

The Public Expenditure Committee and parliamentary control of public expenditure

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In the context of the much criticised growth in the influence and powers of executive government at the expense of Parliament, this article examines the history of the Public Expenditure Committee in order to assess the contribution to the constitutional process of this important instrument of parliamentary financial control. The history also suggests a future role for the Committee which depends not on radical reform, but rather on changes within the existing structures to strengthen the Committee's relationship with its master, the House, and to ensure that the government remains responsive to the wishes of Parliament in the spending of public funds.

MOST GRACIOUS SOVEREIGN, — We, Your Majesty's most dutiful and loyal subjects, the House of Representatives of New Zealand in Parliament assembled, towards making good the supply which we have cheerfully granted to Your Majesty in this year, have resolved to grant unto Your Majesty the sums hereinafter mentioned, and do therefore most humbly beseech Your Majesty that it may be enacted.

The annual cycle of supply as epitomised in the Address to the annual Appropriation Act has its origins in the Magna Carta and its explicit recognition in the Bill of Rights 1689.¹ Over time, however, Parliament has developed conventions and practices which, while not altering the constitutional principle of supply, have modified financial procedures in accordance with its ambitions in respect of its financial relationship with the Crown.

While Parliament does not initiate financial expenditure, it has the undoubted right, given the nature of responsible government, to scrutinise the government's expenditure and to question the manner and form in which public money is

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1 Reaffirmed in *Attorney-General v. Wilts United Dairies Limited* (1921) 37 T.L.R. 884.

spent. These activities are given the force of control through the principle described in May² as that of annuality — each financial year is a separate entity for which the government must submit estimates of proposed expenditure to Parliament. The Estimates provide the basis for Parliament to authorise, through the Appropriation Act, both the total sum of public expenditure and the specific destination of public funds, in any one year. Within this broad constitutional machinery Parliament has found specific means of exercising its control over public funds, notably the select committee procedure. Like its British counterpart, the New Zealand Parliament has developed a committee system to examine the accounts and estimates of government spending and more recently to scrutinise various aspects of government administration, with the establishment first of the Public Accounts Committee in 1871, and then in 1963 of the Public Expenditure Committee.

Despite the relatively short history of the present New Zealand Public Expenditure Committee (16 years, compared with the 92 years of its predecessor the Public Accounts Committee), certain factors suggest that it is timely to discuss the constitutional significance of its development. The first of these factors is that New Zealand's economy, along with those of other westernised societies, has acquired an increasing bias in favour of the public sector to the extent that central government spending now represents nearly 40 percent of the gross national income.³ The impact of this bias on economic and financial management has been made in terms not just of the total volume of public expenditure but also of the growing complexity of the State's involvement in it. So often are these trends documented, it has become almost a platitude to remark upon the consequent immense concentration of power in the hands of central government. However, and secondly, as central government has expanded its activities and expenditure and thus enhanced its powers and influence, so have the powers and influence of Parliament changed (many would say diminished), and in terms of the principle of ministerial responsibility on which our system of government rests this must be a matter for concern. That legislatures have always guarded their positions vis-a-vis the executive is manifested in their willingness to adapt their procedures, if slowly, to meet changing activities of governments. A more recent phenomenon has been the mounting volume of commentary from a wide range of interested parties on the inability of Parliament to counter the growth of executive power by retaining effective controls over the financial activities, more especially the spending, of central government. The issue is one about which the news media have voiced concern. Strong criticism of the decline in the influence of the legislature has come from among its own members. And the question has been debated in the works of academics along lines indicated by choice of title — "Parliamentary Control of the Administration of Central Government: Fact or Fiction?"⁴

2 Erskine May *Parliamentary Practice* (19th ed., London, 1976) 696.

3 Source: *Estimates of the Expenditure of the Government of New Zealand* New Zealand Parliament, House of Representatives. Appendix to the journals, Vol. 1, 1977, B.7 (Pt 1), and N.Z. Institute of Economic Research *Quarterly Predictions of National Income and Expenditure*, September 1977.

4 E. W. Thomas "Parliamentary Control of the Administration of Central Government — Fact or Fiction?" F. W. Guest Memorial Lecture, 11 September 1975, University of Otago.

“Parliamentary Control of the Public Purse — How Real?”,⁵ “Parliamentary ‘Control’ of Public Expenditure”.⁶

While growth in the powers and influences of executive government at the expense of Parliament is far from being a newly perceived state of affairs, the increase in and spread of interest in its implications is. Three novel circumstances in government help to explain this interest, observable in other western democracies besides New Zealand. The first is the greatly accelerated pace of central government involvement in the economy and in society at large. Against this, deficiencies in Parliament’s control over the public purse strings are more obvious and any changes in Parliament’s relationship with the executive are evidenced within decades rather than centuries. Secondly, long term planning of government expenditure is now an integral feature of financial and economic management; expenditure commitments are adopted for periods exceeding the life of a Parliament and far exceeding the annual cycle of parliamentary scrutiny. Thirdly, the planning process has become increasingly formalised with the development and application of sophisticated techniques for policy analysis. It is unlikely that any member of Parliament will have the capacity to understand fully the intricacies of modern decision making or be in a position to question in detail the worth of policy decisions so made.

Combined, the trends outlined in the foregoing have seemingly removed the effective control of public expenditure from the competence of the legislature in New Zealand. The evidence cited for this having been the case is the substantial variation from amounts appropriated of actual expenditure in recent years. In the 1974/75 and 1975/76 financial years overexpenditure represented 5 percent and 5.7 percent respectively of the annual appropriations and in 1976/77 voted supply was underexpended by 1.7 percent.⁷

In 1962, confronting these currents in financial activity and the obvious ineffectiveness of the then Public Accounts Committee, the Standing Orders Committee of the House recommended the replacement of the former committee by a Public Expenditure Committee with wide terms of reference, which, it was anticipated, would overcome certain deficiencies in the legislature’s control of public expenditure. It seems appropriate to ask now, sixteen years after its establishment and accepting that the trends in government spending noted above have continued, how well the Public Expenditure Committee is doing the job expected of it.

Since the Committee exists only as a creature of the House the evidence of its effectiveness must be assessed not in isolation but in the context of the contribution the Committee makes to Parliament’s financial relationship with the Crown. In so far as it is considered that this relationship has changed, the Committee’s role must be seen in the light of contemporary interpretations of what constitutes

5 D. A. Shand “Parliamentary Control of the Public Purse — How Real” (1972) 34 N.Z. Journal of Public Administration, (No. 2) 59-73.

6 Alan D. McRobie “Parliamentary ‘Control’ of Public Expenditure”. S. Levine (ed.) “Politics in New Zealand” (Sydney, 1978), 114.

7 Sources: *First Report of the Controller and Auditor-General for the Year Ended 31 March 1975* New Zealand. Parliament. House of Representatives. Appendix to the journals, Vol. 1, 1975, B.1 (Pt. II) and succeeding years 1976 and 1977.

parliamentary 'control' over the executive. Political reality is increasingly recognised as the complement to constitutional theory, and the political reality is that the legislature has no direct power over or command of the executive. Parliament cannot positively obstruct the wishes of the government given government's dominance in the two-party majority system. It has a constitutional responsibility to allocate funds for public expenditure, passes legislation for raising the necessary revenue and with the assistance of the Public Expenditure Committee oversees the administrative expenditure of public funds. But it is the executive government that formulates and ultimately carries out plans and procedures for spending. Public expenditure decisions are therefore made by the government. What is at issue is not that Cabinet, alone or in conjunction with the government caucus and departments, has usurped any real power of Parliament, but rather that concern over the growth in executive power has emphasised the identifiable elements of parliamentary control. These are, in Crick's terms, "influence, not direct power; advice, not command; criticism, not obstruction; scrutiny, not initiation; and publicity, not secrecy".⁸ The effectiveness of the Public Expenditure Committee in providing a check on the financial activities of the executive government must be judged in these senses.

What, first, was the exact nature of the task set the Committee by the House in adopting the recommendations of the 1962 Standing Orders Committee?

I. ESTABLISHMENT OF PUBLIC EXPENDITURE COMMITTEE

The proposal of the Standing Orders Committee to establish a Public Expenditure Committee⁹ was adopted by the House of Representatives in a motion passed on 6 July 1962.¹⁰ As a major procedural reform in parliamentary practice the move was a clear indication of Parliament's concern with its traditional functions. The House agreed with the view of the Standing Orders Committee, that "the means employed by the New Zealand Parliament for the control of public expenditure are defective and, in particular, that the present Public Accounts Committee with its restricted order of reference is not an effective instrument for the exercise of that control".¹¹ The annually appointed Public Accounts Committee was empowered

to examine and report upon such questions relating to the public accounts which may be referred to it by the House or the Government and also all matters relating to the finances of New Zealand which the Government may refer to it.

This Committee was constrained particularly by the absence of authority to initiate its own investigations. In combination with the frequent practice of reporting to the government rather than to the House, this limitation meant that Parliament had, through its Committee, very little control over government spending. The Committee's narrow range of duties helps explain too, perhaps, its

8 Bernard Crick *The Reform of Parliament* (2nd ed., London, 1970) 80.

9 *Standing Orders Committee 1962* New Zealand. Parliament. House of Representatives. Appendix to the journals, Vol. 4, 1962, I.17.

10 New Zealand. Parliament. House of Representatives. Journals, 1962: 470.

11 *Standing Orders Committee 1962*, op. cit. 20.

inactivity — between 1950 and 1962 it investigated and reported on only two matters.

Seeking ways in which the committee system might be developed to provide more effective scrutiny of public expenditure, the 1962 Standing Orders Committee studied the workings of two House of Commons select committees, the Public Accounts Committee and the then Estimates Committee.¹² It was noted that the former had established a reputation for being possibly the most “powerful and useful” committee of the House of Commons and the Committee concluded that by changing the procedures and ambit of the New Zealand Public Accounts Committee along the lines of the British system the House could more effectively supervise and scrutinise the spending of public money.

Bearing in mind the relatively small size of the legislature the Committee recommended that the primary functions of the two House of Commons committees be combined in one new committee with the power to examine the whole range of public expenditure. This intention was fulfilled by the appointment of the Public Expenditure Committee whose terms of reference would provide the House with a regular instrument for the scrutiny of annual projections of government spending proposals (the Estimates), a means for examining the success of government agencies in achieving the policies represented in money spent, and a channel of inquiry into particular aspects of public sector expenditure. Permanent status for these functions was assured by their recognition in the Standing Orders of the House.¹³

The Committee as appointed by the House in 1962, and since, differs in some significant respects from that originally recommended by the Standing Orders Committee, the differences having been introduced during debate on the motion. The proposed membership was ten, increased by the House to twelve; the original wording relating to the function of examining the public accounts, “to examine the public accounts and the accounts of corporations and other undertakings wholly or substantially owned by the Crown . . .”, was broadened; the power to have regard only to matters raised in the Controller and Auditor-General’s annual report was extended by addition of the words “or elsewhere”; and to the requirement that the Committee report to the House on these matters was added a power to report alternatively to the government. Each of these amendments pointed to the intention of the House that the new committee should operate as widely as

12 Replaced subsequently by the Expenditure Committee of the House of Commons.

13 Standing Order 335, Public Expenditure Committee:

At the commencement of every session a Select Committee shall be appointed consisting of 12 members, to examine the estimates presented to the House and to report what, if any, economies consistent with the policy implied in those estimates may be effected therein; to examine the public accounts of such corporations, undertakings, and organisations as are in receipt of any money appropriated by Parliament, in such manner and to such extent as the Committee thinks fit, and to have regard to matters in relation thereto raised in the annual report of the Controller and Auditor-General or elsewhere, and to report thereon to the House or the Government; and to examine and report on any other matters referred to it by the House; the Committee to have power to sit during the recess and to adjourn from time to time and from place to place and to have power to appoint subcommittees and to refer to such subcommittees any of the matters referred to the Committee.

possible. The main issue of contention during the debate concerned membership — the Opposition sought equal representation and, as with the House of Commons' Public Accounts Committee, an opposition chairman, while the Government argued successfully for a government majority and chairman. In general, both sides of the House welcomed the move which was seen as providing an opportunity to make effective Parliament's traditional role in relation to government expenditure activities.

The change thus effected in the scope of Parliament's powers of control was substantial. Most notably, the terms of reference of the Public Expenditure Committee have provided the opportunity to delve deeply into government administration, where the former Public Accounts Committee could consider only the Estimates. The effect is to give Parliament the means to perform both a prospective (through the Estimates) and a retrospective (through the Public Accounts) check on public expenditure, with the Committee being able to investigate issues suggested from any source, ranging over the activities of all types of public agency, and advising the House itself of any irregularities it might discover. The investigative activities of the Committee are enhanced by the power it has to sit all year round (only two other select committees have this power¹⁴) and, unlike any other select committee in the New Zealand Parliament, to delegate to subcommittees. The emphasis of the Standing Order being on economy and efficiency, the Committee does not have an explicit concern with the effectiveness of spending activities, but in attempting to eliminate waste and administrative extravagance it will need in fact to relate performance to objectives. The more significant exclusions from the Committee's powers are that it may not question the policy choices behind expenditure, it may not admit the public to any of its proceedings on its own motion, and no specific reference is made to the expenditure of public money by local authorities. Whether these are proper restrictions or ones which hamper unnecessarily the effectiveness of the Committee is a matter for later discussion.

When in 1962 the Public Expenditure Committee began working, expectations for its future were high, both within and outside the House. The feeling of the House was expressed by Mr A. H. Nordmeyer:¹⁵

I believe the main thing is to get this committee functioning, and in that way exercise a power and a responsibility which parliament has not fully exercised in the past, but which, through this committee, I hope it will exercise in the future.

In the following year, when the Committee had embarked on its first recess investigations, the Controller and Auditor-General commented thus: "It can be predicted with confidence that the Committee's tasks will be rewarding, while the taxpayer now has the assurance that a special parliamentary committee is watching his interests".¹⁶

A few years later political scientist Austin Mitchell observed, on the basis of

14 Cf. Standing Orders 265 (Local Bills Committee) and 378 (Statutes Revision Committee).

15 N.Z. Parliamentary debates Vol. 330, 1962: 337.

16 *Report of Controller and Auditor-General for the Year Ended 31 March 1963* New Zealand. Parliament. House of Representatives. Appendix to the journals, Vol. I, 1963, Bl (Pt. II): 8.

the investigative practices developed by the Committee up to 1966, that “. . . the new organisation gives every indication of providing both the most effective Committee in the House, and a really efficient machinery of inquiry”.¹⁷

Can it be said, in 1978, that the Public Expenditure Committee has fulfilled, exceeded, or fallen short of such expectations? That question can be dealt with by studying two periods in its history. The first ten years show how the Committee worked within its terms of reference, developing practices and procedures in accordance with its interpretation of the intent of the House as expressed in the Standing Order. As with the financial committees of the House of Commons, the Public Expenditure Committee became, during this period a major element of the House's apparatus of financial control. Also during this time, its strength and limitations became apparent. In the following five years, up to 1978, some moves have been made to develop the strengths and overcome the weaknesses. A comparison of the two periods leads to an appreciation of how effective the Public Expenditure Committee has been and could be.

II. THE COMMITTEE 1962-1972

A. The Committee's Approach

From its early days the Public Expenditure Committee adopted an approach to its work characterised by initiative and independence.

One of the first problems it had to tackle was that posed by the restriction on policy discussion. In practice it was found to be difficult, and sometimes impossible, to isolate policy from consideration of the expenditure it implied. Accordingly, during his chairmanship (the three years from 1964 to 1966) the Hon. R. D. Muldoon M.P. “suspended the rule that policy questions could not be asked during the scrutiny of departmental estimates and provided strict relevance and brevity were adhered to, he permitted any question to be asked”.¹⁸ While this approach did not resolve the difference that remained between the practice and the theory, as indicated by a comment of the Rt. Hon. J. R. Marshall (then Prime Minister) in 1972 that “. . . it should be clearly understood that policy will not be discussed in the Public Expenditure Committee . . .”,¹⁹ it seemed to work satisfactorily as an initial operating rule.

The Committee also made it clear that despite the close relationship with the Controller and Auditor-General suggested in its terms of reference, it did not consider the Controller and Auditor-General's concurrence a prerequisite to the investigation of any topic. Indeed, the Committee's reports on occasions expressed disagreement with this view.²⁰

17 Austin Mitchell *Government by Party — Parliament and Politics in New Zealand* (1966) 79.

18 Alan D. McRobie “The New Zealand Public Expenditure Committee” (1974) 26 *Political Science* (No. 1) 28 (Information obtained from author's interview with Mr Muldoon).

19 N.Z. Parliamentary debates Vol. 378, 1972: 45.

20 See, for example, the reports of the Public Expenditure Committee for 1964 and 1966. New Zealand. Parliament. House of Representatives. Appendix to the journals, Vol. 3, 1964, I.12: 12 and Vol. 3, 1966, I.12: 6.

The nature of investigations undertaken by the Committee showed a willingness to make the fullest use of its terms of reference. Thus within the first four years subcommittee inquiries had been made into the activities of hospital boards and of the Tourist Hotel Corporation, both of which bodies received public funds but fell outside the scope of detailed parliamentary appropriation.

In one further respect the Public Expenditure Committee established firmly its independence. Each year the government advised the Committee of progress on the Committee's recommendations, but the Committee itself adopted the practice of following up its earlier recommendations. There was no hesitation in criticising, sometimes pointedly, the government's decisions and actions where called for.

A source of strength to the Committee was its bipartisan orientation, in observance of the tradition of the House of Commons' Public Accounts and Estimates Committees. Political interests were from the beginning largely absent from discussions on the Estimates and even more so from subcommittee inquiries. The Committee gained a reputation for working in the common interest of good administration.

In these ways the Public Expenditure developed a context for its work, the main features of which were a firm relationship and understanding with the Controller and Auditor-General on the one hand, and the government including departments on the other.

B. The Committee's Procedures

A pattern of complementarity quickly developed between the Committee's examination of the Estimates of Expenditure and investigations by subcommittees whereby, as anticipated by the 1962 Standing Orders Committee, the former occupied most of its time during the parliamentary session while the latter were undertaken during recesses.

The procedure adopted for examining the Estimates consisted of the formal questioning of the senior officers of the department concerned, with supportive written material, on completion of which a resolution was passed referring the scrutinised Estimates to the House without comment. Unlike its counterpart in the House of Commons in this area of work, the then Estimates Committee, the Public Expenditure Committee in New Zealand did not report on its hearings and deliberations. Indeed, the Standing Orders were amended in 1968 to provide that the Committee's report would be deemed to have been made when the relevant class of Estimates was called in the House. It is of interest that the Committee's aim in examining the Estimates of Expenditure was not to cut expenditure, but rather to see that public funds were allocated justifiably and spent without waste. This orientation was consistent with the main concerns of the House itself in New Zealand, where the historical bias of the House of Commons towards restraining the tendency of governments to spend, originating in the interest of early Parliaments in curbing the extravagance of the Crown, has become modified for various reasons — not the least important of which is recognition of the fact that a government can, through its command of the majority in the House, insist on approval for its financial requests.

Special investigations by subcommittees comprising only two to four members followed less formal procedures. Particular use tended to be made of the power to sit during recesses and to travel. Sub-committees undertook detailed post-expenditure reviews in selected, but not confined, areas of government activity sometimes under the chairmanship of an Opposition member, and thus provided the potential for rigorous inquiry. Possible topics for investigation could arise from a variety of sources, primarily the Controller and Auditor-General and Committee members, but also other members of Parliament and private individuals. Investigations were sometimes prompted by public interest in or controversy over a certain aspect of government expenditure. During the first ten years only one investigation was undertaken as a result of direct referral by the House. Because of their *ex post facto* nature, subcommittee investigations could not prevent inefficiencies arising, but constructive recommendations were designed to ensure that administrative weaknesses uncovered in an inquiry did not recur. Obviously the worth of these recommendations depended on the extent to which they were adopted by the government. In the years between 1963 and 1966 the adoption rate has been estimated at approximately 60 percent, and for the 1967 to 1972 period about 40 percent.²¹ It appears that Cabinet developed the practice of requesting departments, through the Minister concerned, to study the published recommendations of the Public Expenditure Committee with a view to their being implemented where practicable and advantageous.

From the beginning the combinations of past and future, permitted by special investigations on the one hand and Estimates examination on the other, emerged as a very valuable aspect of the work of the Public Expenditure Committee. Seldom did the Committee direct itself simply to the question of "economy". In dealing with both Estimates and specific inquiries the Committee showed itself to be concerned with the broader questions of whether value for money was being or could be obtained from expenditure, whether the administrative arrangements under which the expenditure occurred were efficient, and whether the results of expenditure were as effective as could be expected.

There is no doubt that, by these means, departments were led to take more care with current spending in relation to appropriated funds if only because of the salutary experience of being examined by the Committee with the results being made public. Departments were thus reminded strongly of their responsibilities in matters of expenditure. Of the Committee's activities during his chairmanship the Hon. R. D. Muldoon M.P. said "I believe that the chief weapon that the Committee had was to make the various departmental people apprehensive about an investigation".²² Further, in seeking out information required by the Committee departments were forced to examine their own activities, a process which could bring to their attention other inefficiencies needing remedy. The Committee's influence could therefore pervade beyond the immediate and identifiable results of its work.

21 These figures were estimated by McRobie (1977), *supra* n. 6, on the basis of an analysis of the fate of recommendations as recorded in Part I of each Public Expenditure Committee annual report.

22 McRobie (1974) *op. cit.*, 41 (Mr Muldoon to author).

C. Implications of Practices and Procedures

It could be concluded from the foregoing that the new committee represented a very great improvement over the former Public Accounts Committee both in terms of its formal provisions and in terms of the practices and procedures developed in the first few years, thus fulfilling early expectations of its possibilities. During the ten year period under consideration, however, the influence of the Committee's work not surprisingly changed, with changes in personnel, in the work burdens of members, in House procedures bearing on the Public Expenditure Committee's relationship with the House, and in the response of the Government to its reports. From 1967 on, its practice of following up its recommendations ceased, indicating a decline in the Committee's vigilance. Further, between 1968 and 1972 no Public Expenditure Committee reports were debated in the House, one reason for which is perhaps that reports came to be tabled later and later in the parliamentary sessions, reaching the House at its busiest time. Follow-up action by the Committee and debates on its reports had reinforced considerably the accountability of government to Parliament. That their discontinuance diminished the impact of the Committee's investigations on the government is indicated by the decline in the government's rate of adoption of subcommittee recommendations, shown in figures quoted above.

It is evident, too, that the factor of time became an increasingly greater constraint on the Committee. The House, its committees and individual members were all subject to growing demands on their attention. In the Public Expenditure Committee this was manifested in reduced recess activity and constant pressure to approve Estimates in order to meet the timetable of the House.

These developments coincided in time with a substantial change in personnel in the 1967 Committee. Three key members of the Committee including the chairman, who have been described as having formed a 'ginger group' within the Committee,²³ were elevated to Cabinet rank depriving the Committee of much of the enthusiasm and thrust which had characterised the early years.

It would thus seem that the work of the Public Expenditure Committee as it developed over the first decade did not measure up entirely to expectations. Indeed, Thomas observed of the New Zealand Public Expenditure Committee that the "decline in Parliament has not been stayed by the important procedural reforms which gave effect to the recommendations of the Select Committee on Procedure in 1962, the most notable, from the point of view of providing a check on the Administration, being the establishment of the Committee on Parliamentary (sic) Expenditure".²⁴

Two events suggest that the year 1972 stands as a watershed in the Committee's history. First, the House responded to apparent constraints on the work of the Committee by amending its terms of reference in the 1972 Standing Orders of the House. The three changes introduced were that the Committee be appointed at the commencement of every parliament instead of every session; that its membership be "not more than 12" rather than 12; and that the Committee be not required to examine any class of Estimates which it may refer to any other select committee for examination. The Committee was thus granted continuity,

23 *Ibid.*, 35.

24 Thomas, *op. cit.*, 453.

and flexibility in its membership and Estimates procedures. Secondly, the General Election in 1972 put the Labour party in the majority and in the chair of the Public Expenditure Committee for the first time since the Committee was established. While like all select committees the Public Expenditure Committee functions non-politically, its role of assisting Parliament in the control of government spending in practice has more significance for its Opposition than its Government members. Having always been in the Opposition seat on the Committee, it might have been expected that the Labour members, holding the majority, would be motivated to seek to remedy defects in the work of the Public Expenditure Committee which in the previous ten years might have made an impression. Indeed, the new chairman of the Committee, Mr J. L. Hunt M.P., stated an intention to have the Committee develop a continuous programme whereby reports would be presented to Parliament as and when investigations were completed, instead of deferring publication for a single annual report;²⁵ and a minister in the newly elected government, Hon. R. Tizard, M.P., spoke in the House of the government's proposal to use the Public Expenditure Committee to undertake much more significant investigations into government spending trends than had previously been the case.²⁶ The implication of these remarks was that a positive effort would be made to increase the effectiveness of the Committee particularly by strengthening its relationship with the House.

The period 1962 to 1972 saw the emergence of a procedural framework which has since not changed substantially, and of strengths and weaknesses which, events signified, might be the basis of further developments to enhance the Committee's contribution to Parliament's control of public expenditure. An examination of the operation of the Committee in the succeeding period and up to the present time will show how far this potential was realised.

III. THE COMMITTEE 1973 TO PRESENT TIME

Reference was made above to amendments made in 1972 to the Standing Order pertaining to the Public Expenditure Committee. During the subsequent three years the effects of these changes became apparent.

The numerically looser membership provision resulted in an immediate reduction in the actual number of Committee members from 12 to 10, slightly easing the overall problems experienced in maintaining attendance on select committees. The frequency of temporary or longer term substitute appointments, however, did not seem to diminish, and the fact that the Public Expenditure Committee was appointed triennially meant that the actual composition of the Committee at any one meeting could vary considerably from its membership as initially appointed by order of the House. The smaller number of members did not create any significant problem in appointing subcommittees from among Public Expenditure Committee members.

The amendment allowing estimates to be referred to other committees provided an opportunity to ensure a fuller examination of all estimates, first because the

25 McRobie (1974), *op. cit.*, 36, note 43.

26 N.Z. Parliamentary debates Vol. 382, 1973: 48.

Public Expenditure Committee would have fewer estimates to examine in the limited time available for this exercise, and because those estimates delegated to other select committees presumably would benefit from the scrutiny of a committee specialised in the area concerned. It would seem that this possibility was not realised. As shown in the following table, the Public Expenditure Committee reduced the time it spent on estimates while the total number of committee hours on the Estimates, with some fluctuations, has not altered significantly.

Estimates Consideration

<i>Year</i>	<i>By Public Expenditure Committee</i>	<i>By Other Select Committees</i>	<i>Total</i>
1970	56 hrs 55 mins		56 hrs 55 mins
1971	47 25		47 25
1972	32 20	10 hrs 15 mins	42 35
1973	34 15	23 20	57 35
1974	36 30	21 45	57 75
1975	53 30	29 08	72 38
1976	32 30	28 18	60 48
1977	26 15	23 15	49 30
1978	37 23	24 15	61 38

Further, select committees other than the Public Expenditure Committee have no particular expertise in searching estimates and cross-examining officials with a view to uncovering wasteful expenditure and inefficient administration. Their functions are traditionally somewhat different, and, in addition, financial 'expertise' among members is deliberately concentrated in the Public Expenditure Committee. It is reasonable to question, therefore, whether Parliament has in fact improved its capacity for supervising administrative action by adopting this change. It is obvious that the Committee itself has confidence in the usefulness of this procedure, as evidenced by the increasing number of estimates it delegates to other committees (rising steadily from 11 in 1973 to 18 in 1978). The Committee has shown itself anxious to 'keep in touch with votes referred to other committees', however, and in 1976 commenced a programme of Estimates examination providing for all classes of estimates to come before it at least once in every three year period.²⁷

Of other possible reforms to the Committee's procedures the question of debating reports surfaced in 1973 when the new government initiated a debate on the 1972 report of the Committee.²⁸ This, unfortunately, proved to be a unique event during the Labour administration and indeed up to the present day. Reports continued to be tabled only annually, and there was no evidence that investigations became more 'significant'.

The Public Expenditure Committee's scrutiny of government spending activities had always been constrained by the extent of technical, administrative and financial

²⁷ *Public Expenditure Committee 1976* New Zealand. Parliament. House of Representatives. Appendix to the journals, Vol. 4, 1976, I.12: 15.

²⁸ N.Z. Parliamentary debates Vol. 382, 1973: 45.

expertise among its members, but even more so by 1973 than ten years earlier because of the ever-increasing complexity of government administration and the accompanying greater level and concentration of expertise within the public service. By contrast, the nature of the pre-parliamentary experience had not much changed. Irrespective of the interest or general ability of members in the area of public finance the scope and penetration of their investigations could only be as good as their understanding of the issues involved. The implications of a relative lack of financial expertise among members are suggested by a recognised writer, remarking in 1952 on the value of the House of Commons' Estimates Committee (and its subcommittees), who observed³⁰ that

. . . their examination of expenditure is neither exhaustive nor professional and expert. These Committees working in the field of current expenditure conduct only general and comparatively amateur reviews of selected blocks of expenditure, departments and questions, all picked by a haphazard, though apparently effective method. Their questions and their examination of written information are those of the intelligent layman. Their work is preceded by no exhaustive professional examination of the whole field.

A similar situation in respect of the New Zealand Public Expenditure Committee led an inter-party ad hoc committee chaired by Mr J. L. Hunt M.P. (then chairman of the Committee) to recommend in late 1973 that a new position be created in the Legislative Department for an appointee to be attached in an advisory capacity to the Committee. The responsibilities of the appointee were to assist the Committee in assimilating the increasing amount of information sought and forthcoming from government and other sources, and to prepare draft reports for its consideration.

The actual appointment, which was made to the Office of the Clerk, was an important development in the potential for Parliament's control of public expenditure in so far as it represented a first step in the employment of specialist professional advisers who could assist the Committee in dealing with an increasingly complex system of government and provide a balance against the information supplied and analysed by the departments being examined on which formerly the Committee had to rely entirely. One result of the assistance thus given was a fuller reporting of both full Committee activities and subcommittee investigations than was previously evident, and more detailed reasoning behind recommendations. This was notable for its advantage to members in the House who were not members of the Committee.

Following this appointment the assistance given by the Audit Office was extended, providing a source of independent technical advice and a liaison with the Controller and Auditor-General. The reservoir of skill and expertise thus available to the Committee remained small, but the development was a significant one and represented perhaps the most important contribution to the effectiveness of the Public Expenditure Committee during this period.

29 *Public Expenditure Committee 1973* New Zealand. Parliament. House of Representatives. Appendix to the journals, Vol. 3, 1973, I.12: 21-23.

30 Basil Chubb *The Control of Public Expenditure — Financial Committees of the House of Commons* (Oxford, 1952) 227.

A further development in the research area occurred outside the select committee structure but bore upon the expertise which members could bring to committee work. This was the establishment of two research units attached respectively to the Opposition and Government parties in Parliament following a recommendation of the 1970 Royal Commission on Parliamentary Salaries and Allowances.³¹ The main responsibilities of these units are to assist individual members with their information needs, and to service caucus committees. They have no direct concern with committees of the House and their contribution to members' performance in select committees is impossible to estimate, but to the extent that members can make use of their research staff they can also presumably be better informed on any particular issue.

With the one significant development in the area of staff resources, and other smaller changes of varying effect, the Committee during the years when Labour held the chair seemed reasonably satisfied with its operations. The Committee ran on what might be termed an even keel up to the General Election and further change of government in 1975. It would seem that the Committee, and the House felt that the changes actually made were sufficient to overcome previously expressed criticism of certain aspects of the Public Expenditure Committee's work.

Whether or not there is any substance in this suggestion, the appointment of a new Public Expenditure Committee in 1976 (under the chairmanship of Mr W. F. Birch M.P.) resulted in a revival of interest in its role and functions, apparent among both members of Parliament and the public. Following the Committee's 1976 annual report such claims were made in the press as that the formerly "languishing" Committee had been "resuscitated"³² and that the public would be "interested and comforted" by what it saw the Committee doing in the way of scrutinising government spending.³³ The very recent history of the Public Expenditure Committee, i.e., the last two years, would seem therefore to hold particular interest.

IV. THE 1976-1977 PERIOD

A. Nature of Investigations

Mr Birch succeeded to chairmanship of the Public Expenditure Committee with firm ideas of its proper role in the context of parliamentary control of government spending, ideas which he has expressed in public.³⁴

In an early move, Mr Birch consulted with the Controller and Auditor-General seeking³⁵

31 *Report of the Royal Commission Upon Parliamentary Salaries and Allowances 1970*, New Zealand Parliament. House of Representatives. Appendix to the journals, Vol. 4, 1970, H.50: 13.

32 *The Dominion* Wellington, New Zealand, 16 December 1976.

33 *The Press* Christchurch, New Zealand, 26 March 1977.

34 For example, address to Civil Service Institute, 11 October 1976.

35 *First Report of Controller and Auditor-General for the Year Ended 31 March 1976* New Zealand. Parliament. House of Representatives. Appendix to the journals, Vol. 1, 1976, B.1 (Pt. II).

constructive suggestions on the manner in which the role of the committee could be adapted to make it a more effective instrument for the review of departmental expenditure in the accounting period immediately past and for the scrutiny of proposals for the future.

The subjects of these discussions were later put to the full Committee and formed the basis of certain activities undertaken by the Committee during the following two years. The most innovative of these was the addition to the Committee's conventional activities of Estimates consideration and subcommittee special investigations, the function of post-expenditure reviews undertaken by the full Committee.

Throughout its history the Public Expenditure Committee had been a consistent influence against excessive spending. (The very first subcommittees to be set up concerned the over- and under-expenditure of certain departmental votes.) Prompted by exceptionally high levels of over-expenditure in the 1974/75 and 1975/76 financial years, and conscious of its responsibility to exercise a check over annual appropriations on behalf of Parliament, the full Committee conducted a detailed inquiry into spending by three major government departments which had substantially overspent their total allocations in those years.³⁶ The object of the exercise as seen by the Committee³⁷ was

to reinforce parliamentary control over annual appropriations by making a post review of expenditure on Government activity prior to the normal examinations of current estimates. It was expected that this procedure would allow the Committee to investigate in greater depth the accountability of departments for their operations in the previous year than was possible under existing procedures.

Assessing the value of the exercise, which was undertaken on a pilot basis, the Committee decided that its usefulness was such that it should be repeated for those "departments where expenditure outcomes suggest an investigation by the Committee would be profitable in terms of improving the parliamentary control of public expenditure".³⁸

Subsequently, the full Committee has undertaken detailed investigations into another three departments, into administrative aspects of the Ministry of Works and Development and into the *Report of the Controller and Auditor-General on Financial Management and Control in Administrative Government Departments*.^{38a}

It needs to be stressed that this type of review is essentially an inquest into past events, but the recommendations which emerge, and the process of exposing weaknesses in departments, have a forward orientation in so far as the effect is intended to be the avoidance of similar problems in the future. In the case of one of the departments examined in 1976 this intention has already been realised — the Committee's inquiry produced significant changes within the department's management system which subsequent monitoring by the Committee has shown to be satisfactory.

36 *Public Expenditure Committee 1976 Interim Report* New Zealand. Parliament. House of Representatives. Appendix to the journals, Vol. 4, 1976, I.12A: 3-10.

37 *Ibid.*, 3.

38 *Ibid.*, 10.

38a New Zealand. Parliament. House of Representatives. Appendix to the journals, 1978, B.1 (Pt. IV).

In the area of subcommittee work, perhaps one of the most conspicuous aspects in these two years was a revival in activity to the level characteristic of the Committee's early years. It is true that in 1976 the Committee reported finally on only four subcommittee investigations, but this compared with three in 1973, none in 1974 and two in 1975, and with five in each of the years 1964, 1965 and 1966; and in 1977 the Committee was able to table final reports from six subcommittees.³⁹

Also perceptible has been a change in the nature of subcommittee investigations in the direction of greater detail and complexity. This has been particularly noticeable in the case of inquiries chaired by Mr Birch⁴⁰ who, following his expressed interest in the principles of parliamentary scrutiny of government spending, entered confidently into matters of efficiency and effectiveness as manifested in the details of budgetary control. Observers have also commented that the Public Expenditure Committee, through its subcommittees and through its own investigations, is assuming a more independent and searching attitude in all fields of parliamentary appropriation.

To an extent the latter can be traced to the independent attitude of some of the new government back-benchers who as members of the Committee displayed a genuine interest in exposing and seeking remedies for deficiencies in the government's administration of public money. Although as noted by Thomas "the government back-bencher's capacity to check the Administration for which the government is responsible takes second place to his duty to defend that Administration in Parliament",⁴¹ the traditionally bipartisan approach of the Public Expenditure Committee, especially in its subcommittees, gives the member an opportunity to reverse his or her priorities in the interests of improving the performance of departments in areas bearing on expenditure. In this context it is pertinent to note that of the subcommittees which completed reports in 1977 all six were chaired by government members.

Further evidence of increased subcommittee activity is shown by the Committee's programme timetable in which much greater emphasis came to be placed on subcommittee work. Whereas special investigations were undertaken originally only during parliamentary recesses as envisaged by the 1962 Standing Orders Committee, it became the practice that this type of work spilt over into the sessional period, especially during the Labour administration which began the session unusually early in the year. This practice now has been taken further with subcommittees continuing to sit during consideration of the Estimates. Indeed in 1977 two new investigations were initiated after the Estimates programme had begun.⁴² There is no evidence

39 *Public Expenditure Committee 1977* New Zealand. Parliament. House of Representatives. Appendix to the journals, 1977, I.12 and *Public Expenditure Committee 1977 Interim Report* New Zealand. Parliament. House of Representatives. Appendix to the journals, 1977, I.12A.

40 See, for example, subcommittee report on Hospital Board Budgeting, *Public Expenditure Committee 1977 Interim Report*, supra n. 39.

41 Thomas, op. cit., 452.

42 On 7 September 1977 the Public Expenditure Committee appointed a subcommittee to investigate the financing of the Television One programme "The Governor"; and on 28 September a subcommittee to investigate aspects of the building of the Kaimai Tunnel. Consideration of the Estimates began on 3 August.

that the more continuous subcommittee programme has had a detrimental effect on the scrutiny of the Estimates — the Estimates procedure tends to take a course dominated by the needs of the House which the government controls.

B. The Committee's Procedures

The Committee recently has shown a particular interest in its own proceedings, adopting some new procedures and studying the possibilities of further changes to permit the more effective execution of its functions.

Mention has been made earlier of the progressively later tabling of Public Expenditure Committee reports in the House and the reduced likelihood of reports being debated. An opportunity to avoid the consequential lessening in the impact of its work was provided by the preparation of interim reports in 1976 and 1977, tabled, respectively, on 13 August (seventeen weeks before the end of the session) and 21 October (eight weeks before the session ended).⁴³ The occasion for debate was, however, passed by. Reasons are suggested below.

In its annual report for 1976 the Committee discussed means of enhancing the effectiveness of the Estimates procedures and proposed two changes.⁴⁴ The first was a programme for bringing before the Public Expenditure Committee at least once every three years those classes of estimates dealt with by other select committees. The other concerned the presentation of information supplied by departments explaining to the Committee details of incurred and proposed expenditure. The Committee requested that the Treasury and Audit Office liaise to produce a standard format for use by all departments. The Committee also stated⁴⁵ that

In addition to explanations of expenditure and Estimates the committee will require a statement of significant changes in policy by each department. The committee will also in future require departments to give details in their reports to the committee of any funds appropriated by Parliament which have been reallocated.

One possible development which might have had a very considerable effect on the Committee's operation — the opening of at least some of its proceedings to the public — was examined by a subcommittee in 1977. The subcommittee saw advantage in the principle of keeping the public informed of decision-making processes in government, but weighed against this "the likely ramifications of immediate and unhindered publication of information which, at the material time, could be incomplete, inaccurate or, to a third party under certain circumstances, misleading", and "the argument that the House should receive information before general publication, . . . that parliament should have an opportunity to consider the information gathered by its committee before anyone else".⁴⁶ Recognising, however, that special investigations might on occasion be suitable for contemporaneous reporting the subcommittee suggested that at the next review of Standing Orders consideration could be given to vesting in the Public Expenditure Com-

43 *Public Expenditure Committee 1976 Interim Report*, supra n. 36 and *Public Expenditure Committee 1977 Interim Report*, supra n. 39.

44 *Public Expenditure Committee 1976 Interim Report*, supra n. 36.

45 *Ibid.*, 16. 46 *Public Expenditure Committee 1977 Interim Report*, supra n. 39.

mittee a discretion during recesses to admit the news media to specific investigations. The subcommittee could not see any possibility of examinations of the Estimates or departmental administration being held in public and concluded that during the parliamentary session the general Standing Order^{46a} providing for committees to seek the consent of the House to open proceedings to the news media was adequate.

Despite obvious disadvantages of public hearings the view taken by the subcommittee is disappointing.⁴⁷ That the outcome of its deliberations might have extended beyond maintaining the status quo is indicated in remarks made by Mr Birch in the early days of his chairmanship when, following a visit to the United States of America, he expressed enthusiasm for the open nature of the Congress committee system and saw definite scope for a similar development in the Public Expenditure Committee. Certainly due weight must be given to the argument advanced by the subcommittee that

the Committee relies on, and fosters the candour and free exchange of views between it and officials assisting the committee. It would be unfortunate were that frank interchange to be inhibited because both sides felt constrained by the presence of third parties or the way in which statements might be reported, whether by the press or individuals.

On the other hand, to the extent that two of the basic elements of parliamentary control are information and publicity, the opportunity for placing information before the public at a time when it is of greatest relevance and for providing a means of continuous criticism is missed when the public is excluded. Parliament's role is to ensure the government remains responsive to the people, and Parliament 'controls' the executive government through its influence on the electorate. It would seem reasonable to assume that these functions would be enhanced by allowing the public access to Public Expenditure Committee hearings during which evidence is taken (but not of course to deliberations when the Committee must be able to determine its findings free from the public gaze).

A further argument often put forward in favour of open hearings is that while the public has good cause to criticise the performance of members in the House, some of Parliament's best work is done in select committees. This is unquestionably true of the Public Expenditure Committee. There is a certain irony in the fact that the public is not able to observe Parliament in what is now perhaps one of its best lights, that of scrutinising the structure, administration and budgeting of government agencies to ensure that value is obtained for public money spent.

Having considered the matter in some depth through its subcommittee, the Public Expenditure Committee is unlikely to raise again the question of public access in the foreseeable future. With the exception that the Standing Orders may be amended to provide that the hearings of some special investigations on some occasions may be open to the public, it may be presumed that the Committee will continue to sit in private.

46a Standing Order 362.

47 In contrast, the House of Commons recently responded favourably to a proposal from its Public Accounts Committee that the public should have access to the Committee's proceedings. The first open meeting was held on Monday, 13 March 1978.

48 *Public Expenditure Committee 1977 Interim Report*, supra n. 39.

As matters of procedure it is interesting to note developments in the Committee's relationship with departments on the one hand, and the Controller and Auditor-General on the other.

The work of some recent subcommittees has shown the mark of much closer liaison with the agencies under examination than has been so in the past. References in the text of reports to the views expressed by officials in response to matters raised during investigations and the weight given to these comments in conclusions and recommendations suggest that the departments concerned have been influential in subcommittee findings.⁴⁹ More explicit evidence of close liaison is the reference in one report to the attendance of departmental officers throughout the subcommittee's deliberations.⁵⁰ These officers were clearly closely involved in the process of discussion and formulation of recommended action. It would of course be unrealistic for a subcommittee to ignore the departmental view. The Public Expenditure Committee is, after all, a financial watchdog, not a bloodhound. But to the extent that a more cooperative approach might be adopted towards subcommittee investigations, departments could be expected to become less apprehensive about being the subject of examination, the traditional deterrent effect of the Committee being accordingly diminished.

The Controller and Auditor-General has developed a continuous relationship with the Public Expenditure Committee through the delegation to one of his staff of the function of providing a constant liaison between the Committee and his office. On occasions he will also provide an additional officer specialised in the area under investigation. These officers serve the Committee as well as liaising with the Audit Office itself, and their expert advice is used in the formulation of recommendations and the preparation of reports. Beginning last year, the Committee seconds from the Audit Office a suitably qualified person who is responsible directly to the Committee. The presence of these officers highlighted the interest of the present Controller and Auditor-General in the role of the Public Expenditure Committee, as manifested in comments made from time to time in his reports to the House.

It is not claimed that the developments in the activities and procedures of the Public Expenditure Committee described in the foregoing were entirely innovative. In some respects the Committee was reviving the vigour of its first few years.^{50a} To the extent that new elements emerged, the Committee was availing itself of powers it had always had, but had not fully utilised. Recent developments reflect no change in the constitutional position of the Public Expenditure Committee either in terms of the work it does or in terms of its relationship with Parliament. What

49 See, for example, Public Expenditure Committee Subcommittee reports on Forestry Transport *Public Expenditure Committee 1976 Interim Report*, supra n. 36; Supply and Use of Departmental Motor Vehicles *Public Expenditure Committee 1976* supra n. 27, 18; and Hospital Board Budgeting, supra n. 40.

50 See Public Expenditure Committee subcommittee report on Hospital Board Budgeting, supra n. 40.

50a Since the writing of this article the 1978 parliamentary session has elapsed without a report from the Committee having been tabled. This was a result of a variety of factors including the comparatively short session, rather than of inactivity on the part of the Committee which, under the chairmanship of Mr R. L. G. Talbot, tackled a substantial work programme.

they do suggest is that given its existing structure and powers the Committee has considerable potential, not even yet fully realised, for acting as Parliament's expenditure watchdog. Undoubtedly the Committee could extend the scope of its work on its own initiative, and serious suggestions are put forward from time to time as to how the Committee's powers could be expanded. The Committee is a watchdog without teeth, however, if its influence is not felt fully in the House or reflected in the response of the government. As observed previously, the value of the Public Expenditure Committee's work should not be assessed in isolation. Consideration must be given to its relationship with the House and the government if its effectiveness is to be measured. Attention is now turned to these factors.

C. Relationship with the House

It must be conceded that the degree of interest shown by the House in the work of the Public Expenditure Committee has been disappointingly small over the past several years, and not enough to prompt debates on the Committee's reports — even on the occasions in 1976 and 1977 when interim reports were tabled well before the end of the sessions. Some explanation for this lack of response can be found perhaps in the collective attitude of the House, that it is not really necessary to discuss in the House matters which the Public Expenditure Committee has already investigated in depth and reported on. In other words, the House may have come to rely on the Committee to fulfil the function of scrutinising public expenditure. Possibly for the same reason, and as a matter of practicality, the government may also be anxious to avoid setting aside the scarce time of the House for debate on the Public Expenditure Committee's reports. The sheer number of parliamentary papers which are potential subjects for debate must also be taken into account.

It reasonably can be argued that a central requirement of an effective select committee is that its findings and reports should achieve publicity and influence by being associated with debates in the Chamber itself. Ideally, such debates on reports of the Public Expenditure Committee would allow members to become better informed about the details of special investigations and provide them with an opportunity to seek further information if required. But in the New Zealand House in the earlier years when the Committee's reports were debated the speakers tended to be members of the Committee. In 1964 all six speakers were Public Expenditure Committee members, in 1965 ten out of the fourteen speakers were, in 1966, eleven out of fifteen, and in 1967 nine out of ten.

The relationship between the House and the Committee is weakened further by the failure of the House to offer guidance to the Committee. Between 1973 and 1978 there has been no occasion on which the House has referred any matter to the Committee; the absence of debate on the Committee's reports precludes 'feedback' which might indicate to the Committee where the financial priorities of the House lie.

Implicit in the relationship of the Public Expenditure Committee with the

51 *Second Report of the Controller and Auditor-General for the Year Ended 31 March 1977* New Zealand. Parliament. House of Representatives. Appendix to the journals, 1978, B.1 (Pt. IV): 37-38.

House is the presumed flow of information from the former to the latter which makes use of the information to scrutinise and monitor the actions of the executive government more effectively. One of the important information functions of the Committee is that of gathering, digesting and evaluating details about government administration, a function too unwieldy to be dealt with by the House itself. If judged by the quality of debate (and this is probably the only measure of the generally indirect contribution the Committee makes), casual observation would suggest that members do not in fact make full use of the information thus available. It could not, indeed, be stated categorically that the present legislature is a better informed body than the legislature before 1962. It is necessary to look to the channels through which material gathered by the Public Expenditure Committee may reach the House to find a reason for this.

The Public Expenditure Committee's practice of not reporting on its consideration of the Estimates is one of the most obvious obstacles to the ready flow of its knowledge to the House at large. Information from the Committee's Estimates examination is often used during the Estimates debate, but almost exclusively by the Committee's own members. It does not appear to be disseminated to colleagues on either side of the House, at least in time for use in the appropriate debate. This will sometimes be the direct result of the very short time — possibly as little as one day — which may elapse between the Committee's consideration of a particular class of estimates and the debate on that class. Members of the Committee will also be constrained in passing on acquired knowledge by the fact that information obtained during the Committee's hearings and deliberations is privileged until the House calls on the class of estimates concerned.

A possibly more significant inhibition on the utilisation of the Public Expenditure Committee's information is that its approach to the Estimates is somewhat different from that of the House. The Committee concerns itself with the detailed examination of specific areas of expenditure in search of possible deficiencies and means for achieving efficiency and economy. The House debates on issues of policy which it has been explicitly permitted to do since 1974. Because of this difference the Committee has a short-term orientation while the House, in discussing matters of policy, may range beyond the period covered by the Estimates. Whether the time has come to extend the outlook of the Public Expenditure Committee to policy areas and longer-term expenditure is considered later.

Finally, in its relationship with the House, the Committee is constrained by the lack of power of the legislature itself in requiring the government to take any desired action. In the course of the Estimates debate, for example, the House can propose a motion only that a certain Vote be cut. Such a motion would always be defeated by the government majority, which partly explains the rarity of such motions. In this respect the procedures of the House on the Appropriation Bill are considerably more rigid than for other legislation which, in inverse ratio to the degree of political importance of a Bill, may be amended by cooperation and concession. If the House does influence government, it is by the means suggested by a former senior official:⁵²

52 R. J. Polaschek *Government Administration in New Zealand* (Wellington and Oxford, 1958) 247.

. . . the general debates on policy when finance is being considered are becoming increasingly important. They are a means of influencing policy rather than finance; but policy determines the way and the amounts in which money will be spent. Therefore, although supply debates rarely alter proposed expenditure immediately, they may be reflected at some later stage in changes in both government policy and spending.

Whether this actually occurs depends, of course, on whether the government, especially the present Ministers, actually listen to and absorb the subject matter debated by the House. Further, as Jennings observes,⁵³ “. . . the effectiveness of the Committee is to be measured not by the attention which its reports receive in Parliament, but by the attention which they receive in departments”.

D. Relationship with Executive Government

In 1963 Mr R. D. Muldoon M.P. remarked that it had never been the intention that a government would be obliged to implement any or all of the recommendations of the Public Expenditure Committee and in fact there would sometimes be very good reasons for not doing so.⁵⁴ Measuring the Committee's effectiveness by means of rates of adoption of its recommendations presents two difficulties. First, the government does not give reasons for delays in or rejection of particular recommendations. (Part One of the Committee's annual reports, 'Action Taken on Previous Recommendations of the Committee', records only action taken, and progress on matters not finalised.) Secondly there is no way of determining to what extent even those recommendations adopted by the government are implemented as intended at departmental level. Both points bear on the principle of ministerial responsibility, one of importance for the Public Expenditure Committee which is concerned with enhancing Parliament's role in holding the government accountable for its spending activities. In failing to give reasons for non-acceptance of the Committee's recommendations the government is also failing to respond to the call for accountability in the areas where the Committee saw a need for remedial action. This lack of reciprocity, which can in part be laid at the door of the Committee for not vigorously following up progress on its reports,⁵⁵ limits the extent to which Parliament can provide an effective sanction on a minister for continuing maladministration within his department. The effectiveness of the Committee's investigations may also be frustrated if a minister does not have firm control over his department. In such event the department may either persuade the minister not to insist on implementation of an adopted recommendation or, anyway, have the last word by simply ensuring that the recommended course of action is rendered meaningless. The likelihood of this happening may be now perhaps less than in the past, given the tendency noted earlier for some subcommittees to work in greater cooperation with departments under special examination. It would be reasonable to expect a higher rate of adoption and

53 Sir W. Ivor Jennings *Parliament* (2nd ed., Cambridge, 1957) 335.

54 N.Z. Parliamentary debates Vol. 382, 1963: 45.

55 In its annual report for 1977, op. cit., 17, the Committee expressed dissatisfaction with the delay in the implementation of some of its past recommendations, and indicated its intention to introduce follow-up procedures in 1978.

actual implementation of Committee recommendations when the departments concerned have had ample opportunity during the process of investigation to say before the subcommittee what it would and would not favour.

V. CONCLUSIONS

Despite the foregoing considerations, it can be said without doubt that the Public Expenditure Committee in the years 1976 and 1977 became conspicuously more active than at any other time since the late 1960s, and in some respects more effective as an instrument of parliamentary scrutiny than it was during the first few years when it established a sound reputation. What does this history suggest about the future contribution the Public Expenditure Committee might make to Parliament's constitutional role in expenditure matters?

The value of a chronological approach to the analysis of a developing institution lies in its capacity to reveal what are trends and what merely temporary fluctuations in practices, relationships and outcomes. In returning to an insistence on economy and efficiency in the spending of public money the Public Expenditure Committee has again, as in its early history, shown itself to be an important instrument of parliamentary control over the financial activities of executive government. The full significance of recent developments is yet to be realised, and will be realised only if they are given some permanency, and if the constitutional environment is such as to permit their potential to be fulfilled. The first of these conditions rests with the Committee itself. The motivation for the second will need to come both from the Committee and from the institution it serves.

One of the problems inherent in a committee which is assiduous in pursuing its own ends is that it earns respect and confidence for itself, unrelated to the institution it serves. It is often remarked that the mere existence of the Public Expenditure Committee is the public's safeguard against the misuse or waste of public money, that in seeking efficiency and economy in government spending the Committee directly motivates departments to maintain standards.

This view of the Public Expenditure Committee does not take account of its function of helping Parliament to make the government answerable for its spending activities — a function firmly based in constitutional history.

There is a body of opinion which sees in the development of the select committee system a remedy for problems observed in the role of Parliament vis-a-vis the executive government. It needs to be remembered, however, that in the relatively small New Zealand Parliament little scope exists for substantially restructuring and enlarging committees of the House without a significant increase in the number of members or considerable alterations to parliamentary procedures overall. Probably both would be needed. An even more important consideration is the effect on the position of the Chamber. Select committees exist for the benefit of the House in carrying out its constitutional duties. Too powerful a committee system would carry the danger that the Chamber as the centre of Parliament might be bypassed.

While there is scope for improving the effectiveness of the Public Expenditure Committee, it should be possible to do so without detriment to the Committee's relationship with the House. Indeed, a strengthening of this relationship would be one means of enhancing the contribution the Committee might make to the scrutiny of the financial activities of the executive. In this context, a number of developments in orientation and subject matter suggest themselves. In the light of the changed procedure whereby the House may now debate policy matters when in Committee on the Estimates, it would seem reasonable to consider an extension of such authority to the Public Expenditure Committee. The Committee should also be provided with the means of scrutinising long term expenditure proposals, to counter the tendency for Parliament to be excluded from a major area of expenditure activity because of its annual orientation which compares with the longer term perspectives now taken by the government.⁵⁶ For the future, there may also be merit in providing for the Public Expenditure Committee, or a parallel new committee, to examine the revenue activities of the government. The raising of public money requires, after all, the sanction of Parliament on the same grounds as does expenditure. In the more immediate future the Committee could extend its concern beyond the budgetary and administrative aspects of expenditure to embrace also the examination of effectiveness and performance in the activities of departments, methods for the 'auditing' of which have been developed and are being refined in the public sector.

No extension to the Public Expenditure Committee's work is likely to be effective, or possible, without a substantial increase in the resources of expertise and professionalism available to it.⁵⁷ Even its present resources, vastly improved as they are over those of the pre-1972 period, are strained and do not always permit full coverage of all the Committee's investigations. Advisory services could well be improved not just numerically, but also in range of expertise.

These are changes which could be made within the existing structure of the Public Expenditure Committee. The House, for its part, could make better use of the Committee by regarding its work not as the final form of scrutiny and criticism but rather as a springboard for its own supervision of, advice to and checking of executive government. Better appreciation of the functions of the Committee and the implications of the tasks assigned it would undoubtedly assist the House in performing these traditional constitutional duties. And more effective scrutiny by the House could be expected to meet with greater responsiveness on the part of the executive government. Developments of this nature would leave Parliament squarely in the centre of the process of control.

Expression is given to these ideas in the words of a recent member of the legislature, the Hon. Dr A. M. Finlay⁵⁸

56 A precedent for this exists in the Expenditure Committee of the House of Commons which has the benefit of scrutinising the government's White Paper on Expenditure which contains forecasts of expenditure requirements for five years ahead.

57 Although the present Committee has shown a willingness to enter new areas of investigation as, for example, the proposal in its report for 1977 that it should become involved in certain fields of local authority administration. *Public Expenditure Committee 1977*, supra n. 39, 24.

58 Hon. Martyn Finlay, "A Former Minister Looks at Parliament". Sir John Marshall (ed.), "The Reform of Parliament" (Wellington, 1978), 73.

If any of us were asked to devise a completely new set of legislative machinery and procedure — in effect, to write a constitution — I doubt if we'd find much assistance or attraction in what we have at present. I suspect, however, that most of us are conservative enough to want to hold on to what is familiar and not want change for its own sake — even if it added a little more efficiency. If what we have works, or can be made to work, most of us would want to stick to it, and the unifying force of respected tradition is not to be disregarded. I think what is wrong with Parliament is not so much the rules (which can be made to work, even if they creak a little) but the Members of Parliament (who often display a lack of will to make them work).

The financial procedures of the House and the financial relationship between Parliament and the Crown has evolved in a continuous process since feudal times. The establishment of the Public Expenditure Committee itself was part of this process. There would seem to be no reason why the Committee should not continue to adapt as it sees fit, nor why Parliament should not introduce such changes as are necessary for its Committee to function effectively in modern conditions.

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