose purpose is unclear, problems arise with this type of policy. In addition, part of the resentment towards administrative controls is that they are seen to be based upon fear of abuse (admittedly, they often are), rather than confidence that performance will be as expected. There is no practical way to avoid this perception, expect to be aware of the problem when policies are revised or developed, particularly when policy development occurs as a response to a specific case of abuse. Finally, agencies tend to believe, because of their arm's length feature, that they should not be bound by the administrative rules and regulations which bind departments; whereas

departments have no such basis upon which to argue their independence from such rules.

To illustrate the point: a current requirement within the Provincial Government is that Delegation of Authority documents be reviewed each year, updated and filed with the Provincial Auditor and the Department of Finance. The purpose of this rule is to ensure that these important legal documents are reviewed and updated at least annually and that some other authority checks them for legal correctness. This rule was established because problems were actually developing over out-of-date delegations. It had not occurred to some officials that reviewing these documents was an important activity, hence the rule. Although annual reviews are a fairly entrenched practice now, many managers take the attitude that a formal requirement in the form of an administrative policy to do so is a useful reminder, rather than "bureaucratic red tape".

A similar requirement for annual reviews would be of equal relevance to quasi-independent agencies, since they also must have legally accurate delegation of authority documents. Yet, without an adequate explanation of the history behind a particular policy, or at the very least a statement of its purpose, agencies tend to assume that the policy is unnecessary and attempt to avoid compliance, choosing instead to assert that the administrative rules applicable to departments are not appropriate for them. Departments may also not understand why a particular administrative policy is important without some explanatory background, but they cannot attempt to argue exemption on the basis of an arm's length relationship.

The quasi-independent form may be essentially problematic; difficulties

with the bureaucracy are to an extent irresolvable, due to the very nature of agencies. Because of this inherent problem, many of the central management agencies within the bureaucracy are ill-equipped to deal effectively with non-departmental bodies. The result is an uncomfortable and unsatisfactory "push-pull" relationship.

These central management agencies require some review. The mandates, role and mission will be described, together with examples of their interaction with quasi-independent agencies.

Central agencies within the bureaucracy such as the Administrative Policy Branch, the Financial and Management Systems Branch and the Comptroller all within the Department of Finance, the Legal Services Branch in the Department of the Attorney-General, and the Provincial Auditor's Office have all received many requests for direction and advice from quasi-independent agencies regarding their compliance with general standards of the bureaucracy. While many of the responses to these queries are appropriate (others are not), they do not stem from a well thought-out and articulated "position" on this important relationship.

The first such central agency to be discussed is the Provincial Auditor's Office, which has a key role in the accountability chain. The Provincial Auditor has a broad mandate and reports directly to the Legislature on the expenditure of public funds and on the adequacy of management and financial information systems. The role of the Office is to audit and to evaluate whether there is effective use of appropriate administrative and financial systems. The auditing function is designed to preserve and protect public assets, and involves reporting to the Legislature on these more general matters as well as on the fairness of

annual financial statements for agencies.<sup>18</sup>

The Auditor's program is comprised of five components into which all auditing activities fall. These parts reflect different internal audit situations, such as, a newly created or disestablished agency or department, and the time and human resources available for auditing.

The Main Audit, which is an "attest audit", covers departments and those quasi-independent agencies which are administered as part of a departmental operation. The main audit consumes the greatest portion of the time of the Provincial Auditor's staff. After a preliminary survey, matters requiring action will be brought to the attention of senior officials and the Minister. Concerns which are very serious or those which are not resolved, may be reported in the Report of the Provincial Auditor. This is a public document submitted to the Legislature each year.

Most matters of a relatively less serious nature are adequately resolved and are not contained in the final report. For example, during the 1984 preliminary survey, the Auditor commented that a particular agency did not have the proper legal authorization (an Order-in-Council) in place to remunerate its appointed members. After investigation by financial personnel, it was clear that the omission was an administrative error, easily corrected, and no payments were made which were not intended to be made by the Minister and an ad-hoc committee of Cabinet called the "Boards and Commissions Committee" which is responsible for approving payment levels (and appointments to the various agencies). On the surface however, the situation is questionable, possibly fraudulent. Certainly if this type of error occurs frequently, the competence of the individual responsible would be called into question.

A second auditing activity is the Attest Audit of Assigned Crown Corporations. These audits are as thorough and comprehensive as those made of departmental operations. Because they are very time consuming, the number of Corporations receiving attest audits is limited by the staff available to conduct the audits; departmental audits are the first priority. Treasury Board has approved the list of Crown Corporations subject to attest audits by the Provincial Auditor and the indications are that this list will grow as the human resources assigned to the Provincial Auditor's Office grows.

Overview Audits comprise the third type of audit. In these cases, although the agencies may be completely funded by the government, (but not necessarily) the main audit of the agency's accounts is not performed by the Provincial Auditor, but by a private professional accounting firm contracted by the agency (with Treasury Board approval) for that purpose. The Provincial Auditor reviews the audited financial statements and management reports with attention to administrative management and control, having due regard for economy and efficiency. The agency's objectives and organizational structure are reviewed, as are its systems for comparing actual expenditure to budgeted amounts, including explanations for variances. The Provincial Auditor also examines internal audit systems, purchasing and staffing procedures and the agency's compliance with applicable government guidelines.<sup>19</sup>

Some of the agencies subject to overview audits by the Provincial Auditor are: Manitoba Hydro, Manitoba Telephone System, Manitoba Public Insurance Corporation, Workers Compensation Board, the Credit Union Stabilization Fund, the Conservation Districts of Alonsa, Cooks Creek and Turtle River, among others.<sup>20</sup>

The scope of overview audits appears to be quite broad, thus providing a comprehensive picture of the experience of agencies from a financial and administrative point of view. The overview audit however, is less effective if some of the basic questions concerning the "set of relationships" between the agency and other units of the bureaucracy, including the elected representatives, are not decided.

As an example, the Provincial Auditor noted in a preliminary survey that a particular Crown Corporation had entered into some financial commitments without Treasury Board approval. The Auditor noted that the identical type of expenditure by that Corporation had been approved by Treasury Board on other occasions. The Chairperson of the Board of Directors replied to the Provincial Auditor, stating that the itemized expenditures had been approved by the Corporation's Board of Directors. A copy of the applicable minutes were attached to the communique. The Provincial Auditor accepted the Board of Directors' recorded decision as sufficient authority, even though Treasury Board approval had been obtained previously. The matter was not pursued further, although it was never clear that Cabinet intended the Corporation's Board to have the authority to make certain spending decisions. The authorizing statute which created the Crown Corporation in question offered no guidance on the matter.

Given the importance of a Crown Corporation's decision-making authority, the right and duty of Government to confer it, and past practice, it is questionable whether the Provincial Auditor should have accepted the Board's authorization and not reported the matter further. The concern here is the principle involved, not the specifics of the particular decision.



This example shows the process to be an effective method of obtaining explanations and of correcting errors in procedure, but it also identifies a fundamental issue: the authority of a Board of Directors to make certain decisions without reference to the Minister responsible, Treasury Board or Cabinet.

The extent of an agency's authority needs to be as explicit as possible, so as to be audited properly, ensure accountability and be understandable by those who must work within restrictions as well as meet varied responsibilities. Sometimes the extent and nature of authority is clear - as evidenced by Ministerial direction, Treasury Board minute, Cabinet decision or by the enabling legislation. However, the agency's authority is not clear in this example, bringing into question the basis upon which the Auditor made a judgment on the exercise of that authority.

Inspection Audits comprise the fourth category and apply to outside bodies almost entirely funded by the Provincial Government. These agencies may be recipients of public monies for a specific purpose - such as the special \$2 million grant to the Winnipeg Art Gallery for a new building, and the audit would be confined to that grant for the specified purpose. These audits mainly involve a review of the recipients' monitoring systems and are generally similar to overview audits.<sup>21</sup> Since they involve only a portion of the agency's budget, other auditing is done by a private firm hired by the agency.

Special Audits are conducted as a result of a specific call to do so, usually by the Minister of Finance, or the Premier, and are over and above any which might take place under any of the four types already discussed.<sup>22</sup> This might occur in a cost over-run situation such as with the South Winnipeg Education

Centre. Special audits have been conducted of Flyer Industries Ltd. and A. E. Mckenzie Co. Ltd. and its subsidiaries. Currently, one is underway with the Manitoba Public Insurance Corporation.

These five types of audits suggest that the scope of the Provincial Auditor is broad, but the value of the function is limited by two factors. First is the number of staff available to whom auditing assignments may be given, and second is the comprehensiveness of each audit. It has also been observed that auditing is a retrospective process, sometimes resulting in post-facto approvals of individual expenditures, policies and procedures. In the final analysis however, the function can serve to galvanize managerial concern for efficiency and provide constructive advice for improvements. This effect is important, particularly where managers are given the right to make more and more major decisions and to be responsible for those decisions.

Although the scope of audits conducted by the Provincial Auditor are broad, there are other central management functions within the bureaucratic arm of government which have some applicability to administrative concerns of quasi-independent agencies.

The Administrative Policy Branch in the Department of Finance has responsibility for the identification, development and communication of administrative policies and procedures of government-wide applicability. The difficulty with this mandate is that "government-wide" is not well defined. Although the policies developed and implemented by the Branch have been approved by Treasury Board, the extent of their applicability has not been specifically addressed. Therefore, there is often disagreement over the applicability of policies with respect to non-departmental bodies.

The only response to this problem in recent years has been that new administrative policies presented to Treasury Board for approval have included a recommendation that the policy be applicable, or not applicable, to certain specified Crown Corporations and quasi-independent agencies. In some cases, applicability may be defined as "those Agencies of the Provincial Government which are subject to the provisions of the Civil Service Act", or, a listing of agencies may be developed which would include those for whom the policy is appropriate.

While this may be a reasonable approach as an interim measure, it does not address the problem of applicability for the large bulk of policies which have been put in place prior to the early 1980's.

Finally, there is still a problem with some new policies because it is not clear, even after study, that they are appropriate for some agencies but not others. In other words, there is not a systematic way of evaluating and classifying policies (assuming that is the appropriate way to determine applicability), nor has there ever been a systematic evaluation and classification of agencies, which may uncover data of relevance to the applicability question.

The lack of research concerning the applicability of administrative policy, obviously does not eliminate the need for information. Questions on applicability are still put, but rather than inconsistent and crisis-oriented responses, they deserve a response which is based on adequate and relevant data.

Other areas have a central management responsibility which can also have an impact on quasi-independent bodies. The Comptroller's Division of Manitoba Finance is an example, specifically, its Financial and Management Systems Branch. This Branch develops the detailed accounting policies and procedures

which must be followed by all departments and any agency which functions within a departmental structure. The applicability of such policies and procedures to all non-departmental bodies is unclear.

Another Branch within the Comptroller's Division relevant to the operations of many agencies is the Treasury Board Support Branch. Analyses of all expenditure submissions to Treasury Board are prepared by staff of this Branch to assist the decision-making of the Cabinet members who serve on Treasury Board. The Branch is also responsible for the review of the detailed annual departmental estimates of expenditures for the benefit of Treasury Board and ultimately, Cabinet. Although some quasi-independent agencies report to Treasury Board, while others do not, there has never been a formal list prepared setting forth those agencies which must refer to Treasury Board.

The Boards and Commissions Committee of Cabinet is responsible for review of all appointments to various agencies, prior to the preparation of an Order-in-Council (where an Order is required). Other administrative matters related to agencies are also considered by this Committee, such as changes to the level of remuneration made to members and various other administrative matters.

In general, the difficulties all these central management agencies have with respect to non-departmental bodies arises from the same underlying problem. The lack of attention on how quasi-independent agencies will relate to the bureaucracy has resulted in some confusion, conflict and a weak accountability system.

## CHAPTER III

### 'A' AGENCIES

#### Overview

In this Chapter a case study of one of the group 'A' agencies will be presented. In addition, other information on these agencies will be included to provide a general overview or profile of 'A' agencies.

The overview is intended to provide enough information about agencies in the group so as to assist in the development of a general understanding of 'A' agencies as a type. While an overview may help provide a broad picture, the detail possible from a more thorough examination of one agency offers a greater likelihood that the conclusions drawn will be well-founded.

Group 'A' agencies have been sub-divided into two categories. The first category is comprised of the twenty-one Crown Corporations which are under the jurisdiction of the Department of Crown Investments. A complete listing of these agencies is found in Appendix 2.

At the time the Department of Crown Investments was established, there was not a consensus from Cabinet as to which Crown Corporations should come under the Department's purview.<sup>23</sup> The Provincial Auditor was consulted, and the resulting list included only those with a major revenue-generating potential. A notable omission is the Lotteries Foundation; however, at the time of Crown Investments' establishment, the Government had not taken control of the lotteries industry. The Foundation was then known as the Manitoba Lotteries and Gaming Control Commission and had a much less comprehensive mandate

than at present. Although now that its mandate has been enhanced to permit a major revenue generating capacity, the Foundation has not been placed within the Department of Crown Investments' jurisdiction.

The main activity of many of 'A' corporations is commercial in nature. The utilities corporations are found under this category, as are other corporations and agencies with a major economic impact on the province, such as the Motor Transport Board and the Natural Products Marketing Council. Although the policy objectives of these corporations are varied, they share the same relative high level of responsibility that warrants their inclusion in the 'A' category.

At the time this study was in progress, the Department of Crown Investments had begun a review of all administrative policies as they relate to Crown Corporations. The Department had entered into a year-long contract with an outside consultant to do the study. The terms of reference were fairly broad, but the purpose of the contract was to assist the department in the development of comprehensive administrative and policy guidelines targeted to certain issues and Crown Corporations. The department wanted consistency of application among the corporations with due consideration for government policy and the differing commercial environment in which each corporation operates. The result of this endeavour was expected to be a manual of administrative policy tentatively titled the Corporate Manual of Administration.

The consultant contracted to do the work convened a committee of corporate officials to review the General Manual of Administration and to assess its applicability in the corporate situation prior to deriving from it, a Corporate Manual of Administration. Curiously however, the consultant's contract was terminated before development of the manual. Although departmental officials

refuse to confirm this, it has been suggested that the contract was terminated largely because the consultant resisted undue direction from departmental officials regarding the content of his final report. Apparently, senior staff in the department felt that a manual could be developed very easily, but officials of the Crown Corporations contacted by the consultant wanted greater input into the process than the department had in mind.<sup>24</sup>

As the Crown Investments review overlapped the purposes of this study, approaches to the Corporations for interviews and written material may have been viewed as an unwanted duplication, especially by busy Chairpersons and Chief Executive Officers; a detailed examination of those Corporations has been excluded from this study. It should also be noted that the decision to exclude Crown Corporations (under the jurisdiction of Crown Investments) should not be interpreted to mean that accountability is not an issue with these Corporations. It certainly is. However, the matter is highly sensitive at this time and it is not likely that the necessary co-operation would have been forthcoming.

Some general comment on these agencies, however, is in order. As a category, this sub-group of agencies is not as homogeneous as might first appear. For example, it is the intent of the Department of Crown Investments to be the vehicle through which strategies reflecting Government policies are communicated to Corporations. However, Treasury Board in some cases may partially fill this role. Some of these Corporations, for example, The Liquor Control Commission, Manitoba Agricultural Credit Corporation, Manitoba Crop Insurance Corporation and to some extent The Manitoba Public Insurance Corporation refer to Treasury Board for direction on budgetary matters, staffing complements, and approval in specified policy areas. Other Corporations, such

as Manitoba Forestry Resources Ltd. and A. E. McKenzie Ltd. do not request such approvals from Treasury Board.

As well as the inconsistency regarding the role of Treasury Board for some of these Corporations, those of, for example, an agricultural interest, have a further complication. Traditionally, these Corporations have always reported to the Minister of Agriculture, but with their inclusion under the jurisdiction of the Department of Crown Investments, they now have two Ministers to whom they must report. That is, as well as the Minister designated by the Lieutenant-Governor in Council as responsible for the agency, the Minister of Crown Investments has a responsibility too. This arrangement has the potential for creating confusion unless the responsibility areas are very well-defined.

The second sub-section of the 'A' category agency (ie: those not within the responsibility area of the Department of Crown Investments) are those of primary interest in this study. These agencies are responsible for the delivery of a program which has a substantial impact on a specific industry or the entire Manitoba public. Generally, less attention has been paid to these agencies; their relationship to Government is even less well-defined than those Crown agencies which fall under the Department of Crown Investments.

As a group, these agencies engage in a wide range of activities. Some may have primarily a financial responsibility, such as the Public Schools Finance Board. Others have a regulatory function, such as the Horse Racing Commission or the Clean Environment Commission. On the other end of the scale is an agency with adjudicative responsibility which also administers a major program, such as the Workers Compensation Board. Finally, some are charged with the responsibility for management of a major program involving an institution such



as the Alcoholism Foundation of Manitoba, the Health Sciences Centre, or the Cancer Treatment and Research Foundation.

The membership of this group may be characterized as the most consistently professionally qualified of any of the three main categories of agencies. The majority of members have professional credentials often directly related to the agency to which they have been appointed. Members of the medical profession are appointed to health related agencies, for example the Mental Health Research Foundation and the Sanatorium Board.

Remuneration may be nil; for example, all members of the board of directors of the Health Sciences Centre and civil servants on any board are not remunerated for that participation. Members of the board for the Alcoholism Foundation receive a yearly honorarium of \$1,200.00, while members of the Public Schools Finance Board receive \$7,440.00 per year for their contribution. On the opposite end of the spectrum to the Health Sciences Centre board is the Labour Board, whose members receive \$200.00 per day plus \$30.00 per hour for time spent researching and writing decisions.

Most of the members are appointed to provide a part-time function, with the exception of the Workers Compensation Board. In this case, all perform a full-time responsibility and are compensated more generously (or merely adequately, depending on one's point of view) than the "honorarium" concept, which is the most commonly used principle upon which remuneration is based.

The Manitoba Housing and Renewal Corporation, while a semi-autonomous agency insofar as it has legal status as a Corporation, is structured in this manner in order to facilitate the acquisition and disposition of real estate. In all other aspects of its operation, however, the Corporation functions similarly to

any department of the Government, and, in fact, is generally less autonomous than other agencies within the 'A' category.

This category contains other anomalies as well. The Health Services Commission also functions in a manner similar to any department. Its Estimates are presented to Treasury Board each year, together with those of other units of the Department of Health. All the Treasury Board directives regarding such matters as staffing, out-of-province travel and over-expenditures apply to the Commission, just as they would to any department. In contrast, the Alcoholism Foundation of Manitoba receives Transfer Payments,<sup>25</sup> from the Provincial Government on a quarterly basis through the Consolidated Revenue Fund but it does not fall under Treasury Board direction. Reporting on the use of these quarterly transfers is dissimilar to the kind of reporting the Commission does with its department-like structure.

Functions performed by the Alcoholism Foundation of Manitoba and the Sanatorium Board of Manitoba are not unlike that of the Manitoba Development Centre (formerly the Portage la Prairie School for Retardates) in terms of their uniqueness and appropriateness for public sector financing, yet the first two function as quasi-independent agencies, while the Development Centre does not. All three have a similar requirement for professional expertise supposedly not normally found in government, which is one of the usual reasons for creating a quasi-independent agency. This "rationale" could not in all likelihood be upheld today, since government now hires all manner of professional expertise. The point is however, that whatever the rationale is for deciding that the Alcoholism Foundation and the Sanatorium Board are more appropriate as quasi-independent agencies, it must be as applicable to the Development Centre.

The Manitoba Energy Authority also has a feature which gives the Authority a unique aspect within the 'A' category. In February of 1984, Treasury Board directed that the Authority would be exempt from all provisions of the General Manual of Administration. Although periodic review of this decision is required, the intent is to allow greater independence from the administrative arm of Government than was previously experienced. The exemption was requested during a transition period in which the Authority was to "gear-up" for an expanded mandate which would bring it into line with other major Crown Corporations in terms of scope and impact. A need for flexibility similar to that of other Corporations was cited as the rationale for the exemption.

This portion of the chapter is intended to provide an overview of agencies in the 'A' category - a general picture of a specific "type" of quasi-independent body. The final portion of this chapter is a case study of the Manitoba Lotteries Foundation. The purpose of the case study is to present a more detailed view of an agency in the 'A' category. The overview and the greater detail of the case study together provide a more well-rounded examination.

Manitoba Lotteries Foundation

The Manitoba Lotteries Foundation was established in March, 1983 as a result of extensive re-direction of policy by the Manitoba Government. This new direction meant the repeal of the Lotteries and Gaming Control Act and the disestablishment of the Manitoba Lotteries and Gaming Control Commission and the Manitoba Lotteries and Gaming Licensing Board. In turn, the Manitoba Lotteries Foundation Act was proclaimed, establishing the Foundation and setting out new policies and goals concerning the conduct and management of lotteries in Manitoba.

The primary function of the Foundation's predecessor was the licensing of lottery schemes. That Commissions' agreement with the former Western - Manitoba Distributor Inc. provided for the net revenues from lottery sales of the Commission and of Western - Manitoba Distributor Inc. to be apportioned 49% and 51% respectively, except for new revenues from Lotto 6/49.<sup>26</sup>

In 1983, however, new policy was in place which provided for the Foundation itself to undertake the sale, marketing and distribution of lottery products through authorized retailers. In addition, as the Crown agency responsible for the conduct and management of all lottery schemes, the Foundation re-structured the lotteries industry to help ensure fair games, the maximization of profits and to provide an equitable distribution of revenues to charitable groups throughout the province.

The Foundation has now assumed full responsibility for the distribution of lottery tickets and the operation of casinos. Revision of the terms and conditions for the licensing and operation of bingo events and the sale of

breakopen tickets has taken place, and where the Foundation issues licenses, it also undertakes a supervisory and compliance control role. Where the licensed, or other approved organization does not operate the lottery itself, the Foundation can do so on its behalf.<sup>27</sup>

Another major new policy for the Foundation was the establishment of eight umbrella organizations for the distribution of lotteries revenues. These eight groups encompass sports, the arts, multiculturalism, community services, heritage, museums and festivals, community education, and medical research. It is anticipated that eventually the umbrella organizations will have full responsibility for the fair and equitable distribution of revenues from lotteries operated by the Foundation.<sup>28</sup>

The Government's new direction required considerable re-structuring of the Foundation. The rather complicated arrangement of the Foundation's predecessor involved two separate organizational units. The old Commission was a quasi-independent body charged with responsibility for the marketing of lotteries.

The licensing body however, was part of the Department of the Attorney-General and followed all the administrative rules and procedures applicable to any government branch or division. Its staff, who were civil servants, were responsible for accounting and personnel matters. All revenues collected through the levying of fees for the issuance of licenses were deposited directly into the Consolidated Revenue Fund.<sup>29</sup>

The new Foundation consolidated these two functions under one organization. All staff are civil servants and fall within the scope of the Civil Service Act and the Civil Service Superannuation Act. This decision was made in

order to provide protection of and control over staff who would very much be in the public eye. The decision to increase control and direction was a deliberate move made with just cause. A more cost-conscious judgment was thought to be necessary on director's travel and other out-of-pocket expenditures. Apparently some expenses may not have been judged "reasonable and necessary" by a critical public.<sup>30</sup>

This quite cautious approach to operating expenditures continues today. The General Manual of Administration is followed, even though its applicability to an agency such as the Foundation is not clear. The Provincial Auditor has indicated to Foundation management that expenditures would be considered acceptable if they have the Board's or the Minister's approval, which is not interpreted as a requirement to follow the General Manual of Administration, yet the Foundation has chosen to do so.

The Foundation's enabling legislation provides the Board with the legal authority to make decisions concerning administrative expenditures. The statute shows that, in theory, the Government intended an "arm's length" relationship. Yet, in practice, the Government accepts its ultimate responsibility for the Foundation by providing direction at meetings of the Board of Directors, reviewing financial reports and supporting use of the General Manual of Administration as a tool for guidance and direction on administrative policy and procedures.

A brief examination of the budget approval process for the Foundation may help clarify the relationship between the Minister and the Board of Directors. The annual budget is prepared by Foundation staff. Formal approval of the budget by the Minister is not obtained, nor is such authorization required.

Although, as she is consulted and advised of the content of the budget, there is opportunity for the Minister to intervene and play a stronger role should she so desire. Financial reports are made monthly to the Board; again, these reports, as well as minutes of every meeting, are copied to the Minister. According to the General Manager, the current Minister attends the monthly Board meetings every two or three months, resulting in a continuous and well-informed interaction.

The 1983 changes required an increase of staff at a time when every vacant or new position required Treasury Board approval prior to initiation of the hiring process. These requests were thoroughly considered by Treasury Board; the number which were declined can be taken as an indication that the process was not a rubber stamp approval.

The General Manager reports that policy changes are made by the Board, under its own authority, but with the "co-operation and consent" of the Minister. One cannot avoid speculating that these must not be major matters, given the strong direction and control by Government which resulted in the creation of the Foundation and its new policies and goals. Although the phrase suggests a strong role for the Board, the frequency of the Minister's attendance at the monthly Board meetings indicates the probable strong policy direction the Foundation continues to receive from this Government.

The Foundation is audited annually by the Provincial Auditor as to its financial operations. Statements presenting the financial position are contained in each year's annual report which is tabled by the Minister in the Legislature.

The Annual Report, which is a post-facto document, has received considerable attention in the Legislature, as does the proposed use of lotteries

revenue during the debate following presentation of the annual Estimates at the beginning of the fiscal year.<sup>31</sup> In response to Opposition queries, the Minister showed detailed knowledge of the Foundational operations, suggesting a close relationship.

The board of the Foundation is at present comprised of 10 members; a minimum of 9 is required by the enabling legislation. It is clear from the background of these 10 members that an attempt has been made to appoint a representative board - representative in a number of ways. The board involves rural as well as urban members, Francophones, women, a union representative and others with a background in the lotteries industry which provides valuable expertise. One member has experience in the sports industry, one of the areas supported by lotteries revenue. At least six of these individuals are known to be supporters of the New Democratic Party, including the most crucial member - the Chairperson.

The Foundation's decisions are the result of a formal voting process involving all members, although much of the preliminary work is done by sub-committees of the Board working in a number of areas. Foundation staff also attend board meetings to provide information and support. This process is effective and apparently has produced few problems. The current Chairperson exercises a management style which emphasizes participation by all members of the Board of Directors.

The commitment to the Board involves attendance at monthly, day-long meetings, or more frequent meetings if required. Pre-meeting material may require an extra two to three hours reading prior to each meeting. The licensing function is accomplished by a weekly meeting; however, since two is a quorum,



this task does not tend to result in an overload for any one member.

~ Considering the substantial revenues generated through lotteries, it is not surprising that the Government wished to exert strong direction, especially since it would be approached directly by many groups for funding if lottery revenue could not be made available to these groups. Justification for intervention was based on the Government's perception that there was a lopsided distribution of lottery profits. The Government was without the means, within the structure in place at the time, to strengthen its control and re-distribute the profits.

The re-organization has resulted in changes not to everyone's liking. The private entrepreneurs who operated bingo halls and casinos and some of the charitable or non-profit groups who hired promoters to capture as much lottery monies as possible have not realized as great a share of the profits as previously. The public in general is in receipt of greater funds, as more lottery revenue is available for distribution to a wider spectrum of activities. Many groups who are now recipients of the funds generated, were not previously.

The lotteries industry continues to be controversial. It is likely to continue to be so at least until this transitional period has passed. The Government has made strong re-direction in this area, a fact which is still in the public's memory; the Minister responsible, rather than the Foundation, is still approached directly by members of the public and decisions still seem, to some extent, to be made by the Government, rather than by the Foundation. Once the umbrella groups are fully functional, and if the present direction is continued, the Foundation will become more autonomous, at least as perceived by the public.

### Analysis

The most useful observation to make about the Manitoba Lotteries Foundation is that it is an agency currently in a transition period following massive change to its legislated mandate. This phase of the Foundation's existence is unique because, although it operates differently now than before the re-structuring, it is likely to shift again slightly once the new focus is well established and the agency is functioning smoothly.

This transition phase is characterized by a relatively close relationship between the Foundation and the Government, much closer than for agencies with comparable levels of responsibility. This close supervision is appropriate when the magnitude of the change and the mixed public reaction to the change are considered. The move generated considerable controversy for the Government, and this added to the reasons why the new Foundation should be closely watched.

It is also likely, however, that the Foundation will eventually experience greater independence, similar to that of comparable agencies, although the moral issue involved with gambling does give the Foundation a uniqueness. In spite of the moral issue however, this outcome can be predicted on several grounds. First, there is a case to be made for impartiality. The Government must be seen (eventually) as not part of the process of deciding which group receives what amount in lottery funds. The Government is certainly responsible for structuring the distribution scheme of lottery funds, but not for the detailed decisions on who gets what. The distribution scheme might stipulate, for example, that 25% of lottery revenue be used by the arts, 20% by sports organizations, and so on. But it is an umbrella group of the recipient

organizations who must make the final decision on amount and beneficiary, and most importantly, accept the consequences of that decision.

Second, the Government is sensitive to the moral issue raised by seeming to promote gambling, which is viewed as morally reprehensible by many voters. A truly independent body has some potential for deflecting that problem for any government.

Third, if lottery funds rather than tax money are accepted as the appropriate source of assistance for various groups, then the Government may be able to divert successfully increasing requests for greater assistance, (assuming an inability to respond with more money). If the revenue generated through lotteries was the only financial pie available for these organizations, they would perhaps more readily accept its limitations. The hope is that this may circumvent the perception that the government has unlimited financial resources, since revenue generated through lotteries can more easily be seen as having a limit.

Finally, one of the publicly-stated reasons the Government gave for taking control of the lotteries industry was that the sector needed "cleaning up". There was not only some unfairness in the old set-up, but there were fraudulent and unethical practices. While this may be a fairly noble rationale, once the lotteries image is up-graded, this reason for intruding into the sector will be forgotten by the general public.

Unlike the popular perception concerning most Ministers and the agencies for which they are responsible, the Minister responsible for the Lotteries Foundation is very knowledgeable in its day to day operations. This is evidenced by responses to questions in the House, as recorded by Hansard. Detailed

information was provided when the question was put, without having to take the question as notice. Since the Minister attends almost half of the monthly meetings of the Foundation, this knowledge of its operations is not surprising. In addition, the Minister receives monthly financial reports and minutes of the monthly board meetings. This is not the case with many other agencies, including those with either similar or differing levels of responsibility.<sup>32</sup> Curiously, the Chairperson of the Foundation describes their practice of providing minutes and financial reports to the Minister as a "courtesy". When one reviews the enabling legislation, however, it is clear that financial and other reporting is to be made to the Minister as requested (by the Minister). A political aide who assisted in the re-directing of the Foundation confirmed that the reporting that is done was formally requested by the Minister. This mandatory requirement for reporting can then hardly be described as a courtesy. The Chairperson's position reflects a desire to stress the independence of the Foundation, a position which over time could lead to conflict with the government. It is important that this attitude be understood by those who interact with the agency.

The General Manager recognizes the sensitivity of this situation and is skillful in balancing the desire for independence by the Foundation with the need for accountability. He views following the rules and procedures of the General Manual of Administration as one way in which the Foundation can be accountable. Foundation staff have been instructed to follow the Manual, but this fact is certainly not emphasized to the appointed body who would argue that it is not appropriate. In fact, the Chairperson has stated that even if a copy of the Manual is on hand, it is only used as a reference. Yet, staff of the Administrative Policy Branch report that requests for interpretations on the

Manual come as frequently from the Foundation as from any other department.

Administratively, there seems to be no reason why an agency such as the Lotteries Foundation cannot function much like any department of government. Their requirement for independence stems from the need for impartiality - their decisions concerning distribution of lotteries revenue to groups must be free from political influence. There is no evidence that the Foundation's requirement for independence needs to extend to administrative matters, where functioning within the rules and procedures applicable to departments can be seen as a partial fulfillment of the requirements of an accountability system. It is doubtful whether ministerial approval of budgets and staffing levels could be an effective basis for the application of political pressure, since decisions on the distribution of lottery funds will be made by an umbrella group of the recipient organizations.

## CHAPTER IV

### 'B' AGENCIES

#### Overview

Group 'B' agencies pose the greatest difficulty in presenting a profile, as they are by far the most diverse group of the three. This diversity involves many factors - function, staffing level, budget, revenue generated, interaction with the public, extent of independence, remuneration made to appointed members and attention or controversy generated by the agency. Function is a crucial criterion not only because it describes the main activity of the agency but also because it has been used to subdivide the three levels of responsibility - 'A', 'B' and 'C'. For this reason, the criterion of "function" deserves special attention.

Unlike 'A' agencies which are primarily regulatory, and 'C' agencies which are advisory, these agencies may fall under any one of the five main functions. One such function - judicial, involves agencies which have a responsibility for adjudicating, judging or arbitrating with regard to an individual or group matter. Many of these agencies carry out their activities in a court-like fashion. Hearings may be held, witnesses subpoenaed, written judgments given, and so on. Some, such as the Human Rights Commission, have the power to levy fines for infringements of the Act, or prescribe awards, financial or otherwise, to injured parties. Others, such as the Minister's Board on Mental Health can order an individual confined to a mental health institution, or order his or her release. The Mining Board exercises its authority over mines through the issuance of

rulings and orders affecting their operation. These judgments carry the weight of court orders. As with the decisions of other judicial bodies, rulings can be appealed to a higher court in the judicial system.

The second main function which comprises the 'B' category is "regulatory". As stated in an earlier chapter, the regulating function has been broadly defined. It covers much more than the control or direction over a profession or industry normally associated with bodies identified as "regulatory", whether independent, departmental or self-regulating bodies. Regulation is usually thought to be confined to the modification of economic behaviour in the private sector. These constraints are always backed by the authority of a government and are often, although not consistently, delivered by a quasi-independent agency.<sup>33</sup>

Regulatory agencies in this study also include those bodies whose main responsibility is to govern or direct an activity, profession or industry; but these areas may not be economic in essence. For instance, the Agricultural Lands Protection Board, the Manitoba Arts Council, the Board of Le Centre Culturel Franco-Manitobain, the Teachers' Certification Board and the Veterinary Medical Board are all examples of agencies which have significant impact in their respective areas but which may not be identified as "economic" in the usual sense. Yet, they are recognized as having a regulatory function under the 'B' category of agency for purposes of the "Remuneration Study" and that classification is used here.

Other regulatory agencies are more clearly regulatory in the usual sense. Producer Marketing Boards are an example. Approximately twenty of these bodies exist to effect the orderly marketing of a large variety of Manitoba

"natural" products, including crops such as cauliflower, broccoli, potatoes, corn, squash and sugar beets. The Boards also regulate the marketing of such products as chickens, turkeys, eggs, honey, milk and hogs. All Producer Marketing Boards report to the Manitoba Natural Products Marketing Council, a government-appointed and remunerated quasi-independent agency.

'B' agencies with an appeal function, as the word indicates, act as an agency to which requests can be made to alter the decision of a body lower in the hierarchy. A quasi-independent agency created for this purpose can offer impartiality in the appeal process, and an important buffer for the government is generated, should the decision on appeal be unpopular. Manitoba agencies of this type include: the Crop Insurance Act Appeal Tribunal, the Police Commission, the License Suspension Appeal Board, the Land Value Appraisal Commission, the Medical Review Committee, the Rates Appeal Board (for the Manitoba Public Insurance Corporation), Residential Rent Arbitrators, the Social Services Advisory Committee, the Student Aid Appeal Board and the Teachers' Certification Appeal Committee. The sub-category is not intended to capture all those with some appeal responsibility, only those whose function is primarily one of appeal. Some agencies do have a significant appeal responsibility as part of their overall mandate. The Horse Racing Commission and the Pension Commission are two examples.

One of the smallest groups is the sub-category whose main responsibility is to license. These agencies grant approval to an individual or body to engage in a business, occupation or activity which would be unlawful without the explicit permission of the agency. The granting of a license is a discretionary power which requires the agency to determine whether issuance of the license is in the



public interest. Often, the agency has the power to revoke a license previously given, or attach conditions to it not previously in force. The licensing function is not as simple a responsibility as one might suspect. For example, the Apprenticeship and Trades Qualifications Board is classified as a licensing body because of its role in setting the criteria for the designation of individuals as apprentices or journeymen in the trades over which such regulation is provided, a task not usually thought of as licensing. The Horse Racing Commission has the authority to issue licenses as required by the regulations to its Act, yet the primary function of the Commission is identified as regulatory. Other examples of licensing bodies are the Liquor Licensing Board, the Day Care Staff Qualifications Review Committee, the Manitoba Dairy Board and the Embalmers and Funeral Directors Board of Administration.

The fifth and final classification under the "function" category covers those agencies whose major activity is advisory. This sub-category immediately is reminiscent of the 'C' category, but it differs in one important respect. These advisory agencies have a mandate which covers a wide spectrum of topics. For example, the Advisory Council on the Status of Women is expected to provide its advice on a wide variety of topics ranging from child care to pensions to executive advancement to labour issues. This is quite distinct in scope to the Horticultural Societies Advisory Committee which must confine its recommendations to those which are specifically relevant to horticultural issues. Likewise, the mandate of the Manitoba Intercultural Council is essentially advisory, but the scope of the advice to be provided is quite broad. The Council covers all issues of relevance to its clientele, which is far-ranging. Bodies with narrower advisory roles are the Propane Gas Advisory Board or the

Languages of Instruction Advisory Committee. Examples of bodies classified under this section vary from the Agricultural Crown Lands Advisory Council to the Co-operative Promotion Board, the Drug Standards and Therapeutic Formulary Advisory Committee, the Law Reform Commission and the Permanent Committee on Geographical Names. These agencies represent a much broader scope than the advisory bodies of the 'C' category. It should be stressed, however, that the value placed on these agencies by the government is not related to their rating as a 'B' or 'C' agency.

There are some other observations to be made about 'B' category agencies. Although they show considerable variation in function, a surprising number of these functions require the agency to be response-oriented. This means that the agency has less control over its workload; the time commitment of members can be quite variable. It cannot always be accurately projected, for example, how many applications will be received in a year.

More 'B' agencies than 'A' or 'C' seem to have been established to provide impartiality in a decision-making area. Sometimes it is believed inappropriate for the government to be making certain kinds of decisions, for example, the granting of a liquor license or the reinstatement of an individual's driver's license which has been suspended because of traffic or liquor violations.

The advantage of an impartial decision-making body is not limited to the image of fairness which an independent body connotes; should the decision be unpopular with the applicant or controversial in some way, the government may be effectively buffered from public criticism. Given the desire of any government to avoid public criticism, the distance maintained between them and such bodies can be seen as useful, although it is difficult to ascertain just how

effective this "distancing" can be.

The annual budgets of 'B' agencies vary widely, as does the remuneration made to members. Some agencies have a nil operating budget and a membership which is reimbursed for out-of-pocket expenses only. Other members have been appointed to agencies with operating budgets of \$1/2 million and are remunerated generously for their participation. This variation is explained partly by differences in mandate, but also by a history of decisions on remuneration made in an ad-hoc fashion rather than based on systematic and consistent analysis.

Four agencies have been chosen as case studies for the 'B' category. These agencies are examples of four out of five functions - judicial, regulatory, licensing and appeal. A study of the remaining function - advisory has not been included because they are somewhat similar to 'C' agencies. As stated earlier, the main difference between 'B' advisory and 'C' agencies is the scope of their advice-giving mandate, and although this does affect important areas such as budget and administrative relationships, relevant points on these topics can be made without providing detailed case studies.

### Manitoba Labour Board

The primary function of the Manitoba Labour Board is to carry out various responsibilities of the Labour Relations Act. As stated in that Act, the purpose of the Board is to "further harmonious relations between employers and employees by encouraging the practice and procedure of collective bargaining between representatives of employees and employers." The Act provides more detail, but the activities undertaken by the Board to accomplish this function, may be summarized to include: inquiry into alleged unfair labour practices (which may require a hearing) and endeavouring to effect a settlement; certification (or decertification) of a union as the bargaining agent, as it relates to the regulations on rules of procedure.<sup>34</sup>

The Act, including the responsibilities of the Board, underwent major revision in 1985 to reflect the intent of the Government to promote labour relations through the collective bargaining process. The re-structured Board now has a full-time chairperson and four part-time vice-chairpersons, all Lieutenant-Governor in Council appointments. Professional and administrative staff to the Board are all Civil Service employees.

The Board not only hears applications under the new Labour Relations Act but also under the Employment Standards Act, the Payment of Wages Act, the Vacations With Pay Act and the Workplace Safety and Health Act. It is, however, the Labour Relations Act under which the activities of the Board are authorized.

The revised Statute and revamped Board occurred in 1985 following many months of review of Manitoba's labour law and those of other provinces. The

Government had announced its intent to overhaul labour relations in the previous provincial election and the review was part of the fulfillment of that promise.

During the labour law review and prior to implementation of a new Board, consideration had been given to according greater control over administrative support matters to the chairperson. This was the recommendation made to the Government and was strongly favoured by the Board's chairperson who played an active role in the development of the restructured Board. When the proposal was submitted to Cabinet, it received general support - in principle - but the cost of these recommendations became a major consideration. The decision finally made was that the senior official of the Board would report through the departmental structure on administrative matters. In the few months that have passed since that decision, no major difficulties have arisen from this arrangement. The only complaint which comes from those appointed to the Board and those involved in the labour law review, is that the funding is inadequate and that it makes little sense for the Government to approve a major policy thrust without approving an adequate administrative budget.<sup>35</sup>

Twenty-four individuals function as members, thereby becoming the largest Board, in terms of number of appointees, reviewed as one of the case studies in this paper. These twenty-one individuals all bring a relevant labour/management background to the Board. Of the current membership, twelve represent employees, while nine represent employers; seventeen of these members are men, four are women. The two vice-chairpersons and the chairperson are male.

The Board has members appointed from three groups: representatives from labour, business and also the legal profession. Although the current chairperson is not a lawyer, all four vice-chairpersons are practising lawyers whose specialty

is labour law. Apparently, it is unusual for a chairperson of a provincial labour board not to be from the legal profession, particularly where the enabling legislation gives broad quasi-judicial responsibilities to the Board.

The new Labour Relations Act and the responsibilities of the Board represent a strong philosophical position of the Government, including a desire to see certain labour policy implemented. This orientation is not shared by all sectors of society, however, and we are now witnessing well-organized opposition and challenge to the anticipated affects of the new Act on the business and industrial sectors of the economy. Many representatives of business across the country are collaborating to launch a court challenge of labour laws such as Manitoba's. These challenges are occurring on an obviously co-ordinated and concentrated basis in other provinces as well. All court challenges are based on the new Charter of Rights and Freedoms, as the Charter is viewed as a new vehicle with which the power of unions may be successfully challenged.

It is worth noting that the first Annual Report of the Labour Board since the extensive amending of the Act is a separate document rather than a portion of the Department of Labour's Annual Report. It is a 60-page, comprehensive and informative document, much improved over the scant page it comprised in the department's report.

The new document contains material that one might expect, but unfortunately seldom encounters, in the annual reports of quasi-independent agencies. The Labour Board Report contains a description of the administration of the Board, including the number and type (position) of staff employed, duties and overall operating budget. It also supplies information on the Board's library and a report on the Case Monitoring System.

The Case Monitoring System is a unique and valuable method of ensuring the timely dispatch of case investigations and disposition. Other Manitoba investigative agencies do not have a comparable monitoring system, and in the case of the Human Rights Commission at least, there is no established systematic way of assessing the handling of cases.<sup>36</sup>

The Labour Board's system is designed to provide the base of information necessary to assess and ensure efficient practices and procedures. The processing of each application is tracked as to the time spent on each stage. This is particularly important because time lines are prescribed in the legislation and to exceed these time frames would constitute a contravention of the legislation. Where time frames are not established by legislation then standards are set. The monitoring process helps to ensure adherence. Any overdue cases are reported with reasons given for the delay. Improvements in Board practices and procedures can then be made from a reliable data base.

Although the Case Monitoring System is still in its infancy, it promises to become a useful management tool. It represents a response to the criticisms of some (e.g. Law Reform Commissions) that the processes of quasi-judicial bodies need to be re-vamped because they have generally become unresponsive to the public and are administratively cumbersome.

The Board has another unique feature in contrast to what is found in other agencies. The Department of the Attorney-General has designated one of the lawyers from the Legal Services Branch as responsible for on-going legal assistance to the Labour Board. Such assistance relates primarily to advice on developments in jurisprudence, but also with respect to other legal issues: preparation of legal summaries which are required by statutes for the

Annual Report; representing the Board in judicial review proceedings; and as required for other reasons, such as in proceedings before the Court of Appeal. The designation of legal counsel for the Board is not only due to the volume of legal assistance required by the Board, but also because the intent of the legislation was that the Labour Board become an autonomous specialist tribunal.<sup>37</sup>

The Labour Board is particularly proud of its publications. They are mentioned here because they contribute in some measure to an accountability system, through the provision of information which is public and which is presented in a useful and clear format. These documents are: a tri-monthly report of statistics and other information of proceedings before the Board, a layperson's guide to the Manitoba Labour Relations Act, a tri-monthly report which summarizes all arbitration awards in the Province, whether through the expedited arbitration process or the conventional process, and finally, a tri-monthly report of the reasons of the Board for particular decisions.

Many of the Board's decisions are of a type that would be expected following the passage of new legislation, particularly of new legislation which is much broader than its predecessor, which is the case with the Manitoba Labour Relations Act. One example is the Board's determination of the applicability of the Act to certain employees.

Other decisions were required as well. It was also called upon to decide whether an agreement entered into with a predecessor employer was binding on a successor employer. Requests for exclusion of certain classifications of employee positions from the bargaining unit were also considered. Some matters were very unique - like the group of employees who protested that petitions



circulated by another group of employees were inaccurate and this unfairly resulted in support of the union.

These examples are wide-ranging, but not all of the decisions are accepted by the parties involved. When this is the case, the matter may be appealed to the Court of Queen's Bench. The Court could intervene if the decision of the Board was found to be "patently unreasonable or manifestly in error."<sup>38</sup> It may also find on the jurisdiction of the Board. All areas of decisions made by the Board must be provided for in the Act, but the Court can also review decisions made not in accord with the intent of the Act.

## Analysis

The Manitoba Labour Board is similar to the Lotteries Foundation in two important respects; each agency has undergone major revision, involving changes to its legislated mandate which alter not only its goals and objectives, but also its structure and interaction with the public. In addition, in each agency the new policy thrust was and continues to be controversial. The activities of both agencies are frequently the subject of media coverage and both receive ongoing attention from groups which oppose them.

They are certainly not identical, however. There are some obvious differences to the re-direction of these agencies which affect their relationship with all the elements of their environment. The changes to the Labour Board stem from a certain philosophical orientation, whereas the changes to the Lotteries Foundation were motivated primarily by pragmatism. This suggests that the opposition to the Labour Board (or more accurately, to the Act which it must enforce) will continue as long as there are those with differing philosophies and expectations of union-management relations.

In fact, opposition to Manitoba's new Labour Relations Act is quite organized and extends to labour legislation in other provinces. The court challenges occurring in several provinces involve major corporations and have the support of Chambers of Commerce and other business organizations. No amount of "distancing" is likely to remove the perception that the legislation reflects the philosophy of the New Democratic Party, nor would that party have it any other way -- they are quite proud of the legislation.

The fact that the decisions made by the Labour Board must fall within the

well-defined provisions of all the Acts it enforces, in a sense does give the Government the best possible situation. The Act itself is the vehicle through which the Government has pursued one of its objectives, yet the existence of the Board does remove the Government from involvement in any specific cases. Not becoming involved in any individual decision circumvents possible criticism of the Government on a specific case.

Since the Board can only deal with the cases put before it and cannot decline to do so, there is occasionally some difficulty in operating within their budget. The funds allotted to the Board for its first year of operation after proclamation of the new Act, were considerably less than requested. The remuneration requested for appointees to the Board was also less than expected, and for a period of time it looked like a compromise was not going to be reached. Board members were seriously threatening to resign, unless the Government raised the level of remuneration it was willing to offer, which it eventually did.<sup>39</sup>

The increased monies paid to these board members does not reflect the stated principle upon which remuneration is based. Put simply, the basis is that participation on a Provincial agency be recognized through remuneration of a token nature. It was never intended that such remuneration replace, or compete with, what an individual could earn through his or her own endeavours. It is only an acknowledgment of public service. For those appointed to the Labour Board (and incidently by many others), it is viewed differently. Most are lawyers from private practice who view their participation on the Labour Board as just another form of legal work for which they should receive adequate compensation; the concept of "public service" does not carry much weight. This point of view is

valid, but is diametrically opposed to the concept upon which remuneration is presently based. This dilemma has occurred with other agencies, but reached almost crisis proportions with the Labour Board. Since lawyers are relatively high wage earners in our society, initially the remuneration discrepancy was quite wide. After much negotiation, the issue is now resolved, at least for the moment.

The Labour Board shows accountability in a number of ways. First, all decisions are written, giving a full account of the case and the reasons behind each ruling. This written decision is public information.

Second, all decisions are subject to review by the Courts, although such review must be within the constraints and requirements of the various Acts relevant to the case. Needless to say, Court review is also public.

A third way in which the Board is accountable is through its case monitoring system. This administrative practice "tracks" the progress of all cases, thus enabling the Registrar to assign investigative staff on a timely basis or take other action to ensure the expeditious disposition of each case. This simple but obvious measure was probably prompted by time requirements stipulated in the Labour Relations Act but it is an impressive measure when viewed as an example of accountability. Unfortunately, it is not a mechanism widely used by other agencies.

The final evidence of how the Labour Board is accountable can be found in its Annual Report. These mandatory documents are usually notable by the absence of much useful data. More often than should be the case, only financial statements are found. Yet in the case of the Labour Board, the Annual Report contains a great deal more important information. These documents represent

an important way of reporting to the public through the Legislature and should always be comprehensive disclosures of the year's activities of the agency. Since Annual Reports are tabled in the Legislature, there is opportunity for individual Members to bring the content of the Reports to the attention of the public.

There does not appear to be many reasons for the Labour Board to function much differently, from an administrative point of view, than it does at the present time. Although the Chairperson and others associated with its re-direction envisioned greater independence for the Board than is at present the case, these individuals did not offer a completely convincing case for greater independence at that time. Impartiality is the primary reason for creating a quasi-independent body to perform the particular function of the Labour Board, and the Government must be seen as not involved in its deliberations and decisions. However, that goal has been met -- the political arm of government has been removed.

### Manitoba Arts Council

The Manitoba Arts Council celebrated its twentieth anniversary in 1985. Its precursor was a volunteer committee formed by the Winnipeg Junior League, which functioned with the sole purpose of increasing the number of cultural activities within the city of Winnipeg. This involved soliciting donations from individuals and businesses, organizing cultural events and some lobbying of government. By 1965 however, the Provincial Government had passed legislation providing for the creation of the Manitoba Arts Council, with a province-wide mandate to promote the study, enjoyment, production and performance of works in the arts. This commitment also meant public funding for the arts community.

The expansion of the mandate of the Junior League committee to that delegated to the Council represents significant growth. The soft-sell lobbying function of the Junior League committee presented few of the problems that the far-reaching Council would experience.

The existence of the Junior League committee however, was a major factor in the government's decision to use a quasi-independent agency to continue efforts in the promotion of the arts. Particularly since a grant program was to be instituted, it was considered important that an independent peer body make funding decisions, based on artistic merit only.<sup>40</sup> It was considered inappropriate for elected politicians to make such judgments because of the concern they would not be well informed and might be guided by partisan considerations.

During the twenty years since its establishment, the Arts Council funding program has grown, not only in dollars available but in the comprehensiveness of

the program itself.

The primary activities undertaken by the Council to meet its mandate include the granting of money to individuals who are producing works of art, or performing; the provision of scholarships, loans or grants to citizens for study and research in the arts; and the presentation of awards to citizens of Manitoba for outstanding accomplishments.

In order to make the best artistic judgments possible concerning grants, the Council has established a network of some 52 artists, critics and teachers from across Canada who act as jurors or assessors for the review of each application for funding. The application process is complex, involving financial detail as well as purpose, justification and other program information. Council staff provide an analysis and Council members contribute an assessment of the artistic merit of the application. Operational grants involve a lengthy, one and one-half hour meeting with the applicant. Each application is reviewed thoroughly; the process is generally viewed as highly competitive.<sup>41</sup>

The Arts Council has established a complex, five-pronged network of programs with up to 50 components through which it carries out its various activities. The first program, which is by far the largest, is the Grants to Organizations Program. This area accounts for almost 70% of the Council's program budget. In 1983-84, \$1.7 million was distributed among six categories: dance, interdisciplinary, literary, music and opera, theatre and the visual arts. In that year, these six categories supported 34 organizations.<sup>42</sup>

A second major area of expenditure is the Arts Exposure Program. This program has two main components - Artists in the Schools (AIS) and Artists in the Communities. The first component was allocated the major share of this

portion of the budget, \$189,392.00 to provide exposure of the arts to students and teachers in Manitoba Schools. This component enabled creative and performing artists to be placed in 225 schools for workshops, demonstrations and performances during the 1983-84 fiscal year. As in the grants program, AIS covers disciplines such as dance, interdisciplinary, literary, music and opera, theatre and visual arts. The allocation of \$10,400.00 for the Artists in the Community component helped non-profit community groups hire professional artists to teach new or advanced skills within the community.

Third is support for the Creative Arts Program, which in 1983-84 totalled \$331,245.00. This program provides the most direct assistance to artists available from the Council. Besides providing support for artists at all levels of their artistic development, the program keeps the Council apprised of the direction and events of the various disciplines. The creative results of this funding include examples such as: short stories, sculptures, a walking tour guidebook, plays, poetry, ceramic and other pieces, paintings, films and videotapes.

These grants are intended to assist practising artists in carrying out a well-defined project of a short-term nature such as study, workshops, exhibitions creative production, performance of original work and/or travel related to the artists' current work. Again this category covers all of the numerous disciplines.<sup>43</sup>

The Student Aid Program which was allocated \$23,815.00 in 1983-84 is fourth out of six major programs. It is designed to provide financial assistance for study at institutions in Canada and abroad. Financial need is the primary factor taken into consideration when approvals under this program are made.



Also under this program is a scholarship component based on achievement through two institutions - the Western Board of Music and the Associated Manitoba Arts Festivals.

A fifth major program is the Touring Program to which \$101,209.00 was allocated in 1983-84. This program enables performing artists to offset costs incurred as a result of tours to rural and northern Manitoba. The program reduces the cost of offering performed services, which can be substantial in more remote areas of the province.

The sixth and final program category is Special Projects. A total of \$99,872.00 was provided to individual artists or organizations for new initiatives which do not fall within one of the established categories. Support was provided towards arts management, an experimental multi-media project and for a seminar on professional development in the arts.

The grant areas reflect a certain cultural policy, developed by the government and implemented by the Council. The current structure reveals an intent to fund smaller groups and individuals, rather than focussing entirely on the major arts groups such as the Symphony, Art Gallery, Ballet and Opera. This orientation represents a deviation from the focus of the previous administration. The shift reflects the NDP philosophy in favour of the so-called "democratization of culture", making it more accessible to all segments of the society and, in theory, less elitist. While the Council provides direction and decisions based on artistic considerations, it is the government which established the direction of Council's program.

This complex and certainly ambitious network of programs is directed by a fifteen-member Council, assisted by a staff of five. The Council membership

reflects a wide variety of backgrounds in the arts field. The current Chair is a teacher of music and history. Other Council members include a film maker, an artist, actress, an interior designer and an English professor. Also among the members is a labour administrator, an architect, a record store owner with experience as a member of the Board of Directors of the Winnipeg Symphony Orchestra, a weaver, a teacher of Indian dance and theatre, a gallery owner, a rural artist and a public relations professional.

One of the most confusing aspects of the use of a non-departmental agency as a tool for implementing government policy in the arts area, is how it interconnects with arts - related policies which fall under the jurisdiction of the Department of Culture, Heritage and Recreation.

This separation, although perhaps well-defined conceptually, is not as clear cut when put into practice. Since 1979, the Council has been responsible for professionally-based arts programs and the Department has delivered those which may be described as "community-based" (the larger community, not just the arts community). In actual practice, however, there is some overlap and potential for confusion. For example, the Artists in the Schools program puts professional artists (Council's jurisdiction) directly into schools (departmental jurisdiction) throughout the province; and the Ballet in the Park program puts dancers of the Winnipeg Royal Ballet (Council's jurisdiction) into various Winnipeg parks (departmental jurisdiction) throughout the summer, which is a community-based concept. In the first example, the program is implemented by the Council; in the second case, the department has responsibility.

This division appears somewhat arbitrary and it is not clear at all why either entity could not deliver the programs of the other. The jurisdictional split does

put pressure on the department and the Council to share policy planning information and in essence, they have to work at developing trust. The relationship does not easily, or automatically, involve trust. Perhaps there is some misplaced professional pride which results in attempts to protect one's "turf" as if the responsibilities accorded to one were a negative statement on the worth of the other.

The Arts Council budget is derived from two sources - a voted, appropriated amount (\$1.5 million) and a variable amount from Lotteries revenue. The most recent figure from the lotteries is \$2.1 million. The greatest difficulty with lotteries monies was an initial distaste of the source, which has since been overcome, probably due to the increasing public acceptance and support of lotteries.<sup>44</sup> A second area of concern is that lotteries money is variable and at present it is coming in very quickly, but programs must be in place before the funds can be allocated and used effectively. If this is indeed a problem, it is surely one of the more pleasant ones.

Council staff attend meetings and act as a resource but have no voting rights. Since staff are consultants to applicants, they have sufficient knowledge to be quite influential with Council. The consultant role with artists does assist in producing quality applications, in appropriate categories, all of which have artistic merit.

The consultant is responsible for calling a jury of peers, usually three in number, for assessing the application and making a recommendation to Council. Grants are discretionary, not a "right", and Council policy is to adopt almost a research and development approach to arts funding. That is, work must be original and reflect an interpretation of what the artist perceives. Much popular

art would not qualify, as it is an attempt to reflect what is actually seen, rather than an interpretation of what is seen.

The Council sets administrative policy for staff of the organization, although the Executive Director has staffing authority without reference to Council. The Department of Culture, Heritage and Recreation works with Council administrative staff on the development of yearly estimates, which are presented to Treasury Board along with other estimates of expenditure via appropriations relevant to that department.

The Arts Council also receives 25% of the net income generated by the Manitoba Lotteries Foundation. The actual amount is variable, but the distribution of these monies, along with appropriated funds is fully disclosed by audit and published in the Council's Annual Report.

Only about four provinces in Canada use non-departmental bodies to distribute funds to the arts. The arts community in Manitoba has been supportive of this arrangement, primarily as the Council appears to be a smaller, more responsive body than a government department perhaps could be. There is a perception that there are fewer political overtones in the decision-making process, at least in the sense of direct involvement in the process by elected politicians. However, some professional artists do report that they are interacting with an organized, structured body which is "political" in a negative sense, suggesting that appointed individuals and hired staff may be motivated by their own personal interests, rather than by a desire to implement Council's mandate in a way consistent with its intent, objectively and professionally.

Generally, however, the Council, its staff and members of the arts community contacted, believe the Arts Council to be closer to the arts

community. Granting is more direct and flexible. If Council were not at least reasonably responsive, members of the arts community would likely approach the Minister directly. In this way, the Council does play an important role as a buffer between the Minister and the community.

## Analysis

There are many observations to be made about the Manitoba Arts Council but for purposes of this study, the most useful may be those which assist in comparing and contrasting this agency with others examined in the study.

One of the most striking features of this agency is the length of time it has been in existence. This time period has enabled the Arts Council to establish its own credibility, both with the arts community and with the executive arm of government - at least to the extent that the relationship with the Minister responsible reflects that between the Council and Cabinet as a whole.

It is notable that at the present time the Minister who is responsible for the Arts Council is the same individual who is responsible for Manitoba Lotteries Foundation, yet the relationship between the Minister and each of these agencies differs. The Minister attends about one meeting annually of the Arts Council and is not copied on minutes. Financial accountability is largely post-facto reporting. This is not the case with the Lotteries Foundation. The Minister attempts to attend each monthly meeting of the Foundation, and according to the General Manager, actually does so about half the time. Financial reporting is on a much more frequent basis for the Foundation and provides a greater opportunity for input by the Minister.

It has been stated that the Minister does not receive the minutes of Council meetings. The Minister responsible at the time requested a copy of all minutes, but was refused by the Chairperson who felt that to comply would put the agency's independence into question.

If the primary benefit of receiving the minutes of Council meetings is to

provide the Minister with a clearer understanding of Council's direction in order to influence it, there are certainly other ways of doing so. One example concerns the desire of the Minister (apparently reflecting the Government's policy direction in the arts) to increase arts activities in rural and northern areas. To accomplish this, new money was provided to the Council specifically for a touring program which would take performing artists into rural and northern communities. The Government could ensure the continuance of this program, or others designed with a similar purpose, by appointing a Council with many rural and northern members.

If receipt of Council minutes is viewed as a necessary component of an accountability system, then the issue takes on a new significance. Regardless of how a Minister may choose to use the information communicated via minutes, the mere fact of making them available is one way of showing how the Council is answerable to the elected representative who is ultimately responsible to the public, through the Legislature, for the actions of the Council.

The argument against the provision of minutes to the Minister is two-fold. First, it may represent excessive Ministerial involvement with an agency which is intended to be at arm's length from government. The arm's length relationship is an administrative arrangement that tends to be taken as a given after time, without much attention paid to the justification for the arrangement. Insistence on independence can take precedent in the view of Council members over a Minister's right and justified need to know about the activities of an agency for which he or she is responsible.

A second argument is that provision of minutes to the Minister may inhibit discussion at Council meetings. This may be true, although not all meeting

proceedings need reflect detail on the various opinions expressed and by whom. The minutes of many types of organizations include only formal votes or decisions taken and not details of the preceding discussions.

At any rate, there is no reason why appointed members should not feel free to offer their comments at meetings, regardless of whether they are recorded. The process may encourage members to offer opinions which can be justified, rather than those which cannot. As this effect represents more responsible participation, any measure which supports it should be encouraged. If the evidence of individual responsibility is great, then the support for external controls will lessen. In discussions with those who have been involved on or with appointed boards, there does seem to be a tendency for members to adopt a position whereby their removal from ministerial direction and influence is strenuously upheld, even to the point where the Minister is not kept informed. Whereas this position may be justified for some agencies, there is no clear reason (not based on personal political philosophy) why the same stance should be adopted in all cases.

The reporting procedure with the Arts Council suggests, in a relative sense, a greater degree of independence than that evidenced with some other agencies, even those of a greater level of responsibility in financial matters, such as the Lotteries Foundation.

Although the reasons for this difference may be more complex than at first appears, it is likely that the greater age of the Arts Council has afforded it the time to become established, earn credibility with the arts community and to develop administrative effectiveness. Contact between Council staff and the bureaucracy tends to be limited to concerns over annual Estimates matters and



some items which require Treasury Board approval. Normally, the Council would not seek Treasury Board approval of most expenditure items, but there are some exceptions. One example is the current restraint on staffing levels. This type of expenditure is controlled by Treasury Board for the Arts Council as it is for departments. Like many departments with staffing authority delegated to it by the Civil Service Commission, the Council is responsible for the mechanics of its own hiring, but may only do so when properly authorized.

The Arts Council does show accountability in an interesting and unique way. All grant decisions - on the recipient and the amount of money granted, are made by a jury of peers for that sector of the arts. This involvement results in a more direct accountability to the client group served by the Council. It does not, however, satisfy accountability needs to the public as a whole.

It is clear that a government department could set up a jury-of-peers system to administer the granting of funds allocated to the arts. Administratively, there is no reason to believe it could not work. In fact, the Council's method of delivering its many programs is as complex and confusing as any government departmental program is often accused of being, at least in the minds of most of the general public.

Why then was the quasi-independent form chosen for this purpose? It is likely that the existence of the Junior League's committee prior to creation of the Council, suggested to the politicians of the day that continuance of a somewhat independent body would be politically wise. It would provide an opportunity for continued involvement by previously active citizens. The Council would also have the potential, and now does in fact, to act as a buffer between the government and the public. Over time, the Council has

developed its own credibility with its client group and there is no reason for the government to alter an arrangement which works fairly well.

Administratively, the Arts Council is not without problems, however. Recipients and observers of the Council have found its network of funding programs incredibly and unnecessarily complex. It is no wonder that applicants need a consultant (this is the actual title of staff) to assist them in the application and assessment process. The entire process may justify the use of the phrase "bureaucratic red-tape" so often adopted by a bewildered public. Yet, one of the most often-cited reasons for using the quasi-independent form to achieve a public goal is so that the alleged inherently cumbersome administration of departmental programs can be avoided.

Another, very reluctantly admitted problem concerns the difficulty of the Council to respond quickly to a rapidly increasing allotment of lotteries revenue.<sup>45</sup> Although the percentage of lotteries money to be provided to the Council is a given, the actual dollar amount is not known too far in advance. Although no funds are unspent, there is a scramble to allocate the monies. It is not clear whether the Council does not have enough programs in place (this is doubtful) or whether there are not enough consulting staff available to assist applicants, or whether there are simply not enough potential recipients requesting funding. Whatever the cause, the short supply of monies available for other public purposes suggests that there should be some serious evaluation of all Government needs versus all of the funds available.

A final important point concerns the way the Government provides policy direction to the Council. The current administration in the early period of its first term, decided that a greater portion of Arts money should go to the

northern regions of the province. Rather than simply giving that direction, as it would have been met and viewed as "political interference", the Government announced a new program, to be administered by the Arts Council. That program is the "Northern Tour" and has a specific amount of funds allocated to it. The Council has no choice but to deliver the program (which suggests one of the possible reasons for the complex network of programs), but curiously, it is not held in very high regard by the Council. There has been some informal discussion on discontinuing it, although this is not a feasible position given the Government's support of it. It may be that the program is not viewed as one of Council's favourites because it was not initiated by Council or its staff, or perhaps it is not a very "good" program (as defined by the Council). It is clear, though, that the program could be sabotaged, even subconsciously, by a Council not committed to its success. The problem with the tour program may have been caused by insufficient consulting by the Government, although there is no evidence of this. It is not likely that the Council could have declined to administer the program and would probably not have wished to attempt that course of action without solid reasons. Declining the program would have meant declining "new" funds, which is a difficult position to adopt by a group which must respond to the lobbying activities of the arts community.

This final comment on the Arts Council then, relates to the issue of policy direction by the Government and the Council's answerability to the Government on its administration. The matter of formal reporting is part of this issue. Both these matters are central to the problematic relationship of agencies and government in general, but are exemplified by the Arts Council.

Manitoba Apprenticeship and Trades Qualifications Board

The authority for the creation of the Apprenticeship and Trades Qualifications Board ("Trades Board" or "Board" is the short form) is contained in subsection 3(1) of The Apprenticeship and Trades Qualifications Act. Although the existence of such a board is not mandatory - the enabling legislation only authorizes its establishment but does not require it - the Board has been in existence for approximately forty-two years. Its precursor was known as the Apprenticeship and Tradesmen's Qualifications Board, but its name (along with others) was revised by The Equal Rights Statute Amendment Act in the 1985-86 legislative session.

In order to meet its objectives, the Board works with a number of trade advisory committees and the Apprenticeship Branch within the Department of Labour. This three-pronged arrangement is a result of a Federal Government initiative following the end of World War II. At that time there was a tremendous push to create job training and employment opportunities for enlisted men returning from the war; organization of the trades was part of that effort. This occurred in all of the provinces, and few deviations have been made in the arrangement since then.

In accordance with its Act, the Board has a permissive function in two areas. It may, although it is not required, make recommendations to the Minister on controls designed to regulate and improve the requirements for training, testing and certification in any designated trade. Recommendations in this area may be initiated by the Board or may be requested of the Board by the Minister.

The second permissive function concerns the trade advisory committees. Although these committees are distinct from the Board itself, the Board may make recommendations on who should be appointed to any one of them. The function of the advisory committees is primarily of a technical nature; more detail on their role and relationship to the Board will follow later in this section.

The Board has mandatory responsibilities as well. These relate to the requirement of the Board to hear and determine appeals made under the Act. These appeals usually involve the denial of apprenticeship status to an individual, disputes over the granting of credits for previous training, and the issuance of qualification certificates or temporary permits. Curiously, although some activities of the Board are mandatory, the existence of the Board itself is not. Perhaps it is not an important detail, but it is conceptually inconsistent to have a Board whose existence is not mandatory when some of its legislative functions are, particularly when the same piece of legislation covers both the Board and the functions for which it is responsible.

An appeal would certainly require the Board to meet, but outside of that situation, there is no statutory minimum number of times the Board must convene. This is contrary to the provision in the Act for the advisory committees, which must by law meet at least twice per year. Needless to say, this requirement is easily met by all committees. It is interesting to note, however, that the Trades Board has not met as a group in over two years, although there has been correspondence and contact by telephone between members, the Chairperson and the advisory committees and between the Chairperson and the Apprenticeship Branch within the Department of Labour.

The Board derives most of its technical assistance from the trade advisory

committees. There are 28 of them at the present time, one for each of the designated trades: boilermaker, bricklayer, carpenter, construction electrician, cook, crane operator, drywall mechanic, glazier, heavy duty equipment mechanic, industrial electrician, industrial welder, lather, industrial instrument mechanic, machinist and tool and die maker, miner, motor vehicle body repairer (paint), motor vehicle body repairer (metal), motor vehicle mechanic, painter and decorator, plumber, power electrician, refrigeration and air conditioning mechanic, steel fabricator, roofer, sheet metal worker, sprinkler fitter and steamfitter. These committees are comprised of individuals actually working in or qualified at the trade, either as employee or employer representatives.

The advisory committees are subordinate to the Trades Board, at least formally. The Act states that the committees will report to the Board, and the Chairperson of the Trades Board confirms this relationship.

In other ways, it can be seen that "superior-subordinate" relationship implied by that subsection of Act is not the reality. The Board may make a recommendation to the Minister concerning appointments to the various committees, but in practice, suggested appointees tend to come from other sources. <sup>46</sup>

The interaction between the committees and the Branch is extensive and, more to the point, direct. The Board is not even used as a "go-between", even though it is intended to be responsible for directing the committees.

The significant difference between the duties of the committees and the Board, is that the committees exist to provide technical advice on the trades to the Board, while the Board is responsible for more general matters either in the form of policy recommendations to the Government or concerning the

implementation of an approved course of action.

The subjects which might be covered by the committees are course curriculum, examinations, training requirements and certification matters. They meet approximately twice per year, more often for a newly-designated trade, and although they are not policy-makers, their review and recommendations result in appropriate and timely regulations on their trade. The committees are viewed by the Board, departmental officials and Ministerial staff as providing a significant contribution to the development of the apprenticeship program.

The other major player in this area is the Apprenticeship Branch within Manitoba Labour. The Branch is responsible for the provision of support services to the trade advisory committees and the Trades Board and generally acts as the administrative link or liaison between the bureaucracy and these arms-length bodies.

The Apprenticeship Branch also acts as the liaison between the Board and its advisory committees. In this respect, the Branch reports to the Board on behalf of the committees and presents their recommendations, together with supporting research and documentation. The minutes of all committee meetings are made available to the Board, through the Branch which is in first receipt of them. This flow seems odd, but it probably developed for the convenience of both the Board and its committees. It should be recalled that they meet independently of one another and it is the Branch which provides the typing and copying service for the committees.

The Branch also follows up on committee matters not resolved, keeps the committees informed of decisions and recommendations of the Board and is

responsible for keeping committee membership current. This last responsibility involves consultation with the Minister's office when appointments are near to expiry and soliciting recommendations from the Board, although recommendations are not always forthcoming.<sup>47</sup>

Other branches of the Department also assist in meeting Board objectives, largely through the co-ordinating efforts of staff of the Apprenticeship Branch. For example, the Research and Planning Branch has provided comprehensive working position papers on several issues related to apprenticeship, conducted surveys in the various trades and has also drafted preliminary regulations as an assist to the Trades Board.

The reason given by the Board's Chairperson for the extensive involvement of the Apprenticeship Branch is that the Board has no staff under its own control to draw on for duties presently handled by the Branch. However, this is a weak explanation, since only one, half-time research assistant of the Branch's total staff complement is allotted to the Board. Presumably, the Board could call on the Research and Planning Branch for assistance.

The composition of the Board differs from that of other agencies in two respects. First, it is comprised solely of men, probably due to the only relatively recent success of women in the trades. As the participation of women grows, it is expected that apprenticed female tradespeople will also be appointed to the Board. The other deviation concerns the criterion of geographic representation reflected in most other agencies. For some reason not identified by any of those interviewed, the composition of the Board strongly favours Winnipeg and Brandon, to the exclusion of rural and northern areas. Yet, apprenticed tradespeople are certainly found in other regions of the province.



Membership of the Board, at present totalling seven, does reflect a labour-management mix, departmental representation and the concern for training. Two individuals are from employee organizations, two are employers, two are from the Department of Labour and one member is drawn from the post-secondary division of the Department of Education. All appointments are staggered, so that appointment of an entirely new slate is never required; there will always be some experienced members on the Board when new ones are appointed. These appointments are all "at pleasure" (even most of the term appointments to the Board), meaning there is no guarantee of tenure for the duration of the appointment; however, they are also all appointed "until a successor is appointed", thus providing for continuity past the stated term for any length of time, should the appointment of new members be delayed for any reason.

Analysis

The point about the Apprenticeship and Trades Qualifications Board which demands explanation is the fact that the Board has not met as a group in over two years. Yet, the Trade Advisory Committees have met and the Apprenticeship Branch is certainly very active. Work has been done on new trades; cooks, bakers and parts people have been designated as apprenticed trades within the last two years, while work done on air balancers led to a decision that designation as an apprenticed trade was not appropriate. The issue is that there is activity in the trades field at this time, but the Apprenticeship and Trades Qualifications Board is not involved. The reason for this is not obvious, and all possible explanations of this situation need to be explored.

The Chairperson has claimed that the Government lacks interest in the Board for two reasons. First, the area is essentially "boring" and second, the current restraint program inhibits new activity. It is true that the apprenticed trades are not particularly controversial at the present time - other than concerning the issues of unemployment and the entry of women - but it is not a fair comment to conclude that the lack of controversy means that the area is not of interest to the Government. If that were the case, we would not have seen any reorganization or increase in funding (albeit, small) for the Apprenticeship Branch. Further questioning of the Chairperson resulted in his admission that it was he who lacked interest in the area. Furthermore, it is not necessary for the Government (through the Branch) to call meetings of the Board, although it can certainly do so. The point is, however, that the Chairperson is well within his responsibilities to initiate meetings, studies, policy reviews or other activities if

he so wishes. Staff of the Apprenticeship Branch have expressed dissatisfaction with the current Chairperson's performance and certainly feel that the Board should be playing a more active and useful role.<sup>48</sup> The opinion of Branch personnel may not reflect that of the Government. It remains to be seen whether the Government will make changes in the membership of the Board, or take other action to ensure a more productive body.

A second reason given by the Chairperson in support of his claim that the Government lacks interest in the Trades Board is the restraint program. Without reasonable funding, an appointed body cannot do the necessary research and survey required to develop well-grounded recommendations. However, the Trades Board has the Research Branch of the Department of Labour at its disposal, and this branch is better resourced than most research units in other departments. The Branch, which has as its focus the concerns of the trades in general and in particular those with formal apprenticeship programs also provides considerable support. As partial fulfilment of their mandate, much research and consultation with affected groups has been done, which need not be duplicated by the Board. There was no evidence that staff of the Branch felt in any way competitive with the Board, although admittedly, the Board is in no position to threaten even the most self-preserving of officials.

Perhaps a more likely explanation for the Board's inactivity, although the Chairperson's ennui is undeniably a factor, is that the major policy issues surrounding the trades have been settled or can be ably dealt with by Branch or Ministerial staff. Although the advisory committees are intended to provide only technical advice and are only four or five members each, there is no reason to believe they could not capably respond to policy issues if such matters were put

to them.

The advisory committees, the Branch and the Minister's office are perhaps not the most appropriate bodies to deal with the appeal function, also a responsibility of the Board. The advisory committee may be too close to the matters which are under appeal, such as: criteria for granting apprenticeship status, credits, certification or temporary permits. The involvement of the committees in the development of these rules and regulations may inhibit their ability to be impartial. The Branch also may not be viewed as impartial and the Minister would likely be lacking the technical background. This then, is a rationale for continuing the Board. As an appeal body is necessarily response-orientated, it may justifiably meet infrequently, if appeals are infrequent.

The Branch does deliver the apprenticeship program effectively and plays a co-ordinating role with the trades public, the advisory committees, the Research Branch and the Board in doing so. The mandate of the Branch has grown since the inception of the Board and given its success in meeting the objectives of that mandate, there is no reason to suggest a larger role for the Board.

### License Suspension Appeal Board

First established in 1959, the License Suspension Appeal Board is provided for under section 253 of The Highway Traffic Act. It functions as an appeal body, hearing appeals of the decision to suspend drivers' licences; other suspensions, cancellations or denials of driving school permits, driving school instructor permits, automobile dealer permits and salesperson permits. The responsibility for hearing appeals from individuals who have had their driver's license suspended is by far the Board's most time-consuming activity and the one which attracts the greatest interest from the public. The Act also gives jurisdiction to the Board over most court-ordered suspensions. An exception is a suspension concerning a juvenile, which must be so authorized by the juvenile court rather than the Board. Decisions of the License Suspension Appeal Board may be further appealed to the Provincial Court, where its decision is final.

Another area in which the Board has no jurisdiction, is over suspensions of drivers licences made on medical grounds, such as epilepsy, heart disease and eyesight problems. Appeals in these cases must be through an agency specially established to review appeals of suspensions made for this reason. The Medical Review Committee is comprised of qualified medical specialists, whereas the License Suspension Appeal Board is made up of a broader range of citizens, who do not possess medical qualifications.

Since suspensions involve drivers from all areas of the Province, hearings are held in seven locations. These are: Winnipeg, Brandon, Dauphin, Steinbach, Beausejour, The Pas and Thompson. Most hearings usually last a half-day and deal with about twelve applications, although approximately eighteen is a more

likely number to be heard in Winnipeg. The frequency of hearings in each location varies, depending on the work load. For example, hearings are normally held weekly in Winnipeg, bi-weekly in Brandon, monthly in Dauphin, Steinbach and Beausejour and about every six weeks in The Pas and Thompson.

The Board consists of ten individuals who reside in various locations throughout the province. This makes travelling to hearings less onerous when the members attending the hearings live in nearby towns. At least two appointed members are required by legislation to attend each hearing, however, the Minister has requested that at least three members attend; this is always done unless one of the scheduled members is unable to make the hearing and a replacement cannot be found in time. In this case, the missing member is briefed on all the cases heard and participates in the final decision. One staff member also attends each hearing. All members, on a rotating basis, attend hearings held in Winnipeg.

The work load for the ten-member Board during 1983 was substantial. A total of 3,889 applications were received, requiring 324 hearings. Most were dealt with, but 322 applications were still pending or cancelled by the conclusion of 1983.

The process of reviewing the suspension is quite thorough. Each applicant's record is checked to ensure that no charges are pending or that the applicant has no unpaid fines. Any decision of the Board can be vetoed by the Registrar of the Vehicles Registration Branch of the Department of Highways and Transportation, although this tends to happen for "technical" reasons, such as unpaid fines or pending charges. The Registrar does have veto power, however, and could use it in any case as he sees fit.

In its review of applications before it, the Board takes the position that a driver's license is a privilege, not a right and although the Board tries to help individuals, successful appeals of a suspended driver's license are far from automatic and tend to allow only limited driving privileges. Many of the individuals who do not fare so well before the Board have missed this point and have failed to realize that they must demonstrate why they need to drive a vehicle. Some tend to feel that the Board can reverse the Court's "mistake".

The main criterion in the decision to restore a driver's license is that "the public interest" must be served. In this respect, the attitude of the applicant is important. Although, "attitude" can be a nebulous criterion, the Board is looking for some indication that the circumstances which led to the suspension of the license will not be repeated. For example, if alcohol was involved, the Board will require the applicant to receive treatment from the Alcoholism Foundation of Manitoba and submit a "clearance" from the Foundation. Although some drivers have complained that this is an infringement of their personal rights, the Board has held to this requirement. The number of previous suspensions is also considered as part of the "in the public interest" check.

A second criterion is whether suspension of the driver's license represents exceptional hardship to the individual. Is the person required to drive as part of his or her work responsibilities? Driving to and from work is not considered necessary, unless bus service is not available. Job requirements are not the only consideration made as part of the "exceptional hardship" criterion, however. If the individual's spouse does not drive, limited use of driving privileges may be granted to the suspended driver, which may include, for example, three hours on a Saturday to buy groceries, or trips to keep a doctor's appointment if no other

form of transportation is available, and so on. Each case is judged on its individual merits and all claims made by applicants are thoroughly checked, either by Board members or by staff.

All applicants are advised of the Board's decision within seven working days, by registered mail. This time frame is reasonable, but the success the Board has in meeting this deadline is due largely to the staff, which has grown in recent years to a total of five full-time personnel. The current Chairperson also deserves recognition for his significant work. He comes in to the Board office every morning and stays at least the half-day but often much longer. This is in spite of the expected commitment of two days per week for this Board.<sup>49</sup>

The Board itself is comprised of an interesting mix of eleven people. Two are non-drivers (both women); three are farmers (one is female); two are retired; two are business people and four are women who are housewives. These members represent Winnipeg (five), Thompson, Dauphin, Brandon, Beausejour and La Broquiere. Three are Franco-phones and five others speak another language besides English, specifically, Dutch, Ukrainian and German. None of the current members are Native.

Attendance tends to vary with the location of the hearing, which rotates among seven cities. As attendance varies, so does the task of chairing the hearings, giving all members an opportunity to preside.

Annual budgeting can be difficult, as the agency is response-oriented and cannot dictate how many cases will be heard. The right of individuals to appeal the suspension of their driver's license (or other licenses the Act covers) is established by legislation and that appeal must be heard within a reasonable amount of time. The budget estimate is based on the number of licenses



granted, which is known and the number of licenses suspended, which is also known. Based on previous experience, the percentage of suspensions which will be appealed is estimated. The request for financial and human resources is then based on that figure.

The rationale for giving this appeal function to a quasi-independent body is to provide impartiality.<sup>50</sup> Still, some decisions of the Board have been questioned by the Minister. The basis of the Minister's concern has always been that he would not in all cases grant the minimum (ie: most restrictive) class of license, a position the Board has consistently adopted. The Minister has felt that on occasion, the Board has been unnecessarily limiting in the extent of driving privileges restored. The queries raised by the Minister were prompted by complaints to him from individuals whose cases before the Board were not successful. The agency is moderately well-known by the public, its decisions not controversial. However, the low-key profile of the Board is probably not because its decisions are always popular. Most often it is an individual's desire (and right) to keep the matter of the suspension of his or her driver's license as private as possible, even when an appeal of the suspension is not successful.

### Analysis

A surprising fact about the License Suspension Appeal Board is that it is the only one of its kind in Canada. No other province has created an independent body to hear appeals against the suspension of a driver's (or other) license. As this agency has been in existence for 16 years, through New Democratic as well as Progressive Conservative administrations, it is likely to stay. Most other provinces have no appeal function whatsoever; in some provinces, the Minister can hear appeals of a suspended driver's license in limited situations, such as suspension ordered by the Registrar due to the number of convictions. Manitoba's law was prompted by a desire to allow individuals the opportunity to keep their jobs, where driving was required. Regardless of the original motive behind creation of the Board sixteen years ago, two new developments in recent years have had, or may have in the future a major impact on the Board.

First is the more rigid penalty now in effect for driving while impaired. The first such conviction results in a three-month suspension, with no right to appeal for even a restricted-use license. On a second conviction, the suspension is for a six-month period, with the right to apply to the License Suspension Appeal Board for a restricted-use license for the last three months of the suspension only. The first three months must pass without use of a vehicle. The merits of these changes aside, the point is that they do restrict the power of the Board, where previously there was no such restriction.

A second development which complicates the functioning of the Board is the increasing use of plea-bargaining. The acceptance of a lesser charge in exchange for a guilty plea adds a twist to a case which may end up before the Board.

Based on a narrow or strict interpretation of the Board's mandate, it must respond to the actual conviction only, yet morally perhaps the Board should consider the fact that the driver was impaired. The obvious problem with the "moral" approach is the possible unfairness to the applicant, but viewing the case in this way may be justified as in the public interest. It will be interesting in the coming months to see how the Board responds to these challenges. Without doubt these developments have already had an affect on the Board at least insofar as they are concerned about the matter and see it as problematic. The issue is still relatively new and its major impact, which may alter the character of the Board permanently, is yet to come.

As stated earlier, the Minister responsible for the Board has questioned some decisions, which could be viewed as interference.<sup>51</sup> However, the Chairperson insists that such ministerial queries to date have consisted of simple requests for background information pertaining to a particular decision and discussion of the actual decision, rather than being attempts to influence such decisions. Still, this practice could be misunderstood. Many people feel that no exchange between the Minister and the Board is warranted, since direction on individual cases (even subtle influence) is out of line. To exercise such influence would be an abuse of power. Others may feel that since the Minister, and Cabinet collectively, are responsible for all agencies which consume public funds and carry out a public purpose, then the Minister not only has a right but a duty to keep informed of the activities of all its responsibilities. This may require policy direction to an agency, although involvement in a specific decision may be avoided, depending on the nature of the agency's mandate.

Another view of Ministerial involvement in an agency such as the License Suspension Appeal Board is that it can provide much-needed direction concerning the process of appeals before the Board. Procedure before these bodies must be fair and consistent and be seen as such. In fact, successful appeals of Board decisions in the Court of Queen's Bench are usually based on evidence that due process was in some way denied the applicant in question. Most certainly, the Minister would be criticized in the Legislature if the agency was found to be lacking fair and reasonable procedures, in spite of the concept of procedural due process developed through the courts. It is likely though, that such criticism would not be too serious, unless there was a persistent pattern of arbitrary or unfair procedures. The example given earlier of the Minister's direction that three Board members be present at every hearing, rather than only two as stipulated in the legislation, is an example of direction that should be viewed positively, rather than as "interference". It is ministerial involvement in the decisions on individual applications that must be avoided, in order to preserve the integrity of the Board. It should be remembered that one of the reasons for using the quasi-independent form to perform this public function is to ensure impartiality, and the appearance of it, in the decision-making process.

A major concern which has arisen during the review of this agency is the effect of the close physical proximity of the Board's offices to the Vehicle Registration Branch (and other branches of the same division) of the Department of Highways and Transportation. In fact, they are all located in the same building. While the decision to house these units together was made for convenience - mostly for the public but also for departmental administrative purposes, it does have a serious side-effect. In the minds of most of the public,

the License Suspension Appeal Board is still "the government". The reality of impartiality and independence is compromised by this arrangement. The Board may make the point to applicants that it is not subject to government control (in the decision-making process), but the image will persist. The Minister responsible for the Board does receive a number of direct approaches from members of the public, who view the function as very much a part of a government department.<sup>52</sup>

This image is further reinforced by the inclusion of the Board's "Annual Report" in that of the department. The portion allocated to the Board is brief, almost exclusively statistical in content and hardly a good example of accountability of a quasi-independent, non-governmental body. Like the public reporting of the Apprenticeship Trades and Qualifications Board, much is left to be desired. The comment is two-fold: first the Report is not an independent document and second, it does not contain a full and reasonable accounting of the Board's yearly activities.

## CHAPTER V

### 'C' AGENCIES

#### Overview

In one sense, the 'C' category of agency is the most homogeneous of the three, as the main function of each is advisory. As distinct from 'B' category advisory agencies, the range of topics that any one of these agencies may be responsible for is much narrower. For example, the Advisory Medical Board to the Cancer Treatment and Research Foundation, although obviously extremely important, does not have as many areas of advisory responsibility as the Manitoba Intercultural Council or the Advisory Council on the Status of Women.

Taken as a group, however, the advisory mandates of 'C' agencies span many topics. The Government has appointed advisory bodies in economic, business, industrial and employment areas. The Agricultural Employment Development Committee, Destination Manitoba Program Review Committee, the Minimum Wages Board, the Tourism Industry Organization Advisory Committee and the Venture Capital Advisory Board are all examples.

Other areas cover education, natural resources, agriculture and the trades. Some of these bodies are: the Curriculum Review Council, Education Advisory Board, several Conservation District Commissions, the Saskeram Wildlife Management Area Advisory Committee, the Agricultural Societies Advisory Board, the Artificial Insemination Advisory Board, the Dairy Board, the Pesticides and Fertilizer Advisory Committee, examining boards for

electricians, hairdressers, barbers, and gas and oil fitters, and the Labour Management Review Committee.

Some 'A' and 'B' agencies have a number of advisory committees reporting to them which are classified within this category. The Natural Products Marketing Council has 17 producer boards reporting to the Council covering every animal and vegetable produced in Manitoba in which marketing is regulated, from hogs, chickens, turkeys, eggs, honey and milk to vegetable and root crops such as sugar beets, potatoes, cauliflowers and broccoli.

The Apprenticeship and Trades Qualifications Board is similar. It has an advisory committee reporting to it on every designated trade in the province. Although appointments to these advisory committees are made by the Lieutenant-Governor in Council and are remunerated from public funds, they are, at least in theory, controlled by the Apprenticeship and Trades Qualifications Board. This contrasts with the producer boards which, although directed by the Marketing Council, its members are appointed to it by the Council rather than the Lieutenant-Governor in Council, and are paid from funds of the producer board.

Government-established advisory agencies are quite numerous. If the producer and trades advisory boards are counted individually and not lumped together as only two separate bodies, which is often the practice, then there are at least 60 of these agencies. Advisory agencies comprised solely of civil servants are not included in this count, even those involving all three levels of government. The exact number is more difficult to determine precisely than it is for other categories because many inactive ones are not formally disestablished, and although no longer functional, they remain "on the books".<sup>53</sup>

Most advisory agencies are established in a simple manner -- the Minister responsible for the area creates the agency and appoints members to it by letter. Usually this process is described as "Ministerial Letter" and because of the rather ad-hoc nature of the process, Ministerial aides or departmental staff often do not bother to disestablish an agency whose purpose has been met or which has become inactive.

Other advisory agencies are established by Treasury Board, Cabinet, by a Federal-Provincial or other agreement or by legislation. Where created by legislation, usually establishment of the agency is permissive, but there are cases where establishment of the advisory body is mandatory. The Minister's Board on Mental Health is an example. At the time the enabling legislation was drafted in 1965, the existence of such a body was thought to be of enough importance that its existence must be made a legislated requirement.<sup>54</sup>

These agencies maintain a low profile compared to 'A' and 'B' agencies. It is likely that the normally technical or routine nature of their advice usually results in a minimum of controversy. Although 'C' agencies may be characterized as usually non-contentious, their function is highly regarded, both by the political and bureaucratic arms of government. The input of experts is valued, but the participation of members of the public is also of major importance.

The membership of these agencies is largely drawn from the relevant industry or occupational community. For example, the Electricians' Board of Examiners is comprised of electricians, the Hairdressers' Board of Examiners is hairdressers and so on. Other criteria are also considered: geographic representation, a rural-urban mix and ethnic and gender factors.



Since these agencies are not normally involved in program delivery and those with a larger research responsibility are classified as a 'B' agency, their budgets are minimal or nil. Remuneration and out-of-pocket expenses are usually paid from a departmental appropriation and any requirement for clerical assistance is also usually supplied by the department. The appointed members of the agency only supply verification of attendance at meetings and expense claims for reimbursement purposes to the department's administration branch. Other reporting is made directly to the Minister or the Deputy Minister.

The level of remuneration made to members of advisory agencies is quite low and in some cases it is nil or confined to reimbursement of out-of-pocket expenses only. Expense reimbursement must be in line with that provided for civil servants, unless other arrangements are authorized by Order-in-Council. This does not occur in very many situations, but the Chairperson of the Advisory Council on the Status of Women did receive such approval for reimbursement of child care expenses, a provision which is not available to civil servants or appointees to other agencies. A fairly accurate average of remuneration for this category is \$60.00 per day for the members and \$85.00 for chairperson.

Administration of 'C' agencies is straight-forward because most matters are handled by the department. The only common difficulty is the tendency for members to make errors concerning travel and related expenses, due to unfamiliarity with the civil service rules and regulations which govern these expenditures.

The following section of this chapter is a case study of the Council on Aging. This agency was chosen for two reasons. First, it has a rather large annual budget for agencies of this type. Second, it is the only advisory agency

which reports (functionally as well as formally) to a civil servant rather than directly to a Minister (or Deputy Minister or designate).

### Council on Aging

The Council on Aging was created in 1980 by a decision of Cabinet, to provide an advisory function regarding the aged and the aging population of Manitoba. In order to understand the Council fully, an explanation of the role of the Provincial Gerontologist is first necessary.

The Provincial Gerontologist is a public official who is charged with the responsibility of providing advice, consultation services and policy and program information on gerontological matters to senior governmental staff, departmental officials, community organizations, educators and the general public. In so doing, the gerontologist interacts with liaison officers appointed by each provincial department and appropriate Crown Corporations to deal with interdepartmental issues related to aging.<sup>55</sup>

The effectiveness of the Provincial Gerontologist is at least partially dependent upon how responsive that individual can be to the needs of the client group - Manitoba's elderly. Her role then, is enhanced by input from the client group; it is partly for this reason that the Council was formed. The publicly-stated commitment of the government for public participation in the development and implementation of policy is also part of the rationale for establishment of the Council with its particular mix of responsibilities and organizational structure.<sup>56</sup>

The Council's mandate clearly enhances the role of the Provincial Gerontologist. The terms of reference of this 'C' agency include: (1) assisting in adapting government programs, policies and institutions to accommodate the changing age structures of Manitoba's population; (2) increasing public knowledge

and understanding of the aging process and its implications for all age groups; (3) reviewing projects, programs, proposals and problems related to the aging process and the aging of Manitoba's population, as referred to it by the Minister; and (4) providing for a public consultative process through meetings with relevant organizations, groups and individuals. These terms can easily be seen as complementary to, and supportive of, the goals of the Provincial Gerontologist.

It should be noted that all of the individuals with whom the role and function of the Council was discussed agreed that its primary focus was one of support to the Provincial Gerontologist and that it plays an advisory role to the Government and not one of advocacy, (although the distinction between "advise" and "advocate" must surely be a fine one). The formal terms of reference cited above support that argument, although the Provincial Gerontologist did express some reservations about this view. She contends that the function of the Council is unique enough that it should not be viewed as merely an extension of her responsibilities.

The membership structure of the Council is designed to ensure some continuity and could be interpreted to indicate some commitment to a Council which is on-going. Fifteen persons are appointed for a three-year term, with five members changing each year. The Chairperson is appointed for a two-year term, after serving a year as a regular member. As is the case with most other Manitoba quasi-independent agencies, the membership reflects geographic, ethnic, occupational, gender and related experience considerations. Council membership also reflects the age diversity of Manitoba, a factor which makes obvious sense for this body but which is not a criterion for membership selection to other Manitoba quasi-independent agencies.

Specifically, the geographic factor results in one member from each of the Norman, Thompson, Parklands, Central, Interlake and Eastman regions; two from the Westman region; and four from Winnipeg. This geographic spread is considered to be of significant importance to the Council and is adhered to quite firmly. This contrasts to the geographic representation on many other provincially-appointed bodies, which is not usually so representative. While other boards may attempt to cover all regions, it is a goal not always realized.

Efforts to incorporate representatives from various ethnic groups reveals one member who is a francophone, another who is a Native Canadian and six others who reflect the ethnic diversity of Manitoba. These six others vary as to the groups which they represent but the two other most frequently represented are the Ukrainian and German communities.

The "occupational diversity" criterion shows that six members are chosen from among these groups: labour, small business, agriculture, nursing, medicine, clergy, architecture, law, skilled crafts, other health and social services and volunteers. All of these occupational categories, plus the volunteer category, have relevance to the issues facing today's aging.

Although the Council's mandate concerns the aging, its membership structure deliberately avoids too great a concentration on the elderly. It has been established that no less than one-third but no more than one-half of the membership shall be retired individuals or senior citizens. In total, the membership is to span all adult age groups. The Provincial Gerontologist reports that they have never experienced any difficulty in recruiting interested individuals from any age group, including from the 20's.

The final criterion used in the selection of individuals to be appointed to the

Council, is that all potential members must have an awareness of and interest in local community issues and the concerns of aging within all of Manitoba. In partial fulfillment of this requirement, three members are drawn from special seniors programs. These community programs are: the Manitoba Society of Seniors, the Age and Opportunity Centre and the Retired Teachers Organization. This last organization, although seemingly too specialized to be one of only three which are required to be represented on the Council, has traditionally played a leadership role on issues and concerns of the aging which is continued and recognized by the mandatory inclusion of one of its members on the Council.

The 15-member Council meets approximately seven times per year to discuss matters before it and to make decisions on regular ongoing business, such as development of the "Manitoba Senior Citizens' Handbook" and co-ordination of the Annual Conference on Aging. The Handbook is intended as a guide to all of the programs and services available to seniors in the Province. It also provides advice on a variety of topics such as nutrition, safety, crime prevention, the writing of wills and other topics.

The annual conference is a significant cross-Canada event in which the Council plays a major planning role. This gives the Manitoba Council an opportunity to meet with its counterparts in other provinces, as well as continuing the ongoing liaison with other groups within the province. One of the documents prepared for the conference is a 100 page compilation of statistical information on aging in Manitoba. It provides the socio-demographic factors necessary as a background to planning for the aged and an aging population used by other agencies as well as government. The research presented in this

document also covers such areas as: employment, income, health status, health care and health resources and the availability of informal support, and also significant background statistics required for planning.

In fact, this document provides a clue as to the major goals of the conference; planning, testing ideas and preparing policy recommendations. Since the conference draws in people from all across Canada, its potential to be a valuable tool to government is significant.

This function is not only a product of the annual conference but is a major responsibility of the Council as well. Its mandate for research and policy development is an ongoing responsibility as important as its objective of providing an informational resource to senior citizens in the province.

The annual budget of the Council - approximately \$62,400.00 is used largely for the production of the Handbook, while most of the remaining amount is used on research expenditures. The only staff of the Council is one administrative secretary. All other administrative, clerical and professional staff support is supplied by the Provincial Gerontologist's office, to the limited extent that such support can be made available.

Since the Council reports through the Provincial Gerontologist who in turn reports to the Deputy Minister of the Department of Health, it may not be expected that there would be much interaction of the Council with the Minister of Health. However, the Minister has attended Council meetings when topics of special interest were on the agenda. The proposed increase in rates for personal home care use was a controversial decision, and the Minister wished to hear Council's discussion on the matter, rather than simply to receive a report of it later. The reverse situation has also occurred; that is, Council has requested the

Minister's attendance when a topic of special concern is under discussion. A recent example is the issue of elder abuse in Manitoba. In this case, the Minister conveyed the concerns of the Council to the Provincial Cabinet, and when more formal recommendations from Council were developed, they received approval from Cabinet.



### Analysis

The characteristic of the Council to be reviewed first is its reporting relationship - through the Provincial Gerontologist, who reports to the Deputy Minister of Health, then to the Minister of Health, who is charged with responsibility for the Council on Aging. Although the Minister is accessible to the Council, the layers of reporting do represent a buffer between this particular special interest group, the aging, and the political arm of government. In particular, since the primary role and mission of the Provincial Gerontologist is to provide advice, consultation and information and to assist in the implementation of approved policy in the field, the Council cannot be viewed as an independent body. The Council functions much like any small research unit within the staffing and program responsibilities of a Branch Head - in this case the Provincial Gerontologist.

An obvious reason for this relationship is that the inadequate funding of the Gerontologist's function requires that research be obtained from some other source. While obtaining such research from an inexpensive source is not without merit, the reality of her need for such support may undermine the independence of the research and the recommendations and advice which flow from that research.

It should be emphasized that this reporting relationship is atypical of advisory bodies. In most cases, an advisory agency deals with the bureaucracy on administrative matters only and often reluctantly. Often, the only contact wanted is with the Minister or ministerial staff. Since independent advice is the reason for their creation, the matter of any contact with the bureaucracy

whatsoever, is a particularly sensitive one.<sup>57</sup>

Some of the aged population could argue that if the Council is to be most effective in its advisory capacity, surely greater distance from the bureaucracy, on non-administrative matters at least, is required. Administrative control by the bureaucracy may detract from the independence of an agency and, therefore, the fulfilment of their mandate, (although the same argument is often put forward by departments).

The participation of the Gerontologist, who is a civil servant, in the deliberations of the Council is quite likely to produce recommendations which are acceptable to the government. Even if the Gerontologist believes in a large degree of independence for the Council, her influence is not to be underestimated. She is a committed, knowledgeable individual who has a keen sense of what the government is likely to approve.

Only one instance of an "unacceptable" (to the Gerontologist) recommendation from the Council is reported. The Council wanted to propose to an NDP government that the provision of home care services and personal care homes be completely privatized. The Provincial Gerontologist was not in favour of the recommendation, but it went forward to the Minister. Not surprisingly, it was not implemented. The Gerontologist states that nearly all other recommendations have been implemented and that those which have not, have not, because of budgetary restraints. The Government has indicated its concurrence with the recommendations however, and it does seem likely that they will be implemented over time. Based on experience to date, that belief is well-founded, provided that the recommendations continue to be acceptable to the government of the day.

It was pointed out that the role of the Council is not one of advocacy, a claim made by most agencies within this category. In this case, however, the point was emphasized, indicating it is likely that the Council is satisfied with the commitment of the Government and the pace of its action.

This contrasts with the Advisory Council on the Status of Women who, for the most part, are uneasy with the pace and extent of change and are prone to suspect the Government's commitment to and rationale for creating the Advisory Council. As such, they tend to be somewhat more vigorous in their persuasion and advocacy tactics with the Government.

Aside from the recommendations and proposals made to the Government, Council produces printed materials for the public. Their primary publication is the Manitoba Senior Citizens' Handbook, which is acknowledged as one of the most comprehensive produced by any of their counterparts in the other provinces.<sup>58</sup> The Handbook is well written and published in four languages - English, French, Ukrainian and German.

Although this document is an impressive example of what the Council can do, Council's activities are severely restricted by the level of funding available. Inadequate funding is a problem not restricted to the Provincial Gerontologist; it also extends to the Council. Estimates planning for the fiscal year 1987-88 include additional staff and financial resources for the Council and, these increases have been approved.

The evidence that the Council is not as effective as it could be, is not confined to a quantitative assessment of their tangible outputs, such as publication of the Handbook. A very brief survey of senior citizens shows that the existence of the Council is not well known.<sup>59</sup>

Certainly, those senior citizens who were approached, did not view it as an independent body. Many of those who knew of it were not sure what it did. When the Manitoba Senior Citizens' Handbook was mentioned, most of those who were familiar with the Handbook saw it as a Government publication, not one of an independent body.

Two of the responsibilities with which the Council is charged are identifying areas of opportunity for the Government through advice on programs, policies and institutions, and increasing public knowledge and understanding of the aging process. To do this well, significant out-reach into the community is required. Without it, only the interested and active individuals who participate on the Council and with other related groups will be providing the in-put upon which the Council's recommendations are based. Although this is an inherent problem with any advisory body, it is particularly true of this one.

The close relationship of the Council with the Provincial Gerontologist poses no difficulties from a purely administrative point of view. Since the Council is under the direction of the Gerontologist, it functions much like any branch of a government department. Even the interaction which does exist between the Council and the Minister is not atypical of that which would occur between a Minister and a branch of his or her department. Since many of the problems which occur with other agencies are the result of a lack of clarity on how a quasi-independent body is to relate to the bureaucracy, this set-up has the advantage of avoiding such potential problems.

The Gerontologist sees no problems with this arrangement, understandably, since in effect it provides her with a much needed research unit. Curiously, the Council on Aging is also very supportive of this close tie-in with the bureaucracy

and is only critical of their level of funding.<sup>60</sup>

In their view, independence is not compromised, and in fact, since the Gerontologist is "on their side", the close relationship works to their advantage when the Government considers implementation of their recommendations. The possibility that the influence of the Gerontologist on the Council ensures the acceptability of their advice because the recommendations already reflect the Government's intent, is a point of view not accepted by the current Council.

## CHAPTER VI

### RECOMMENDATIONS

A number of recommendations have been developed as a direct result of the cases presented in this study. The process of interviewing individuals involved in these agencies (appointed members, staff and the client group), civil servants in staff and line departments, and aides in the Premier's and Ministers' offices, presented the opportunity to test ideas as well as learn new ones. To help keep the recommendations in perspective, the background and justification of each is provided. It should also be noted at this point, that the purpose of making recommendations is not to adopt completely a uniform approach to the treatment of agencies as a preferred model but to remain flexible and responsive to the individual needs of agencies and introduce uniformity only where it can be justified as an appropriate measure.

These interviews also led to discussions about agencies which were not among those presented as case studies. Where recommendations were developed largely from information on other agencies, some background material and justification is provided following the recommendations.

1. THAT A MEMORANDUM OF UNDERSTANDING BE DEVELOPED BETWEEN THE MINISTER RESPONSIBLE AND THE AGENCY HEAD WHICH CLARIFIES THE MANDATE AND PERFORMANCE EXPECTATIONS OF THE AGENCY AND DEFINES THE ADMINISTRATIVE RELATIONSHIPS BETWEEN THE AGENCY AND THE GOVERNMENT

The purpose of such a document is to formalize the performance expectations not only as they relate to the meeting of the agency's

mandate but also for accountability purposes. Reporting, accounting and other accountability requirements would be stipulated, and greater detail on the agency's powers and responsibilities would be included. As well, the document should indicate, as far as possible, the role of the Minister related to the issuance of direction to the agency. An advantage of placing these terms in a "Memorandum of Understanding" is that such a document is easier to amend than legislation. Keeping these conditions current is of primary importance. The document should be public information.

The Memorandum should establish accountability through:

- a) the provision of information on agency operations to the Minister responsible, on a timely basis and that such reporting explain and justify actions in full;
- b) establishment of a system of checks and balances which stipulates the extent to which the bureaucracy is involved;
- c) a clear statement of the agency head's authorities which strengthens his or her responsibility for planning, administering and controlling the resources within his or her jurisdiction.

2. THAT POLICIES APPLICABLE TO THE CIVIL SERVICE BE INDIVIDUALLY REVIEWED TO ASCERTAIN THEIR APPROPRIATENESS TO AGENCIES

These policies would include not only those affecting the direct expenditure of public funds but also those regarding the conduct of civil servants, such as Conflict of Interest Guidelines, the Affirmative Action Program and Workplace Safety and Health regulations.

3. THAT DRAFT LEGISLATION BE REVIEWED WITH SPECIFIC ATTENTION TO ITS ADMINISTRATIVE AFFECTS RESPECTING ACCOUNTABILITY

Some draft legislation was found to contain wording so vague that it is potentially problematic. For example, the draft Bill creating the Workplace Innovation Centre gave appointed members the right to reimbursement for "reasonable" out-of-pocket expenses. That provision gives no direction whatsoever on what is reasonable, who decides and how expenses are to be accounted for, nor how disputes on what is reasonable are to be resolved.

4. THAT THERE BE A STANDARD ESTABLISHED FOR ALL ANNUAL REPORTS WHICH WOULD ENSURE THE DISCLOSURE OF BASIC BUT COMPREHENSIVE INFORMATION TO THE PUBLIC

Some Annual Reports were an embarrassment to review because of the lack of enough relevant information essential for a basic understanding of the agency. In some cases, the Annual Report is the only document on the agency made available to the public. Where agencies do not publish a separate report, the Annual Report of the department through which the agency reports should contain a section on the agency which covers all of the topics in a standard format.

5. THAT INACTIVE OR REDUNDANT AGENCIES BE FORMALLY DISESTABLISHED

Many interviews with departmental staff revealed the existence of agencies which had been non-operational for years. Because they have



never been formally disestablished, new departmental staff spend unnecessary hours determining the status of these bodies. In some cases, legislation requires that an agency must exist, but if that agency has outlived its purpose, the legislation should be amended. If its purpose is still valid, the agency should be required to fulfil its mandate, rather than remain inactive.

6. THAT TERMS OF REFERENCE BE DEVELOPED FOR ONGOING FORMAL REVIEW OF AGENCIES

Not one of the dozens of agencies (case studies or others) which were discussed as part of this study had a formal evaluation process; most did not even undertake informal, ad-hoc and internal review. Preferably, the review would be co-ordinated by a central management agency or an outside body, with participation by the agency under review, the "home" department, the client group and members of the Legislature, including Cabinet.

7. THAT ADDITIONAL RESEARCH ON QUASI-INDEPENDENT BODIES BE CONDUCTED ON, FOR EXAMPLE, THE RELATIONSHIP OF ORGANIZATIONAL STRUCTURE TO THE PURPOSE OF THE AGENCY

Some agencies appear to have an organizational structure which is not appropriate to their purpose. For example, the Manitoba Intercultural Council is structured in a manner similar to that of a self-governing body with the power to appoint its directors from within the membership and for example, to hire staff outside of the Civil Service Act; yet, the purpose of the agency is advisory in nature.

Likewise, the number of individuals appointed to agencies is usually an ad-hoc decision made without a well-researched basis. The result is that some agencies have an appointed board far too large to manage effectively the task before them.

8. THAT THE ORIENTATION AT PRESENT GIVEN TO NEW APPOINTEES TO AGENCIES BE CONTINUED AND ENHANCED

Many agency appointees reported that they were not fully informed of the requirements of their appointment. Although measures have been taken to correct this problem, this area requires much greater attention.

## CHAPTER VII

### CONCLUSION

The conclusions resulting from this study and contained in this chapter are of a general nature and do not necessarily lend themselves to the development of specific recommendations. Indeed, some of the observations to be noted here can only lead to the suggestion that further study is required. The purpose here is to offer comments which reveal attitudes, trends or practices, some of which have merit while others do not.

The most pertinent observation to make is how much agency members differ in their perception of their own roles, from the notion held by the Ministers responsible, Cabinet as a whole and political and bureaucracy staff. Most agency members strongly stress their independence from government and tend to object to contact initiated by the Minister and the bureaucracy on the basis that it is "interference." This stance was noted in many agencies; the rationale for using the agency form seemed not to be of consequence to agency heads in their assertions that independence was necessary.

It is understandable that an agency Board of Directors would be concerned about some kinds of interaction with the Minister if the primary purpose of using the agency form was to provide an impartial decision-making forum. A license-granting body is an example of an agency for which it is very appropriate that its decision-making process (on the granting of licenses) be free of influence from government. Impartiality is important also from an "appearances" point of view. The agency must not only make impartial decisions but take measures to

avoid any impressions to the contrary. In discussions with many individuals while conducting the research for this study, it was disturbing to discover how many appointed members were not sensitive to the implications of this rationale for creation of a quasi-independent body.

The main point to be made here, however, is that regardless of a rationale which can give clues that suggest what measure of independence is appropriate, agencies argue that greater independence from government (than at present) is crucial to their operation. Analysis of the case studies reveals that this is sometimes an over-statement of their needs, or is not supported at all by the evidence of their own experience. That is, many agencies operated successfully with rather limited independence, even though they expressed a need for greater distance.

On the other hand, it is equally alarming to hear Ministerial staff voice opinions which suggest a belief that agencies are a direct extension of the Minister's office. There is often an equal disregard for any balance of views between the two extremes, and this attitude tends to result in a "push-pull" relationship which is ultimately counter-productive. There have been cases in which the bureaucracy, particularly in its central management role, has not always been sensitive to the dynamics of this relationship. This means that since the greatest pressure on central management units comes from the elected arm of government, the activities affecting agencies tend to be limited to the "push" side of the relationship. Central management within the bureaucracy thus misses an opportunity to play a much needed balancing role.

In addition, central management agencies are often guilty of not consulting sufficiently with the agencies over which they exert some control. This

tendency only exacerbates poor communication, thus leading to measures which restrict agencies unduly or which do little to contribute to an accountability system because they are not based on an accurate understanding of the agency.

The solution, however, may not be as simple as the oft-suggested one of "give managers the right to manage". This phrase is usually taken to mean that managers should be given greater decision-making authority, but be held to account for all decisions made. With agency heads arguing for greater freedom from administrative requirements, greater authority to make decisions only addresses one aspect of the issue. "Calling managers to account" is not specific enough. Accountability measures still need to be well-defined for agencies.

One of the inherent problems in a large bureaucracy is that managers (of agencies or any other administrative unit), are responsible for a relatively small part of the bureaucracy, and do not usually have the opportunity to experience some of the broader issues facing the Government. Managers can only reasonably be held accountable for their own areas of responsibility. The likelihood then, is that while they may have no difficulty in, for example justifying an increase in staff for their own responsibility areas, in no way could they be called to account for an overall growth in the staff size of the bureaucracy (including publicly-funded agencies) Yet, overall growth is a major, legitimate concern. How could accountability on this issue be effective if there is no centralized vetting of staffing requests, or directives on staffing restraints which are mandatory for agencies?

Herein lies a problem significantly important for agencies. The fostering of an appreciation for the larger view is difficult enough in any case, but is even more so with agency heads. Many agencies are physically apart from other

government offices, have distinct visual identity symbols, including letterhead which avoids any association with the Government, and have managers who would deliberately choose a private-sector service over one available to them from the bureaucracy (eg: those of the Queen's Printer), even when the private-sector service is more costly, simply to emphasize their separateness from government. The deliberate choice to stress distance works against fostering the "broader view". This aspect of agencies is a disappointing reality. This reaction is supported when the agency members interviewed for this study could only, for the most part, give weak responses to queries on why they should be, or are, independent. On the contrary, central management staff in the bureaucracy could give better reasons why agencies should at least be under greater scrutiny, if not greater direct control, (although these arguments were flawed because they revealed no appreciation of the need for some independence, in some or many matters).

A way out of this problem is difficult to envision. But, practicalities aside for the moment, perhaps it could be useful for agency members and central management staff to participate in a staff exchange program so that each could learn the needs of the other on a first-hand basis. Alternatively, the present orientation program for new agency appointees could be greatly enhanced, with the aim of fostering an understanding of the "broader view". A sister program would need to be developed for central management staff.

While the preceding observation on the differing points of view was reinforced by interviews with many individuals, it cannot be left without one caveat. The most successful Chief Executive Officers, General Managers and Executive Directors have recognized the dichotomy of views and have achieved a

balance between the two which works extremely well on an operational level.

Many features of agencies seem to be arbitrary, making it difficult to assess their impact. Any evaluation must be based partly on a determination of how well certain measures have met their purposes, but when purposes are not stated, such a determination is not possible. Even simple characteristics such as the number of members appointed to an agency often have no rationale. Some appointed boards are very large in number, possibly hampering effectiveness as working groups. Perhaps because there is poor co-ordination on organizational matters, many agencies make the same mistakes when they could have been avoided by learning from the experience of others.

Most agencies look to their enabling statute for guidance on administrative authority, especially when such assistance is lacking from other sources. The difficulty is that most statutes do not contain the degree of detail that is really sought by agency staff, members and others within the bureaucracy. Since it is not practical to put in legislation administrative detail which may need frequent updating, some other way must be developed to deal with this problem.

The civil service bureaucracy is not usually credited with possessing much administrative or organizational innovation even in generous performance assessments, a particularly serious flaw concerning administrative arrangements with agencies which require great insight. Every attempt must be made to develop the most effective relationships -- those which provide the necessary flexibility, yet meet the highest accountability requirements. Memoranda of Understanding recommended in the previous chapter may be a first step in this process. Other measures could also be considered, such as a central agency function, of an advisory nature only, which could provide assistance to agencies

on organizational and administrative matters.

One of the most important observations to make in this concluding chapter is that the most desirable administrative policy environment is one which is not static, so that the continually shifting factors which affect agencies can be responded to without hampering by inappropriate administrative constraints. This is not to suggest that administrative policies and procedures should not exist or be so open-ended as to be ineffective. But the need to develop a more consistent and well thought out approach towards agencies is great. Without a conceptual framework for viewing agencies, treatment will always be crisis-oriented and ad-hoc. Without specific attention, an accountability network will not be in place to ensure adequate and fair scrutiny of public expenditure. One individual interviewed for this study, who had considerable cross-agency experience, stated that although agencies were not in crisis (regarding accountability), the potential was certainly there. That view certainly supports an apparent trend in which agencies are "reined-in" and brought under greater ministerial control only when they get into serious difficulties. Until then, however, they may operate without a great deal of accounting for how and in what manner they expend public funds.

The importance of a more co-ordinated effort regarding the administrative relationships of quasi-independent bodies is realized when long-range and strategic planning efforts of the Government are considered. It is difficult or impossible to implement the measures resulting from these efforts if administrative aspects relating to agencies are not addressed, because of an inappropriate assumption that such considerations belong solely within the realm of an agency head's decision-making authority.



Co-ordination is also necessary to ensure that rules and procedures which are mandatory for agencies continue to be relevant. These efforts must be on-going; there are no easy answers to the central concern posed by this study. Bureaucrats and agency people alike must exercise thought for all measures which affect agencies and avoid glib, highly structured, unrealistic, or overly global responses. The most acceptable framework within which to operate involves increased knowledge of agencies and of accountability needs and an exercise of the responsibility for which civil servants are hired and agency members appointed. No administrative system can ever absolve these individuals of the need to think, analyze and provide the best response possible to a great variety of situations. Ultimately, there must be a realization that there is no panacea.

Finally, it must be re-stated that it is the Minister who is ultimately responsible for quasi-independent agencies, a responsibility which cannot be shifted when there are persistent problems with an agency. The accountability of the Minister may be more effectively achieved through reform in the Legislative Committee structure or in other aspects of the Legislature. Measures in this area, if dovetailed with changes in the administrative relationships of agencies, would go a long way towards creating effective accountability.

APPENDIX I  
ALPHABETICAL LISTING OF  
MANITOBA AGENCIES, BOARDS, COMMISSIONS, COMMITTEES  
AND CORPORATIONS

AGENCY	DEPARTMENT OR MINISTER
A.E. McKenzie Co. Ltd.	Crown Investments
Adv. Council to Licensed Practical Nurses	Health
Advisory Committee on Material and Child Health Care	Health
Advisory Committee on Multiculturalism	Culture, Heritage & Recreation
Advisory Committee on School for the Deaf	Education
Advisory Committee on Tree Protection	Agriculture
Advisory Council on the Status of Women	Labour
Advisory Medical Board to Cancer Treat- ment & Research Foundation	Health
Agricultural Credit Corp.	Agriculture
Agricultural Crown Lands Advisory Cttee.	Agriculture
Agricultural Employment Development Cttee.	Agriculture
Agricultural Lands Protection Board	Agriculture
Agricultural Productivity Council	Agriculture
Agricultural Societies Advisory Board	Agriculture
Alcoholism Foundation of Manitoba	Health
Apprenticeship & Trades Qualif. Bd.	Labour
Arbitration Board of Forestry Branch	Natural Resources
Artificial Insemination Advisory Board	Agriculture
Barbers Board of Examiners	Labour
Board of the Assoc. of Occup. Therapists	Health
Beef Commission	Agriculture
Board of Reference	Education
Board of Review	Attorney-General
Board of the County Court Judges	Attorney-General
Board of the Manitoba Dental Assoc.	Health
Boards of Arbitration	Education
Boards for Control of Interboundary Waters	Natural Resources
Boxing & Wrestling Commission	Hon. L. Desjardins
Brandon Enterprise Development Centre	Industry, Trade & Technology
Building Standards Board	Labour
Canada/Manitoba Labour Market Needs Cttee.	Employ. Serv. & Econ. Sec.
Cancer Treatment & Research Foundation	Health
Canteen Funds Board of Trustees	Attorney-General
Cattle Producers Association	Agriculture
Centennial Centre Corp.	Business Develop. & Tourism
Centre Culturel Franco-Manitobain	Culture, Heritage & Recreation
Century Family Farms in Man. Sel. Cttee.	Agriculture
Certificate Review Committee	Education

AGENCY	DEPARTMENT OR MINISTER
Channel Area Loggers Ltd.	Crown Investments
Child Welfare Review Board	Community Services
Child Welfare Treatment Panel	Community Services
City of Wpg. - Committee on Environment	Urban Affairs
Civic Service Board	Municipal Affairs
Civil Serv. Superannuation Invest. Cttee.	Hon. E. Kostyra
Civil Service Commission	Hon. E. Kostyra
Civil Service Superannuation Board	Hon. E. Kostyra
Clean Environment Commission	Envir. & Workplace Safety & Health
Co-operative Loans & Loans Guarantee Bd.	Co-operative Development
Co-operative Promotion Board	Co-operative Development
Collective Agreement Board	Education
Comite consultatif des programmes d'etude	Education
Comite consultatif en emersion francais	Culture, Heritage & Recreation
Comite consultatif en francais langue premure	Education
Committee to Administer Police Benefit Fund	Attorney-General
Communities Economic Development Fund	Northern Affairs
Conciliation Boards	Labour
Conservation Districts Commission	Natural Resources
Council on Aging	Health
Credit Union Stabilization Fund Board	Co-operative Development
Criminal Injuries Compensation Board	Attorney-General
Crop Insurance Corporation	Agriculture
Crop Insurance Act Appeal Tribunal	Agriculture
Cttee. on Pesticide Residue Testing	Agriculture
Curriculum Policy Review Council	Education
Dairy Board	Agriculture
Day Care Staff Qualifications Review Board	Community Services
Dental Mechanics Act Committee	Health
Denturists Act Committee	Health
Design Institute	Business Dev. & Tourism
Dest. Manitoba Program Review Cttee.	Industry, Trade & Technology
Disaster Assistance Board	Government Services
Documents Committee	Culture, Heritage & Recreation
Drug Standards & Therapeutics Formularly Advisory Committee	Health
Ecological Reserves Advisory Committee	Natural Resources
Education Advisory Board	Education
Elections Finance Commission	Exec. Council & Legislation
Electoral Divisions Boundary Comm.	Exec. Council & Legislation
Electrician's Board of Examiners	Labour
Elevator Board	Labour
Embalmers and Funeral Directors Board of Administration	Consumer & Corporate Affairs
Enterprise Manitoba Industry Sector Advisory Boards (6)	Industry, Trade & Technology

AGENCY	DEPARTMENT OR MINISTER
Environmental Assets Review Agency	Envir. & Workplace Safety & Health
Environmental Council	Envir. & Workplace Safety & Health
Evaluations Committee	Education
Farm Financial Review Board	Agriculture
Farm Machinery Board	Agriculture
Film Classification Appeal Board	Culture, Heritage & Recreation
Film Classification Board	Culture, Heritage & Recreation
Fire Department's Arbitration Board	Labour
Fire Advisory Committee	Labour
Flood Forecasting Committee	Natural Resources
Flyer Industries Ltd.	Crown Investments
Gas & Oil Fitters Board of Examiners	Labour
Gr. Wpg. Building Construction Wages Bd.	Labour
Gr. Wpg. Gas Distribution Negotiating Cttee.	Energy & Mines
Hairdressers Board of Examiners	Labour
Health District Boards	Health
Health Research Council	Health
Health Sciences Centre Board	Health
Hospital Standards Committee	Health
Health Units Advisory Boards	Health
Hearing Aid Board	Health
Heavy Construction Wages Board	Labour
Heritage Council	Culture, Heritage & Recreation
Heritage Manitoba Board	Culture, Heritage & Recreation
Highway Traffic Board	Highways & Transportation
Historic Sites Advisory Board	Culture, Heritage & Recreation
Hog Income Insurance Plan Committee	Agriculture
Horse Racing Commission	Business Dev. & Tourism
Horticultural Societies Advisory Board	Agriculture
Hospital Capital Financing Authority	Finance
Human Rights Commission	Attorney-General
Industrial Inquiries Commission	Labour
Insurance Licence Advisory Board	Attorney-General
Insurance Society Readjustment Committee	Attorney-General
Judicial Council	Attorney-General
Labour Management Review Committee	Labour
Lake of the Woods Control Board	Natural Resources
Land Value Appraisal Commission	Government Services
Languages of Instruction Advisory Cttee.	Education
Law Enforcement Review Board	Attorney-General
Law Reform Commission	Attorney-General
Le Centre Culturel Franco-Manitobain	Culture, Heritage & Recreation
Le Fonds de Securite des Caisses Populaire	Co-operative Development
Leaf Rapids Town Properties	Crown Investments
Legal Aid Manitoba	Attorney-General
Legislative Assembly Management Comm.	Exec. Council & Legislation
Library Federation Board	Culture, Heritage & Recreation

AGENCY	DEPARTMENT OR MINISTER
Licensing Advisory Committee	Business Dev. & Tourism
License Suspension Appeal Board	Highways & Transportation
Licensing Authority	Industry, Trade & Technology
Liquor Control Commission	Crown Investments
Liquor Licensing Board	Hon. R. Penner
Local Government Districts Library Boards	Culture, Heritage & Recreation
Lotteries Foundation	Hon. J. Wasylycial-Leis
Lower Red River Valley Water Commission	Natural Resources
Manitoba Arts Council	Culture, Heritage & Recreation
Manitoba Data Services	Crown Investments
Manitoba Development Corp.	Business Develop. & Tourism
Manitoba Energy Authority	Energy & Mines
Manitoba Energy Council	Energy & Mines
Manitoba Forestry Resources Ltd.	Crown Investments
Manitoba Health Services Commission	Health
Manitoba Housing & Renewal Corp.	Housing
Manitoba Hydro	Crown Investments
Manitoba Intercultural Council	Culture, Heritage & Recreation
Manitoba Labour Board	Labour
Manitoba Mineral Resources Ltd.	Crown Investments
Manitoba Oil & Gas Corp.	Crown Investments
Manitoba Public Insurance Corp.	Crown Investments
Manitoba Research Council	Industry, Trade & Technology
Manitoba Securities Commission	Consumer & Corporate Affairs
Manitoba Telephone System	Crown Investments
Manitoba Trading Corp.	Industry, Trade & Technology
Manitoba Water Commission	Natural Resources
Manitoba-Northwest Territories Bound. Comm.	Natural Resources
Manitoba-Ontario Boundary Comm.	Natural Resources
Manitoba-Saskatchewan Boundary Comm.	Natural Resources
Market Sharing Quota Advisory Comm.	Agriculture
Medical Review Arbitration Board	Education
Medical Review Committee	Highways & Transportation
Mental Health Planning Committee	Health
Mental Health Research Foundation	Health
Mental Health Research Foundation	Health
Milk Prices Review Committee	Agriculture
Minimum Wages Board	Labour
Mining Board	Energy & Mines
Minister's Advisory Committee on Special Education	Education
Moose Lake Loggers Ltd.	Crown Investments
Motion Picture Proj. Board of Examiners	Labour
Motor Transport Board	Highways & Transportation
Municipal Advisory Committee	Municipal Affairs
Municipal Assessment Court of Revision	Municipal Affairs
Municipal Audit Advisory Committee	Municipal Affairs

AGENCY	DEPARTMENT OR MINISTER
Municipal Board	Municipal Affairs
Municipal Employees Benefits Board	Municipal Affairs
Museum of Man & Nature	Culture, Heritage & Recreation
Nursing Review Committee	Health
Oil & Natural Gas Conservation Board	Energy & Mines
Parole Board	Community Services
Pension Commission	Labour
Permanent Cttee. on Geographical Names	Natural Resources
Pesticides & Fertilizer Advisory Cttee.	Agriculture
Police Commission	Attorney-General
Prairie Provinces Water Board	Natural Resources
Producer Marketing Boards	Agriculture
Chicken Broiler Producers' Marketing Bd.	Agriculture
Egg Producers' Marketing Board	Agriculture
Hog Producers' Marketing Board	Agriculture
Honey Producers' Marketing Board	Agriculture
Milk Producers' Marketing Board	Agriculture
Turkey Producers' Marketing Board	Agriculture
Vegetable Producers' Marketing Board	Agriculture
Propane Gas Advisory Board	Energy & Mines
Provincial Board of Health	Health
Psychiatric Nurses Educ. Adv. Cttee.	Health
Public Advisory Committee	Urban Affairs
Public Library Advisory Board	Culture, Heritage & Recreation
Public Schools Finance Board	Education
Public Utilities Board	Consumer & Corporate Affairs
Rates Appeal Board - (M.P.I.C.)	Hon. J. Bucklaschuk
Rent Appeal Panel	Housing
Rural Building Construction Wages Board	Labour
Sanatorium Board of Manitoba	Health
Saskerem Wildlife Mgmt. Area Advisory Comm.	Natural Resources
School Buildings Projects Committee	Education
Sinking Fund Trustees - City of Winnipeg	Urban Affairs
Small Business Int. Rate Relief Bd.	Industry, Trade & Technology
Soc. Allow. Health Serv. Dental Rev. Cttee.	Community Serv. & Corrections
Social Services Advisory Committee	Employ. Serv. & Econ. Security
Souris River Water Commission	Natural Resources
Special Committee on Law Revision	Attorney-General
Standing Committee on Medical Manpower	Health
Student Aid Appeal Board	Education
Surface Rights Board	Energy & Mines
Swine R.O.P. Advisory Committee	Agriculture
Tantalum Mining Corp.	Crown Investments
Taxicab Board	Highways & Transportation
Teacher Certificate Appeal Committee	Education
Teachers Retire. Allow. Fd. Bd. Inves. Ct.	Education

AGENCY	DEPARTMENT OR MINISTER
Teachers Retirement Allow. Fund Bd.	Education
Tourism Agreement Advisory Board	Business Develop. & Tourism
Tourism Agreement Management Committee	Industry, Trade & Technology
Tourism Industry Organ. Advisory Cttee.	Business Develop. & Tourism
Trade Advisory Committee	Labour
Trout Lake Mine	Crown Investments
Uniform Law Conference of Canada	Attorney-General
Universities Grants Commission	Education
Venture Capital Advisory Board	Business Develop. & Tourism
Venture Manitoba Tours Ltd.	Crown Investments
Veterinary Medical Board	Agriculture
Veterinary Services Commission	Agriculture
Victims Assistance Committee	Attorney-General
Water Services Board	Agriculture
Weed Control Advisory Board	Agriculture
Winnipeg Enterprise Development Cttee.	Industry, Trade & Technology
Women's Institute Advisory Board	Agriculture
Workers Compensation Board	Hon. H. Harapiak
Workplace, Safety & Health Adv. Coun.	Envir. & Workplace Safety & Health

APPENDIX II  
AGENCIES UNDER THE JURISDICTION  
OF THE DEPARTMENT OF  
CROWN INVESTMENTS

A. E. McKenzie Co. Ltd  
Channel Area Loggers Ltd.  
Communities Economic Development Fund  
Flyer Industries Ltd. (recently sold)  
Leaf Rapids Town Properties Ltd.  
Liquor Control Commission  
Manitoba Agricultural Credit Corporation  
Manitoba Crop Insurance Corporation  
Manitoba Data Services  
Manitoba Development Corporation  
Manitoba Forestry Resources Ltd.  
Manitoba Hydro  
Manitoba Mineral Resources Ltd.  
Manitoba Public Insurance Corporation  
Manitoba Oil and Gas Corporation  
Manitoba Telephone System  
Manitoba Trading Corporation  
Moose Lake Loggers Ltd.  
Tantalum Mining Corporation  
Trout Lake Mine  
Venture Manitoba Tours Ltd.



## APPENDIX III

### 'A' AGENCIES

Alcoholism Foundation of Manitoba  
Beef Commission  
Cancer Treatment and Research Foundation  
Centennial Centre Corporation  
Clean Environment Commission  
Health Services Commission  
Health Sciences Centre Board  
Horse Racing Commission  
Housing and Renewal Corporation  
Lotteries Foundation  
Manitoba Energy Authority  
Manitoba Research Council  
Mental Health Research Foundation  
Museum of Man and Nature  
Motor Transport Board  
Municipal Board  
Natural Products Marketing Council  
Public Schools Finance Board  
Public Utilities Board  
Sanatorium Board  
Securities Commission  
Water Services Board  
Workers Compensation Board

NOTE: Not all of the agencies listed in Appendix I have been classified as an 'A', 'B' or 'C' agency.

## APPENDIX IV

### 'B' AGENCIES

Agricultural Crown Land Advisory Committee  
Agricultural Lands Protection Board  
Appeal Tribunal  
Apprenticeship and Trades Qualifications Board  
Board of Administration for Embalmers and Funeral Directors  
Board of Reference  
Board of Review  
City of Winnipeg - Committee on Environment  
Civic Service Board  
Civil Service Commission  
Civil Service Superannuation Board  
Civil Service Superannuation Fund Investment Committee  
Child Welfare Treatment Panel  
Collective Agreement Board  
Co-operative Loans and Loans Guarantee Board  
Co-operative Promotion Board  
Credit Union Stabilization Fund Board  
Crop Insurance Act  
Dental Mechanics Act Committee  
Ecological Reserves Advisory Committee  
Elections Finance Commission  
Farm Machinery Board  
Film Classification Board  
Hearing Aid Board  
Highway Traffic Board  
Hog Income Insurance Plan Committee  
Judicial Council  
Le Fonds de Securite des Caisses Populaire  
Land Value Appraisal Commission  
Legal Aid Manitoba  
License Suspension Appeal Board  
Liquor Control Commission  
Manitoba Box & Wrestling Commission  
Manitoba Energy Council  
Manitoba Design Institute  
Manitoba Disaster Assistance Board  
Manitoba Drug Standards & Therapeutics Formulary Advisory Committee  
Manitoba Human Rights Commission  
Manitoba Intercultural Council  
Manitoba Law Reform Commission  
Manitoba Police Commission  
Manitoba Public Insurance Corporation Rates Appeal Board  
Manitoba Water Commission  
Medical Review Committee  
Milk Prices Review Commission  
Motor Transport Board

Rent Appeal Panel  
Small Business Interest Rate Relief Board  
Social Allowances Health Services Dental Review Committee  
Social Services Advisory Committee  
Surface Rights Board  
Taxicab Board  
Teacher's Retirement Allowance Fund Board  
Teachers' Retirement Allowances Fund Board Investment Committee  
Universities Grants Commission  
Veterinary Services Commission  
Veterinary Medical Board  
Workplace, Safety and Health Advisory Council

## APPENDIX V

### 'C' AGENCIES

Advisory Council on the Status of Women  
Advisory Medical Board to Cancer Treatment & Research Foundation  
Agricultural Employment Development Committee  
Agricultural Society Advisory Board  
Artificial Insemination Advisory Board  
Barbers Board of Examiners  
Building Standards Board  
Century Family Farms in Manitoba Selection Committee  
Conservation Districts Commission  
Curriculum Policy Review Council  
Dairy Board  
Destination Manitoba Program Review Committee  
Education Advisory Board  
Electrician's Board of Examiners  
Elevator Board  
Fire Advisory Committee  
Greater Winnipeg Building Construction Wages Board  
Gas and Oil Fitters Board of Examiners  
Hairdressers Board of Examiners  
Heavy Construction Wages Board  
Labour Management Review Committee  
Manitoba Council on Aging  
Minimum Wages Board  
Motion Picture Projectionist Board of Examiners  
Pension Commission  
Pesticides & Fertilizer Advisory Committee  
Producer Marketing Boards  
Provincial Board of Health  
Public Advisory Committee  
Rural Building Construction Wages Board  
Saskeram Wildlife Management Area Advisory Committee  
Tourism Agreement Advisory Board  
Tourism Industry Organization Advisory Committee  
Trade Advisory Committees  
Venture Capital Advisory Board

## FOOTNOTES

<sup>1</sup>Agencies is a general term used to describe any committee, commission, board or corporation to which the government has appointed members and for which the government is ultimately responsible. It is used inter-changeably with quasi- or semi-independent agency and non-departmental body.

<sup>2</sup>Eichmanis, John, "Agencies, Boards and Commissions in Ontario: Accountability and Control", Legislative Research Service, Current Issue Paper #22, Toronto, Ontario, April 1984.

<sup>3</sup>There are many examples: Government Regulation Ontario Economic Council, 1987; Responsible Regulation Economic Council of Canada; Government Regulation Institute of Research for Public Policy; The Regulatory Process in Canada by Bruce G. Doern; The Politics of Regulation; A Reader by Samuel Krislov and Lloyd D. Musolf; Reforming Regulation by Roger G. Noll; "Regulatory Agencies and the Canadian Political System" by Richard Schultz and Reforming Regulation Economic Council of Canada, (1981).

<sup>4</sup>See studies conducted by the Law Reform Commission of Canada such as Political Control of Independent Administrative Agencies by Linda Vandervort; Independent Administrative Agencies Ottawa, 1980 and by the Manitoba Law Reform Commission; Report on Administrative Law Part I: Procedures of Provincial Government Agencies Report #58, June 1984.

<sup>5</sup>See "Uses of Legislative Committees" by J. R. Mallory, "The Influence of Standing Committees of Parliament on Government Legislation" by Paul G. Thomas and "Legislative Role of Parliamentary Committees in Canada; The Case of the Joint Committee on the Public Service Bills" by J. R. Mallory and B. A. Smith.

<sup>6</sup>Such works include: Ontario Manual of Administration, Volume I, Chapter 25; Manitoba's "Remuneration Study", 1982; Saskatchewan's three-tiered responsibility structure and the classification contained in the Federal Financial Administration Act.

<sup>7</sup>See Langford's article in Canadian Public Administration 25th Anniversary Issue, Winter, 1982.

<sup>8</sup>Ontario Manual of Administration, Volume I, Chapter 25.

<sup>9</sup>This information was provided directly by an analyst in the former Bureau of Management Improvement, Department of Finance, Province of Saskatchewan.

<sup>10</sup>"Operation Productivity", staff of Management Committee of Cabinet, 1969.

<sup>11</sup>"Remuneration Study", staff of the Administrative Policy Branch, Manitoba Finance, 1982.

<sup>12</sup>IBID, page 5.

<sup>13</sup>IBID.

<sup>14</sup>IBID, page 6.

<sup>15</sup>C.D. Howe said this in response to a reporter's question.

<sup>16</sup>Price Waterhouse Associates and The Canada Consulting Group Inc., A Study of Management and Accountability in the Government of Ontario, January 1985.

<sup>17</sup>See Hansard of the 4th Session, 32nd Legislature, especially pertaining to the Manitoba Lotteries Foundation.

<sup>18</sup>See The Provincial Auditor's Act and the Provincial Auditor's Office Role and Mission Statement.

<sup>19</sup>Report of the Provincial Auditor, 1984, page 53.

<sup>20</sup>IBID, page 19.

<sup>21</sup>IBID, page 54.

<sup>22</sup>IBID.

<sup>23</sup>Staff of the Premier's Office provided this background.

<sup>24</sup>The source for this information would not agree to be identified.

<sup>25</sup>"Transfer Payments" may be defined as: "public money provided to a government agency, created by a Public Act, for the administration of a grant program on behalf of the government and whose board members are all or mostly all appointed by the province." See the General Manual of Administration, policy subject number PA-11-06.

<sup>26</sup>Annual Report, 1983-84, Manitoba Lotteries Foundation, page 15.

<sup>27</sup>IBID, pages 4-5.

<sup>28</sup>IBID.

<sup>29</sup>IBID.

<sup>30</sup>This comment was made by the Foundation's General Manager, as justification for scrutinizing director's expenses more closely. The intent was to be more cautious about expenditures generally and is not the result of actual abuse.

<sup>31</sup>Hansard in May and June of 1985.

<sup>32</sup>The Manitoba Arts Council does not provide the Minister responsible with a copy of the minutes of its monthly meetings.

<sup>33</sup>Reforming Regulation, 1981, Economic Council of Canada, page XI.

<sup>34</sup>The Labour Relations Act, Statutes of Manitoba, 1986, page 1.

<sup>35</sup>Valerie Matthews Lemieux, a lawyer specializing in labour law who was central in rewriting the legislation and setting up the new Board for the Government. The comment was also supported by the Board's Chairperson.

<sup>36</sup>Staff of the Commission state that cases are simply assigned to investigative officers on a first-come, first-serve basis, but without on-going systematic monitoring to ensure that they are processed in a timely fashion. The point was made that as the legislation contained time-limits, a monitoring program would be quickly established, to ensure that cases did not drag on for over a year.

<sup>37</sup>Annual Report, page 7.

<sup>38</sup>IBID, page 34.

<sup>39</sup>Cabinet was asked to deal with this issue, on at least three occasions; twice it was not approved but on the third attempt, remuneration was revised. There was also considerable lobbying involving members of the Cabinet, Board appointees and ministerial staff.

<sup>40</sup>All historical information on the Council was provided by the Chairperson.

<sup>41</sup>The Chairperson and grant recipients supplied this information.

<sup>42</sup>Annual Report, page 8.

<sup>43</sup>All detailed information on the Council's programs was supplied by the Executive Director and from the Annual Report.

<sup>44</sup>Executive Director.

<sup>45</sup>IBID.

<sup>46</sup>Manager, Program Development, Manitoba Labour.

<sup>47</sup>IBID.

<sup>48</sup>IBID.

<sup>49</sup>The current Chairperson was told the commitment would be 2 days per week by Executive Council staff when he was considering acceptance of his proposed appointment.

<sup>50</sup>An aide to the Minister.

<sup>51</sup>The Registrar gave this interpretation, but the Chairperson declined to describe it as "interference."

52 An aide to the Minister.

53 During research for the "Remuneration Study" names of advisory agencies re-emerged continually, even though some had not met for ten years or more.

54 Health officials claim that this body is non-operative.

55 Manitoba Health, Annual Report, 1984, page 16.

56 An aide from the Premier's Office supplied this background on the Council.

57 The Advisory Council on the Status of Women provides a good example of an agency which has expressed unease over the requirement to deal with the bureaucracy.

58 This perhaps biased evaluation was offered by the Gerontologist.

59 Twelve senior citizens in a Fort Rouge apartment block were asked if they knew of the Council.

60 A member of the Council.



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#### INDIVIDUALS INTERVIEWED

- Ananichuk, Agnes, Manager, Program Development, Manitoba Labour.
- Angel, Barb., Chairperson, Manitoba Arts Council.
- Atwell, John, Chairperson, Manitoba Apprenticeship and Trades Qualifications Board.
- Decter, Michael, Clerk of the Executive Council.
- Duff, Janet, Deputy Registrar, Manitoba Labour Board.

Goeres, Michael, Executive Director, Manitoba Intercultural Council.

Havens, Betty, Provincial Gerontologist.

Knight, Jeff, Senior Auditor, Provincial Auditor's Office.

Maness, Garth, Executive Director, Manitoba Lotteries Foundation.

Matthews Lemieux, Valerie, lawyer involved in the labour law review, drafting of the Labour Relations Act and in establishing the Manitoba Labour Board.

Minish, Jean, Chairperson, Pension Commission.

Mitchell, Annalea, Co-ordinator of the Premier's Secretariat.

Neustaedter, Marlene, Executive Director, Manitoba Arts Council.

Rolfe, Lee, Communications Director, Winnipeg Chamber of Commerce (re: Labour Board).

Scott, Norm, Chairperson, License Suspension Appeal Board.

Toms, Lois, Chairperson, Manitoba Lotteries Foundation.

Webb, Reg., Deputy Registrar, Driver and Vehicle Licensing, Manitoba Highways and Transportation.

Whelon, Gari, Executive Assistant to the Honourable Alvin Mackling, Minister responsible for the Labour Board.

Wichenko, Grant, member of the Manitoba Arts Council and Special Advisor to the Honourable Louis Laurent Desjardins, Minister responsible for the Arts Council.