

Public Liability: Insurance Regulation and the Creation of the Insurance Corporation of
British Columbia

by

Jason David Wallace
B.A., University of Victoria, 2003

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Abstract

In 1974, the Insurance Corporation of British Columbia (ICBC) began the exclusive sale of automobile insurance to the motorists of British Columbia. Created by Dave Barrett, Robert Strachan, and the New Democratic Party government of British Columbia, the corporation was controversial and denounced by many as a socialist encroachment into the economy for purely ideological reasons. Previous studies of the ICBC have done little to dispel this notion because they focus on its operations rather than its inception. The ICBC, however, was more than just a product of New Democratic Party ideology. It had its origins in historical precedent that paved the way for greater government intervention in the economy, in questionable insurance industry ethics, in the W.A.C. Bennett government's bumbling over regulating the insurance industry, and in the failure of the industry to organize an efficient resistance to the creation of the ICBC.

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To my Mother and Father, for all of the sacrifices they made over the years to get me to this point and for teaching me that anything is possible if you are determined enough,

To Jennifer, for all the things you do,

And in loving memory of William Charles Young, whom I miss every day.

"The Province of British Columbia is about to embark on the largest insurance venture in this country. There is no doubt that their new Corporation will be the largest company in Canada at one minute after midnight on the first of March, 1974. They are embarking upon a plan that will be, if handled properly and if they take into consideration the problems we have had, a blueprint in their province for possible adoption of Autopac in other provinces. On the other side of the coin, they can end up with one hell of a mess."

- J.O. Dutton
General Manager, Manitoba Public
Insurance Corporation

Chapter 1:

The Insurance Dilemma and the Insurance Corporation of British Columbia

On March 1, 1974, motoring British Columbians became subject to a new era in automobile insurance regulation. Five years earlier, the provincial government had made automobile insurance compulsory but allowed motorists to shop in a competitive private sector market for the best rate, claim service, and coverage. All of that changed with the inception of the Automobile Insurance Act of 1973 and the creation of the Insurance Corporation of British Columbia (ICBC), the crown corporation designed to administer Autoplan, a new provincially owned insurance scheme. The concept of a provincially run automobile insurance plan was not new in Canada. Despite that the Cooperative Commonwealth Federation (CCF) governments of Saskatchewan and Manitoba had established successful ones in 1946 and 1970 respectively, many expressed surprise when Dave Barrett made such a corporation a reality in British Columbia, quickly calling it a government encroachment of the private sector based on socialist ideology. The ICBC, however, was a product of historical precedent paving the way for greater government intervention in the economy, questionable insurance industry ethics, and government bumbling of insurance regulations, not just the result of New Democratic Party (NDP) ideology.

Although political observers have attributed government intervention in the general insurance industry in British Columbia almost exclusively to the ideology of the NDP government, calls for increased regulation can be traced as far back as 1904.¹ By

¹ "An Insurance Law Needed," *Victoria Daily Colonist*, 5 February 1904, 8

1929, the province's major newspapers as well as a variety of interested groups and private citizens were asking for a government automobile insurance plan. One concerned citizen argued that the government had a responsibility to provide automobile insurance to allow for more protection for victims of irresponsible drivers, to raise funds that could be spent to improve roads, and help soften the burden of fuel taxes. Finally, that writer argued that such a system would also eliminate economic waste and mitigate litigation related to settling automobile insurance claims and injuries.²

Such calls continued periodically in the next decades both in the media and by the political parties. The New Democratic Party, whose socialist roots were reflected in many of its policy initiatives, tried unsuccessfully on several occasions in the late 1960s and early 1970s to introduce bills to establish a state-operated automobile insurance plan but only after it came to power in the 1972 provincial election did provincial automobile insurance become a political reality.³ In that election, the NDP, under the leadership of Dave Barrett, campaigned on four major issues: pension plans, unemployment issues, taxes, and automobile insurance.⁴ The insurance section of the platform was poignant and accusatory of the current automobile insurance plan:

² "Thinks Provincial Government should Go Into Car Insurance Itself" *Vancouver Sun*, 16 October 1929, 8

³ The most notable examples of NDP bills on auto insurance came on February 10, 1969 when William Hartley introduced Bill 19, "An Act to Empower the Government of British Columbia to Engage in the Business of Automobile Accident Insurance." The Bill was ruled out of order by the Legislature after debate on April 2, 1969 and it was subsequently dropped from the order paper. British Columbia, Legislative Assembly, *Journals* February 10, 1969, 50 and April 2, 1969, 228. Hartley tried to introduce his Bill Again on March 30, 1972 but again it was ruled out of order. British Columbia, Legislative Assembly, *Journals*, March 30, 1972, 261

⁴ *The Democrat* XXII (August 1972 Edition), Ken McCarter, Ed. *Primary Documents Concerning British Columbia Provincial Elections, 1903-1975. Volume 4* (n.p., n.p., n.d.), 485

Common sense tells us that when something works, use it. When something doesn't work, scrap it. Private Car Insurance hasn't worked in B.C. or anywhere else (except for the insurance companies). Making it compulsory in B.C. hasn't worked either. Costs just go up and up. Government car insurance has worked in Saskatchewan for 25 years. They've tried it in Manitoba and it's working there too. By the way, it is already working in B.C. Did you know that the provincial government insures its own vehicles out of a government fund—for less than \$25 each?

But they don't want the rest of the province to have this benefit. They voted down the NDP's motion for non-profit government car insurance just this spring. If you're fed up with the soaring car insurance premiums, remember: Dave Barrett and the NDP are continuing to fight for the kind of low-cost plan which is working so well in Saskatchewan and Manitoba. The NDP is the only political party in BC committed to public auto insurance.⁵

Barrett's campaign speeches followed a similar tone as he took every opportunity to strike out against the current system and the insurance companies who operated it. He accused the companies of corruption in the form of market collusion and price fixing.⁶ He also argued that the mechanisms that the government had put in place to protect policy holders and the general public from insurance industry dishonesty were ineffective.⁷

As the leader of the opposition, Barrett and his party had earlier attacked the existing system on many occasions, thus making it an important issue. In one instance William Hartley, NDP member for Yale-Lillooet and opposition insurance critic, informed the Legislature of a young pregnant woman whose husband was severely

⁵ *The Democrat XXII* (August 1972), McCarter, *Primary Documents Concerning British Columbia Provincial Elections, 1903-1975*, 485

⁶ Dave Barrett & William Miller, *Barrett: A Passionate Political Life* (Vancouver: Douglas & McIntyre, 1995), 67

⁷ British Columbia Archives (Hereafter BCA), *Files Pertaining to the Start of the Insurance Corporation*, GR 0664, Box 8, File 8, NDP Fact Sheet on Automobile Insurance (For this Election), 1972

injured in a car accident. He died ten months later but the insurance carrier refused to indemnify her, citing the insurance policy's statement that no payment would be made should the death occur more than 180 days after the accident. Hartley demanded legislation to assist the young woman and her newborn child. Attorney General Les Peterson responded with what Barrett deemed to be a non-committal answer. When Hartley persisted, the Speaker ruled him out of order for breaking a House rule banning "tedious repetition." Several other New Democrats interjected to no avail and Barrett took his turn. In his autobiography he notes that by the time he took the floor Attorney General Peterson was "reading a book" so he asked, "Will the minister promise this House that he will approach the insurance company and ask for a review and ask for some leniency and show some awareness of the hardship this rigid rule is placing on this widow?" The Attorney General replied in the negative. Barrett asked several more times and the house waited in silence for a full two minutes, but the Attorney General and Premier Bennett sat in silence. Persisting, Barrett went on to ask the same question a total of sixty-seven times. During the course of this recital, the Speaker left the chair and the Deputy Speaker finally ordered Barrett to sit down. Even members of his own party urged Barrett to drop the issue. Finally, Premier W.A.C. Bennett leaned over to Peterson, whispering for the charade to stop, and Peterson in turn rose and filed a motion that expelled Barrett from the house for five days. The New Democrats used the expulsion to its fullest political extent, citing the incident as evidence that the Bennett government was large, heartless, and out of touch with the needs of the people.⁸ Moreover, the incident

⁸ Barrett & Miller, *Barrett: A Passionate Political Life*, 52-53

was exactly the kind of exposure that the New Democrats needed to help push the insurance issue into the public eye immediately before an election.

Automobile insurance, of course, was only one of many issues in the 1972 election. Some historians suggest the results were less a New Democratic victory but a Social Credit failure. Political analysts Lorne Kavic and Garry Nixon, assert that the Social Credit party was in an internal leadership dispute centering around Bennett, Welfare and Social Rehabilitation Minister Phil Gagliardi, and Forests Minister Ray Williston that was making Social Credit supporters anxious.⁹ Similarly, Jean Barman has argued that the 1972 election victory was not so much a New Democrat victory as it was “a break up of Social Credit” that was predicated in part by the surprising surge in popularity of the provincial Conservative party due to the lackluster legislative sessions the Social Credit MLAs put forward in 1970 and 1971.¹⁰ Others still claim that Bennett was simply getting old and negative, which put him out of touch, while the younger Barrett’s energy and positive outlook appealed to the electorate.¹¹

Regardless of their reasons, the voters of British Columbia chose Barrett and his party’s promises to form the government. Their campaign slogan, “Enough is Enough,” overcame Bennett’s rallying cry of “the socialist hordes are at the gates...”¹² and on

⁹ Lorne J. Kavic & Garry Bryan Nixon, *The 1200 Days, A Shattered Dream: Dave Barrett and the NDP in BC 1972-75* (Coquitlam, B.C.: Kaen Publishers, 1978), 23-24

¹⁰ Jean Barman, *The West Beyond the West: A History of British Columbia* (Toronto: University of Toronto Press, 1996), 295

¹¹ William Rayner, *British Columbia's Premiers in Profile: The Good, The Bad and the Transient* (Surrey, BC: Heritage House Publishing Company Ltd., 2000), 196

¹² See Rayner, *British Columbia's Premiers in Profile*, 196 and Barman, *The West Beyond the West*, 295.

August 30, 1972 the New Democratic Party won its first election in British Columbia.¹³ In what the *Victoria Times* called a “brutal” victory,¹⁴ the New Democrats captured thirty-eight of fifty-five seats in the Legislative Assembly and massed a popular vote of 448,260 or forty percent of a total of 1,132,172 votes cast. The Social Credit Party, in its fall from grace, won only ten seats and thirty-one percent of the votes. The Liberal Party took five seats and the Progressive Conservative Party two to round out the new Legislature which opened on October 17, 1972.¹⁵

More than simply a moral victory for the left, Barrett had gained a clear mandate for his four-pronged election platform and immediately his administration began work on creating a publicly owned and administered automobile insurance scheme. Most writers on the subject have said that the Premier undertook this endeavour because the New Democrats had promised it in the election campaign and that it fit with their long standing ideological belief in government insurance. For example, in one of the few works dedicated solely to the subject, *On the Insurance Corporation of British Columbia, Public Monopolies and the Public Interest*, economist Herbert G. Grubel summed up the genesis of the Insurance Corporation of British Columbia as being “designed to replace a conventional automobile insurance system by a state monopoly operating as a non-profit Crown Corporation. It fully achieved this objective and generated a growing momentum

¹³ The Cooperative Commonwealth Federation, pre-cursor to the New Democratic Party, first established itself as a political party in 1932 and in 1961 changed its name to the New Democratic Party. See Kavic & Nixon, *The 1200 Days, A Shattered Dream*, 10

¹⁴ Rayner, *British Columbia's Premiers in Profile*, 196-197

¹⁵ Elections British Columbia, *Electoral History of British Columbia 1871-1986* (Victoria: Queens Printer for British Columbia, 1988), 311

for expansion into other insurance business.”¹⁶ This summation, while accurately describing the ethos for the Insurance Corporation of British Columbia, fails to convey the finite factors that were involved in the creation process other than the New Democratic Party’s beliefs and election promises. Granted, Grubel’s purpose was to examine the role of monopolies in British Columbia and the potential implications of re-privatizing the ICBC, but even that endeavour would have benefited from a comprehensive examination of the forces that aided in the creation of the ICBC.

Lorne Kavic and Garry Nixon fall victim to a similar trap by understating the origins of the ICBC in their analysis of the Barrett administration in *The 1200 Days, A Shattered Dream: Dave Barrett and the NDP in BC 1972-75* (1978). In a chapter devoted entirely to the Insurance Corporation of British Columbia, they too simply state that

Private insurance companies had long been viewed with unqualified distaste or repugnance by reform-minded political movements and parties unsympathetic with the presence of the profit motive in ‘essential services,’ and consistently suspicious of the ‘fairness’ of the rates charged. This mood had been given practical expression by socialist governments in Saskatchewan and Manitoba in 1946 and 1970, respectively, and had proven popular and efficient as the services previously handled by private companies.

Kavic and Nixon asserted that British Columbians complained that their insurance premiums, among the highest in Canada, were increasing every year. They do not explain that the widespread belief of a lack of competition among the underwriting companies due to a remarkable similarity in policy pricing fuelled this discontent and led to a very susceptible market for state-administered insurance. Added to this, by making

¹⁶ Herbert G. Grubel, *On The Insurance Corporation of British Columbia: Public Monopolies and the Public Interest* (Vancouver: The Fraser Institute, 1985), 1

automobile insurance compulsory in 1969, the Social Credit government had given the entire motoring public no choice but to do business with the seemingly colluding insurance companies.¹⁷ Kavic and Nixon understate the importance of these grievances which unquestionably played a role in the rationale for creating the Insurance Corporation of British Columbia. Also, they, along with their contemporaries, do not make clear how the ICBC came to be.

With academics simply conceding that the ICBC existed or understating its origins, many questions remain unanswered. How had insurance rates in British Columbia remained so high and why was there a seemingly marked lack of price competition? What, if anything, had previous governments done to quell this trend? What rationale did the Bennett government have for forcing motorists to carry automobile insurance that was administered by private enterprise? Examining these questions reveals that turmoil in automobile insurance in British Columbia created the environment conducive to a provincially run automobile insurance program extending back long before Dave Barrett became leader of the New Democratic Party in 1970. They also expose the events that took place in the years preceding the creation of the provincially-administered insurance plan.

Many factors were involved in the creation of the ICBC; Barrett's initiative was the product of a long series of events, not simply a political maneuver. Some of these events were general social trends that factored into the political and economic climate of the province such as the increasing role of the government in the economy following World War II. Others were more specific to the insurance industry. No one of these

¹⁷ Kavic & Nixon, *The 1200 Days, A Shattered Dream*, 132-133

factors by itself fully explains how Dave Barrett was able to make the idea of the Insurance Corporation and compulsory government automobile insurance a part of his election platform, convince the public to support it, and successfully implement it. It is clear, however, that a foundation for government automobile insurance was built over time, culminating in total government monopoly over the automobile insurance market in British Columbia.

Aside from a fundamental understanding of British Columbian political history, researching the creation of the ICBC involves extensive use of primary materials, including oral history sources, as little has been written on the subject by academics. Also, a sufficient understanding of crown corporation scholarship in general is necessary in order to situate the ICBC in its proper place in Canada's political economy.

Most of the primary materials relevant to the ICBC are found at the British Columbia Provincial Archives, largely in the holding *Files Pertaining to the Start of the Insurance Corporation*. Additionally, the ministerial records of Robert Strachan offer some assistance, although much of the relevant sections on the Insurance Corporation have been transferred to the ICBC files. Additional archival files are also of benefit, including the *Records of the Commission on Automobile Insurance 1966 – 1967*. Accessing most sections of these records requires a research agreement to be granted from the Provincial Archivist, as they contain sensitive and personal information ranging from contract details for early ICBC executives to information on accident victims and insurance premium rates.

Outside of the archives, few primary materials exist. Dave Barrett's autobiography entitled *Barrett: A Passionate Political Life* offers an inside and very

personal perspective on the working of the NDP government he helmed, but offers little about the ICBC directly. Personal interviews of ICBC executives also offer some insight. As Strachan and many of the initial ICBC executive have passed away, the anecdotes and information of former employees serve to fill in many gaps that could not otherwise be filled with statistical and archival information.

Finally, perhaps the most important non-archival sources are newspaper and media accounts of the events that transpired during the ICBC creation process and its early years. There was no Hansard record of debates in the Legislative Assembly until the NDP introduced it after coming to power. Consequently, newspaper coverage is the only source available during the turbulent years leading up to the NDP's election victory. Outside of the legislature, the media offers valuable descriptions of everyday events pertaining to insurance issues such as rate increases, public reactions, and general issues that influenced the actions of the government.

Approaching the secondary literature on crown corporations as discussed in Chapter 2 is a task that must be approached carefully. While there is a rich, albeit dated, body of material written by political economists, historians, and political scientists, crown corporations are a politically sensitive subject and as a result generate partisan material that one must be careful to avoid. The propaganda aside, the secondary material is necessary in understanding the ethos of crown corporations and the circumstances that permit them to be a large part of the daily lives of Canadians.

Five identifiable factors led to the fulfillment of Barrett's 1972 election promise of government administered automobile insurance. These five factors fall into two

groups. The first group comprises events that generally influenced the political climate of British Columbia and established the early role of the state in the economy. The second group is composed of concrete factors directly related to the state of the automobile insurance industry in British Columbia. Together, they tie into an historical progression in which the government gained credibility as an enterpriser while the insurance industry in British Columbia lost the confidence of the people, creating a balance of power that favoured Barrett's vision.

The first general event was the rise of "small l" liberalism in Canada. Beginning as early as the Second World War, this political dogma influenced the political sociology of British Columbia. It made social equality and welfare key political cornerstones that cut across all party lines, resulting in national healthcare insurance and a stronger government support system for the underprivileged. The success of new major social programs fuelled this trend and produced more programs of a similar scope. Included in this phenomenon is the rise of the crown corporation as a public policy tool used by both federal and provincial governments to achieve social and economic policy objectives. The rise of this political mentality ultimately became the backdrop for the continually increasing role of the government in the every day lives of Canadians.¹⁸

The second general event was the radical change in the political culture of British Columbia made by the policies of W.A.C. Bennett during his twenty year term as premier. A proactive and activist politician, he had what Frank Leonard, in writing about the creation of the B.C. Ferry Corporation, called a "west coast populist style that

¹⁸ For a more detailed explanation of this phenomenon, see Jeanne Kirk Laux & Maureen Appel Molot, *State Capitalism: Public Enterprise in Canada* (Ithaca, NY: Cornell University Press, 1988), 37-60

reflected his bias in favour of public enterprise” that stemmed from his commitment to building British Columbia after World War II.¹⁹ From this trait came a series of government interventions into key areas of the economy in the form of crown corporations such as B.C. Ferries and B.C. Hydro. Although none of his direct involvements in the economy via crown corporations directly related to the insurance industry, his actions not only fit into the “small l” liberalism of the period but also greatly influenced the actions of Dave Barrett. Subsequently, after having spent years in opposition to Bennett, Barrett’s governing style and public policy mechanism so greatly mimicked those of his predecessor that political insiders and Victoria civil service workers were surreptitiously calling him “W.A.C. Barrett” due to his remarkable emulation of Bennett’s style of governance.²⁰

Set against this backdrop, three specific events made the evolution and creation of the Insurance Corporation possible. First, for several decades, both the federal and provincial governments had been scrutinizing the insurance industry in British Columbia. The federal government inquired into the state of the insurance industry across Canada beginning in 1952 after the director of its combines branch received several complaints of possible price fixing and deliberate lack of competition.²¹ As if this was not unsettling enough to the policy holders in British Columbia, a provincial Royal Commission on

¹⁹ Frank Edward Leonard, “W.A.C. Bennett and His Choice of State Enterprise: The 1958 Case of British Columbia Ferries” (M.A. Thesis, University of Victoria, 2002), ii

²⁰ Robin Fisher and David J. Mitchell, “Patterns of Provincial Politics Since 1916,” in *The Pacific Province: A History of British Columbia* ed. Hugh J.M. Johnston (Vancouver: Douglas & McIntyre, 1996) 262

²¹ Department of Justice, *Restrictive Practices Commission Report Concerning the Business of Automobile Insurance in Canada* (Ottawa: Queen’s Printer and Controller of Stationery, 1960) 1-2

Automobile Insurance in 1966 investigated, among other things, the rising cost of insurance premiums and the system of compensation for accident victims.²²

To the politicians in British Columbia, the investigations were a call to action. After receiving the Royal Commission report, the Bennett government introduced new insurance legislation in 1969 that was designed to regulate the industry more strictly while still allowing the private companies to operate.²³ The legislation was ultimately ineffective and did little to remedy the situation. It neither mitigated the fears of the public nor increased regulatory control over the insurance industry. Also of great importance, it did not address accident frequency nor the concerns of many about the inhuman mechanisms of the insurance industry. The public was wary of its insurers and weary of a government that appeared helpless to do anything about it. This gave the New Democrats the ammunition they needed to convince the public that a government-run system was the answer. This enviable political position, when coupled with the apparent success of provincially-administered automobile insurance programs in Saskatchewan and Manitoba, helped give Barrett the political leverage he would need to win the 1972 election and to overhaul the automobile insurance system in British Columbia. Granted, insurance was not the sole factor in Barrett's victory, but, as it was a point of contention among a strong segment of the provincial electorate, it was an important element in the NDP's rise to office.

Third, in creating ICBC, the government was helped by the ineffective protest of the insurance industry against the NDP's insurance plan. Before, during, and after the

²² British Columbia, Royal Commission on Automobile Insurance, *Report of the Commissioners* (Victoria: Queen's Printer, 1968), 2-3

²³ British Columbia, Legislative Assembly, *Journals* 2 April, 1969, 234

drafting of the ICBC legislation, as well as during the corporation's gestation period and its infancy, the insurance community engaged in various forms of activities designed to either halt the process entirely or alter the way in which the ICBC was able to do business. For varying reasons these activities were disjointed and ineffective and served only as an annoying inconvenience to the government automobile insurance plan's administrators who were able to forge ahead despite the efforts of their opponents.

Only one analyst has explored the subject. In her article, "Interest Groups and Government Regulation: The Cases of the Mining and Insurance Industries During the Period of New Democratic Party Government in British Columbia, 1972-1975," Nukhet Kardam examines both the insurance and mining industries under the NDP regime and how they reacted and resisted under the threat of government take-over.²⁴ Both industries were important to Barrett and his government made attempts to expropriate them, failing in their pursuit of the mining industry but succeeding in automobile insurance. Kardam points to several factors that contributed to the ineffectiveness of the resistance movement, such as divisions between the insurance companies in their efforts to halt the ICBC's inception and the absence of support from the insurance agents of the province, all of which further weakened its position. As with others who have analyzed the ICBC, however, she understates the depth of the events she is examining and omits several

²⁴ Nukhet Kardam wrote this essay when she was a doctoral candidate at Michigan State University in the early 1980s. It was the result of research she had undertaken as a graduate student in the Department of Political Science at the University of British Columbia. Kardam is currently Associate Professor of International Policy Studies at the Monterey Institute of International Studies located in Monterey, California. Nukhet Kardam, "Interest Group Power and Government Regulation: The Cases of the Mining and Insurance Industries During the Period of the New Democratic Party Government in British Columbia, 1972-1975," *BC Studies*, No. 60, (Winter 1983-84), 48-74

important factors relating to the overall organization and planning of the resistance as well as the objectives of the groups that took part in it.

Kardam, however, does more than simply outline the resistance campaign against the ICBC. She attributes the resistance movement's failure to a lack of support for the industry due largely to an eroded power base from which the insurance industry was operating. This notion, which she calls the "open systems theory" of power relationships within industry, provides a theoretical backdrop that can be applied to the study of the ICBC's genesis. As part of her theory, Kardam argues that "the survival of organizations is a function of their interaction with the political, social, and economic environment under different conditions of knowledge and power."²⁵ In other words, whether or not a private industry will be able to resist a government takeover is directly related to each group's ability to perform in its market, as well as each individual industry's size, economic contribution, and social significance within a given economy and government jurisdiction. If private organizations in these sectors want to survive, Kardam argues, they must secure support from these environments and provide a valuable service fairly and equitably, thus creating a power base from which to draw support and legitimacy. If an organization loses the support of the environment by failing to meet its expectations, or does not have sufficient enough economic or political power, its chance of survival is small in the face of government intervention or complete takeover due to the government being in the position of power.²⁶

While Kardam intended for her theory to be only an explanation of the failure of the ICBC resistance movement, her notion of power relationships is important when

²⁵ Kardam, "Interest Group Power and Government Regulation," 48

²⁶ Kardam, "Interest Group Power and Government Regulation," 53

considering the other events surrounding the ICBC's creation. As government involvement in the economy grew through increased regulation and the extended use of crown corporations after the Second World War, its power base grew as the public accepted the legitimacy of the increasing role of the state. Contrarily, the power base of the insurance industry steadily declined as the decades passed and public opinion fell due to industry collusion, increasing premiums, and poor service. These elements, when added to the more finite factors Kardam identifies, such as the political threat the insurance industry presented to the government and the ability of the government to operate an automobile insurance program, extend her hypothesis to envelop the entire ICBC creation process. As such, the concept of relative power relationships is essential in understanding the social and political milieu that created the corporation.

A marked precedent of government ownership of industry in British Columbia assisted the NDP in creating the ICBC. Additionally, had the insurance system in British Columbia been functioning to the satisfaction of the public before the 1972 election, or had the legislation Bennett attempted been successful, the NDP proposal to usurp the automobile insurance market would likely have been met with fierce public resistance and what appealed to the electorate may have come across as merely an ideological election stunt. Yet the public supported government-run automobile insurance, further helping Barrett's cause.²⁷ The insurance industry and the tertiary industries who opposed the Insurance Corporation of British Columbia were unable to prevent its establishment. With the public supporting the plan and the interested parties being unable or not desiring to block it, the NDP was able to embark upon a completely new insurance philosophy in

²⁷ British Columbia, Legislative Assembly, *Journals* 18 April 1973 , 3070

Canada that was not the product of simple ideology but rather the culmination of a long series of events that saw the public lose faith in private industry and find potential in a government operated plan.²⁸

²⁸ While Saskatchewan and Manitoba had provincially operated plans, they paled in comparison to the ICBC in terms of size and scope. Unlike its contemporaries, the ICBC was planning on insuring as many as two million vehicles in its first month of operation in addition to acting as an agent to reduce accidents and create a more friendly and equitable system for compensating accident victims. The Saskatchewan and Manitoba plans grew more slowly and did not undertake the same level of accident prevention.

Chapter 2

The Rise of Small I Liberalism and the Historical Use of Crown Corporations as Public Policy Tools in Canada

During and immediately after the Second World War, the role of the state in Canada became drastically larger and the social and political implications have continued to affect government initiatives. Under involved stewardship from the state, living standards increased dramatically, education levels and access to higher learning blossomed, and the country benefited from a successful social welfare program that few believed possible in 1945.¹ Derived from this phenomenon was the increased use of government corporations to achieve public policy goals, a phenomenon which would continue to play a large part in modern Canadian society and would have a lasting impression on the way in which government intervened in the Canadian economy. More directly, this influence set a precedent for Dave Barrett when he embarked on his own legislative agenda for British Columbia and ultimately laid the foundation upon which the Insurance Corporation of British Columbia would be built.

Several events made this transformation from uncertainty to prosperity possible, but none was more powerful than the higher expectations of Canadians after the war for security and stability in their daily lives. The federal government made it clear in its 1945 White Paper that, in co-operation with the provincial governments, it could provide the security blanket the country desired. What was required was a system that would encourage export trade, private investment, consumer spending, and a program of public

¹ Robert Bothwell, Ian Drummond, and John English, *Canada Since 1945: Power, Politics, and Provincialism* (Toronto: University of Toronto Press, 1981), 3

investment that included social security programs to protect against “large and uncertain risks” such as illness, unemployment, and the effects of old age.

Some level of government social assistance existed before and during the war, but what was being proposed was greater than anything in Canada’s history. As Robert Bothwell, Ian Drummond, and John English point out, the federal government faced some opposition to its White Paper plan from the provinces as its policy goals would have heightened Ottawa’s powers at their expense. Consequently, the federal government was forced to press on with social programs that did not require provincial cooperation and negotiate with the provinces when necessary later to make further advances. Key gains were made nonetheless. Veteran education incentives and the Veterans’ Land Act helped ease veterans back into civilian life, and if no work was available, they were eligible for federally sponsored unemployment assistance. The government also subsidized new housing construction to accommodate the growing number of new families and helped secure over 19,000 mortgages for homebuyers through the Central Mortgage and Housing Corporation. More important, however, was the experience the federal government gained during the failed reconstruction negotiations of 1945-1946 that enabled it to move forward in future federal-provincial talks focusing on creating further social programs.²

Both the federal and provincial governments laid the foundation of the modern liberal state and the activist state ideology in Canada. The Medicare program, first brought to Saskatchewan by Tommy Douglas and then expanded to encompass the entire country under Lester Pearson in 1968, is one of the lasting legacies of this new

² The previous paragraphs draw on Bothwell, Drummond, and English, *Canada Since 1945*, 91-100

characteristic in Canadian government and society.³ So, too, is the introduction of the Canada Pension Plan. Similarly, albeit an ideological advancement rather than a policy oriented one, the Charter of Rights and Freedoms adopted by Pierre Trudeau serves as a constant reminder of the commitment of Canadian society to uphold a liberal state where fairness and equality are the cornerstones of society. As P.E. Bryden notes, however, it is important to stress that the establishment of this culture and supporting legislation was a long, convoluted, and arduous process that was not without difficulty, and attempting to view it as a continuous period of monolithic and calculated policy creation is erroneous. Rather, one must be aware that it was a series of political achievements that were specific to the various governments that implemented them, both federally and provincially.⁴ While being careful not to understate the circumstances that led to the creation of the activist state, however, there is no denying the magnitude of the changes that Canada embarked on following the war through a new mentality toward a more active government.

Set against the backdrop of this rise of the state in Canada was the increasing use of crown corporations as public policy tools designed to assist in executing government aims for society and the economy. Politicians and political economists have drawn attention to and debated the intervention of government into the daily economic lives of citizens. Unfortunately, historians have had little enthusiasm for the topic since the early 1990s, and, consequently, recent analysis is virtually non-existent. The body of literature

³ An excellent work concerning the inception of Medicare in Canada can be found in A.W. Johnson, *Dream No Little Dreams: A Biography of the Douglas Government of Saskatchewan, 1944-1961* (Toronto: University of Toronto Press, 2004), 305

⁴ P.E. Bryden, *Planners and Politicians: Liberal Politics and Social Policy, 1957-1968* (Montreal & Kingston: McGill-Queen's University Press, 1997), xv-xvi

that does exist, however, is valuable in demonstrating how the development of the Canadian state is directly linked to these institutions, and that after the Second World War their importance and utility were heightened with the new government ethos.

While it is not the aim of this thesis to explain the role of government-owned corporations in the development of the liberal state in Canada, it is necessary to acknowledge that crown corporations, although not necessarily under that name, existed in British North America before Confederation. In 1841, for example, Lord Sydenham established a board of works with a series of corporate powers to construct canals. This corporation did not retain its corporate status for long before being reorganized into a government department, but its legacy lasted as the government ventured into several other ventures before ultimately creating the Canadian National Railway in 1919 out of three failing national railroad lines. The Canadian Broadcasting Corporation followed in 1932.⁵ The Great Depression also saw a significant increase in the role of the government in the economy as dealing with the pressures of unemployment and other issues that required the use of “unorthodox solutions.”⁶ Trans-Canada Airlines also was born in this period, under the eye of C.D. Howe, commencing operations in 1937 to carry passengers across Canada and create an all Canadian system to deliver mail and freight rather than routing it through the United States.⁷

⁵ Privy Council Office, *Crown Corporations: Direction Control Accountability, Government of Canada's Proposals* (Ottawa: Minister of Supply and Services Canada, 1977), 11

⁶ Matthew J. Bellamy, *Profiting the Crown: Canada's Polymer Corporation 1942-1990* (Montreal & Kingston: McGill-Queens University Press, 2005), xv

⁷ Peter Pigott, *National Treasure: The History of Trans Canada Airlines* (Madeira Park, B.C.: Harbour Publishing, 2001) 21-50

World War II saw a dramatic increase in the rise of Corporations under the venerable C.D. Howe, who, as Minister of Munitions and Supply, used government powers to appropriate from private industry aircraft manufacturing, textiles production, armament assembly, optics research, and a wide host of other necessary fields.⁸ Howe placed leaders from the private sector at the helm of these thirty-three newly created crown corporations. These men, called “dollar a year men” for their lack of formal pay for services rendered to the crown, managed essential wartime programs and industries through these corporations. After the war most of these “dollar a year men” returned to private enterprise when the government relinquished control of most of the strategic sectors. Some continued on, however, when the post-war rebuilding plan, again under Howe as Minister of Reconstruction, required the use of further crown corporations such as Wartime Housing Limited, which assisted in providing housing for returning veterans.⁹

In the post-war period, especially after 1960, federal and provincial crown corporations again played a major role in the economy.¹⁰ Scholars examining these corporations have established several rationales for these entities. Marxist scholars assert that the government used crown corporations to preserve capitalism and class hegemony. They argue that the government protected the position of capital holders by assuming risks in precarious sectors of the economy in which private investors were unlikely to risk

⁸ For a good account of Howe’s use of crown corporations as a wartime tool, see Robert Bothwell and William Kilbourn, *C.D. Howe: A Biography* (Toronto: McClelland and Stewart, 1979), 120-197

⁹ Privy Council Office, *Crown Corporations: Direction Control Accountability, Government of Canada’s Proposals*, 12

¹⁰ Jeanne Kirk Laux and Maureen Appel Molot, *State Capitalism: Public Enterprise in Canada* (Ithaca, N.Y.: Cornell University Press, 1988), 57

their capital.¹¹ Other writers reject this position and state that the early crown corporation ethos to protect Canada's cultural identity and foster economic development, such as accomplished by the CBC and the various railroads, was carried forward.¹² They also posit that state intervention was a defensive measure to ward off the burgeoning United States economy as, at one time, Canada lagged as far as thirty years behind its neighbour in some manufacturing fields, and private enterprise alone could not capitalize itself fast enough to keep up. In addition, government interjected to quell the uncertainty arising from the changing global political economy to which Canada was vulnerable.¹³

The wartime crown corporations have been the subject of both praise and criticism, and the post-war crown corporations have also been examined to a considerable degree, but studies of them tend to focus on individual corporations rather than the culture of crown corporations and largely overlook the boom in new government ventures that began in the 1960s.¹⁴ The seemingly general consensus, however, is that crown corporations in Canada after 1945 demonstrated a "deep-rooted propensity toward state intervention" and "artfully" achieved a number of policy objectives. While the need for crown corporations to unite the country's vast geographic space to its sparse population and capital resources was over, the need for nation and province building was only getting ready to start.¹⁵

¹¹ See, for example, Allan Tupper and Bruce Doern, "Public Corporations and Public Policy in Canada" in *Public Corporations and Public Policy in Canada* (Montreal: The Institute for Research on Public Policy, 1981), 11

¹² Tupper and Doern, "Public Corporations and Public Policy in Canada", 11

¹³ Laux and Molot, *State Capitalism: State Enterprise in Canada*, 39-61

¹⁴ For an excellent example for a study of a post-World War II crown corporation, please refer to Bellamy, *Profiting the Crown: Canada's Polymer Corporation 1942-1990* (Montreal: McGill-Queens University Press, 2005)

¹⁵ Bellamy, *Profiting the Crown*, xvi-xvii

The need to understand the rise of the liberal state in Canada and the theory and role of crown corporations at the federal level is directly linked to their influence over the activities of the provincial governments following World War II. In the case of British Columbia, this emphasis was not lost on those who later took the reins of Canada's pacific province. In 1942 William Andrew Cecil Bennett, Conservative Member of the Legislative Assembly for South Okanagan and future Premier, was appointed to the ten-man Post-War Rehabilitation Council of British Columbia. Formed by the Liberal-Conservative Coalition government under John Hart and including members from all of the parties sitting in the legislature, it was tasked with making recommendations pertaining to the post war economic direction of the province.¹⁶ Like other Canadians, British Columbians wanted to ensure that the wartime prosperity carried over into peacetime. The province, along with most western governments, was rejecting the "laissez faire" economic policies that they blamed for the great depression and advocating a greater state role in economic planning. This mentality, which mirrored the federal government's own thinking, was part of what Frank Leonard called the "New Deal" environment that dominated economic thought after the war.¹⁷

Bennett toured the province with the Council throughout the summer and fall of 1942. He assumed a non-official role of co-chairman when the official chair, Liberal Education Minister Harry Perry, was incapacitated due to ongoing troubles with alcohol. Together, after having completed their research tour, Bennett and Perry wrote the

¹⁶ Rosemary Neering, *W.A.C. Bennett* (Don Mills, Ont.: Fitzhenry & Whiteside Limited, 1981), 16

¹⁷ Frank Edward Leonard, "W.A.C. Bennett and His Choice of State Enterprise: The 1958 Case of British Columbia Ferries" (M.A. Thesis, University of Victoria, 2002), 14

council's findings which were tabled in the legislature in February 1943.¹⁸ The report recommended sweeping changes, including extending the provincially-owned Pacific Great Eastern Railway north into the Peace River Region, the Yukon and Alaska, as well as expanding it south to Vancouver and into the United States.¹⁹ It also examined the province's infrastructure and how it would best be used to spur the economy after the war. The council reported that the province's staple industries, forestry, mining, and fishing, could not be properly developed by the existing amount of private capital and that the province would need to make public expenditures to ward off the return of economic depression.²⁰

Following the report's presentation to the legislature, Bennett became frustrated with Hart when the government did not immediately implement its recommendations.²¹ His experience on the council, however, benefited him later. His opportunity to speak to ordinary people from around British Columbia while touring with the council gave him a substantial political advantage later because he was familiar with the economic issues and situations around the province.²² Perhaps more importantly, even though the Coalition government did not do what Bennett thought was necessary from the council report, as premier he was able to use the report as a "master plan" for his vision of the pacific province after he became premier in 1952.²³

¹⁸ David J. Mitchell, *W.A.C. Bennett and the Rise of British Columbia* (Vancouver: Douglas & McIntyre, 1983), 73-74

¹⁹ Ronald B. Worley, *The Wonderful World of W.A.C. Bennett* (Toronto: McClelland and Stewart, 1971), 40

²⁰ Leonard, "W.A.C. Bennett and His Choice of State Enterprise," 15

²¹ Mitchell, *W.A.C. Bennett and the Rise of British Columbia*, 74

²² Leonard, "W.A.C. Bennett and His Choice of State Enterprise," 14-15

²³ Mitchell, *W.A.C. Bennett and the Rise of British Columbia*, 74

Bennett's rise to power requires mention, as it had direct bearing on his later policy initiatives. Sitting as a Conservative member of the Coalition government, Bennett crossed the floor to sit as an independent when he grew disaffected with its leadership in 1951.²⁴ In 1952 he ran as a member of the Social Credit League, enticed by its free enterprise and populist platform. During this election the Social Credit candidates benefited from some electoral serendipity. The Coalition government was fractured beyond repair when Premier Johnson dropped Conservative Leader Herbert Anscomb from his cabinet, thereby opening the door for new parties to emerge. Also, the introduction of the transferable ballot, which was designed to ensure either a Liberal or Conservative victory over the left-wing Cooperative Commonwealth Federation, backfired on the former coalition partners when, rather than ranking the Liberals and Conservatives first and second on the ballot or vice-versa, voters often made Social Credit their second choice.²⁵ Consequently, the Social Credit League won a minority government. Social Credit did not have a permanent leader during the campaign but after their election, Social Credit MLA-elects held a leadership convention and selected Bennett as their leader on the first ballot. Bennett was sworn in as premier on 1 August 1952. Bennett went to the polls again in 1953 after what many considered to be a self-engineered non-confidence defeat over amendments to the Public Schools Act and secured a majority government for the new British Columbia political movement.²⁶

With a majority government, Bennett was free to "build his province his own way" and this would entail the use of state intervention in the economy including the use

²⁴ Paddy Sherman, *Bennett* (Toronto: McClelland & Stewart, 1966), 72-74

²⁵ Leonard, "W.A.C. Bennett and His Choice of State Enterprise," 19

²⁶ Rainer, *British Columbia's Premiers in Profile*, 183-184

of historical crown corporations.²⁷ Some historians have argued that Bennett's use of crown corporations was always a last resort employed to solve an acute problem facing British Columbia such as ending a ferry strike that threatened Vancouver Island.²⁸ More recently, however, Frank Leonard has convincingly posited that they were more than just a troubleshooting tool. He asserts they were the product of a cognitive decision made by Bennett to implement a province building agenda that was centered within an activist government. Leonard attributes this mentality to Bennett's time on the Post War Rehabilitation Council, as well as his background in Canada's rural hinterland and experiences as a small business owner during the depression.²⁹

This phenomenon was not limited to Bennett. Across British Columbia, as part of the national movement described above, changes in the social dynamic were prompting politicians toward this type of action, as well as prompting the populace to accept it. This "fundamental shift in attitudes," as Jean Barman described it, challenged the old way of thinking in British Columbia, just as it did in most of the western world. More and more Canadians were of the opinion that capitalism, while still a virtue and a necessity, must be controlled so that all people could enjoy a minimum standard of living. Further to this, equality of treatment, acceptance, and access to opportunity were becoming facets of post-war British Columbia.³⁰

For Bennett, this was the perfect atmosphere in which to enact his vision for British Columbia. Despite his defection to Social Credit because of its free enterprise stance, the new political dynamic fit with his belief that the "laissez faire" days of old

²⁷ Leonard, "W.A.C. Bennett and His Choice of State Enterprise," iii

²⁸ See, for example, Neering, *W.A.C. Bennett on B.C. Ferries*

²⁹ Leonard, "W.A.C. Bennett and His Choice of State Enterprise," 93

³⁰ Barman, *The West Beyond the West*, 297-298

must be relegated to the annals of history and that the new state would be a regulator of enterprise while still fostering private industry's interests in the name of province building and increasing quality of life for British Columbia's residents. Consequently, Bennett implemented his belief that the government needed to concentrate on "hydro, rails, and highways" to develop British Columbia with an ambitious agenda that comprised many large, and often controversial, public projects in the years of his premiership.³¹

When Bennett came to power as Premier in 1952, the Pacific Great Eastern Railway ran only from Squamish to Quesnel but an extension to Prince George was nearing completion.³² The line, originally the pride and joy of Premier Richard McBride, was a 1912 election promise to help unite the province and ultimately link the profitable Peace River Region to the rest of British Columbia lest it fall into Edmonton's sphere of influence. Doing so would entail building a line from Vancouver to Fort George, where it would link with the Grand Trunk Pacific and carry on to the Peace region's valuable agricultural and natural resource fields.³³ By 1914 the first section of the line was open but the company ran out of funds and in 1918 the Liberal government of John Oliver had to take it over. By 1921 it had reached Quesnel but stalled there due to a lack of funding. The line was finally extended to Prince George in 1952. Bennett recognized the value of linking the rail to the northeast portion of the province, and it fit nicely with his "hydro, rails, and highways" plan. When the federal government rejected his request for financial

³¹ Leonard, "W.A.C. Bennett and His Choice of State Enterprise," 25

³² John Wedley, "A Development Tool: W.A.C. Bennett and the P.G.E. Railway" *BC Studies*, No. 117 (Spring 1998), 31

³³ Patricia E. Roy, "Progress, Prosperity, and Politics: The Railway Policies of Richard McBride" *BC Studies*, no. 37 (Autumn 1980), 17

assistance to build to the Peace River because the project was considered too risky and Ottawa already had a stake in the Northern Alberta Railway which served the region from Edmonton,³⁴ Bennett went ahead on his own and extended the line from Prince George to Chetwynd in 1955, and north-east to Fort St John and then Dawson Creek in 1958.³⁵ From Fort St. John he went north to Fort Nelson in 1971. He also connected the line from Squamish to North Vancouver in 1956; from Kennedy to Mackenzie; and to Fort St. James between 1966 and 1968.³⁶

Bennett showed a similar proclivity toward province building through crown corporations with his controversial hydro- electric policies, his actions again being influenced by his time on the Reconstruction Council. Much of the ensuing controversy centered around the Columbia river in the Kootenay region, the third largest river system in North America, and the mighty and untapped Peace River in the north east. Together, these rivers formed the basis of Bennett's "Two Rivers" policy which he believed would allow for a more rapid development of the province's resources by providing another exportable commodity and creating enough electrical infrastructure to attract pulp processing operations and other electricity dependent industries.³⁷ The Columbia, shared by British Columbia and the State of Washington, would ultimately become a point of contention with Ottawa since the federal government had jurisdiction over international

³⁴ Leonard, "W.A.C. Bennett and His Choice of State Enterprise," 28-30

³⁵ Barman, *The West Beyond the West*, 281

³⁶ Stephen G. Tomblin, "The Pacific Great Eastern Railway and W.A.C. Bennett's Defense of the North," *Journal of Canadian Studies* Vol. 24, No. 4 (Winter 1989-1990), 35

³⁷ Graham D. Taylor and Peter A. Baskerville, *A Concise History of Business in Canada* (Oxford: Oxford University Press, 1994), 421

waterways. Since the end of the Second World War, the provincial and state governments, as well as those of Canada and the United States, had discussed the possibility of harnessing its impressive flow to generate power and provide a measure of flood control.³⁸ The Peace River became a factor for Bennett when the controversial European business magnate Axel Wenner-Gren approached him with a plan to build large hydro-electric dams at strategic points along the river near Hudson's Hope that could generate enormous amounts of electricity. Troubles began when negotiations on the Columbia project conflicted with Bennett's plan for the Peace.³⁹ The government in Ottawa wanted to develop the Columbia in conjunction with the United States but had little interest in undertaking the Peace River project at the same time. Rather, Ottawa and the private electricity industry, both essentially represented by British Columbia Electric and its parent company, British Columbia Power, as the largest suppliers of power to the province, wanted a sequential development of the rivers.⁴⁰ This difference led to a standoff between Bennett and Ottawa, as the federal government was seeking a deal with the United States that would see Canada build storage dams upstream on the Canadian side of the Columbia with fifty-percent of the electricity generated on the American side returned to British Columbia. Bennett objected to this scheme, arguing that the electricity should be generated on the Canadian side of the border and exported to the United States rather than vice versa.⁴¹

³⁸ Neering, *W.A.C. Bennett*, 40

³⁹ Taylor and Baskerville, *A Concise History of Business in Canada*, 420

⁴⁰ Leonard, "W.A.C. Bennett and His Choice of State Enterprise," 34

⁴¹ Taylor and Baskerville, *A Concise History of Business in Canada*, 420. For further details on this topic, see Neil A. Swainson, *Conflict over the Columbia: The Canadian Background to an Historic Treaty* (Montreal: McGill-Queens University Press, 1979)

Bennett was also aware that should the Columbia deal be ratified between Ottawa and Washington, British Columbia Electric would not need the power produced by the Peace River project.⁴² This in turn would hamper his province building agenda. When Ottawa and Washington signed the Columbia River Treaty in January 1961, it was done without Bennett's endorsement or approval. In response, Bennett took what some consider drastic action. He shocked the provincial legislature by suggesting that British Columbia take-over British Columbia Electric and British Columbia Power. Under the pretext of thwarting Ottawa over a recent tax dispute involving income tax from privately owned corporations being paid only to the federal government,⁴³ Bennett was secretly planning to have the province take over the corporation so it would own the largest supplier of electricity to British Columbia and thus gain a veto on the Columbia River treaty. Hence, on August 1, 1961, Bennett convened a special sitting of the legislature and introduced the Power Development Act, 1961, which expropriated British Columbia Electric and its parent company, The B.C. Power Corporation, at the value of the paid-up shares. The act also appropriated the Peace River Power Development Company which was undertaking the project in the north.⁴⁴

The end result of this legislative action was a new crown corporation, the B.C. Hydro and Power Authority. With it in place, Bennett was able to force Ottawa and Washington back to the negotiating table over the Columbia River, and the revised treaty was signed on January 22, 1964 with terms more to Bennett's liking. Under the new arrangement, Canada would build three storage dams on the Columbia River and the

⁴²Mitchell, *W.A.C. Bennett and the Rise of British Columbia*, 300

⁴³Martin Robin, *Pillars of Profit: The Company Province 1934-1972*, (Toronto: McClelland and Stewart Ltd., 1973), 228

⁴⁴Robin, *Pillars of Profit*, 229

United States would pay for the downstream power generation by cash in advance in return for not having to transfer any electricity back to British Columbia for thirty years. Bennett used this cash to fund his Peace River projects, and after months of haggling, W.A.C. Bennett realized his hydro-electric plans.⁴⁵

As with his rail program, Bennett utilized state intervention to advance his province building agenda that stemmed from his experiences on the Post-War Rehabilitation Council. His rationalization for the B.C. Hydro and Power Authority was that of development for not just one company but for the entire province. In defense of this position, Bennett is quoted as saying, "you couldn't have jobs, you couldn't have development, unless you had energy."⁴⁶ Bennett did not limit the use of crown corporations to rails, electricity, and other goals he had set after sitting on the Rehabilitation Council. Rather, he envisioned greater expeditions into government ownership as part of his master plan for the province. In 1958 he took over Black Ball Ferries amidst a strike that threatened to cut off Vancouver Island and created the British Columbia Ferry Corporation. Closer examination of this action reveals again that it was part of his dynamic plan for the province. Resolving the ferry strike and the trouble with unions was a guise, as was his use of federal taxation as an excuse to take over British Columbia Electric.⁴⁷

Similarly, he also believed ardently that in order for British Columbia to develop fully it needed a bank to call its own. Bennett was adamant, and when he could not

⁴⁵ Leonard, "W.A.C. Bennett and His Choice of State Enterprise," 40

⁴⁶ Leonard, "W.A.C. Bennett and His Choice of State Enterprise," 42

⁴⁷ This entire theme is the subject of Frank Leonard's M.A. thesis "W.A.C. Bennett and His Choice of State Enterprise: The 1958 Case of British Columbia Ferries." It serves as the best point of reference to the B.C. Ferries story and is the most up to date and accurate portrayal of W.A.C. Bennett's ferry policy.

entice an existing bank to relocate its head office to Vancouver, he lobbied the Parliament of Canada in 1964 to incorporate a new one based in Vancouver.⁴⁸ His original business plan was for the provincial government to hold twenty-five percent of the shares with the rest being held privately.⁴⁹ He argued that British Columbia deserved its own bank given its size relative to the rest of Canada, its population, and its economic status. He asserted that Vancouver was the country's third largest city and most influential trading centre west of Toronto and Montreal.⁵⁰ Further, Bennett insisted that the bank would exist to "help every little capitalist" while at the same time propel Vancouver into the "big financial league" with other major cities such as Toronto, Los Angeles, and New York.⁵¹

Not unexpectedly, the Senate Banking Committee vetoed the plan by a vote of seventeen to seven.⁵² As Senator David Croll later explained, the Senate was largely influenced by the eastern banking establishment who did not particularly like Bennett or the idea of a provincially run bank:

There was influence being brought to bear. They weren't completely sold on it. Bennett wasn't the most welcome politician when he came down here to Ottawa. He was a political threat. He built up something from nothing in British Columbia and suddenly he was in charge. He could have made it very uncomfortable for the government here, but he didn't choose to do that. You see, the influence by the banks was being used on the government. They didn't want any new banks; they didn't want this fellow in the banking business; they didn't want any province in the banking business. It wasn't with the Senate so much—we were of a different view—but the East Block was doing what they could to hold him back.⁵³

⁴⁸ Worley, *The Wonderful World of W.A.C. Bennett*, 222-223

⁴⁹ Rainer, *British Columbia's Premiers in Profile*, 190

⁵⁰ Worley, *The Wonderful World of W.A.C. Bennett*, 223

⁵¹ Robin, *Pillars of Profit*, 260

⁵² Robin, *Pillars of Profit*, 260

⁵³ Mitchell, *W.A.C. Bennett and the Rise of British Columbia*, 330

After his defeat in the Senate, Bennett threatened the federal government with a continued assault on the Canadian banking establishment, prompting federal Finance Minister Walter Gordon to enact legislation that prohibited provinces from holding ownership in banks. Bennett vowed to continue the fight, but eventually other matters came to the forefront of his agenda and he ended his quest for a provincial bank.⁵⁴ In 1966, however, a wholly private group gained the approval of the Senate committee for a charter for the Bank of British Columbia. While this did not generate a crown-owned bank in British Columbia, its significance is important. As David Mitchell noted, the bank was different from what Bennett had envisioned, but in many ways it was, like his other projects, a “product of his initiative.”⁵⁵ Even more important, his vision for the bank, along with BC Hydro, BC Rail, BC Ferries and his other government ventures demonstrates his ideals and province building mindset that swept across wide sectors of the economy. While the irony of his campaigning as the “champion of free enterprise” in the 1972 election contrasts with his use of state intervention, he established a precedent for British Columbia that others would emulate in the knowledge that Bennett’s formula was a viable one and that the electorate and business community had become acclimatized to such ventures.

The significance of this precedent was not lost on Bennett’s successor as premier. After being sworn in on September 15, 1972, Dave Barrett must have had the following thought: now what? The New Democratic Party had never formed a government in British Columbia. That did not stop Barrett from quickly creating his government. He

⁵⁴Mitchell, *W.A.C. Bennett and the Rise of British Columbia*, 330-331

⁵⁵Mitchell, *W.A.C. Bennett and the Rise of British Columbia*, 331

selected a cabinet that was noticeably smaller than those of Bennett with many Ministers taking on double portfolios as Barrett only gave cabinet positions to experienced members. In a surprising move that mirrored his predecessor, he retained the finance portfolio for himself over the widely favoured Robert Strachan. Pundits at the time and since have speculated that this unexpected move was Barrett's retribution for Strachan's support of Tom Berger during the 1969 NDP leadership convention. Barrett, however, quietly pulled Strachan aside after the announcement of the cabinet positions and told him that "auto insurance is our first priority. I need a strong man to handle it."⁵⁶ Thus, Strachan took the highways portfolio and with it his place in British Columbia insurance history.

Once he had his cabinet in place, Barrett undertook an ambitious legislative schedule that never seemed to slow. What became apparent, however, was that despite his campaign promises not to govern like his Social Credit predecessors, Barrett followed W.A.C. Bennett's approach to government. Like Bennett, Barrett consolidated as much power into his own office as he could. This drew criticism from both his opponents and his entourage. Conservative MLA Scott Wallace lashed out against Barrett's power-play, saying "[w]hile the premier is an avowed defender of the democratic system, it is a great tragedy that, having criticized the former premier for years because of his practice of acquiring the maximum amount of power into his own hands, the premier now does the very thing he criticized."⁵⁷ An unnamed insider complained that Barrett really only listened to his resource minister, Bob Williams, if he listened at all, when it came time to

⁵⁶ Lorne J. Kavic & Garry Bryan Nixon, *The 1200 Days, A Shattered Dream: Dave Barrett and the NDP in BC 1972-75* (Coquitlam, B.C.: Kaen Publishers, 1978), 132

⁵⁷ *Vancouver Province*, Dec. 8, 1972, 7

making decisions. Furthermore, the complainant noted that the cabinet and caucus were seldom consulted on matters: “Barrett and Williams—between them you had practically the entire decision making apparatus of the NDP.” Even Williams himself admitted that Barrett was in control, candidly stating to a colleague “he’s going to run the show.”⁵⁸

Barrett also approached his policy objectives in the same way as his predecessor. He created several crown corporations to execute what he perceived to be necessary social and economic objectives, including B.C. Petroleum which was built around several small players in the natural gas sector.⁵⁹ When asked why he did this, he replied, “[b]ecause industry is incompetent in making social decisions that are necessary for geographic areas.”⁶⁰ Numerous other crown corporations would follow, including the controversial Insurance Corporation.

While Barrett’s use of crown corporations was influenced to some extent by his party’s ideology of socialism and government ownership more so than Bennett’s economic stimulation rationale, their feasibility was established by Bennett and they were a safe and proven means to achieve policy objectives and perhaps even resolve select issues in British Columbia by stimulating the economy and attempting to remedy regional economic disparity. For Barrett and the NDP, this was a recipe for positive change on their terms without radically changing the style of government. The crown corporations had been successful for Social Credit, so why should the experience be different for the NDP? More importantly, however, Barrett and his government were novices in the governing scheme. Thus, as is common in new governments, they did what their

⁵⁸ Kavic & Nixon, *The 1200 Days, A Shattered Dream*, 48

⁵⁹ Barrett & Miller, *Barrett: A Passionate Political Life*, 78-84

⁶⁰ Rainer, *British Columbia’s Premiers in Profile*, 197

predecessors had done successfully in creating crown corporations to meet their perceived needs for the province, even going so far as to structure their government in a similar way with the Premier holding as much power as possible. Thus, building upon Bennett's precedent, which was fuelled by the rise of the activist state in Canada and its calls for an increased government role in society, Dave Barrett was able to create the ICBC with confidence born from experience and from a position of power that was derived from past inroads made by the government. Bennett had successfully laid the groundwork for more crown corporations with his economic plan in British Columbia, and the NDP used this to advance its own political objectives.

Chapter 3

The Insurance Industry in British Columbia before the ICBC and Its Role in Creating the Insurance Corporation of British Columbia

Despite the pattern that Barrett and the NDP followed in creating the ICBC, the unpopularity of the automobile insurance industry in British Columbia before 1972 and the Bennett government's failed attempts to improve it are essential elements that led to the creation of the Insurance Corporation of British Columbia. Prior to 1969, the provincial government, though nominally providing some regulation, had largely let the industry police itself in terms of its rates and levels of service. When discontent reached feverish heights in the mid-1960s amidst consumer complaints over continually rising premiums, increasing accident frequency, and allegations of waste and questionable business practices, Premier Bennett felt that some action was necessary and convened a royal commission to study the industry. Legislation for insurance reform followed in 1969, but its provisions were ineffective and too late in being implemented. Consequently, by the election of 1972 public confidence in the private sector was shaken, thereby eroding its credibility, making motorists receptive to alternate automobile insurance systems.

Public concerns over industry corruption first became evident in 1952 when the federal Department of Justice asked the Restrictive Practices Commission to examine the status of automobile insurance across Canada. The Department of Justice was concerned over recurring allegations of industry collusion, specifically as it related to the fixing of premium rates and agent's

commissions. Under the authority of the Combines Investigation Act, the department asked the Commission to investigate the charges.¹ In setting up the study that was led by C. Rhodes Smith, Chairman of the Restrictive Practices Committee, the Department of Justice reminded the commissioners that they were dealing with an industry that was regulated by both federal and provincial statutes but were only to examine matters that pertained to federal interests and advise if any aspects of the automobile insurance sector might lead to questions under the Combines Acts.

The Department of Justice believed that such an inquiry would serve two ends. First, if the commission discovered that industry practices relating to the setting of premiums and commissions were questionable under the anti-combines legislation, it would make the industry aware of them and give it an opportunity to review its policies. Second, if the commission determined that any practices relating to premium and commission rate calculation were desirable and in the public interest, the industry would be able to seek legislative approval for them subject to appropriate safeguards being in place.²

The commission first examined the types of insurance companies operating in Canada and their internal organization, usually under a regulatory board. The Dominion Board of Insurance Underwriters, first established in 1929, was the dominant underwriting association for mutual stock insurance companies in Canada as it regulated such territorial associations as the Canadian

¹ Department of Justice, *Restrictive Practices Commission Report Concerning the Business of Automobile Insurance* (Ottawa: Queen's Printer and Controller of Stationery, 1960) 1-2

² Department of Justice, *Restrictive Practices Commission*, 3

Underwriters Association, the Western Canada Insurance Underwriters Association, and the British Columbia Underwriters Association. The national and regional boards controlled commission levels and brokerage terms, general rate levels, policy wordings and forms, and general underwriting practices so as to ensure insurance uniformity in Canada.³ Other types of companies, such as mutual companies, which were owned by their policy holders, and reciprocal group insurers administered via an attorney, were not eligible to join the Dominion Board, but often belonged to one or more insurance “conferences” which enabled them to achieve some degree of underwriting affiliation across the country. While the conferences did not set mandatory premium requirements or commission levels for their members, they did make recommendations.⁴ While some insurers inevitably chose to remain independent of both the Dominion Board and the conferences, others, such as Wawanesa Mutual, were members of both.⁵ Thus, the large centralized hub in the insurance industry was strengthened by a marked history of collaboration between the Dominion Board and the three Canadian insurance conferences as they pertained to premium setting and agent commission.⁶

The commission concluded that the Dominion Board of Insurance Underwriters had “a substantial effect on the degree of competition in the automobile insurance business.” To substantiate this, the investigators called

³ Department of Justice *Restrictive Practices Commission*, 38-40

⁴ Department of Justice *Restrictive Practices Commission*, 82

⁵ There was no legal obligation to join industry associations and many companies did not, such as All State Insurance and State Farm Mutual.

⁶ Department of Justice *Restrictive Practices Commission*, 135

attention to the board policy of setting minimum premium rates that were binding on their members, and noted that “board actions in respect of such matters as premium rates and commission rates still influenced very materially the rates charged” by insurance companies across Canada, due in large part to the degree of cooperation between the regulating bodies.⁷ In focusing specifically on British Columbia, the report noted that companies operating there, whether they were board or conference members, offered a remarkable degree of equivalence on policies and their premiums. In a test study of the insurance premium for a 1953 Ford Mainline sedan based on 1953 insurance rates from sixty insurance providers representing both board and conference companies, forty-six policies were equal in price and fourteen were within two dollars of the average.⁸

Citing the Ford Mainline data as an example, the commission concluded that there was a degree of price fixing within the insurance industry. It tacitly warned the various underwriting bodies to discontinue their current practices and recommended ways in which the underwriting associations could revamp their business practices. The investigators ultimately were forced to concede, however, that the provinces had the constitutional responsibility to regulate the insurance companies within their borders and it was their option to make government approval for automobile insurance rates a statutory requirement. Several provinces responded to this call in the coming years. Ontario, for example, passed legislation requiring insurers to submit their rates under oath to the Provincial Superintendent of Insurance, who in turn had the authority to order an

⁷ Department of Justice *Restrictive Practices Commission*, 222

⁸ Department of Justice *Restrictive Practices Commission*, 128

adjustment if there was evidence of collusion or price fixing influencing the premiums charged. This legislation, however, was never proclaimed into law.⁹

Nothing happened in British Columbia until the mid 1960s when turmoil in the insurance industry reached an all-time high. Claims were becoming more frequent as a result of what was termed an “accident explosion” in the 1960s. They were also becoming increasingly more expensive to settle.¹⁰ Concurrently, annual increases in premiums reignited old concerns over corruption in the industry. For example, in 1966 the Canadian Underwriters Association announced that rates in British Columbia would be increased due to “inflationary economic developments and greater traffic density” which made claims more frequent and repairs more expensive. Industry insiders claimed that this new rise would bring the total cumulative premium increase to fifty-percent over the previous twenty-four months. This was the exact opposite of what the populace wanted to hear, as it would represent the fourth increase in two years despite a growing public outcry against the seemingly ever-increasing rates.¹¹ Citizen groups, organizations, and private individuals began vocalizing their concerns in the public sphere. Many wrote letters to the editors of their local newspapers, while other took more activist approaches. Most notably, Victoria resident Fred Bevis organized a large petition against the premium increases and collected 15,000 signatures from motorists who were fed up with their insurance costs. He presented the petition to

⁹ Department of Justice *Restrictive Practices*, 222

¹⁰ Province of British Columbia Department of Insurance, *A Study of Automobile Insurance Rates* (Victoria: A. Sutton, 1966), 9

¹¹ “Increase Seen in Auto Insurance” *Trail Daily Times*, 5 November 1966, BCA, *Files Pertaining to the Start of the Insurance Corporation*, GR 0664, Box 5, File 6-Clippings-Auto Insurance

the government after it announced that a Royal Commission would investigate the matter in the hope that it would result in some decisive action to curb the rate increases. Mr. Bevis told the *Daily Colonist* that such a protest “was the only alternative to sky-rocketing insurance costs.”¹²

The New Democratic Party, sitting as opposition in the legislature, cited the turmoil in the system as proof that the government needed to provincialize the automobile insurance industry by creating a government-run insurance plan. The situation favoured a traditional NDP position. During the 1960s, then NDP leader Robert Strachan, supported by insurance agent-MLA William Hartley, introduced several bills calling for the establishment of a provincially-operated plan to quell the discontent and perceived corruption in the industry. The legislature invariably defeated those motions that were not ruled out of order, but Strachan persisted and the party continued its advocacy until its election victory.

As tensions continued to rise both in the legislature and among the public over insurance, the appearance of further accusations of underhanded industry tactics added to the discontent. Rumors of practices such as placing drivers with “slovenly appearances” on high-risk lists¹³ and the sharing of black lists of undesirable drivers among insurance companies garnered attention in the media,

¹²In response to the announcement of the Royal Commission, Bevis hoped that a show of public support for insurance changes would help lead to a better system. Bevis himself wanted a government-run system and claimed his petition supported that notion as well. However, as the original petition is lost and the news article did not give its exact wording, it is too bold to assume that is what all 15,000 signers of the petition were advocating for. “15,000 protest rates” *Victoria Daily Colonist*, 12 April 1966, 23

¹³“Haircut Affects Insurance Risk” *Trail Daily Times*, 23 September 1966

as did the severe surcharging of young drivers with good driving records.¹⁴

Against this growing bitterness towards the insurance industry, the government and citizens sought answers and called for change. On 25 January 1966, W.A.C. Bennett ordered that a royal commission be established to study the insurance industry and to advise the government on a course of action.¹⁵

The British Columbia Royal Commission on Automobile Insurance was asked to answer nine specific questions that the government felt were at the heart of the insurance problem and to make recommendations to alleviate the situation. The commission, led by Justice R.A.B. Wootton, conducted its investigation and hearings for a year and issued findings in July 1968.¹⁶ It recommended that the province would be best served by an entirely new system of insurance and a new means of compensating accident victims.¹⁷ It based this determination on several grounds, but for the purposes of this study three are of utmost importance.

First, under the existing insurance system, tort law practices were used to determine fault for accidents. The British Columbia tort system placed significant

¹⁴ "B.C. Car Insurance Urged" *Victoria Daily Colonist*, 29 September 1966, BCA, *Files Pertaining to the Start of the Insurance Corporation*, GR 0664, Box 5, File 6-Clippings-Auto Insurance

¹⁵ BCA, *Records of the Commission on Automobile Insurance 1966 – 1967*, GR-0667, Box 1, File 5 *Order in Council 239/66, Commission to Commissioners*

¹⁶ For the full record of the commission's report, see British Columbia Royal Commission on Automobile Insurance, *Report*, (Victoria: July 30, 1968), Vol. I&II

¹⁷ Under a no-fault principle, drivers do not insure themselves against potential financial losses they would incur should they injure another person. Rather, the victim's policy covers damages to his or her body and property regardless of fault or negligence. This system was growing in popularity in the late 1960s, as Saskatchewan already had such a program in place, and several prominent business and insurance scholars from the United States had been researching and writing on the subject. For further reading on the topic, please see Willis Park Rokes, *No-Fault Insurance*, (Santa Monica, CA: Insurors Press, Inc. 1971)

emphasis on determining who was at fault for an accident or insurance-related loss. Once this was established, the negligent or at-fault person's insurer was required to indemnify the loss. This practice required considerable time and resources to determine liability for the claim. Legal action often ensued as insurance companies refused to pay damages without clear assignation of blame and would not settle a claim until their policyholder was proven at fault. If an accident victim felt he was not compensated properly after litigation, he could apply to the Unsatisfied Judgment Fund (until 1961) or the Traffic Victims Indemnity Fund (1961 onwards) for further reparation. These funds were established by provincial statute for the purposes of paying claims to those who were involved in accidents with uninsured or underinsured drivers.¹⁸

The commission determined that much of the funding available to settle claims under this system was wasted by the associated litigation and administrative costs and that this led to increased premiums. The commission therefore recommended that future settlements be paid by each policy holder's own policy regardless of fault. It also believed that people would practice safer driving practices if they were responsible for their own damages and deductible payments in the event of any type of claim.¹⁹ Safer driving habits would help to reduce accidents and, by extension, claims, thus eliminating a large portion of the costs that the insurance companies used to justify continually increasing rates.

¹⁸ Stanley H. Winfield, *Automobile Insurance in British Columbia* (Victoria, N.P., 1980), 1

¹⁹ British Columbia, Royal Commission on Automobile Insurance, *Report of the Commissioners* Vol. II (Victoria: Queen's Printer, 1968), 606-607

Second, the commission recommended that all motorists be required to carry basic insurance coverage to insure against death and disability claims. At that time, liability protection was optional in British Columbia and many motorists lacked it since they could satisfy the provisions of the 1948 Motor Vehicle Act by proving that they were capable of meeting their financial responsibility for any accident they caused. This was done either by presenting a financial responsibility card issued by an insurance company or by demonstrating to the Superintendent of Motor Vehicles that they could afford to pay a specified amount of damages personally by pledging money or property as collateral. While this was intended to force people to purchase insurance, many people did not buy coverage because the practices designed to force motorists to prove that they could meet the financial responsibility requirements were ineffective. This left many vehicles on the road without any form of liability protection. In the following decade, the government tried to make the financial responsibility laws more effective by impounding vehicles involved in accidents when owners could not prove financial responsibility. Because owners of older vehicles simply abandoned their cars instead of paying the damages and tourists had their cars impounded for lack of insurance because they were unaware of the legislation, the government repealed the impoundment law in 1963.²⁰

In order for the no-fault principle to work equitably and fairly, the commission asserted that the risk must be shared by all motorists in British

²⁰ Winfield, *Automobile Insurance in British Columbia*, 1-2

Columbia.²¹ In addition to the basic coverage, it also recommended making optional insurance available to cover vehicles for incidents such as collision and upset. This policy, again on the no-fault basis, would satisfy those who wished to protect their vehicle against such perils and at the same time remind all drivers to operate their vehicle sensibly, as any claims made under this section of the insurance coverage would be charged against their policy regardless of the circumstances behind the claim.²²

Third, in direct relation to the issue of premium pricing, the commission concluded that the continual rate increases and variations lacked justification. Additionally, faulty judgment and inadequacies in the rate-making formula were the cause of erratic pricing. That, they said, would not be prevalent in a system with more direct competition.²³

To remedy this, the Wootton commission proposed establishing a means of external regulation to ensure that equity and fairness were maintained. Specifically, it recommended that the government establish an Automobile Insurance Board which would, among other administrative responsibilities, establish the maximum rate for the annual basic premium, keep an actuarial check on the charges for voluntary coverages, recommend any beneficial changes to the compulsory insurance coverage, and act as a board of appeal for motorists who

²¹ British Columbia Royal Commission on Automobile Insurance, *Report*, Vol. II, 579

²² See British Columbia Royal Commission on Automobile Insurance, *Report*, Vol. II, 660-667

²³ British Columbia Royal Commission on Automobile Insurance, *Report*, Vol. I, 491

felt they were being treated unfairly or were not receiving proper compensation for a claim.²⁴ As part of this, the report also recommended instituting a more transparent system for rating drivers whereby each person's premium was calculated on a formula that took into account both claims history and traffic demerits, and, in the case of young drivers, the completion of any recognized driver training.²⁵ After outlining the merits and drawbacks of both private and government administration, the commissioners recommended that "the opportunity be given to the private insurers" with the caveat that "if the industry shows a disinclination to participate in the offering to the public the new types of [insurance] contracts recommended by the commission...or at a later date shows a disinclination to compete, then the Government of British Columbia should take over the sole selling in British Columbia of all automobile insurance."²⁶

After the Wootton Commission made its report, Premier Bennett established a legislative committee to study its recommendations. On the advice of that committee he set out on a legislative plan that would implement many of its recommendations. In March 1969, Attorney-General Leslie Peterson introduced Bill 74, An Act to Amend the Insurance Act, and Bill 75, An Act to Amend the Motor Vehicle Act. They passed the House and were proclaimed on April 2, 1969 to a somewhat mixed reaction.²⁷

²⁴ British Columbia Royal Commission on Automobile Insurance, *Report*, Vol. II, 710-714

²⁵ British Columbia Royal Commission on Automobile Insurance, *Report*, Vol. II, 624-640

²⁶ British Columbia Royal Commission on Automobile Insurance, *Report*, Vol. II, 729

²⁷ British Columbia, Legislative Assembly, *Journals*, 1969, 234

The legislation represented comprehensive changes in the insurance requirements for British Columbia's motorists. In general, it followed the basic tenets of the Wootton Commission's recommendations but did not totally abolish the tort system of settling claims. Basic accident insurance coverage protecting against death, injury, and property damage up to \$50,000 based on the no-fault principle was made mandatory for all motorists in British Columbia for the first time.²⁸ Any person injured in an automobile accident regardless of negligence or fault would immediately and automatically receive compensation. Contrary to the Wootton Report's recommendations, however, citizens retained the right to sue individuals for damages greater than the basic policy limit on the tort principle. Collision and upset coverage for the vehicle itself remained optional and was based on the no-fault system as any damage from an accident greater than \$250 was covered by each owner's policy regardless of circumstances. Individuals were, however, at liberty to sue another driver under the tort system for any loss less than that amount.²⁹

The legislation stipulated that the private sector would provide the compulsory insurance under the new plan as per the Wootton Commission's recommendations. Anticipating potential public concern over continued rate increases despite the new insurance laws and the compulsory aspects of the insurance proposals, the bills laid the groundwork for the Automobile Insurance

²⁸ Prior to this legislation, only those who had had an accident were required to carry automobile insurance, and these policies were based on an adversarial tort system where fault was assigned in case of an accident and the negligent party's insurance policy indemnified the damages.

²⁹ "Auto Insurance Plan: Bills Allow Gov't Takeover," *Vancouver Sun*, 25 March 1969, 8

Board which would act as a “watchdog” over the rates being charged by the insurance companies.³⁰ If the rates and level of service offered by the private sector were unsatisfactory, the laws also gave the provincial government the authority to underwrite and administer insurance itself.³¹ The legislation also created a fund to be administered by the provincial cabinet to provide insurance for drivers who were unable to secure coverage elsewhere, thereby guaranteeing that every motorist could procure insurance coverage and comply with the law.³²

Critics of the new legislation lashed out harshly against some of its seemingly radical provisions. Insurance executives, while initially happy that all motorists would be required to purchase insurance from their companies, were dismayed by the establishment of the Automobile Insurance Board and the possibility of the government entering the business at its discretion. One representative, speaking about the Automobile Insurance Board, said “[p]rivate enterprise would always like to see private enterprise performing without someone looking over its shoulder.” William Hartley, the NDP MLA and insurance agent, questioned the ethical basis for compelling motorists to do business with private industry’s 188 insurance providers. He felt that the legislation was a recipe for corruption: “If the insurance industry is prepared to dump a considerable amount of money in the campaign funds of a party which is government or is likely to become government, they (the government) are not

³⁰ “Cabinet Sets Up Watchdog for Automobile Insurance Rates,” *Vancouver Sun*, 27 January 1971, 2

³¹ “Insurers Hail BC Legislation: Compulsory Plan Called Spirited,” *Vancouver Sun* 25 March 1969, 2

³² “Auto Insurance Plan: Bills Allow Gov’t Takeover,” *Vancouver Sun*, 25 March 1969, 8

likely to say that the rates are not commensurate with the risks.” He added that, if elected, his party would immediately use the section of the bills that would allow the province to operate the plan itself.³³

The public reaction to the Wootton Commission recommendations and the ensuing legislation was mixed. Many hailed the plan as progress toward a fairer and more equitable system, but concerns were raised over the failure of both the Royal Commission report and the ensuing legislation to set standards in the driver testing process.³⁴ Apprehension also appeared about the expediency with which the committee’s recommendations would or would not be applied. A week after the commission presented its report, the *Victoria Daily Times* warned that if the government waited too long to enact new insurance laws, or worse, failed to act at all, it would be no better than the Ontario government that did not enact legislation after the federal Department of Justice investigation in the 1950s.³⁵

This fear had some foundation. While most sections of the acts regarding the new compulsory coverage requirements were invoked quite rapidly, the Automobile Insurance Board was not established until January 1971, nearly two years after proclamation of the new laws which required the public to purchase private sector insurance without a government veto on the rates.³⁶ In the interim, rates increased by 11.8% between 1969 and 1970 and another 12.5% in 1971 and,

³³ Insurers Hail BC Legislation: Compulsory Plan Called Spirited,” *Vancouver Sun*, 25 March 1969, 2

³⁴ “A better test for young drivers.” *Vancouver Province*, 15 October 1968, 4

³⁵ “Driving With Brakes On,” *Victoria Times*, 23 October 1968, 4

³⁶ In interviews with the media in which he announced the creation of the Automobile Insurance Board, Attorney General Les Peterson did not make clear why there was such a delay.

despite the hopes of the architects of the new insurance regulations, further increases were expected.³⁷ Consequently, when Attorney-General Peterson finally announced that the Board was being established by order in council there was cause for both jubilation and skepticism from both the public and opposition members of the Legislature.³⁸

The Board itself was comprised of five permanent members: Dr. J.F. English, Lyle Wicks, Edward Bassett, Tom Cantell, and Byron Straight. English had been a long time member of the civil service prior to his appointment on the Board. Lyle Wicks, a former Social Credit Cabinet Minister, had lost his seat to Dave Barrett in 1960. Tom Cantell was the Superintendent of Insurance for British Columbia, and Byron Straight, a Vancouver based actuary, represented the insurance industry on the panel.³⁹ English, Wicks, and Bassett had prior experience with utilities regulation, as they were already members of the British Columbia Public Utilities Commission.

The newly formed Board faced its first test in December 1971 when it asked the province's insurers to reduce the cost of no-fault accident benefits for all customers by one-third effective January 1, 1973.⁴⁰ At the time, premiums for

³⁷ "Rate Hike Forecast for Auto Insurance" in *Vancouver Sun*, 12 November 1971, 1

³⁸ "Board Just More Bureaucracy" in *Victoria Times*, 27 January 1971, 3

³⁹ "Cabinet Sets Up Watchdog for Automobile Insurance Rates," *Vancouver Sun*, 27 January 1971, 2

⁴⁰ Accident benefits are insurance coverages designed to compensate victims of an accident regardless of who is at fault for the incident. They exist to provide immediate compensation for medical bills, lost wages, lost quality of life, etc. Limits of coverage under this class of insurance are typically low. Consequently, motorists most often choose to purchase additional liability protection in case they

this portion of insurance policies were set at approximately \$20.90 per year, while the government felt that the cost should be no greater than \$14.00. While some companies complied, many opted to exercise their right to a hearing with the Automobile Insurance Board, stating that the requested premium was too low.⁴¹

The hearing took place on January 11, 1972, with the roots of the dispute centered on the percentage of accident benefit premiums to be returned to policy holders in the form of claims settlements. The Automobile Insurance Board asserted that at the current premium level, only forty-one percent of the premium collected for accident benefits was converted to claim payouts. The insurance companies, it claimed, retained the remainder as profit.⁴² The insurance industry representatives who contested the new rate proposal argued that the old rate level was proper, as when factored in with the other portions of coverage, such as extended liability and collision protection, the insurance companies were paying back an appropriate amount in the form of claim benefits.⁴³ The industry representatives further asserted that should the Board refuse to rescind its ruling lowering the maximum premium level for accident benefits, premiums on other sections of their insurance policies, particularly the liability portion, would increase. It rationalized this by claiming that, because lawsuits tended to award accident victims more compensation than covered by the no-fault accident benefits, insurers needed revenue to compensate for the losses incurred by the rate

are legally negligent resulting in someone else's harm to avoid having to pay for any damages that exceed the accident benefit limit personally.

⁴¹ "BC Seeks Cut in Car Insurance" *Vancouver Sun*, 9 December 1971, 1

⁴² "BC Seeks Cut in Car Insurance" *Vancouver Sun*, 9 December 1971, 1

⁴³ Twenty-five percent was the average level of premium retention for general insurers at that time in British Columbia.

reduction for the basic accident benefit coverage. The Insurance Bureau of Canada also warned that if the Board were to order continued cuts to premiums, providers would stop writing policies entirely.⁴⁴

Despite these threats, the Board upheld its December decision and ordered a reduction on the rate charged for basic accident benefit coverage. When asked how the board felt about the insurers' intention to increase other coverage premiums, Byron Straight conceded, "[w]ell, we haven't said they can't raise other rates." Straight also noted that the Board had not been in existence long enough to make a full examination of the entire premium rate structure, and its first order of business was accident benefits. Once that was addressed, it would look at examining the rates for extended coverage.⁴⁵ Acting on its threat, the insurance industry applied for a rate increase on optional coverage in May 1972 that would raise the cost of insurance by an average of eight percent. To the exasperation of many, the Board approved the increase without a hearing. As if the increased rate was not sufficient irritation to the public, a greater controversy ensued in the media. Earlier in the year, the government had established an anti-inflation policy that attempted to limit increases in consumer costs to six-and-a-half percent. Since the increase in insurance rates exceeded this limit, the media accused the government of not adhering to its own policy.⁴⁶

The increase effectively eliminated the savings motorists received in January when the Board lowered accident benefit rates, and drew the ire of the

⁴⁴ "No Fault Warning: 'Other Rates Will Go Up'" *Vancouver Sun*, 12 January 1972, 1

⁴⁵ "First Insurance Board Hearing Set" *Vancouver Sun*, 11 January 1972, 7

⁴⁶ "8% Car Insurance Boost Forecast" *Vancouver Province*, 30 May 1972, 2

public and all three opposition parties in the Legislative Assembly. Liberal leader David Anderson decried the board's decision not to hold a public hearing, stating that "[t]his is an area where government compulsion is involved and we're in effect dealing with public money. An increase in rates is virtually a general tax increase, and to keep the proceedings on this private is absurd." Conservative leader Derril Warren said the Board was "simply not fulfilling the role of an independent regulatory agency." And Dave Barrett, sensing the growing support for provincial automobile insurance, announced that if the government did not order such hearings via the board, it was clear that it was "out to protect the interests of the big New York insurance companies against the ordinary people of B.C."⁴⁷

The negative attention being drawn by the Automobile Insurance Board was probably the last thing W.A.C. Bennett wanted to hear, especially since 1972 was likely to be an election year and Barrett was pushing for a government take over of automobile insurance. The negative attitude toward the Automobile Insurance Board and the perpetual problems that plagued the insurance industry could have been avoided if the government been more effective in executing its insurance plan. Bennett was aware of the assertions of both the federal Department of Justice and the Wootton Royal Commission that there was a degree of price fixing and a shortage of competition in British Columbia. In requiring all motorists in British Columbia to purchase accident benefits and compulsory liability coverage from the private insurance industry, Bennett was

⁴⁷ "New Auto Insurance Wipes out no-fault saving" in *Vancouver Province*, 31 May 1972, 1

undertaking a dangerous gambit. He was confident in the government's ability to control both premium rates and competition in the industry through the Automobile Insurance Board and the 1969 legislation package which allowed the cabinet to get involved in the event of a crisis such as rapid rate increases. While this was a brave supposition, the timeline over which it transpired was deeply flawed, as the motoring public was forced to purchase insurance from largely unregulated companies for nearly two years before the Automobile Insurance Board was finally established. As rates continued to rise, the only choice for the motorist was accept it or stop driving altogether.⁴⁸ Additionally, when the Board was finally established it was reluctant to take too much of an aggressive position despite the early gain made over the no-fault accident benefit premiums. As a result, rising premiums brought the woes of the automobile insurance industry into the eyes of an already critical public. As the 1972 election loomed, public opinion of the new insurance plan was falling and Barrett used Bennett's failed attempts to fix the insurance problem as ammunition in his campaign.

Dave Barrett and the NDP strategists took full advantage of the negative media and political attention that was plaguing Bennett's insurance scheme.

During a turbulent political summer preceding the election campaign there was a

⁴⁸ Kavic & Nixon allude briefly to the fact that the public was forced to buy insurance from the industry despite fears of price-fixing in their chapter on the Insurance Corporation of British Columbia in *The 1200 Days, A Shattered Dream: Dave Barrett and the NDP in BC, 1972-75*(Coquitlam, B.C.: Kaen Publishers, 1978), 132-133 but do not quantify their argument with fact or mention the Bennett administration's failed attempts to control it. The supplemental information provided here is necessary for a full understanding of the circumstances surrounding the problem of premium pricing. Consequently, to simply cite Kavic and Nixon as justification for such an argument is insufficient.

considerable amount of mud-slinging and a rare incident of violence.⁴⁹ On June 8, 1972 the cabinet was concluding a provincial tour designed to gauge the political climate for what many believed would be a summer election call. The tour was wrapping up with a reception at the Royal Towers Hotel in New Westminster. Waiting for them was a throng of 500 demonstrators voicing their displeasure over one of Bennett's labour policies. Unfortunately the situation turned violent, and while the premier escaped unhurt, eight ministers were injured, including Agriculture Minister Cyril Shelford who suffered a broken arm and collarbone. When Bennett returned to Victoria he attempted to tie Barrett to the labour demonstration, calling him a member of the "extremist waffle group" that attacked the ministers and inferred that Barrett and the NDP had orchestrated the whole affair.⁵⁰ In return, Barrett sued Bennett for slander. The suit was later dropped when the NDP won the election, but the whole affair set the tone for what lay ahead.⁵¹

When the writ dropped on July 25, Barrett immediately attacked. He lashed out at the insurance companies, the Automobile Insurance Board, and the Bennett government itself at every occasion, repeating messages voiced earlier of corruption and government incompetence. At one rally in Terrace he unabashedly stated that the insurance companies were "gouging" the public with increasing premiums and that the government seemingly condoned this with both the Board's acceptance of these "exorbitant" rates and the Cabinet's refusal to force

⁴⁹ Barrett & Miller, *Barrett: A Passionate Political Life*, 54-55

⁵⁰ Mitchell, *W.A.C. Bennett and the Rise of British Columbia*, 410-411

⁵¹ Barrett & Miller, *Barrett: A Passionate Political Life*, 54-55

the issue. He also accused the government of allowing rates to be twenty percent higher than necessary, citing the example of the Saskatchewan Government Insurance program's premiums as a contrast.⁵² At other campaign stops and rallies he declared that the government self-insured its vehicles for twenty-five dollars per year and asked the question "why can't they [insure] yours?" Barrett neglected to inform his listeners, however, that the figure did not contain coverage for collision repairs and that citizens could not sue the government for damages if involved in a collision with a government owned vehicle.⁵³ They simply had to accept what settlement was offered. Barrett frequently cited the first item in an official campaign fact sheet that stated that despite the facade of government intention to control the rates, in reality they allowed "the insurance industry to get whatever the traffic will bear in general rates." To reinforce this, Barrett also asserted that the Automobile Insurance Board's ruling to reduce no-fault premiums by one-third paled in comparison to that of Massachusetts, where a similar government board ruled in favor of a fifty-five percent retroactive premium reduction on the same no-fault coverage and ordered refund cheques be sent to all who overpaid for coverage the previous year.⁵⁴

This aggressive campaign tactic met with a largely receptive audience. Many welcomed Barrett's promise of reduced rates even if it meant that the government would operate the plan itself. As an added incentive, Barrett made it

⁵²"Barrett says B.C. Drivers 'Gouged' by Insurance Firms" *Vancouver Sun*, 22 August 1972, 37

⁵³ Kavic & Nixon, *The 1200 Days, A Shattered Dream*, 132

⁵⁴ BCA, *Files Pertaining to the Start of the Insurance Corporation*, GR 0664, Box 8, File 8, NDP Fact Sheet on Automobile Insurance (For this Election), 1972

quite clear that while most private insurance companies were headquartered outside the province, and consequently their profits were transferred out as well, a British Columbia operated plan would retain any revenues in the province for local use.⁵⁵

Bennett, however, primarily focused on other issues such as increases to senior citizen allowances, home-owners' grants, and handicapped persons' assistance. He also called for the creation of the British Columbia Development Corporation to provide small business loans to entrepreneurs.⁵⁶ Yet he remained relatively silent on the issue of insurance, likely wanting to avoid drawing attention to the gloomy situation surrounding the Automobile Insurance Board and the premium issue. Despite Barrett's continual advocacy of state intervention, Bennett often simply dismissed the notion as mere socialist cant. In doing so, however, Bennett may have erred, as public support for such an initiative was strong and insurance was a growing public concern. For example, in August 1971, the Insurance Bureau of Canada conducted a poll of 971 people from across Canada over the age of fifteen regarding the automobile insurance industry. As the results from the survey were going to be used in a special to be aired on the Canadian Broadcasting Corporation's "Weekend Program," the CBC selected and worded the questions for the survey. The poll asked: "In general, do you think that basic, minimum car insurance should be provided through the government or through private companies?" The response was convincing, as sixty-eight percent of respondents felt that the government should be responsible

⁵⁵ Kavic & Nixon, *The 1200 Days, A Shattered Dream*, 133

⁵⁶ Mitchell, *W.A.C. Bennett and the Rise of British Columbia*, 413

for the program, while thirty-percent felt that private industry was still the best option. The remaining two percent were undecided.⁵⁷

Closer to British Columbia's specific situation, events near the end of the Social Credit regime also indicated the positive public mood towards state-run automobile insurance, as well as its political significance. At their 1963, 1964, and 1965 Conventions, Social Credit party members considered but defeated motions calling for a government take over of automobile insurance.⁵⁸ The concept remained off the slate until the 1970 convention, when delegates again raised the issue and at the last-minute passed a proposal to have the party investigate the possibility of establishing a crown corporation to provide universal life insurance.⁵⁹ On the heels of that idea the conventioners lobbied the party leadership to do the same with automobile insurance, citing the growing discontent with the no-fault legislation and the steady rise in rates. Attorney General Leslie Peterson, unwilling to see such a motion adopted, appeased the convention with an appeal for more time to study the issue.⁶⁰ By the time the 1971 Social Credit convention was convened, Peterson, Bennett, and the party

⁵⁷ BCA, *Files Pertaining to the Start of the Insurance Corporation*, GR 0664, Box 3, File 1, Insurance Bureau of Canada

⁵⁸ See, "Vote Issue Ousted: Socreds turn aside protest" *Vancouver Province*, 14 November 1963, "Private Enterprise Wins: Socreds Defeat Insurance Motion" *Victoria Daily Colonist*, 7 November 1964", and "Socreds Squelch Socialist Ideas: BC League Convention Heeds Bonner on Private Insurance" *Vancouver Sun*, respectively. All are found in BCA, *Files Pertaining to the Start of the Insurance Corporation*, GR 0664, Box 8, Social Credit Clippings on Insurance

⁵⁹ "Insurance 'Yes' Surprise" *Victoria Colonist*, 15 November 1970, BCA, *Files Pertaining to the Start of the Insurance Corporation*, GR 0664, Box 8, Social Credit Clippings on Insurance

⁶⁰ "A.-G Touches Brakes" *Vancouver Province*, 6 November 1971, BCA, *Files Pertaining to the Start of the Insurance Corporation*, GR 0664, Box 8, Social Credit Clippings on Insurance

executive had firmly made up their minds. Recalling the motion from the previous year's convention, a delegate from Delta called for the party to adopt the automobile insurance plan. Peterson countered that there was already legislation on the books for such a measure but it had never been proclaimed, and that he "hope[d] we will not have to proclaim that section."⁶¹

With public opinion polls showing support for such an idea and Social Credit party members lobbying for a government-run insurance plan, the NDP platform for the 1972 election was clearly in tune with the wishes of a large portion of the public. In 1972 the timing and circumstances were finally right for realizing the long time NDP goal of provincially administered automobile insurance and public support was essential in making this a reality. The significance of the insurance problem in influencing the election result is somewhat difficult to judge as it is likely that Bennett did not anticipate losing to the NDP, especially by campaigning as the "champion of free enterprise," and may also have felt that given some time the Automobile Insurance Board would be able to rein in the increases in premiums. John Mika, a former political journalist and later NDP political consultant and ICBC board member recalls, however, that the automobile insurance industry as a whole was a point of contention for a significant portion of the voting public, making it a major issue whether Bennett and the Social Credit strategists realized it or not.⁶²

⁶¹"B.C. Socredits Table Issue: Gov't Auto Insurance Bid Thwarted" *Vancouver Sun*, 6 November 1971, BCA, *Files Pertaining to the Start of the Insurance Corporation*, GR 0664, Box 8, Social Credit Clippings on Insurance

⁶² John Mika, personal interview, 20 February 2006

Despite all of the academic reflection on how Bennett lost the election, it is important to remember that regardless of mistakes, internal party politics, and the forces of time on the outgoing premier, the New Democrats offered a platform that appealed to the people and that the people chose Barrett to spearhead the changes. The public eagerly accepted Barrett's four-plank campaign as evidenced by the election results. The NDP won 38 of 55 seats and 39.59% of the popular vote.⁶³ When it came time to live up to campaign promises, Barrett was able to do so with an honest mandate, including a clear showing of support for his automobile insurance plan bolstered by an ever-weakening insurance industry powerbase. Thus, with Robert Strachan at the helm, the new government set out on drafting the legislation that would create the new corporation and the basis for the government venture into automobile insurance, made possible in part by the troubles plaguing the insurance industry and Bennett's failed attempts to remedy them which further eroded public confidence in the private insurance market.

⁶³ Elections British Columbia, *Electoral History of British Columbia, 1871-1986* (Victoria: Elections British Columbia, 1988), 311.

Chapter 4

The Creation of the ICBC and the Insurance Industry Resistance

The legislation that created government-run automobile insurance came in the form of two bills. The first, the Automobile Insurance Act, gave the government the authority to sell automobile insurance on a monopoly basis. The second, the Insurance Corporation of British Columbia (ICBC) Act, established the actual corporation that would administer the plan. In introducing the bills in April 1973 Strachan made the government's intentions clear:

This bill, Mr. Speaker, simply sets up the machinery for the establishment of the Insurance Corporation of British Columbia. But insurance in its broader aspects involves something more than the payment of money after the occurrence of a loss. The Insurance Corporation is an instrument of the province and must concern itself with changing needs, with the prevention of losses and the welfare of those who have suffered losses. This is an area of social consequence that until now the insurance companies that have been in operation, generally speaking, have not concerned themselves with. This is part of the changing needs of society, that we do have insurance companies that will involve themselves with this broader field. The Insurance Corporation of British Columbia would at all times be the holder of substantial reserve funds. These funds, generated in the province, will be utilized in British Columbia by the corporation for economic development and the furtherance of the interests of the residents of British Columbia.¹

The last point regarding the retention of premium dollars in British Columbia is significant as it relates directly to W.A.C. Bennett's arguments in favour of nationalizing B.C. Electric and coastal ferry services in the interest of further developing the province's economic infrastructure. It is also clear that the NDP was building on Bennett's successes with crown corporations. Despite this, the debate in the legislature on both bills was heated, as the opposition members strongly opposed what they saw as a death

¹ British Columbia, Legislative Assembly, *Debates*, 10 April 1973, 2518

knell for the insurance industry in British Columbia. Liberal Garde Gardom said the monopoly clause in the ICBC Act was “a death-house bill for the insurance industry in B.C.! I think the fairest thing to do is for every member of the house to stand up and bow their heads and have two minutes of silence for the agents and insurance adjusters and the hundreds of people who work for these insurance companies.” North Peace River Social Credit member Dean Smith, a life insurance underwriter by profession, feared that provisions in the bill allowing the new corporation to venture into other fields of insurance threatened the rest of the property insurance market and possibly even the life insurance sector.² The debate was so fierce that on at least one occasion the speaker warned members with disciplinary action for their outbursts that broke parliamentary procedure. One such example came in the committee stage of the bills when Liberal David Anderson asked for proof that the NDP would guarantee not to increase rates dramatically once the monopoly was established and demanded that the monopoly provisions be struck from the bill. When the deputy speaker refused, Anderson challenged his authority and position. The Speaker resumed the chair at this point, reconvened the whole house, which, amid much hostile repartee, voted to overrule the Anderson proposal. Intense hostility also arose when opposition MLAs claimed taxpayers would be subsidizing an agency of the crown that was designed to be self-sufficient under proper management. If the corporation was not properly managed, or did not remain solvent without external government funding, opposition members feared that the taxpayers would end up paying more for their insurance and more in taxes.³

² Legislative Assembly of British Columbia, *Debates*, 10 April 1973, 2518-2519

³ Legislative Assembly of British Columbia, *Debates*, 18 April 1973, 3013-3021

Since the NDP had a comfortable majority in the legislature, the protests of the Liberals, Conservatives, and Social Credit members about monopoly and job losses in the insurance sector amounted only to verbal scuffle expounded upon in the media that had little effect on the bills. The legislation was presented for final approval after the debates with only a few small concessions made in the committee stages.

While a segment of the population opposed the legislation on ideological grounds, Strachan was confident that the core NDP electorate approved of it. The public, however, was curious to see if new the system would bring about the changes they felt were necessary. Motorists largely favoured the better insurance rates promised and the establishment of ICBC adjustment depots that they hoped would lower repair costs generally by exposing any overcharging.⁴ This positive public outlook also muted the opposition attack in the legislature to some extent. During the debate, several Social Credit members seemed hesitant to attack the bills too harshly since many voters in the recent election had supported the plan by casting their ballots for the NDP and its insurance platform.⁵ The legislation, however, was also the first big test for the novice government, as many British Columbians were watching with curious anticipation to see what kind of governing style Barrett would undertake and how successful he would be in implementing his election promises. As one commentator noted, in the eyes of the public a successful transition to the ICBC could “do more to consolidate the government in public opinion than anything it had tackled to date. Its failure could be politically fatal.”⁶

⁴ “Well, here it is,” *Vancouver Province*, 17 February 1973, 4

⁵ “Insurance plans to test support of public” *Vancouver Province*, 17 February 1973, 4

⁶ “Well, here it is” *Vancouver Province*, 17 February 1973, 4

Nevertheless, the bill passed easily. After years of advocacy, Strachan had achieved his goal of state-run automobile insurance. With a scheduled start-up date of 1 February 1974, Strachan immediately began making preparations. One of the first orders of business was to recruit executive-level assistance from experts with experience in implementing such a program. The obvious place to look for a general manager was Saskatchewan where the government had operated automobile insurance since 1946. When he was in opposition, Strachan had consulted the senior management of the Saskatchewan plan on various occasions.⁷ John Mika, Strachan's ministerial advisor and a non-voting member of the ICBC's Board of Directors, interviewed several insurance executives from across Canada and even considered Australian expertise before recommending Norman Bortnick of Saskatchewan's provincial insurance program.⁸ Strachan approached Bortnick, an accountant who had served as treasurer of the Saskatchewan Government Insurance Corporation for twenty years, and enticed him to move to Victoria and become General Manager of the Insurance Corporation of British Columbia.⁹ Also joining the management team to help Bortnick establish and run British Columbia's newest crown venture was a host of other transplanted executives from Saskatchewan, the recently established Autopac program in the Manitoba Public Insurance Office, and the private insurance industry.¹⁰

⁷ See BCA, *Files Pertaining to the Start of the Insurance Corporation*, GR 0664, Box 7, File 2, *Manitoba Autopac*

⁸ John Mika, personal interview, 20 February 2006

⁹ In the 1970s and before, a general manager's position in an insurance company was tantamount to that of a Chief Executive Officer today.

¹⁰ Lorne J. Kavic & Garry Bryan Nixon, *The 1200 Days, A Shattered Dream: Dave Barrett and the NDP in BC 1972-75* (Coquitlam, B.C.: Kaen Publishers, 1978), 135; Dave Barrett & William Miller, *Barrett: A Passionate Political Life (Vancouver: Douglas & McIntyre, 1995)*, 85

While progress was being made, the startup date was shifted back one month to March 1 to allow for final preparations.¹¹ In the meantime, the Insurance Corporation was experiencing what Barrett would later call “teething problems.”¹² In addition to continued assaults in the media and legislature from opposing politicians and from the insurance companies of the province, internal factors hindered progress.¹³ For example, the new corporation had difficulty acquiring property for its offices as municipal governments in both Burnaby and North Vancouver refused to provide utilities without a complete review of whether ICBC would pay regular municipal taxes or receive special government rates. The municipalities stalled over concerns about building site costs. To make matters worse, the corporation purchased twenty acres of farmland in Richmond with the intention of using it to build a claims centre, but was stymied when it discovered that this was in complete violation of the government’s new Land Commission Act which aimed to stop the harvesting of farmland for commercial purposes.¹⁴

On March 1, the Insurance Corporation of British Columbia commenced operations but various glitches continued to plague Strachan, Bortnick and company. Much of the office space at its Vancouver headquarters was incomplete. Workers had to ride construction elevators to their high-rise offices since the passenger elevators were not yet operating. When they got to their offices, some had to work on the floor because most of the desks had not arrived.¹⁵ Customers also had a major problem. None of the claim centres were operational, yet policy holders had to get an ICBC estimate before

¹¹ Kavic & Nixon, *The 1200 Days, A Shattered Dream*, 134

¹² Barrett & Miller, *Barrett: A Passionate Political Life*, 85

¹³ The resistance to the ICBC will be discussed later in the chapter

¹⁴ Kavic & Nixon, *The 1200 Days, A Shattered Dream*, 134

¹⁵ John Mika, personal interview, 20 February 2006

they could proceed with repairs. The logistical issues were not the only problems. The first policies sold were missing a critical clause in the wording pertaining to payments to spouses of those killed in automobile accidents. Moreover, drivers who purchased their ICBC policy in advance inadvertently over-paid because external and political pressure to alter the original rate scheme led to last minute premium reductions. Those who over-paid were entitled to refunds, but by opening day the refund program was not yet in operation and disputes continued over whether refunds would be in cash or in the form of credits for the following year's premiums, and whether the corporation would pay interest on the amount it had overcharged.¹⁶

Much of the initial challenge that the ICBC faced came from the extensive use of new technology. Robert Strachan and Norman Bortnick were among the government's first users of facsimile machines so documents requiring signatures could be quickly transmitted between Victoria and Vancouver. Although new technology, such as facsimile machines which allowed the instantaneous transmission of documents requiring signatures, simplified procedures, other new technologies created problems. At ICBC headquarters in Vancouver, computers consumed an entire floor of office space and the floor joists beneath had to be reinforced to support their weight and that of the cooling systems that prevented their overheating. The use of computers was new in the insurance industry. The private sector companies had not been using them extensively in their day-to-day operations, but given the volume of business that the ICBC expected to meet on its first day—some two million policies—they were necessary. ICBC had five times more

¹⁶ Kavic & Nixon, *The 1200 Days, A Shattered Dream*, 134

computer capability than the rest of the provincial government's capacity combined.¹⁷ Naturally, computer glitches in the colossal system caused problems in such matters as premium calculations and these plagued ICBC's operations and harmed its standing in public opinion.

Despite these challenges, the AutoPlan insurance program that the Insurance Corporation of British Columbia was running and the issues that beleaguered Bortnick and his staff worked themselves out over the coming months. What still stood in the NDP's way, however, was the campaign against the plan by the private interests that felt threatened by certain provisions of the Insurance Corporation of British Columbia Act. The private interests were particularly concerned about clauses that could give the government a monopoly to sell all automobile insurance policies, not only compulsory ones. They also resisted provisions that could potentially render the services of insurance agents and privately owned collision repair shops unnecessary by having the government sell policies through motor vehicle branch offices and operate its own repair facilities. Because the insurance agents and repair garages, however, did not unite with the insurance providers, their campaign against ICBC was disjointed, internally fractured, and poorly organized as a whole.¹⁸

¹⁷ John Mika, personal interview, 20 February 2006

¹⁸ Nukhet Kardam uses organizational and power-relations theory in an attempt to comprehend the failure of the resistance but her analysis is incomplete as she does not fully examine all facets of the resistance to the ICBC, nor does she consider all of the relevant history that precluded its inception. By expanding on her power-relationships argument and incorporating additional information that she omits, one can achieve a more comprehensive understanding of the insurance industry resistance and its downfall. Nukhet Kardam, "Interest Group Power and Government Regulation: The Cases of the Mining and Insurance Industries During the Period of the New Democratic Party

In anticipation of what became the Automobile Insurance Act and the Insurance Corporation of British Columbia Act, the general insurance providers and the Insurance Bureau of Canada (IBC) began their campaign in early January 1973, several weeks before Robert Strachan introduced them. At the root of the IBC's concern was a belief that the government would grant the ICBC a monopoly on underwriting all automobile insurance coverages, not just the compulsory ones. This would force the general insurers out of the automobile market entirely. Even before the IBC knew the exact extent of the monopoly provisions, it launched an aggressive media and direct mail campaign denouncing the government plan. It hoped to sway public opinion against the proposed government takeover, and thereby create enough media and public opinion pressure to prevent a total monopoly.¹⁹ In announcing the campaign at the Hotel Vancouver, A.E. Warrick, Chairman of the Insurance Bureau of Canada's British Columbia wing, made clear the industry's position and its resolve to see it through. Pledging up to \$100,000 for advertising during the legislative debate on the bills, Warrick appealed to the free enterprise ethos of British Columbians while at the same time pleading the case of the insurance industry as a major employer and warning that it would have to lay off workers if it lost the large and rewarding automobile market. "[W]e feel that freedom of choice is one of the most valuable rights that any country can guarantee its citizens" he announced,

Government in British Columbia, 1972-1975," *BC Studies*, No. 60, (Winter 1983-84), 48-74

¹⁹ "Auto Insurance Battle Launched," *Vancouver Sun*, 2 January 1973, 8

“We hope the people of British Columbia will not give up this freedom without careful consideration.”²⁰

The advertisements began appearing in the province’s newspapers on January 2 and information pamphlets arrived at homes shortly thereafter. The pamphlets attempted to persuade the public away from the government run plan by showing the difficulties under government schemes in Saskatchewan and Manitoba and reiterated the fears of job loss among insurance providers, agents, and adjusters. Some pamphlets included a postcard for readers to fill out and mail to their MLA as a show of support for the private insurance sector.²¹ The newspaper advertisements took on an equally aggressive tone. While there were several versions, the general theme was the same. In one of the first advertisements that appeared in the *Victoria Times* on January 2, 1973, the IBC emphasized the benefits of free enterprise and the freedom of choice for the public in a full page announcement:

Wouldn’t you rather have the freedom to decide for yourself what car insurance you want? Even if you never used it, wouldn’t you like the opportunity to say you are switching insurers because you don’t like the service? Isn’t that what freedom of choice is all about? How much choice do you think a government monopoly in auto insurance would give you? We want you to think about it. Really think about it.²²

Several days later, another advertisement questioned the ability of the government plan to undertake automobile insurance with the same level of expertise and efficiency as the private industry:

²⁰ “Campaign Opens Against Auto Insurance Plan,” *Globe and Mail*, 3 January 1973, B11

²¹ BCA, *Files Pertaining to the Start of the Insurance Corporation*, GR 0664, Box 26, File 5, Pamphlet entitled “Do you really want a government monopoly?”

²² Advertisement, *Victoria Times*, 2 January 1973, 3

If the government is going to offer you better car insurance, do they need a monopoly? After all, if they were going to give you better coverage, better rates, and better service, wouldn't people be standing in line to buy government insurance? With private companies competing, wouldn't that encourage the government to keep on its toes?²³

As the legislature began debating the new legislation, the media campaign so mounted that Strachan and the government complained about its intensity. The Ministry of Highways decried the campaign as “a new resort to exert pressure on the government” over legislation that would be beneficial for the province.²⁴ The media campaign was of limited avail. When the bills were finally passed, Section 8 of the Automobile Insurance Act made the Insurance Corporation of British Columbia the sole provider of automobile insurance contracts in the province and provided that “every contract of automobile insurance and every motor-vehicle liability policy made or issued, after the coming into force of this section, in respect of a motor-vehicle or trailer registered or licensed in the Province by an insurer other than the corporation is void and of no effect.”²⁵ In other words, the ICBC was the only body authorized to sell a contract of insurance to motorists, and any contract written by any other party would be invalid. Despite enormous media pressure and the IBC campaign the government had its monopoly provision. There was still hope for the province's 187 general insurers, however, as the Cabinet asked that Section 8 not be proclaimed alongside the rest of the legislation by Lieutenant Governor Walter Owen on April 18, 1973. Thus, while the government was officially in the automobile insurance business, private insurers still had the right, for the

²³ Advertisement, *Victoria Times*, 6 January 1973, 3

²⁴ “Auto Insurance Campaign: Gov't Cries Pressure,” *Vancouver Province*, 3 January 1973, 21-22

²⁵ BCA, *Files Pertaining to the Start of the Insurance Corporation*, GR 0664, Box 25, File 2, Bill 35: The Automobile Insurance Act, 1973

time being, to compete against the government for the optional insurance coverages not compulsory by law.²⁶ Given this, it is likely that the government intended to allow the private market to remain a part of the industry, at least on a small scale, with the right to sell optional coverages. What that right entitled them to sell, however, remained something of a mystery as experts were divided over what exactly the government would have the sole right to sell under the proclaimed sections and what remained open to competition.

Discouraged by the failure of the information campaign to eliminate the monopoly clause but determined not to give up without a fight, the IBC sought ways to thwart the government plan and have it dismantled. As this course of action would take time to devise and execute, it directed its interim efforts at making the transition to the government insurance platform as difficult as possible for the organizers at the ICBC. It refused to publish its annual "Green Book" of automobile insurance statistics for British Columbia in 1973. The Green Book contained information such as earned premiums, accident frequency, driving histories, automobile actuarial statistics, claims statistics and general insurance information that was collected and shared among insurers across Canada and used by underwriters and actuaries to determine premium rates.²⁷ Withholding this information was a direct act of defiance to the new corporation and drew the wrath of Strachan and Tom Cantell, the Provincial Superintendent of Insurance. Both demanded that the IBC produce the information so ICBC could establish its initial ratings based on the most recent and accurate information of licensed drivers in British

²⁶ "Canadian Indemnity Co. et al v. A.-G. B.C." in *Dominion Law Reports* (Agincourt, Ont: Canada Law Book Limited, 1975) Vol. 56, 28

²⁷ BCA, *Files Pertaining to the Start of the Insurance Corporation*, GR 0664, Box 3, File 3, Insurance Bureau of Canada Correspondence, Memos, Reports

Columbia. Strachan was so adamant he threatened that failure to provide the Green Book would “affect the bureau’s credibility in the eyes of other provinces” and of its insurance company members.

More directly, he also threatened legal action against the Bureau, stating that it had a statutory duty to produce the information on the request of the provincial government’s Superintendent of Insurance.²⁸ The Bureau held its position despite the threats and no litigation was ever launched against the IBC. While there is no historical record of why Strachan or the Attorney-General did not proceed with the threatened lawsuit, it is likely that it was more efficient to proceed without the data rather than to wait for a court ruling given the tight deadline in which Strachan had to make the ICBC operational. Thus, the ICBC was forced either to compile raw data from each insurance company itself to try and establish driver histories for all of its newly acquired clientele or commence operations with a premium rating formula that did not include accident or claims history.²⁹ Given the daunting nature of compiling the data for actuarial analysis and the somewhat short timeframe in which the government hoped to have the ICBC open for business, Strachan elected for a fresh start. In early November 1973, when it became clear that the Insurance Bureau of Canada was not going to provide the Green Book on its own volition, ICBC General Manager Norman Bortnick held a news conference announcing that ICBC policy holders would not be required to provide

²⁸BCA, *Files Pertaining to the Start of the Insurance Corporation*, GR 0664, Box 3, File 3, Insurance Bureau of Canada Correspondence, Memos, Reports, Strachan to Insurance Bureau of Canada, no date

²⁹Kardam, "Interest Group Power and Government Regulation," 63

information about their past driving records and all British Columbia drivers would “start with a clean slate” under the new insurance program.³⁰

While the general insurers of the province achieved a small victory in forcing the ICBC to disregard driver histories, thereby creating extra work for the new corporation and causing havoc in the initial rate making process, they knew this calculated defiance would not stop the ICBC from monopolizing the insurance market. Thus, while the controversy over the Green Book was unfolding, the insurance companies, led again by the IBC, were preparing to launch one last attack on the legislation which, if it succeeded, would allow the private insurers to sell automobile insurance with the government being at most just another competitor. On August 17, 1973 IBC’s Vancouver lawyer, E.D. Fulton, a former federal Minister of Justice and future BC Supreme Court Justice, informed Attorney-General Alex MacDonald that the Insurance Bureau of Canada had retained his legal services and that he would challenge the Automobile Insurance Act and the Insurance Corporation of British Columbia Act in the Supreme Court of British Columbia on the grounds that they were constitutionally invalid.³¹

The case was heard before the Supreme Court in Vancouver beginning September 1973 under Mr. Justice J. Aikins.³² The IBC argued that the acts were *ultra vires* on several grounds, most notably that they infringed upon the exclusive right of the Parliament of Canada under the British North America Act to legislate in relation to the

³⁰“Clean Record for all,” *Vancouver Province*, 2 November 1973, BCA, *Files Pertaining to the Start of the Insurance Corporation*, GR-0664 Box 5 File 6, Clippings-Auto Insurance

³¹BCA, *Files Pertaining to the Start of the Insurance Corporation*, GR 0664, Box 3, File 3, Insurance Bureau of Canada Correspondence, Memos, Reports, E.D. Fulton to Alex B. MacDonald, 17 August 1973

³²BCA, *Files Pertaining to the Start of the Insurance Corporation*, GR 0664, Box 3, File 4, AutoPlan Constitutional Appeal

regulation of trade and commerce, criminal law, competition, and inter-provincial matters. The suit also claimed that, especially in respect to federally chartered companies that they were being forced to surrender their assets without due process of law.³³ In other words, the case of the IBC rested on the theory that the insurance business was inter-provincial and international by nature, and consequently the regulatory body responsible for it was the Parliament of Canada, not the Legislative Assembly of British Columbia.³⁴ The court was also asked to decide if the private sector was permitted to sell any form of automobile insurance under both the sections of the act that had been proclaimed and those that were not. The plaintiffs also asked the courts for a legal interpretation of both the proclaimed statute and the legislation as a whole.

The arguments for both the plaintiffs and the province lasted more than a year, and Mr. Justice Aikins did not announce his decision until November 18, 1974, seven months after the ICBC sold its first insurance policy.³⁵ In the meantime, the insurers were practically paralyzed and, because they did not know what the future would hold for their business, they could not make major business decisions such as whether to begin laying off staff in anticipation of a government monopoly or to stay in business until the very end.³⁶ Justice Aikins' decision on the matter of monopoly was elaborate and methodical, but his concluding remarks made his position clear. Even without the sections that expressly prohibited other insurers from selling automobile insurance, the court decided that the proclaimed legislation established a *de facto* monopoly over the

³³ "Canadian Indemnity Co. et al v. A.-G. B.C." *Dominion Law Reports* (Agincourt, Ont: Canada Law Book Limited, 1975) Vol. 56, 19

³⁴ "Canadian Indemnity Co. et al v. A.-G. B.C." *Dominion Law Reports*, 21

³⁵ "Canadian Indemnity Co. et al v. A.-G. B.C." *Dominion Law Reports*, 7

³⁶ "Canadian Indemnity Co. et al v. A.-G. B.C." *Dominion Law Reports*, 26

basic compulsory insurance requirement of \$50,000 liability coverage, accident benefits, under-insured motorist protection and collision damage protection.³⁷ This basic compulsory insurance monopoly was, in the eyes of Aikins, sufficient to “exclude all other insurers other than the Corporation from participating in what is, on the evidence, the major part of the automobile insurance business in British Columbia.”³⁸ As such, while the private insurance sector was not directly forbidden from selling insurance, there was precious little left which they could insure once motorists had purchased the required coverage from the crown and it was unlikely and uneconomic for motorists to have overlapping insurance policies.

The second legal question concerned the constitutionality of the government establishing a crown corporation with such a degree of control. In a lengthy ruling that examined case law concerning competition regulations and federal versus subordinate government powers over the insurance industry in both the United States and Canada, Justice Aikins dismissed the plaintiffs’ case on several grounds. He first ruled that under contract law, insurance contracts were within the constitutional domain of the provinces no matter where the company issuing them concentrated its capital or how it used or transferred its product across the country. As such, insurance companies must abide by the contract laws of the province in which a policy was written regardless of where they are incorporated or their policyholders reside. Furthermore, as insurance does not exist

³⁷ Not all vehicles were required to carry collision coverage. Only those passenger vehicles that were less than nine years old and commercial vehicles less than eight years old and weighing less than 8000lbs. For all other types of vehicles it was optional to carry the collision portion. *Canadian Indemnity Co. et al v. A.-G. B.C.*” *Dominion Law Reports*, 36-37

³⁸“*Canadian Indemnity Co. et al v. A.-G. B.C.*” *Dominion Law Reports*, 38

without this contractual arrangement between the insurer and the insured, Aikins ruled that “insurance contracts in Canada are entered into in the Provinces so that...it becomes immediately apparent that insurance is fundamentally a means by which people in the Provinces, by contracts of indemnification, protect themselves against the risk of losses.”³⁹

With this determination, Aikins had ruled firmly that the actions of the government were *intra vires*. In his reasons for judgment, he held that it was within the power of the British Columbia Legislature to enact the Automobile Insurance Act and the Insurance Corporation of British Columbia Act, including the un-proclaimed sections which would legally establish a monopoly by revoking the right of other insurers to sell automobile insurance and nullify any of their policies sold after 1 March 1973. The Province of British Columbia could engage in the business of automobile insurance with a *de facto* monopoly or proclaim the monopolistic sections should it deem them necessary.⁴⁰ In sum, the challenge of the provincial legislation on constitutional grounds was defeated.

The IBC subsequently appealed to the British Columbia Court of Appeals. The provincial appellate court upheld Aikins’ ruling in a 2-1 decision in November 1975, which in turn prompted a further appeal in to the Supreme Court of Canada in Ottawa.⁴¹ The Supreme Court considered the case in 1976 but dismissed it on the grounds that both

³⁹Canadian Indemnity Co. et al v. A.-G. B.C.” *Dominion Law Reports*, 102-103

⁴⁰Canadian Indemnity Co. et al v. A.-G. B.C.” *Dominion Law Reports*, 113

⁴¹“Canadian Indemnity Co. et al v. A.-G. B.C.” *Dominion Law Reports* (Agincourt, Ont: Canada Law Book Limited, 1976) Vol. 63, 468-504

the Supreme and Appeals Courts in British Columbia had interpreted the law and the circumstances correctly and that the case deserved no more attention.⁴²

While the IBC would have liked to have had the decision overturned at any level to allow private insurers to return to the automobile insurance market on a competitive basis with the ICBC, many insurers had by then cut their losses and given up on the market in British Columbia. Speculation that such a move might take place began circulating in the media and among industry insiders as early as February 1973 when the initial legislation with the monopoly clauses was introduced. According to one report, a survey of companies that sold car insurance indicated a strong sentiment toward withdrawing from the industry completely, especially when it was announced that the ICBC would also compete for the property and commercial insurance market.⁴³ The speculation became a reality not long afterwards as, beginning in May 1973 insurance carriers began either withdrawing completely their services from British Columbia or severely curtailing their operations to areas of the property and casualty insurance market where they expected they could still make a profit. By May 8, twenty-two companies -- including major carriers Allstate, Canadian General Group, Canadian Home Group, Canadian Surety Group, Co-operative Insurance, Economical Mutual, Federal Insurance, Fruit Growers Mutual, Great American, Liberty Mutual, Norwich Union, State Farm, and Western Union -- had withdrawn entirely due to projected losses in automobile business and the government competition in general. A further six companies, including Kemper

⁴² "Canadian Indemnity Company et al. v. Attorney General of British Columbia" in *Western Weekly Reports: All Cases of Value from the Courts of Western Canada and Appeals therefrom to the Supreme Court of Canada and the Federal Court of Canada*, (Edmonton: Burroughs & Company, 1976) Vol. 5, 748-761

⁴³ "BC Casualty Insurance Proposal May Spark Private Firm Exodus," *Globe and Mail*, 20 February 1973, B2

and Sun Alliance, had reduced their presence to writing only commercial lines or withdrew policy services all together leaving only service offices.⁴⁴ For these companies, this meant selling insurance that protected businesses from loss or claim, or if they withdrew their policy services entirely, retaining some claims adjusters and customer service representatives in the province to serve existing clientele for the duration of their policies.

For the managers, owners, and employees of these firms there was anger, sadness, and disappointment. Whatever their time of departure, the general impression was the same. R.M. Jamieson, President of the Independent Insurance Conference and Canadian Manager of Zurich Insurance Company, decried the ICBC legislation as “vicious, unprincipled socialist action” that severely handicapped the abilities of the insurance companies to do business at all and left many with no choice but to leave.⁴⁵ All State Insurance’s British Columbia principal Clifford Davis, whose company was the largest automobile insurance provider in North America and the carrier of 26,000 automobile policies in British Columbia in 1973, had both personal and professional feelings of grief. Professionally, he was losing the business he was responsible for as territorial manager; personally, he was losing a comfortable livelihood as he opened the first All State branch office in British Columbia over a decade earlier. “It took me 12 years to build up the

⁴⁴ BCA, *Files Pertaining to the Start of the Insurance Corporation*, GR 0664, Box 25, File 2, Letter from Bortnick to Strachan, 8 May 1973 outlining the massive reduction in insurance market capacity since the passing of the ICBC Act.

⁴⁵ “B.C. casualty proposal may spark private firm exodus,” *Globe and Mail*, 20 February 1973, B2

business,” he said in an interview with the *Province* when All State announced its withdrawal in January 1974, “Now it’s hard to see it crumble around me.”⁴⁶

This exodus from the insurance market continued while the court challenge proceeded; once the decision was announced some remaining companies decided it was not fiscally sound to continue operations in British Columbia under the new regime and also exited. Many insurance companies also refused to renew policies that expired in late 1973 as they were either withdrawing entirely or at least ceasing to sell automobile coverage. Thus, for the last months of 1973 and the first two months of the 1974 policy year many motorists were left scrambling to find companies that would provide bridge coverage for this short period of time and an agent who would facilitate this agreement until the ICBC began writing policies on March 1.⁴⁷

The intrepid measures taken by the insurance industry to preserve a place in the automobile insurance market failed completely. The information campaign did not prevent the legislation from containing a monopoly provision, the withholding of the Green Book only minimally delayed the ICBC’s preparations, and the legal challenge, a last resort, failed. The mass exodus of insurance companies from the province also did no more than to make a moral point, and in the eyes of many in the province, including the premier, only furthered the case for the ICBC because it portrayed the companies as

⁴⁶ “Insurance giant bowing out,” *Vancouver Province*, 24 January 1974, 24

⁴⁷ The provincial government took steps to alleviate the problem created by this refusal to renew policies by buying an insurance cooperative and directing to sell policies on a short term basis until the ICBC was operational. If people could not arrange for coverage they could contact the Highways ministry which would direct them on how to secure interim insurance. John Mika, personal interview, 20 February 2006

greedy and selfish entities who stormed out when they did not get their way “hoping like hell there would be chaos.”⁴⁸

The insurance companies were not alone in fearing for their futures and worrying about the vast changes in the way that they conducted business. The insurance agents were also concerned, although they held a somewhat different set of fears over how their futures would be affected. They felt they were not as directly threatened as the insurance providers and were content to adopt a wait-and-see attitude while the legislature finalized the insurance legislation. Thus, they avoided getting involved directly with the IBC lobbying campaign. Nevertheless, once the legislation was enacted and the ICBC was operational, the agents took steps to try to ensure that their position in the new hierarchy was not compromised.

Of the approximately 2,000 insurance agents in British Columbia at the time of the ICBC's inception,⁴⁹ 1,100 were represented by the Insurance Agents Association of British Columbia.⁵⁰ For many agents the Automobile Insurance and Insurance Corporation of British Columbia Acts were a source of trepidation, as provisions in the statutes would allow the government to sell the ICBC Autoplan insurance coverage directly to the client through the existing Motor Vehicle Branch offices throughout the province, thereby eliminating a major source of income for most agencies. Some agency owners went so far as to predict that the capital values of insurance brokerages would be

⁴⁸ Barrett & Miller, *Barrett: A Passionate Political Life*, 67

⁴⁹ “Campaign Opens Against Auto Insurance Plan” *Globe and Mail*, 3 January 1973, B11

⁵⁰ “Auto Insurance Campaign: Gov't Cries Pressure” *Vancouver Province*, 3 January 1973, 21-22

reduced by as much as forty percent due to a loss in automobile insurance commissions.⁵¹ Consequently, some agents elected not to provide automobile insurance services even if the ICBC allowed them to sell the government insurance product and chose to build up other areas of their business.⁵² Both the majority of agents and the Insurance Brokers Association of British Columbia (IBABC), however, decided to delay action or a campaign against it until they knew the exact extent of the legislation. As B.J.A. Finnie, President of the Insurance Brokers Association of B.C., observed, “you don’t fight a government with 38 seats and hope to win a battle. We feel that, far from it being the case of giving the people a choice, the people have already chosen.” As far as the position of agencies in the new scheme, he stated that the Association felt that while some would lose some revenue they would be able to stay in business.⁵³

Much to the relief of agents and brokers, when the legislation was proclaimed it contained provisions that would allow both the insurance agents and the Motor Vehicle Branch to sell the ICBC policies. Additionally, to create a more efficient system, insurance agents would also be able to issue license plates, collect vehicle registration fees and provincial taxes on automobile related transactions thereby making vehicle insurance and registration available on a one-stop basis. For Strachan and the government, this was a desirable position. According to John Mika, the government made many overtures to the agents in an effort to retain their expertise, and incidentally

⁵¹ “NDP Regime Building Really Big Empire” *Financial Post*, 29 September 1973, 1

⁵² BCA, *Files Pertaining to the Start of the Insurance Corporation*, GR 0664, Box 11, File 1, Lloyd W. Green of Fred J. Green Agency Ltd. of Hope, BC to ICBC, November 24, 1973

⁵³ “Auto Insurance Campaign: Gov’t Cries Pressure” *Vancouver Province*, 3 January 1973, 21-22

their infrastructure, to market Autoplan insurance.⁵⁴ A majority of agents and brokers agreed, as automobile insurance revenue was a major source of their income; applications to sell Autoplan began arriving at Strachan's office in encouraging numbers.⁵⁵

With both agents and the Motor Vehicle Branch selling AutoPlan, the motoring public had access to a greater number of services in one location and many agents were content to continue selling automobile insurance despite the exodus of the private insurers. The agents were still nervous about the ICBC and despite the initial arrangement, tensions between the new insurer and its contract sales force soon led to hostility. At noon on 8 November 1974, a large proportion of the insurance agencies across the province simultaneously ceased selling Autoplan insurance and performing the other duties required of them by their agency agreement such as issuing license plates and registering vehicles.⁵⁶ The insurance agents also locked their inventory of license plates and insurance applications and forms in filing cabinets and safes to prevent the ICBC from retrieving them.⁵⁷

The agents struck unofficially for two main reasons. They complained that the compensation for other tasks required by their agency agreements, such as collecting taxes was inadequate.⁵⁸ Moreover, they had recently been notified that the ICBC was reducing commissions to seven percent in 1975 from the nine percent paid in 1974 based on the notion that they would be more experienced with ICBC duties and therefore more

⁵⁴ John Mika, personal interview, 20 February 2006

⁵⁵ BCA, *Files Pertaining to the Start of the Insurance Corporation*, GR 0664, Box 3, File 3, Memorandum from John Mika

⁵⁶ "Autoplan Agents Apologize," *Victoria Daily Colonist*, 9 November 1974

⁵⁷ "Autoplan agents Lock Up Plates, Forms: 'Hard' for BC to go it alone," *Victoria Daily Colonist* 10 November 1974.

⁵⁸ "Autoplan Agents Apologize," *Victoria Daily Colonist*, 9 November 1974

efficient.⁵⁹ This, in conjunction with the provincial refusal to compensate agents for other Motor Vehicle Act services not related to insurance, would represent a reduction of approximately eleven percent in revenue compared to previous years according to a spokesman for the agents.⁶⁰ The Insurance Agents Association, which was largely at the helm of the job action, apologized to the motorists but at the same time appealed to them for their support. "Our job as Independent Insurance Agents is to serve the people of British Columbia, and the last thing we want to do is to inconvenience them," a representative said in a statement. "We, therefore, deeply regret that the Government has backed us into an impossible situation. We cannot continue to handle Autoplan on their terms and stay in business. It is as simple as that."⁶¹

With a large portion of the agencies in the province refusing to sell Autoplan coverage and no alternative coverage available, the government's initial reaction was to ensure that motorists could still purchase insurance. To do so it transferred provincial liquor store clerks to Motor Vehicle Branch offices across the province to assist in collecting renewal premiums and licensing fees for the duration of the job action. Since this practice had been commonplace before the ICBC was created, as all vehicle licenses expired on the last day of February and the regular Motor Vehicle Branch staff could not keep up with the heavy volume, many liquor clerks were familiar with the procedure and the ICBC was able to function during the job action.⁶²

⁵⁹ "Insurance Agents Split," *Cowichan Leader*, 14 November 1974.

⁶⁰ "Liquor Clerks Ordered to Help in ICBC Crisis," *Vancouver Province*, 12 November 1974.

⁶¹ "Autoplan Agents Apologize," in *Victoria Daily Colonist*, 9 November 1974.

⁶² "Liquor Clerks Ordered to Help in ICBC Crisis," *Vancouver Province* 12 November, 1974

With this temporary infrastructure in place, there was at least some means of renewing automobile insurance policies while the ICBC and Strachan attempted to reconcile with the agents. This reconciliation, however, was becoming increasingly more difficult. At one point, one of the province's more prominent agency owners informed Strachan that if the demands of the insurance agents were not met, "Northern Ireland will appear a pastoral scene and the public will shed flesh and blood for this and I guarantee it." Shockingly, in an incident almost unknown to British Columbia politics, this threat became a reality for the employees of a Vancouver area Motor Vehicle Branch Office on November 12 when an anonymous bomb threat was phoned in.⁶³ With negotiations failing and tensions escalating, the government ended the strike by threatening to revoke all of the striking agencies' licenses on November 15. Even after the agents resumed selling ICBC policies, tension remained high and clashes continued in the media. Two weeks after the strike ended, Strachan accused the agents of being "saboteurs" who were "playing partisan politics" in their strike action.⁶⁴

This brief action illustrates the discontent that the insurance brokers and providers had with the ICBC, but the two parties had different reasons for their unhappiness. While some agents felt that they would rather not do business with the ICBC, others had applied for an ICBC license even before the legislature created the corporation.⁶⁵ Additionally, not all of the insurance agencies belonged to the Insurance Agents Association, and even some who were affiliated did not undertake job action.⁶⁶

⁶³ "Agents' Hostility' Lashed," *Victoria Times*, 23 November 1974

⁶⁴ "Agents Saboteurs-Strachan," *Vancouver Province*, 23 November 1974

⁶⁵ BCA, *Files Pertaining to the Start of the Insurance Corporation*, GR 0664, Box 3, File 3, Memorandum from John Mika

⁶⁶ "Insurance Agents Split," *Cowichan Leader*, 14 November 1974

Thus, the strike itself was a fractured action that government was able to downplay as a small group passing itself off as a union movement and not representative of the entire population of insurance agents.⁶⁷

The owners of collision repair shops were also involved in a direct resistance to the ICBC that stemmed not from the provisions in the legislation that would permit the government to operate its own repair centres, but rather from the way in which they would be compensated for the work they did for the new corporation. Like the agents, the repair shop owners adopted the wait-and-see approach in determining the best way to deal with the new arrangement rather than join the IBC in actively campaigning against it. Much to their satisfaction, they were able to remain in business but almost immediately found themselves in conflict with the ICBC over the amount of payment for repairs. In February 1974, less than a month before it commenced operations, the ICBC undertook a series of negotiations with mechanics and repair shop owners over the general labour rate that would be charged.⁶⁸ The Automobile Retailers Association represented many of the auto-body shops in the negotiations who collectively believed that what the ICBC was offering was insufficient and that motorists who brought ICBC claims work to their shops would have to choose between consciously inferior work or pay extra from their own pockets to have their vehicles repaired properly. Shops that were not affiliated with the Retailers Association negotiated individually, but often

⁶⁷ “‘Agents’ Hostility’ Lashed,” *Victoria Times*, 23 November 1974

⁶⁸ “ICBC Hits impasse with shops,” *Vancouver Province*, 8 February 1974

motorists found themselves in the same position. To make matters more difficult, some repair centres threatened to boycott ICBC contracts altogether.⁶⁹

Despite this stalemate with the repair shops, the ICBC vowed to press on and Norman Bortnick announced that the ICBC would negotiate individually with body-shops and make sure that any claims repairs would be completed.⁷⁰ With no immediate universal solution in the works, the dispute dragged on over much of 1974. While various repair shops came to terms with the ICBC over compensation, many still were angered and sought better terms. In September several shops in Kamloops still refused ICBC contracts.⁷¹ Others surcharged their customers two dollars per hour to reach the sixteen dollar hourly shop labour rate they felt appropriate.⁷² Others threatened to increase their shop rate to eighteen dollars per hour and pass the additional costs on to the customer.⁷³

Despite the slow progress, the ICBC continued negotiating on a region by region basis and by December felt it had sufficient agreements to meet its needs in most parts of the province, especially the lower mainland and Victoria, and other shops were being added as quickly as possible. The corporation also published a list of body-shops in each region that would complete work properly at the estimated rate so motorists could easily find a repair facility.⁷⁴ While an inconvenience for many motorists and the corporation itself, the labour rate issue with the body-shops did not greatly threaten the corporation's

⁶⁹ "Auto-Body Shops Threaten Boycott," *Vancouver Province*, 9 February 1974

⁷⁰ "ICBC Hits impasse with shops," *Vancouver Province*, 8 February 1974

⁷¹ "Kamloops Bodyshops Refuse ICBC Jobs," *Victoria Daily Colonist*, 19 September 1974

⁷² "Body Shop Row Traps Motorists," *Vancouver Province*, 19 September 1974

⁷³ "Kamloops Bodyshops Refuse ICBC Jobs," *Victoria Daily Colonist*, 19 September 1974

⁷⁴ "ICBC Signing Body Shops," *Victoria Times*, 18 December 1974

existence or its ability to function, and ultimately served only as an impediment to the ICBC's promises of a fast, streamlined claims process.⁷⁵

As with the agents' job action, the body-shops did not seek to dismantle the ICBC but rather sought to secure the best arrangement for themselves. Even in this endeavour they were not wholly united since those who were not represented by the Automobile Retailers Association negotiated individually, thereby eroding their position and weakening their collective authority. As they settled with the ICBC individually and regionally, their tactic weakened and more shops came on stream with the provincial program. That eased the strain on the ICBC to find repairers who would undertake their claims work at the prescribed rate.

In rationalizing the resistance that the ICBC faced and why it failed, one must consider several factors. Kardam stresses that it was the failure of the insurance companies to gain the support of the agents that led to the ineffectiveness of the resistance movement.⁷⁶ While it is true that the lack of cohesion among the agents, underwriting companies and body-shops was one of the principal things that allowed the ICBC to be created, it is erroneous to think of their actions collectively as "the resistance movement." Each group had its own agenda and objectives that were independent of each other. The IBC wanted to stop the ICBC from being created while the agents and repair shops only sought to secure the best position for themselves in the new insurance economy. Thus, there was no unified resistance to the ICBC but three separate ones.

⁷⁵ "ICBC Gambles on Forcing Bodyshop Rates into Line," *Vancouver Sun*, 13 February 1974

⁷⁶ Kardam, "Interest Group Power and Government Regulation," 72

Additionally, within each group's resistance, organizational and strategic issues hampered the effectiveness of their individual campaigns. In the case of the IBC, the timing of its defensive measures was poor. As already noted, the industry did not begin its media and informational campaign until immediately before the government was set to introduce the Automobile Insurance Act and the Insurance Corporation of British Columbia Act to the legislature in January 1973. At this point it is likely that their position was too weak but, regardless of their political and popular position, it was also too late. The industry would likely have found more benefit in bringing its media and information strategy to the public during the 1972 election and the weeks immediately following it to try and sway public opinion in their favour. Granted, as many historians have noted, the NDP was a surprise winner in the election and perhaps the insurance industry did not take seriously the NDP's chances for victory. Regardless, the NDP campaigned aggressively on its plan for provincial automobile insurance and for the insurance companies to refute their arguments in the campaign would have been rather simple and logical given the scope of the NDP's promises. Once the information campaign failed, the IBC scrambled to find ways to delay the ICBC's inception, resorting to such tactics as withholding the Green Book while putting together a legal action in a final desperate effort to prevent the new corporation from being created. Throughout all of these actions, insurance companies were withdrawing from the province, further fracturing the IBC's cohesion and reducing the credibility of the private insurance sector which hindered what little chance remained for success.

The actions of the insurance agents and the body-shops suffered from equally damaging organizational troubles. The insurance agents' strike lacked unity as only half

of the agents were represented by the IBABC which organized the job action. Further to this, not all of the agents who were members of the IBABC participated. Consequently, the strike did not represent a united front and ultimately the ICBC was able to carry out its business with only minimal setbacks until the agents went back to work without achieving any gains. The same was evident with the repair shops. Largely un-united, many defied the ICBC by initially refusing to accept the hourly rate offered for repairs but slowly made agreements and the ICBC was able to provide repair services for clients with only minimal disruption and without significant change to the way in which it originally planned. Had there been greater unity among the groups that actively resisted the ICBC an effective front to halt the ICBC's creation would have been possible. Given the individual needs of the private insurance industry, agents, and the body-shops, however, this was not possible, and even at the group level a lack of cohesion prevented significant gains from being made by anyone.

Chapter 5: Conclusion

The ICBC was created by the Dave Barrett government in 1973 and commenced operations in March 1974. The notion of a publicly operated corporation to provide automobile insurance was not a new one as many citizens had called for one over the previous decades and a government take over of automobile insurance was a tenet of NDP ideology for years. The Social Credit party had also examined the concept in some depth and nearly adopted resolutions favouring a government-operated insurance plan at several policy conventions. When Barrett came to office in 1972 he built upon this ideological foundation to establish the ICBC, but his ability to do so was enhanced by past histories and the lack of a strong, unified opposition to the plan. Together, these events contributed to an increase in the ability of the government to provide automobile insurance by establishing historical precedent while at the same time reducing the credibility of the insurance industry in the eyes of the public.

During and after the Second World War, Canada was being transformed by the rise of “small l” liberalism that saw the government take a more direct role in the welfare of its citizens at both the federal and provincial level. Federally, the end of the Second World War left Canadians desiring a greater sense of security that the Mackenzie King government, as well as those that followed, felt obliged to provide. Using a host of government-sponsored initiatives, social programs, and crown corporations, Ottawa began taking steps to increase standards of living and help “cope with the uncertainties and dangers of the twentieth century.”¹ As this initiative took hold federally, so too did it

¹ Robert Bothwell, Ian Drummond, and John English, *Canada Since 1945: Power, Politics, and Provincialism* (Toronto: University of Toronto Press, 1981), 91

evolve on the provincial level. In Saskatchewan, Tommy Douglas and his CCF government began introducing programs aimed at providing efficient and practical government services including automobile insurance and a state-administered healthcare plan that revolutionized Canada in its own right.²

In British Columbia this phenomenon had a direct impact on the man who would govern the province for twenty years following the war. William Andrew Cecil Bennett, Okanagan hardware store owner and politician, was appointed to the British Columbia Post-War Rehabilitation Council in 1942, whose mission was to investigate and draft a post-war economic recovery plan for the province. While on this council, Bennett became aware of the need for more government intervention in the economy as a means of warding off post-war economic depression, a mentality that mirrored that of the federal government and the other provincial governments at the time. With his election as premier in 1952, Bennett was able to execute many of the plans that he felt were necessary to continue building British Columbia's economy. In doing so, he employed crown corporations extensively to achieve his province-building goals. From hydro electric corporations to railroads, and from ferry lines to the notion of a provincially-owned bank, Bennett's government was actively involved in what he felt stimulated the economy and furthered provincial development, setting a precedent that would help devitalize the NDP's calls for a crown corporation to provide insurance.

While Bennett was premier, the insurance industry came under criticism both across Canada and in British Columbia. The federal Department of Justice investigated alleged collusion and price fixing in the automobile insurance sector in the 1950s and

² See A.W. Johnson, *Dream No Little Dreams: A Biography of the Douglas Government of Saskatchewan, 1944-1961* (Toronto: University of Toronto Press, 2004)

recommended that the provinces, which ultimately had jurisdiction in such matters, take action to curb the problem. Nothing happened in British Columbia until 1967 when a Royal Commission investigated the rising cost of insurance claims and premiums and suggested changes to remedy the problems. The Bennett government passed legislation based on the commission's recommendations in 1969 but, despite the public hope for a better system, the legislation was ineffective due largely in part to delays in establishing its most important feature, an Automobile Insurance Board to regulate industry conduct. Even after it was established, the Board was unproductive, and the insurance dilemma grew worse instead of better.

When Barrett was elected in 1972 he was in a fortunate position as a result of this history. His party had long advocated government insurance but always met stiff resistance. As premier, however, he had economic and political precedents to bolster the notion of government intervention in the insurance business. Bennett's activist policies and the rising role of the state in Canada in general had created an arena of public acceptance of government corporations directly affecting their lives. Moreover, the insurance system was in dire need of an overhaul and struggling to gain more confidence from the motoring public. The political formula for a state-run insurance program was finally ideal. With public support for its plan secured in the 1972 election and reaffirmed in opinion polls, the NDP created the ICBC in 1973.

Barrett and Robert Strachan faced imminent challenges from the insurance industry firms, agents, and collision repair facilities who were concerned that a government operated plan would make their services unnecessary. This opposition, however, was fractured and ultimately ineffective. Consequently, while the insurance

agents and the repair shops came to terms with the ICBC, the insurance firms that had previously underwritten automobile policies were forced out of the market, leaving the ICBC with a monopoly over automobile insurance that has remained a mainstay in British Columbia's economy since its inception.

How, then, does one make sense of the ICBC? The best means of understanding it begins with applying Kardam's theory of power relationships, but this must be expanded to incorporate the entire span of events leading up to the inception of the ICBC and how they impacted the power bases from which both the industry and the government operated. Identifying this is essential in understanding the creation of the ICBC, yet scholars do not address it. Had the state not been granted a bigger role in society in the years preceding Barrett's election or had the insurance industry not been the subject of such strife it is likely that Barrett and the NDP would not have found the public support necessary to form the ICBC. As shown above, the ICBC was a product of precedent paving the way for greater government intervention in the economy, as well as questionable insurance industry ethics, and government bumbling. The few academics who have explored the ICBC have overlooked this fact, choosing instead to simply refer to the ICBC as an NDP social plan that was rooted entirely in ideology without fully stopping to contemplate its origins or its aims. Granted, it is true that ideology played a large part in the formation of the ICBC, but ideology alone is not sufficient to effect change of the magnitude represented by the ICBC, which has continued to grow and prosper despite ideological changes that came and went with different governments that followed its creation.

The ICBC has undertaken a program of educational advancement, crime deterrence, public safety, and greater driver licensing standards in addition to its insurance division. Further historical research will indicate how successful the ICBC has been with these initiatives over the years. Now that the historical background of the evolution of ICBC is available scholars will be able to better examine its long term effectiveness as they do with other social and political initiatives; British Columbia scholars and the public are currently well-versed in medicare and railroads yet overlook the ICBC despite its direct relationship to every citizen of British Columbia. The longevity of the ICBC only helps demonstrate that ideology was not the quintessential element involved in its creation. Had it been, later conservative-minded governments would have dismantled it.³ Thus, when Dave Barrett and the NDP created the Insurance Corporation of British Columbia more than ideology drove their ambition; necessity and precedent combined to create a corporation that has endured to the present day. The creation of the ICBC is best understood with the notion that there was a constant evolution in the political economy of automobile insurance that culminated in government intervention. When Barrett became premier the balance of power was in the government's favour, and the NDP achieved its long awaited goal of a state-operated automobile insurance plan.

³ John Mika, personal interview, 20 February 2006

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