# IDEOLOGY, INTEREST GROUPS AND STATE INTERVENTION IN NORTH AMERICA: INCOME SECURITY AND INDUSTRIAL RELATIONS

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## Abstract

This thesis compares the development of Canadian and American public policy in two important fields where transnational policy differences are evident - income security and industrial relations. These case studies provide evidence which challenges orthodox political culture explanations of North American policy differences, particularly the stereotype of greater Canadian ideological tolerance of state action. The thesis demonstrates that both nations have contained a wide range of attitudes towards the role of government in social and economic affairs. It reveals the similar reactions of interest groups in each country to proposed state intervention, based on class interest, not ideological tradition. Using a synthesis of neopluralism and the "new institutionalism", the thesis will demonstrate the need for a multi-causal approach to explain policy differences between these nations; it will highlight the importance of differing political structures as sources of policy variation.

The thesis details the responses of major national interest groups to federal level policy proposals in each field in selected cases from early century to the 1960s. Data was drawn from archival files, interest group journals, submissions to executive and legislative actors, publications, and major secondary studies. The method employed will approximate the Canadian tradition of political history, involving qualitative, rather than quantitative examination of historical data.

The evidence presented reveals that both business and labour groups sought to manipulate state intervention to strengthen their position in industrial relations and labour negotiations; support for state action fluctuated depending on the negotiating strength of business and labour. In income security matters, business and medical professionals sought to forestall government programmes, and to keep those adopted as restrictive as possible. After an initial period of American labour voluntarism, unions in both countries sought to expand the scope and generosity of public income security programmes, to compensate for the inequalities of capitalism.

Despite these similarities in attitudes, policy differences did emerge, in areas like health insurance. Greater Canadian intervention in these areas seems attributable to the flexibility of the parliamentary system in Canada, which was more conducive to third party development, allowed third parties to influence policy in minority governments, and permitted stronger executive direction of policy development. The inflexibility of America's fragmented policy-making system delayed reforms which had earlier support in that country. Rejection of republican institutions was the significant legacy of Canada's founding tradition, not a collectivist preference for state intervention in social and economic affairs. Current Canadian efforts to emulate American institutions - particularly the introduction of an elected Senate - could reduce this flexibility in the system and hinder future interventionist initiatives.

## Dedication

This thesis is dedicated to my father, Wilfrid E. Finbow, whose inspiration and typing have been essential to the success of my studies. It is also dedicated to my mother, Viola C. Finbow, who gave so much support and understanding during my study travels.

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# I. INTRODUCTION AND BACKGROUND

## 1 Introduction

### a) Summary

This thesis compares the development of Canadian and American public policy in two areas where transnational differences are evident - income security and industrial relations. These case studies provide evidence which challenges orthodox political cultural explanations of North American policy differences, particularly the stereotype of greater Canadian ideological tolerance of state action. Debates over key policy changes in these policy fields reveal that both nations have contained a wide range of opinions on the appropriate role of government in economic and social affairs. Comparison of interest group responses to proposed policy innovations reveals similar class divisions in these two countries. Also, the evolution of policy does not conform to predicted traditional ideological differences. Policy variations often reflected differing political institutions and electoral systems, which created different institutional possibilities for the expression of interest group demands. Hence the most significant impact of tradition was a procedural distinctiveness, derived from Canada's rejection of Republicanism; the substance of policy was influenced by a common liberal tradition in both countries.

### b) The Problem

While numerous theories have been developed to explain public policy formulation[1], comparative North American analysis has often emphasized cultural factors: "the operation of culturally-based dominant values that inhibit or preclude some kinds of government action and favour others".[2] America's homogeneous liberalism, emphasizing individualism and laissez faire, is contrasted with Canada's ideological diversity. In the latter country, conservative and socialist elements allegedly have induced a greater willingness to employ state remedies for social and economic problems. As Presthus writes, "the organic,

collectivist drift of Canadian social philosophy contrasts sharply with the highly individualistic, competitive thrust of American social thought and behaviour".[3] As a consequence, "in Canada the state has been viewed, by and large, as a beneficent agency, protecting the citizen and promoting the general welfare; in the United States, the state has been regarded with suspicion, as a potential threat to the liberty of the individual".[4] While pioneering works were more sophisticated[5], this orthodoxy frequently receives reflexive, simplified reiteration in comparative studies[6] and is applied automatically to explain policy variations without examination of the circumstances leading to adoption of specific policies[7]; in Seymour Lipset's words, a "Tory orientation" in Canadian ideology somehow accounts for the "larger number of functions for the state" in Canadian society.[8]

While ideological traditions may indeed influence policy development in certain areas, it can not be assumed that every Canadian policy intervention necessarily reflects their impact. This emphasis on uniform national values creates a misleading image of national consensus which ignores important class and group value differences within nations. This causes analysts to overlook complexities in political ideologies in each country; in particular Canadian scholars often seem only dimly aware of the variety of attitudes towards the state found in the American political culture. Emphasis on past traditions ignores the impact of similar processes of modernization and development on political demands and policy requirements in the two countries, which have spawned the development of new ideologies by different classes or ethnic groups.[9] The emphasis on values as policy determinants overlooks the vital role of interests, and especially pressure group demands as sources of policy change and neglects the unequal political influence of different interest groups. Finally, many studies underestimate the importance of institutional differences between parliamentary and presidential systems. These institutional variations influence policy outcomes and

determine which values in society will have a policy impact. The greater flexibility of the parliamentary model has induced policy variations which have been misconstrued as Canadian rejection of liberalism.

Students of social, economic and policy history have often revealed evidence questioning the conventional explanation, in studies of particular eras or policies in each country. However, these insights are to be found in scattered studies of individual policy developments in one or the other country. To date, no studies have attempted a systematic comparison of policy evolution and attitudes in the two countries in different policy fields. In particular, Canadians have been lax in examining primary or secondary material on the United States. As Denis Smith notes:

> Scarcely any of our scholars or journalists have attempted to see the United States as a whole and to deal with the central issues of its history and culture.[10]

As a result, comparisons are based on stereotypes which, despite massive American scholarly evidence to the contrary, suggest that this complex society has very uniform attitudes rejecting an active government.

c) Aims of the Thesis

This thesis attempts to provide a sounder empirical basis for comparison, by analysing specific cases of policy development in the two countries. It will first survey the secondary literature to compare the evolution in the organization and ideologies of key sectors of society: popular groups (labour and agrarian), central groups (business and professional) and public sector actors (bureaucrats and politicians). It then studies in detail the progressive extension in state functions in income security and industrial relations since early century and the responses of major interest groups to this government activity. These two policy areas have been selected because of the divisive debates which they have generated in the two countries and their centrality to class-based political competition. Data will be drawn from interest group

journals, submissions to executive and legislative actors, government documents and secondary studies.

The method employed will approximate the Canadian tradition of political history, involving qualitative, rather than quantitative examination of historical data.[11] This approach reflects the impossibility of conducting posthumous polling, to gauge the attitudes of previous generations. Cases will be spread out over time from early century to the 1960s, to test for changes, and to determine whether Canada and the United States have grown increasingly similar as transnational influences accelerate. This analysis will be followed by a survey of the impact of institutional differences on policy in the selected cases. The conclusions will weigh the relative importance of ideology, interests, and institutions and suggest future research directions, particularly the undertaking of case studies in other policy areas, consideration of international influences, and examination of the impact of intrastate and intergovernmental relations.

d) A Synthesis of Perspectives

This thesis adopts a neo-pluralist philosophy in political analysis.[12] As defined by Dunleavy and O'Leary, this approach rejects simplistic, unicausal theorizing and recognizes the inherent complexity of political phenomena.[13] In particular, this thesis rejects ideological determinism[14] - the notion that consensual, traditional community values, operating through a democratic regime, promote policy directions which reflect the wishes of the majority; it also rejects Marxist notions of material determinism[15] and ideological hegemony. There is no single dominant political culture in society; instead all modern nations are divided into diverse interests, whose response to state action are conditioned by their own needs and desires. Any nation consists of class-based subcultures, and class similarities extend across national borders.[16]

These class-based subcultures are not evenly balanced in influence over public opinion or public policy; rather, those groups possessing control over economic forces in

society (business and related professionals) are in a "privileged position" to influence ideological preferences and government action to their own benefit. Subordinate classes in the economy are not without political power, composing an electorally more significant element. Apart from elections, in normal conditions, this democratic check will be a weaker influence on government action than business pressures.

Some critics allege that neo-pluralism shares weaknesses attributed to neo-Marxism: it is a society-centred perspective which overlooks the essential autonomy and self-interested nature of the state and its bureaucratic and political managers. For Leslie Pal, neo-pluralists explain public policy by "tracing it back to the balance of political power among interested groups. The state more or less 'registers' this balance of power and interests in the form of public policy".[17] Writers such as Theda Skocpol argue the need to bring the state back to a position of centrality in comparative political analysis, to understand fully its position as an autonomous political actor, capable of "goal setting" independent of societal forces.[18]

However, neo-pluralist analysis has paid significant attention to the emergence of professionalised, bureaucratic state organizations in modern democracies; authors such as Lindblom certainly acknowledge the self-interested and self perpetuating nature of bureaucracies, public and private.[19] While acutely concerned with the limits on state power, neo-pluralist analysis can also consider variations in state structures, and their implications for policy development. In particular, the "new institutionalism", as developed by Peter Hall, permits consideration of the importance of institutional factors, while remaining sensitive to societal constraints on the state.[20] A synthesis of neo-pluralism and institutionalism will thus inform the analysis in this thesis.

e) Framework of Analysis

Comparative analyses must account for a number of

different factors: social structure and interest groups; political culture and ideologies; and political structure and state institutions. All of these variables are important determinants of public policy.

Social structure - the pattern of relationships between various groups in society and between public and private sectors - will be defined in neo-pluralist terms and analytically divided into these principal categories. Popular groups refer to those whose chief means of influencing the state is through their electoral strength (e.g. agrarian and labour groups); central groups are those whose key resources for influencing the state come through their control of the economic processes of society or through monopoly of skills or resources (e.g. business and professional groups)[21]. Public actors are those involved in managing the state apparatus (politicians and senior bureaucrats).[22] Social structures give rise to sets of interests, reflecting the interactions between these various groups, their needs or desires in relation to each other and the state. Interests are defined as perceptions of beneficial policies and state actions in specific short-term circumstances; this definition involves assessments of a specific state action or policy proposal's impact on a group's political, or financial circumstances.

Political culture - defined here as the national matrix of political ideologies[23] - is a unique pattern composed of diverse ideological elements, reflecting the diverse interests in society. It is not static or "congealed"[24], but evolves with social circumstances and group interests. Ideology refers to enduring systems of beliefs, values and objectives about the appropriate role of the state, developed by each social group[25]; "widely shared set[s] of understandings as to what government ought to do, and ... concerning the purposes of public policy"[26].

Two levels of ideological formulations must be considered.[27] Analysts must examine the original pattern of values in society. These provide a context within which subsequent developments occur, by influencing the initial development of political myths, public policies, political

parties and political institutions. Initial values are important because the "folklore or mythology that contain the blueprint of a system in theory has some effect upon the operation of a system in practice".[28] Thus analysts must consider a traditional level of ideology preserved by social forces autonomous from social structure. Formal Ideology refers to coherent articulations of fundamental beliefs or values, initially derived from major events and influences early in a nation's history (revolution, early immigrant patterns, etc.) but subject to evolution from internal change and international cross fertilization. Formal ideology will be preserved in myths, philosophies, institutions, constitutions, and autonomous social forces like universities, art and literature, and church. This traditional ideology evolves somewhat independently of social circumstances.[29] It is this form of ideology which has often been considered the primary determinant of attitudes towards the role of the state in North America.

However, these scholars neglect an organic level of ideologies directly conditioned by social circumstances; developed by different social groups (popular, central and public) in response to their everyday circumstances and interests about state action. Popular Ideology emerges from the experiences and needs of popular (e.g. farmer and labour) groups; it may range from accommodation with the existing social system, individual self-improvement within it, and radical challenges to the system. Central Ideology of business and professional groups, reflects evolving attitudes towards desired roles for the state based on self-interest or social awareness; it ranges from progressive interventionism, to status quo pragmatism, to anti-statism. Public Ideology is developed by state actors (bureaucrats and politicians) in response to interest group pressures, traditional beliefs and personal interests; public actors' attitudes also include limited state, status quo and reformist or interventionist elements. Variations will be evident in the ideologies and interests of different branches and agencies in government. This indicates the importance of considering differences in the

division of powers between levels and branches of government in each country, as the outcomes of policy will depend in part on the values and interests of a coalition of forces in different sections of the government machinery.

A differentiated conception of social structure and political culture cannot provide a complete explanation of policy origins. As Peter Hall suggests, there is a "need for a more complete investigation of social and political institutions, for it is in the routines and rationalities imposed by a particular complex of institutions that a specific culture is born".[30] Analysis must examine "the institutional relationships, both formal and conventional, that bind the components of the state together and structure its relations with society" for these "provide the context in which most normal politics is conducted". Institutional arrangements determine the relative influence of societal and political actors over policy outcomes, and influence group and individual definition of self-interest; as Hall summarizes, "organizational factors affect both the degree of pressure an actor can bring to bear on policy and the likely direction of that pressure." Policy is not a mere reflection of the balance of societal pressures for that "pressure is mediated by an organizational dynamic that imprints its own image on the outcome".[31]

In the North American case, variations in political structures assume considerable significance. Political structure encompasses both the state as an entity within a given social system of capitalism and more specific arrangements for political activity and government decision-making. A neo-pluralist conception of the state - the authoritative decisionmaking institutions in society - suggests state decision makers (bureaucrats and politicians) are both autonomous and self-interested. These public actors seek to maximize departmental, personal and political interests However, they are constrained by two major forces. Electoral constraints involve the need to win periodic elections in a system with wide suffrage, by retaining support from diverse social classes and groups.

Economic constraints necessitate avoidance of policies which may be damaging to economic performance and business confidence. This constraint stems not solely from the power of business as a pressure group. State actors rely on the private economy for fiscal capacity, which is reduced if economic downturn occurs; electoral fortunes are also adversely affected by poor economic indicators, like falling currency exchange, high interest rates and widespread unemployment. This constraint necessitates a basic respect for the rules of capitalism, and reduces the freedom to pursue socialist policies.[32]

These twin constraints insure attention to the interests and demands of both popular and central groups as well as to public actors' own designs. A shifting pattern of the strength of such influences may be anticipated. No advance prediction can be made, and empirical research is required to determine this balance in any particular case. However, it seems likely that state attention to business needs will be greater in normal times and that any tendency to run counter to business desires will be greater in crises, of war and depression, during which electoral threats from popular groups may be greatest and social unrest feared. As Hall argues, institutional relationships are ever evolving, and are subject to "radical change at critical conjunctures".[33] This thesis that state autonomy from capitalist concerns is greatest in times of crisis will be tested in the cases, and the differing types of crisis in parliamentary versus presidential systems will be considered.

The organization of the state is important in determining which ideologies are influential in policymaking. As Skocpol concludes, "These structures powerfully shape and limit state intervention in the economy and they determine the ways in which class interests and conflicts get organized into (or out of) politics in a given time and place".[34] Political <u>institutions</u> refer to constitutional and conventional arrangements for political representation and policy development. While both the Canadian and American state

face similar societal constraints, political institutions vary between the two countries and help explain many policy variations. Of particular importance are executive-legislative relations, federal division of powers with states and provinces, judicial review and judicial policy-making and electoral systems.

The thesis will examine the evolution of policy in light of these factors. It examines policy development in the case studies to compare the willingness of each nation to employ interventionist or socialistic policy options. Examination of the debates surrounding consideration of proposed policy innovations will also permit assessment of the nature of elite opinion among organized interest groups in each society. In this fashion the thesis demonstrates the similar ideological character of policy, and the similar societal demands which helped shape that policy. The analysis demonstrates the need to examine the role of political and social institutions as sources of policy variations.

f) Problems of Comparative Analysis

Ideally, analysis should comprehensively cover all of the factors outlined. This study will constitute only an initial preliminary to this larger task. It has, of necessity, been selective in choice of interest groups, of cases, of data sources, of explanatory factors and of level of government to analyse. However, it does provide some useful new data to assess the arguments respecting ideological variations in policy development. By assembling data which accounts for differing class interests, and which compares reactions to proposals as they were introduced (not merely comparing policy after adoption), this historical study can provide a basis for informed interpretation of policy variations.

Several problems in comparative analysis must be noted. First, in studies of contemporary policy, Canada and the U.S. are treated as "most similar nations" because of shared historical, economic and cultural conditions. However, the policymaking environment was not identical,

since the level of socio-economic development differed for many of the decades considered in this analysis.[35] The date at which Canada developed an industrial economy, and concomitant class structure, is a matter of dispute: some scholars date this development from the mid-1800s.[36] Nonetheless, the level of industrial development doubtless lagged behind that of the United States, a leading industrial power; agriculture and other primary activities remained central to Canadian economic development for many years. Therefore, caution must be exercised in interpreting the data. In particular what may appear as greater Canadian demand for state action may actually reflect the weaker development of the economy and interest groups; at several points in the thesis, it will be argued that Canadian groups sought state protection due to their weaker position in a marginal, developing economy. On the other hand, the lag in development of income security and industrial relations policies may have reflected the lesser development of Canada's urban industrial base, which resulted in delayed demand for policy innovation.[37]

Second, it was also difficult to obtain comparable historical data since access to centralized Canadian archives proved easier than to the diffuse, scattered American collections. Therefore, greater reliance was placed on interest group publications, government documents and secondary studies in some of the American cases. Also, the data collected here mainly captures attitudes of elite interests in the two countries and cannot be taken as representative of the whole population; these interests may have similar views of state action in many nations, given their similar positions in a capitalist economy.

Finally, lesser attention was given to the attitudes of policymakers. This decision reflects the needed selectivity in such a massive undertaking. This study cannot disprove the conventional wisdom about the ideological variations between these nations and their impact on policy. Only if more evidence of public sector attitudes and policy development were presented could this be accomplished. The thesis can only suggest the similarity

of societal demand in two capitalist nations; the review of policy developments also challenges the purported earlier and greater Canadian experimentation with statist policy devices. This thesis remains a preliminary exercise, awaiting further study of public sector ideologies and primary American sources.

## Notes

1. Peter Aucoin, "Public Policy Theory and Analysis" in P. Aucoin and G. B. Doern (eds.) Public Policy in Canada (Toronto, 1979), p. 1-26; Peter Hall Governing the Economy (New York, 1986), Chapter 1.

2. Jack Hayward cited in Hall, 1986, p. 8.

3. Robert Presthus, "Aspects of Political Culture and Legislative Behaviour: United States and Canada", in Presthus, ed., Cross-National Perspectives: United States and Canada (Leiden, Netherlands, 1977), p. 8.

4. Anthony Westell, "Our Fading Political Culture", in Ronald Landes (ed.) Canadian Politics: A Comparative Reader (Scarborough, Ont., 1985), p. 246.

5. See below Chapter 2 for an extended discussion of pioneering Canadian thinkers like Gad Horowitz, Kenneth MacRae and George Grant, whose ideas have greatly influenced other scholars.

6. As examples of the recent use of this explanatory approach, see Richard Gwynn, The 49th Paradox (Toronto, 1985), Chapter 11; Ron Graham, The One Eyed Kings (Toronto, 1987), p. 3; Westell (op. cit.); John Lloyd-Brown, Canadian Regulatory Policy (Toronto, 1981).

7. For application of this approach to industrial relations see Seymour M. Lipset, "North American Labor Movements: A Comparative Perspective" in Lipset (ed.) Unions in Transition: Entering the Second Century (San Francisco, 1986), p. 442 ff.

8. Seymour Martin Lipset, Continental Divide: The Values and Institutions of the United States and Canada (New York, 1990), p. 137.

9. It similarly leads to a simplified view of Quebec's "feudal" culture, with no effort made to examine the social as opposed to ideological origins of historical elite conservatism in Quebec or to analyze the diversity, evolution and impact of recent French Canadian attitudes toward the state. While Quebec's distinctions will not be treated comprehensively in

this thesis, an effort will be made to demonstrate the erroneousness of these ethnic stereotypes and the similar class perspectives of principal interest groups in that province. The principal variation involves greater desire to use the provincial state, rather than federal institutions, as the instrument for intervention in economy and society.

10. Denis Smith, "Canada Inside or Out?" in David H. Flaherty and William R. McKercher (eds.) Southern Exposure: Canadian Perspectives on the United States (Toronto, 1986), p. 124-5.

11. John English, "The Second Time Around: Political Scientists Writing History" Canadian Historical Review Vol.LXVII, No.1, (March, 1986), p. 1-16.

12. Among the neo-pluralist authors who have influenced this research, see Charles Lindblom Politics and Markets (New York, 1977).

13. Patrick Dunleavy and Brendan O'Leary, Theories of the State (London, 1987), p. 286-87.

14. For a seminal account of the idealist view of political cultures, see Gabriel Almond, "Comparative Political Systems", in R.C. Macridis and B.E. Brown (eds.), Comparative Politics (3rd. ed.) (London, 1968).

15. Orthodox Marxists often stress the mechanical determination of intellectual realms by material forces. The base-superstructure metaphor has been frequently invoked and literally interpreted. Under the rigid direction of Soviet sociology, "cultural forms were reduced to ... simple reflections of economic and class relations". Graham Murdock and Peter Golding, "Capitalism, Communications and Class Relations", in J. Curran, M. Gurevitch and J. Wollacott (eds.), Mass Communications and Society (London, 1977), p 17. This may not accurately reflect Marx's intentions. For the complexities of Marx's thinking on this theme see, Jorge Lorrain, The Concept of Ideology (London, 1979), Chapter 2.

16. Lindblom, 1977, p. 223.

17. Leslie Pal State, Class and Bureaucracy, (Kingston, Ont., 1988), p. 54.

18. Theda Skocpol, "Bringing the State Back In" in Roy Macridis and Bernard E. Brown, (ed.) Comparative Politics: Notes and Readings (7th. ed.) (Pacific Grove, Ca., 1990), p. 61.

19. Lindblom, 1977, p. 27-29; Dunleavy and O'Leary, 1987, p. 300-15.

20. Hall, 1986, p. 17; 233.

21. The term "central" groups is derived from Bob Jessop's usage of central value systems in Traditionalism, Conservatism and British Political Culture (London, 1980).

22. This concept is akin to Theodore Lowi's term "public philosophy" See The End of Liberalism (New York, 1969).

23. This follows common Canadian usage. Inspired by Louis Hartz' analysis of fragment cultures in North America's "new nations", Canadian scholars have emphasized generalized ideological preferences, values and beliefs in each political community. Louis Hartz, The Founding of New Societies (New York, 1964). For a discussion of the application to Canada see Kenneth D. MacRae, "Louis Hartz's Concept of the Fragment Society and its Application to Canada" Canadian Studies Vol.5, (1978), p. 24 ff.

24. In keeping with the political culture tradition, some Canadian analysts treat historical value matrixes as resistant to subsequent social and economic change, providing enduring influence on public policy and political activity. A "point of congealment" occurs in the political culture at an early date, "forming a peculiar national mould" which assimilates "all future imports of men and ideas to a fixed national shape". W. Christian and C. Campbell, Political Parties and Ideologies in Canada (Toronto, 1974), p. 25.

25. This definition is close to that employed by Lyman T. Sargent in his Contemporary Political Ideologies (Chicago, 1987), p. 2. See also J.R. Herson, The Politics of Ideas: Political Theory and American Public Policy (Chicago, 1984), p. 128.

26. Herson 1984, p. 13-14.

27. The following analysis is inspired by the works of two authors. Antonio Gramsci distinguishes between "organic" ideologies - arising directly from social relations, class practices, economic conditions, community structures and work situations - and "traditional" ideologies - formal political theories or propositions, received ideas, drawn from the political traditions, history, and folklore of a society. See Antonio Gramsci, Selections From the Prison Notebooks, (London, 1978). George Rude has similarly distinguished between inchoate, "inherent" popular ideas based on actual experiences and community folklore of a subordinate class or social group and "derived" formal structured ideas expressing basic societal values, principles and beliefs. George Rude, Ideology and Popular Protest (London, 1980), p.35 ff.

28. Wilbert E. Moore, Industrial Relations and the Social Order (New York, 1951), p. 594.

29. Raymond Williams, Culture (Glasgow, 1981).

30. Hall, 1986, p. 9.

31. Hall, 1986, p. 19.

32. For a summary of these propositions, see J. Manley, "Neo-Pluralism: A Class Analysis of Pluralism I and Pluralism II" American Political Science Review Vol. 77, No. 2 (June, 1983).

33. Hall, 1986, p. 19.

34. Theda Skocpol, "Political Response to Capitalist Crisis: Neo-Marxist Theories of the State and the Case of the New Deal" Politics and Society Vol.10, No.2, (1980), p 155-201.

35. Aucoin, 1979, p. 11.

36. For a review of this debate see Neil Bradford and Glen Williams "What Went Wrong? Explaining Canadian Industrialization" in Wallace Clement and Glen Williams (eds.) The New Canadian Political Economy (Montreal, 1989), p. 54-76.

37. Richard M. Bird The Growth of Government Spending in Canada (Toronto, 1970).

## 2 Ideologies and Interest Groups in North America

### a) Formal Ideology: The Traditional Inheritance

In comparative analyses of political culture, American political thought is often said to conform to the great ideas of nineteenth century Lockean liberalism; individual liberty and equality, private property rights, free competition in the marketplace, a limited nightwatchman state, and scientific progress. This liberal hegemony is ascribed to a few basic sources; fragment cultures of European immigration[1], egalitarian frontier conditions[2] revolutionary rejection of state power and high social mobility. American liberal ideals, a synthesis of thought and circumstances, became enshrined as a national creed, which prevented Americans from examining or accepting rival ideologies.[3] Liberalism's influence on political life, party system and public policy is considered pervasive by writers of the consensus school of American political science; notably it has removed the possibility for development of viable socialist or social democratic political parties or policies.[4]

Some scholars insist that Canada's unique founding experiences led to a more diversified political tradition. Gad Horowitz and S.M. Lipset argue that the Loyalists brought Tory[5] "feudal survivals" into the nascent Canadian political matrix[6]; subsequent immigration brought non-liberal values which could not be assimilated.[7] For Edgar Friedenberg, the evolutionary road to independence produced greater "deference" to government authority;[8] confident of their authority, Canadian political elites have tolerated greater ideological diversity than in the U.S.[9] The harsh Canadian frontier necessitated greater government direction and community cooperation in the settlement process, reducing the individualistic impact of the frontier.[10] Canadian liberalism hence coexisted with and was modified by collectivist, interventionist values - notably democratic socialism and "Red Toryism". By the time the Canadian political culture "congealed", its distinctiveness from the American liberal "monolith" was

permanently established.[11]

Early social conditions in the two societies give some credence to this portrayal of ideological distinctiveness. The U.S. was "an almost perfect laboratory" for Locke's ideas with its boundless land, unlimited resources, a ready challenge to the ingenuity, initiative and self-reliance of individuals".[12] Even after industrialization undermined this frontier egalitarianism, the "objective natural laws" of liberalism was "an ideological chain protecting America as it was with iron strength" and making "men who were equal in liberty content with inequality in the distribution of property".[13] Early reform efforts seemed constrained by the predominance of this laissez-faire orthodoxy, which made even the most farsighted strive to avoid infringements on "economic liberty" even in pursuit of individual justice.[14]

In Canada, social and economic conditions were more conducive to an active state. Confederation, established in defiance of economic forces, was itself an artificial arrangement necessitating continuous state intervention. From the outset, the Canadian state moved to protect imperial preferences, establish tariff protection for local manufacturers, and extend transport links to geographic extremities to forestall American expansion. Canadians resisted the dismantling of imperial preferences and establishment of a liberal trading regime. Among English Canadians, all things English were embraced as the mark of distinction from the revolutionary, republicanism to the south; the hierarchical British North American colonies, with their political cliques and their mercantile elites, did vary from the more egalitarian American frontier (if not from the older Eastern states). French Canada contributed to the social conservatism of the new nation, with its church dominated, semi-feudal seigneurial agrarian system. Both communities thus contributed to the perpetuation of a conservative political outlook which had elsewhere succumbed to the forces of modernization.

However, the enduring impact of these formative conditions must be questioned. While they confronted different circumstances, the ideological influences on the

two societies were not entirely divergent. Kenneth MacRae argues that the Loyalists were rejecting independence and republicanism, but shared the Lockean ethos of the revolutionaries. They simply preferred continued attachment to the British crown, with many induced to come to Canada by free land and government appointments, not by ideology.[15] Retention of the monarchy, evolution to responsible government, and anti-Americanism made minor modifications to Canadian liberalism, producing less hostility to state action.[16] But the levelling effects of frontier life were also at work to undermine any attempt to recreate a hierarchical class structure in the New World wilderness.

Rod Preece has gone further in suggesting that the Anglo-Saxon conservative tradition has always had individualist, laissez-faire emphases, not organic collectivism. British conservatives were adhering closely to this limited notion of justifiable intervention in accepting state responsibilities in social and economic affairs. But British conservatives were no less vigorous than the Americans in defence of individual liberty and property rights against state power. Hence the American and British influences on Canadian ideology have been essentially similar; only minor variations, based on political institutions, may be found between Canada's pragmatic Lockean conservatives and America's dogmatic ones.[17] The so-called "Red Tory" tradition of interventionism is hence a myth. Canadian conservatives have been no less disposed to support individualism, property rights and business conservatism than the American right. Canadian policies of intervention via National Policy tariffs and public corporations were essentially liberal in intent, designed to foster a free-enterprise economy.[18]

There seems considerable evidence in support of the latter thesis. Any early differences in attitudes the role of the state were always relative rather than absolute. The Hamiltonians and Whigs of the United States provided an alternative vision to unbridled individualism, seeing state capital as an essential contributor to "material progress",

through development of transportation and banking systems and commercial protection.[19] American state promotionalism and protectionism was prominent by the end of the century; any difference in the relative extent of Canadian economic intervention seems attributable to the harsh geography and climate, and the embryonic markets, not to any ideological disposition. Moreover, in Canada, supporters of liberal policy were increasingly influential as the economy expanded and private capital grew more viable. As will be demonstrated below, Canada's industrial relations and income security policy showed little evidence of an interventionist tradition of "noblesse oblige"; Canada's voluntarist approach to such matters seemed closer to American than European practice for many years. Despite continuing distinctions in rhetoric, the policy record reveals no early Canadian commitment to communitarianism or interventionism. Indeed there was considerable similarity in emphasis of the founding fathers in the two countries as they sought to protect property rights against the possible inroads of majoritarian democracy and of international competition; the state was to be powerful enough to pursue protection, but limited in its intrusion on private capital.[20]

Important differences were evident in the organization of state power which profoundly influenced the ideological flavour of subsequent policy. The Loyalist exiles were fleeing republicanism, not liberalism. They rejected the model of presidential politics and separation of powers so carefully crafted by America's founders. They displayed an allegiance to the Crown and did not fear executive authority as much as the American revolutionists. This induced acceptance of the executive model of the British parliamentary system, with its emerging cabinet and bureaucratic ascendancy over the legislature. Confederation was expressly undertaken to overcome the stalemate in the Province of Canada with its legislative coalitions and weak cabinets. It aimed not at limiting the executive, but at making effective executive leadership more likely. This entailed a differing organization of the state structure

and of relations between the executive and legislative branches of government; the Americans fragmented national power while the Canadians centralized it. A different procedural consensus hence emerged in the constitutions of each country.

However, this did not involve a differing substantive conception of the role of the state in economic and social affairs. This is hardly surprising, given the common inheritance of British ideas and philosophies in the two countries. Canada was not isolated from the emergence of liberalism as the dominant ideological trend in nineteenth century British politics[21]; while specific interest decried the loss of preferences and protection, many Canadians shared the preference for free markets and individual rights. Attachment to an idealized British tradition did not prevent adoption of British liberalizing innovations in Canadian politics and public policy. While the creation of a stronger executive power eventually paved the way for interventions blocked in America's fragmented congressional politics, the Canadian ideological tradition did not initially incorporate an appreciably different notion of acceptable state action.

b) Social Evolution and Interest Groups

In addition, while the social structures of the mid-1800s may have encouraged ideological difference, social and economic transformation introduced changes in the ideological dispositions in both countries. The liberal consensus view sees the relative classlessness of American society as obviating the ideological conflicts of Europe. As Kenneth MacNaught argues, this is a "crucial obfuscation".[22] The agrarian frontier rapidly gave way to ordered commercialism and industrialism, which brought American class relations quite close to European patterns.[23] Social and economic inequality and hierarchical power relations in commerce and industry created social classes in North America receptive to reformist, non-liberal ideas.[24] Modernization induced increased similarities in social and economic conditions in the two countries. A

variety of responses and ideologies were developed, or adapted from European precedents to meet modern problems. Ideological differences within nations became more pronounced than ideological variations between them. A survey of secondary studies on ideological evolution reveals the similarity in group attitudes in the two countries.

c) Popular Ideology

Social movements advocating a strong role for the state developed first in the United States. The large population of small farmers reacted to their loss of status, independence and income with the emergence of a centralized commercial, transportation and banking system.[25] This populist movement proposed reforms including regulation of railway rates, easier credit, price stabilization, and government ownership of milling and storage facilities - in short, an expansion in the scope and nature of state activity.[26] While ultimately seeking the defence of individuals against large corporations[27], adoption of populist policies at the state level provided a model for Canada's agrarian "socialism".[28]

Both the organization[29] and policies[30] of Canadian farmers organizations in Ontario and Western Canada borrowed significantly from American models. The economic regionalization of the Canadian economy ensured greater durability of agrarian radicalism in this country[31]; differences in political institutions - notably the absence of the primaries and of the presidential executive - necessitated creation of distinct farmer political organizations, thereby enhancing the movements' political visibility and durability. An anti-partisan approach and the urbanization of society limited agrarian influence in national politics[32]; in the Western agrarian provinces, farmer groups were instrumental in creating new parties, whose development was facilitated by the electoral and parliamentary systems. But the Social Credit movement was a force promoting individualism; despite its reputation as

an agrarian socialist"[33] movement, the Saskatchewan CCF retreated from radicalism and copied many policies of the American farmer parties, although it did innovate in social insurance in subsequent years.[34]

American labour also experimented with non-liberal alternatives; advocates of socialism, state ownership and social insurance emerged at an early date.[35] American socialists could draw upon the egalitarian ethos of the American tradition to stir support against the new class hierarchy. But socialists were hampered by the ethnic fragmentation of the workforce, with radicals eventually isolated in foreign language associations.[36] The main voice of American labour by the turn of the century, the American Federation of Labor, under the leadership of Samuel Gompers, adopted an anti-statist "voluntarism"; this reflected bitter experience with anti-labour legislation and litigation[37], and Gompers' personal feuds with socialist rivals.[38] But Gompers rhetoric resonated with liberal, limited state mythology, as he promoted private collective bargaining as the best route to labour's goals. Gompers' death and the inadequacy of voluntary solutions to the vagaries of capitalism - particularly in the Great Depression - ensured evolution of American union ideas towards interventionist alternatives.[39] The growth of industrial unions also helped radicalize union policy prescriptions[40]; the Congress of Industrial Organizations was successful in promoting union political action, with important consequences for depression era-politics.[41]

The Canadian labour movement which emerged by late nineteenth century was inspired by both American and British models.[42] Diverse ideological preferences were expressed by different labour organizations, as international debates among reformers, radicals and revolutionaries were replicated in Canada.[43] A regional division emerged between radical industrial unions, concentrated in resource industries in the west, craft unionism allied to the AFL in the industrial centre[44] and anti-socialist catholic unions in Quebec.[45] The western unionists adopted a confrontational, political style,

resulting in violent strikes before and after World War I,[46] often met by state coercion.[47] Despite the maintenance of national industrial unionism in the All Canadian Congress of Labour[48], the ultimate hegemony of the craft unions of the AFL affiliated Trades and Labour Congress ensured moderation of union policy. Canadian unions were inspired by British practice to support social insurance and independent political action.[49] Unions were instrumental in creating and sustaining the social democratic CCF/NDP. But the rank and file worker has often pragmatically opted for the established parties, while the NDP itself has evolved away from its socialist roots.[50] While the electoral system and political institutions permitted creation of this farmer-labour vehicle, American unionists have more astutely developed lobbying skills[51], and have exerted comparable political influence around a similar policy agenda.[52]

d) Central Ideology

Despite the prominence of anti-statist rhetoric, American businessmen always demonstrated an ambiguous attitude towards state intervention in economic and social life. Businessmen in the 1800s often extolled the virtues of the limited state to limit government actions harmful to entrepreneurial independence and corporate profitability - to constrain government regulation of wages, child labour, working conditions or hours. But business leaders were "never reluctant to call in the political order to protect, promote, and insulate their interests"[53]; the American state provided subsidies, land grants, tariffs and transportation systems to generate expansion of the "free enterprise" economy. Government was also encouraged to use restrictive legislation, judicial sanction and police repression to prevent the development of a powerful labour movement.

After the turn of the century, progressive business leaders recognized the necessity for state social programs and regulations to offset the worst abuses of capitalism.[54] Organizations like the National Civic Federation urged business to cooperate in creating voluntary solutions to

offset the potential for socialist agitation. State action was accepted to discipline irresponsible entrepreneurs.[55] Cooperation with the state in World War I persuaded some corporate moguls that the government could be a partner in the efficient management of economy and society: "Properly wed to economic interests, vigorous and expanding government may be praiseworthy".[56] While the 1920s brought a return to laissez-faire, and promotion of private "welfare capitalism"[57], the Great Depression reminded business that government must provide "intelligent direction" to the capitalist order. While business were divided and selective in supporting government expansion, these central interests profited from the post-war emergence of the welfare-warfare state.[58] Business groups remain wary of extensive social spending while promoting the vast government underwriting of the modern capitalist system.[59]

Canadian business leaders shared a belief that "government was the one institution in society which could be relied on never to achieve anything of value".[60] In the marginal conditions they confronted, Canadian businessmen were "determined to use the force of government to make themselves rich by policy".[61] But while the demand for government action was greater in Canada, its nature differed little; land grants and subsidies to railways, high tariffs and other promotional devices resembled contemporary American policy.[62] Only public corporations in railways, necessitated by the economic unviability of private alternatives in Canada, distinguished the two countries. In early twentieth century, business successfully advocated new promotional policies such as domestic mineral processing and nationalized electric utilities to ensure domestic development. However, it appears Canadian businessmen did not as quickly grasp the new roles and activities which the state must perform to sustain a modern economy and were hesitant to follow American progressive prescriptions.[63] Business demanded a reduction in government activity after 1914, as conservative forces argued that the emergency provisions

developed in the war were not desirable in peace; as many businessmen learned, "regulation produced a great deal of frustration".[64]

Eventually, as Thomas Traves notes, "long-term changes in the structure of industrial capital in Canada created new problems and fresh demands for state intervention in the economy".[65] Canadian business wanted government to absorb the risks of resource development, compensate for the debts of major industrial and transportation enterprises, provide the necessary educational and research facilities, rationalize product standards and develop scientific tariffs. Business also saw government as a device to offset damaging class conflict.[66] Rapid economic expansion and continental integration induced increased experimentation with American-style welfare capitalism. While conservative voices were initially dominant, the great depression caused more business leaders to accept government involvement. Alvin Finkel argues that business supported creation of the welfare state, only to be thwarted by adverse court rulings.[67] World War II augmented the nexus of business and the state and made government an accepted partner in a vital modern economy. Nonetheless, free enterprise and the limited state still formed the essential core of the Canadian business creed.[68] The Canadian Chamber of Commerce best expressed this view: "only by allowing individual effort and initiative the greatest possible freedom within the limits of the public welfare, can we hope for the development of a fuller and freer life for all Canadians."[69]

In both countries, a variety of business organizations emerged, based on different sectoral or regional divisions; these varied considerably in their attitudes towards the state per se, but expressed common concerns about the expansion of the state's presence in economy and society. The National Association of Manufacturers made anti-union and anti state propaganda its hallmark[70]; the increased influence of large versus small manufacturers in the organization barely moderated its positions.[71] Organizations with broader membership, such as the Chamber of Commerce of

the United States and the National Industrial Conference Board, sometimes displayed an outlook more tolerant of state action. These and numerous other organizations have emerged to resist strong government or to promote active government consistent with business requirements.[72]

Because of the continental interpenetration of business elites, Canadian business organizations were often patterned on American models.[73] Initially, business leadership in Canada was exercised by the Board of Trade in various major cities, consisting of commercial concerns favouring free trade. Manufacturers, later to develop in this small economy,[74] eventually formed their own national organizations, notably the Canadian Manufacturers' Association, to protect the tariff[75] and to prevent trade union infringement on the employer's "inherent right to control the policy of his business".[76] the Canadian Banker's Association did articulate a desire for freer commercial trade;[77] but there was no direct threat to domestic financial and commercial interests from the tariff, and other business sectors often let the manufacturers take the lead in promoting protectionism.[78] Canada copied the United States in developing a Canadian Chamber of Commerce to represent all business interests and organizations for specific sectors. While these groups were often divided over the extent of desired government intervention, they were united in resisting any undue fiscal or regulatory intervention which would restrict their freedom of action; on the other hand, they recognized that a weak economy necessitated both protection and state promotion to survive next to the American economic colossus.[79]

In the case of health insurance, the medical profession in each country became major protagonists. The American Medical Association was formed in the mid-1800s to enforce professional standards and monopoly. Comprised in the main by general practitioners, it emphasized many of their values of individualism, professional self-government, freedom of choice for doctors and patients and high quality of professional care and training. The AMA assumed elements of a political lobby group by the turn of

the century, establishing machinery to scrutinize all relevant congressional and state legislative activity; the sophistication of the AMA effort improved over the years. The principal emphasis involved preservation of professional monopoly, independence and incomes in the face of rapidly changing political and social circumstances.[80]

The Canadian Medical Association adopted its early organizational and ideological characteristics from the American model. It too desired preservation of professional authority and autonomy, of free choice, quality of care and education; it also favoured largely voluntary measures to deal with medical care costs.[81] The CMA did show greater willingness to cooperate with government to establish programs for the needy to supplement any private arrangements, if these fell short of universal coverage. Blishen emphasizes that this distinctive acknowledgement of state responsibility may reflect the unique political tradition in Canada, which was more tolerant of government activity.[82] However, this study will show that CMA views approximated American voluntarism at times, and that any ultimate difference in policy preference reflected the political context of minority government and provincial experimentation, which made a comprehensive national plan seem a certainty. This, plus the limited inroads of voluntary insurance plans in this smaller, less advanced market, made state action of a limited sort tolerable, if not welcome, to doctors.

e) Public Ideology

Possessing similar interests and facing similar demands from society, state elites in Canada and the United States adopted a pragmatic mixture of reform liberal and social democratic policies. The building of the new American economy involved considerable outlays of public funds and lands, as well as the stimulus of tariffs, immigration, and infrastructure development; those who claim Canada has been exceptional in this regard are ignoring the considerable evidence to the contrary. In addition, the emergence of a complex industrial society

stimulated the creation of an expanded national state complete with a modern central administrative apparatus.[83] The American progressive movement of early century prompted an extension of the state into new fields still under private auspices in Canada. Government regulation of wages, hours and working conditions, prohibition on child labour, safety regulations, product quality standards, and workmen's compensation are examples of polices first adopted in the United States. Progressives were divided in their economic prescriptions: some, such as Theodore Roosevelt, sought to tolerate and regulate large corporations; others, like Woodrow Wilson, preferred stronger anti-trust provisions to restore competition.[84] However, the Progressives were united in affirming "the necessity of active intervention in economic life by the state" to "meet the power of business by expanding the power of government".[85]

While business conservatives induced a retreat from progressive state intervention in the 1920s,[86] this retrenchment was an aberration; social and economic evolution made an active state increasingly indispensable. This was confirmed by the depression, although the initial federal response was unimaginative.[87] Eventually, the New Deal sought cautiously to make "an individualistic capitalistic society more stable, more egalitarian and more humane".[88] The Roosevelt administration's policies have been praised by mainstream historians as enlightened, pragmatic reform which "democratized" American capitalism.[89] Radical analysts have criticized the New Deal as an opportunistic program to confirm business dominance of the community[90] by reinforcing the capitalist economy[91] through selective welfare concessions.[92] While these reforms did seek to reinforce the capitalist economic order, and did not indicate a move to socialist principles[93], they did break from the limited state conceptions of past practice. New Deal policies led to the "greatest peacetime centralization of federal authority that the country had ever known".[94] American innovations in such fields as labour relations, unemployment insurance and old age security went far beyond

Canadian practice at the time.

The world leadership role of America since 1945 precluded any retreat to the limited federal authority of the past, with federal leaders accepting responsibility for military preparedness, economic stability, and social harmony. In domestic policy, there have been periodic oscillations in policy. The principle Democratic initiatives - the Fair Deal of Truman, the New Frontier of Kennedy and the Great Society of Johnson - have been followed in turn by the retrenchment of Republicans - Eisenhower, Nixon and Reagan. In economic affairs, the American federal state has become the established partner of private enterprise in its search for expansion. But in those policies realms more relevant to less powerful social segments - social welfare, civil rights -the appropriate role of government remains in contention. This has been compounded by the separation of powers. While American policy in social matters moved in the directions of the Europeans in some fields, conservative congressional forced have impeded implementation of such key reforms as health insurance, and limited the liberalization of other programs, despite Presidential endorsement. Hence, if the laissez-faire reputation of American policy is not entirely deserved, the strength of such sentiments must also not be underestimated.

The Canadian state did assume an interventionist approach to economic development in the nineteenth century. The National Policy tariffs, alongside state development and ownership of transportation infrastructure did play a prominent role in the building of this new nation.[95] But the Canadian state did not seem disposed to pursue a wider range of intervention in social and economic affairs; business promotionalism remained the primary focus of state action until well into this century. Although the emergence of industrial society and settlement of the west had begun to generate new groups with different conceptions of the state's role, their political influence remained marginal and political leaders did not face serious pressures for new policy directions.[96] Potential class based electoral

cleavages were effectively defused through the established parties' emphasis on linguistic, religious and regional cleavages; election campaigns were dominated by issues such as minority education, military conscription, and language rights, which effectively masked class divisions.[97] As a result, Canadian political debate and public policy lacked the innovative, interventionist elements of European and even American examples in the years before World War I.[98] The concerns of progressive industrialists and urban workers gained minimal attention.

By the early 1920s, progressive ideas appeared to gain force in Canadian political life. Responding to agrarian radicalism, labour unrest, and the demands of returning soldiers, the Liberal party adopted a progressive platform at its 1919 convention, based on the theories of its new leader, William Lyon Mackenzie King[99]. Despite the strong showing of agrarian radicals in the election of 1921[100], the King government of these years did not live up to the leaders' progressive creed;[101] policy still reflected the dominance of the mercantilist interests of central Canada.[102] The farmer members of parliament eventually reunited with the Liberals and accepted their conventional policies.[103] Later in the decade, the small "Ginger Group" of radical labour and farmer members of parliament did manage to pressure the minority Liberal government into adopting an Old Age Pension programme.[104] But the success of other reform planks was limited. Canada entered the Great Depression of the 1930s with a social policy which trailed Europe and even the United States in provision for the needs of the modern worker.

During this crisis, Canadian state intervention fell even further behind the Americans in progressive content. Canadian provincial and federal states retained preference for traditional remedies, like local charity and relief, in the face of an unprecedented need for assistance. Even the desparation move to emulate the New Deal by R.B. Bennett met with reversal in the Judicial Committee of the Privy Council. The League for Social Reconstruction injected European social democratic tendencies into political

discourse during the depression decade.[105] Keynesian alternatives to laissez-faire also received attention from Canadian decisionmakers,[106] although the impact on policy was limited until after World War II.[107] The Royal Commission on Dominion Provincial Relations of 1938 recommended a stronger federal role in social policy, notably unemployment insurance. But the King government remained cautious; only during the war, when social stability became essential, and CCF gains threatened Liberal tenure, did King finally expand the welfare state, out of pragmatic political calculation, not ideological conviction[108]. Cold war anti-socialism and provincial resistance impeded expansion of Canadian welfare programs.

By the 1960s, the development of elaborate bureaucracies in federal and provincial capitals created a class of state decisionmakers who favoured expanded government. Social transformation in Quebec produced new demands for intervention, in place of longstanding anti-statism. (This contrasted with persistant conservatism in the American South, suggesting a possible social source of recent policy divergence.) The CCF/NDP - whose creation was facilitated by the parliamentary system - injected an interventionist ethos, via provincial experimentation[109], and national coalition politics.[110] Such pressures and the flexibility afforded to governments in the parliamentary system permitted Canadian decisionmakers to adopt measures -notably health insurance- previously proposed in the United States, but foiled by the byzantine complexity of Congressional politics.

Thus, any interventionist bias in Canadian public ideology is a recent development, and not a reflection of an enduring ideological tradition. Moreover, Canada does not seem entirely distinct as compared to other liberal democracies, in which the growth of government at varying rates was a universal phenomenon until the 1970s. The NDP's transition from protest movement to pragmatic political party has limited its distinctive contribution to political debate.[111] The influence of labour and liberals in the American Democratic party seems of comparable importance.

Recent retrenchment in Canada, with privatization of major government companies, and cut backs in social programs, indicates that similar overall pressures are evident in these two countries; reforms engendered by popular pressure inevitably run into objections as their fiscal and regulatory burden takes its toll on central interests.[112]

## Notes

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## II INCOME SECURITY CASE STUDIES

### 3 Early Income Security Policies

a) Early British Influences

Income security policy covers a variety of programmes designed to protect individuals against contingencies which undermine their earning potential or their income. These include old age, illness, medical care bills, work-place injury, and unemployment. Income security policy may take several forms, from private charity and local relief, to public assistance (paid for from general tax revenues) and social insurance (financed by recipients' contributions). Such policies are often cited as examples of Canada's traditional support for a broad role for the state in social affairs. Canada is said to have developed more generous programmes than the Americans to assist the aged, needy, sick and unemployed, and to have been closer to the Europeans in the evolution of policy in this sphere. However, an examination of early income security policies casts doubt on whether traditional precepts underlie policy differences. For initial American and Canadian approaches reveal considerable similarities. Until well into this century, both Canada and the United States maintained a policy of voluntarism, emphasizing individual and family responsibility and private charity and minimizing state action.

Both countries drew inspiration from a British inheritance which combined the state paternalism of the Elizabethan poor laws with the liberal re-emphasis on individual self-reliance of the industrial revolution.[1] These "poor laws acknowledged - through compulsory taxation - a public responsibility to the destitute".[2] This system provided public assistance for the deserving poor, through institutional care for the aged infirm and disabled, and so-called "outdoor" care for the able-bodied, who were assigned such rudimentary labour tasks as the community deemed appropriate. Care was entrusted to local authorities, and the criteria for assistance varied

considerably from place to place. Although the relief system became harsher, with the expansion and depersonalization of society, some state assistance was hence a part of American as well as Canadian tradition in this field. But both countries also were influenced by the poor law reform of 1834, which sought to reduce the economic burden on municipalities and to decrease the disincentive to work; by ensuring that the employable could receive only institutional care in work houses, or minimal, subsistence outdoor relief, the cheap labour needed by modern industry was preserved.[3]

b) Early American Policy

The example of the poor law and the Puritan stress on community solidarity introduced an element of public responsibility into American welfare policy. H.S. Tishler argues: "for all the harshness and continuity of our approach to welfare in the preceding 200 years, self-reliance had neither ... absolute nor fixed meaning". Certain kinds of public assistance were considered consistent with a stress on self-reliance. In addition:

> in responding to poverty with its traditional weapons of charity, however inadequate and inappropriate they may have been, American society tempered its individualism with the belief that the community had an obligation to care for those who could not care for themselves. Public relief, though believed to be fraught with dangers to the spirit of self-reliance was nonetheless justified on the grounds that helping the weak was nobler than letting them starve on the altar of individual responsibility, or that an act of altruism, while temporarily doing violence to self-reliance, might ultimately create a stronger individual.[4]

Nonetheless, like the British, Americans also espoused a liberal ethos of self-reliance which militated against development of generous state-sponsored welfare programmes. The prevailing assessment of poverty, preached endlessly "from the press, politicians and the pulpit [held] that wealth was the product of individual initiative, hard work and thrift, and that poverty, except as a temporary incentive, was the hell to which moral and mental

defectives were consigned".[5] Social Darwinism eventually reinforced the belief that the deserving and enterprising succeeded and the undeserving and indolent failed; with this mixture of "scientific" and religious sanction for voluntarism, the prospects for community or political acceptance of extensive public welfare were limited.

As a result, the "fabric of social welfare in the pre-Great Depression years was private voluntary care, supplemented by local public relief and guided by a philosophy of self-reliance. ... Both the amount, type, conditions of eligibility and the highly decentralized nature of relief ... revealed a limited and cautious acceptance of government in a realm of activity mostly noted for voluntarism".[6] While the emergence of social work as a profession revealed the humanitarian ethos existing in society, this was manifested in private channels and did not entail a desire for state action. "The humanitarianism which has been an important element in our American traditions stopped short with an individualistic approach to the problem of poverty" and was "little concerned with the possibility of dealing with insecurity in a more comprehensive manner".[7]

American practice was also influenced by Britain's poor law reforms of the early 19th century. Amendments to relief programmes ensured that outdoor relief was set at a level far lower than any available wages. Outdoor relief was virtually abolished, and the destitute required to accept the degradation and deprivations of the poorhouse to qualify for any assistance in most communities. Low wages plus the stigma of institutionalized care would ensure that no able-bodied person was encouraged to seek the dole instead of gainful employment. The assumption that work was available for any man who looked was exaggerated in American thinking by the boundless opportunity apparently available to all in this expanding new nation.[8]

c) Early Canadian Policy

Canadian law was no less affected by this laissez-faire approach. Indeed Canadian welfare programmes, like

the Americans', lagged far behind European developments up to the end of World War I.[9] The lower level of economic development in this country was partly responsible for inattention to social concerns[10]; the demand for welfare programmes was lower than in more advanced urban, industrial societies.[11] Family, neighbours, and church were considered the appropriate sources of assistance for the impoverished.[12] However, as studies of this period demonstrate, there was widespread urban poverty in Canada by the late 19th century, extensive enough to necessitate new policies.[13] Ideology and frontier opportunity discouraged policy innovation. As Grauer observed:

> The optimistic faith of a new country with vast natural resources in its future plus the stimulus of individualistic thought from the United States tended to keep political and business thought in Canada away from social insurance.[14]

Fear that generous public assistance would reduce thrift and initiative among workers was deeply ingrained in Canada.[15] Hockin suggests that a rather "reactionary" variant of individualism, emphasizing family solidarity and responsibility for welfare provision retarded growth of welfare services:

> It was essentially the experience of individuals, together with the support of their family, prevailing against the harsh natural environment of Canada. A conviction about the value of this way of life, and the later arrival of the industrial revolution, may have helped sustain a belief in this type of self-reliant individualism.[16]

The political ascendance of farmers limited expansion of the state role in social services and welfare provision until after the great depression.[17] Bryden notes how a "market ethos", based on possessive individualism, inhibited creation of welfare, pension or social insurance programmes for many decades in Canada.[18]

The primary emphasis of policy makers was on the expansion of the economy and the creation of opportunity for all. In Armitage's words:

> The pages of Canadian government statements on social policy are filled with obeisance to the goal of economic growth, and with exhortations to the values of economic self-reliance and

> independence. These deeply-held values have the effect of placing social welfare in the position of being a secondary aim ... .[19]

As in the United States, the availability of land, and of work opportunities in the expanding frontier reinforced the belief that anyone found destitute in the cities was simply unwilling to search for employment opportunities: the "destitute were considered to be more in need of moral exhortation and uplift than material assistance".[20]

Humane considerations, and the potential for violence from the destitute necessitated some provision for their material needs. Canada also seized upon the available British examples. The Maritime provinces of Nova Scotia and New Brunswick followed the British poor-law precedent of municipal, institutional care; given the small populations, paupers were often assigned to private concerns as cheap labour, or even sold to the highest bidder to work in farms or in the fishery. Ontario relied on private charity, with the jails available to hold chronic paupers; Quebec followed Catholic practice and assigned care of the destitute to Church-sponsored charities aided by small government grants.[21]

But there was no great paternalistic concern reflected in Canadian policies; rather, the relief system was designed to serve liberal economic purposes. The increased burden of poor relief prompted efforts to minimize the economic drain of high municipal taxes and the demoralization of readily available relief; municipal assistance was altered to feature unattractive institutional conditions, to dissuade all but the truly helpless and incapable from avoiding gainful employment.[22] Struthers notes the Canadian acceptance of this principle of "less eligibility" -the tendency to make the content and renumeration of poor house labour less attractive than alternative low-paid unskilled work, to dissuade professional paupers from selecting public assistance over work possibilities. In Struther's words, "As in other market societies, during the nineteenth and twentieth centuries, Canadian attitudes towards the unemployed [and impoverished] were overwhelmingly conditioned by the

cultural imperatives of enforcing a work ethic".[23] The "goal of such assistance, whether public or private, was to promote individual self-reliance by keeping relief discretionary, minimal, and degrading".[24] Applications for charity were viewed as evidence of thriftlessness and failure despite the fact that the harsh winter climate forced many out of work. Individuals were expected to save enough during summer employment to carry them through the winter layoff, however minimal their summer salaries.

d) Early Interest Group Attitudes

Canadian-American differences in interest group reactions to public income security measures were evident in early century. American labour voluntarism affected union attitudes towards social security policy until the great depression. Unionists bristled at the paternalistic character of charitable organizations; they sought to replace charity with wages of sufficient size, to permit workers to save for their future and for unforeseen contingencies like illness, injury, and unemployment. In the more extreme formulations:

> all charity was to be eliminated. It was pictured as a self-defeating palliative artificially supporting a faulty social structure, obviating the necessity of the employer to pay a living wage and indulging him in all the tendencies toward social ... irresponsibility.[25]

Some union leaders accepted the prevailing logic about the detrimental impact of the dole on individual character.[26] AFL commentary consistently stressed the benefits of individual self help as against any state provision.[27] But union leaders were also concerned lest charity reduce the eagerness of workers to support union efforts to secure a better deal via increased organization and bargaining strength.[28] If wages could be increased sufficiently through private collective bargaining, the state role would be redundant, and undesirable foreign schemes of compulsory government insurance would be unnecessary.[29] Unions would also avoid dependence on gpvernment plans, which could be used as a weapon to reduce union activity.[30]

Canadian unionists, did not espouse this antipathy to state-sponsored welfare. Their rank and file and leadership elements were often drawn from British labourites, supportive of the emerging welfare ideology of democratic socialism. From an earlier date, they expressed a willingness to support a range of welfare schemes. Particularly when the British and other Commonwealth countries adopted social insurance and pension programmes after 1900, Canadian union activists had models upon which to base their demands. However, the union movement was much weaker and politically less significant in Canada, making its continued advocacy of state welfare less relevant to public policy.[31] And the difference with the United States was not absolute. American labour voluntarism was not consistently a barrier to labour support for all programmes of public assistance. Thus, unionists were involved in the demand for workmen's compensation laws, which emerged in most parts of the United States before being developed in Canada.[32]

American business demonstrated an ideological resistance to public income security policies before 1914. Corporate leaders slowly acknowledged the moral untenability and political danger of economic insecurity in the capitalist system, made more acute by business cycles and technological change. However, business desired voluntary and private solutions to these difficulties. Encouraged by business progressives in such organizations as the National Civic Federation, business leaders began to introduce industrial pensions on a plant by plant basis to provide protection against unemployment, disability, sickness and old age to long serving employees as a reward for loyal service. State pension plans of any description would undermine the desirable moral values of work incentive and thrift.

Private schemes to encourage workers to save or to buy insurance were considered more desirable and "more American". An insurance company officer declared to a National Civic Federation meeting in 1908: "A system which teaches these people how to protect themselves against this

menace, [old age dependency] is more in harmony with the genius of our institutions, than a system which coerces them into action or a system which finally places the burden of their support and care upon general society".[33] The alien social insurance proposals were rejected as "un-American and socialistic and unmistakably earmarked as the entering wedge of communist propaganda".[34]

But Canadian businessmen were no more supportive of government action in social welfare. As Wallace observes, Canadian business exhibited a double standard. They clamoured for state assistance through tariffs, subsidies, transportation development, immigration, and other measures to promote expansion of the emerging economy. But they appeared as vocal exponents of laissez-faire in condemning state intervention to meet social welfare needs; government action in income security would be resisted by business for many decades.[35] Poverty among the working population was attributed to individual failings: workers were often "undisciplined, lazy, and inclined to dissipate their energy and wages, It was flaws in the character of workingmen - unwillingness to work or save or educate themselves - which held them back, not any failure of the system." Based on this "individualistic notion of self-help", business leaders believed a "sufficient prescription for the worker's welfare was for him to be industrious, honest and thrifty... ."[36]

Canadian businessmen often held more conservative attitudes than the American business progressives of early century; they denied employer or public responsibility for workers' welfare and treated workplace relations as almost a feudal affair between master and servant. By the turn of the century, some Canadian firms began to create private company pension and benefit plans, to cement the good will of their employees and to forestall any demands for state action to set wages, regulate working conditions or provide welfare.[37] But these plans did not spread as widely throughout industry as in the United States. In general, corporate leaders did not regard welfare provisions as essential. Economic growth, unfettered by state

intervention or union demands, was held as the most satisfactory means to produce worker well-being: Canada's economic dynamism in early century made any consideration of social reform seem entirely unnecessary.[38]

e) American Innovation and Canadian Policy

Canadian business resistance helped delay social policy developments for many decades. Evidence suggests an earlier development of the American welfare system by early twentieth century. America acted before Canada to provide public pensions for army veterans[39], despite strong criticism of the programme[40], and reports of abuse.[41] Departing from their alleged patermalistic ethos, many Canadians included the soldiers' pension scheme as one example of the moral inferiority and corrupt character of the American popular democracy: "In a list of democratic excesses, the `pension evil' would rank with Tammany Hall and elected judges".[42] Canadian commentators often aligned themselves with the most reactionary American critics of pensions; ideological tradition did not apparently alter Canadian attitudes towards government action in relief of the aged or poor. Evidence from studies conducted at the time and since suggest the Canadian system of provision for the destitute and aged was no more humane and generous than the American system.[43] The desperate condition of workers in new industries and in working class communities has been well documented.[44] Examples of appalling conditions in municipal poor houses and other institutions abound.

Canadians eventually took their cue from the Americans in many areas, patterning social work and child welfare organizations after American models.[45] The successful movement for provincial mothers' allowances, had studied and copied from American models.[46] Canadian provinces copied the Americans practice respecting work-related accidents, holding workers responsible for having assumed known risks or sharing responsibility via "contributory negligence". Quebec did act before most American jurisdictions to create a workmen's compensation system to provide payments to those disabled and unable to work. But outside this

province, businessmen refused to pay for insurance to cover worker's "carelessness"; provinces such as Ontario did not act until after the movement made legislative gains in various states south of the border. Canadian plans eventually copied American precedents of public insurance, to reduce employers' liability for legal redress via civil actions.[47] While Canada eventually went further in extending the welfare state into such fields as health insurance, the following cases confirm that the United States often set precedents later copied, extended or modified in Canada.

## Notes

1. Paul Brinker, Economic Insecurity and Social Security (New York, 1968), p. 15 ff notes the initial poor law intent and the changes wrought in the classical period of liberal individualism. Brinker cites the 1722 law permitting parishes to contract poorhouse care to industrialists for cheap labour and the 1834 reforms reducing the availability of outdoor relief as two measures during the industrial period designed to encourage individual self reliance and maintain a cheap labour supply. Maintenance of onerous poorhouses as the only source of public relief was meant to avoid dependency, and degrading and debilitating professional pauperism, and force all to struggle to achieve through thrift and hard work in line with the liberal ethos of the times.

2. Carolyn L. Weaver, The Crisis in Social Security: Economic and Political Origins (Durham, N.C., 1982), p. 21.

3. Karl De Schweinitz, England's Road to Social Security (Philadelphia, 1943), p. 69-140.

4. Hace S. Tishler Self Reliance and Social Security, 1870-1917 (Port Washington, N.Y., 1971), p. 3. The reference to the attitudes of the Puritan community is found on p. 6.

5. Tishler 1971, p. 16.

6. Weaver, 1982, p. 27.

7. Jesse Frederick Steiner, "Social Security and American Traditions" Social Forces Vol.14, No.4, (May, 1936), p. 462.

8. Valdemar Carlson, Economic Security in the United States (New York, 1962), p. 35-8. Carlson notes that this ethos influenced American thinking through to the

current day, with the types of limitations imposed on receipt of unemployment insurance.

9. Harry M. Cassidy, "The Canadian Social Services" Annals of the American Academy of Political and Social Science No. 253 (September, 1947), p. 151.

10. Elizabeth Wallace, "The Origin of the Welfare State in Canada, 1867-1900" Canadian Journal of Economics and Political Science Vol. XVI, No. 3 (August, 1950), p. 384.

11. Keith Banting, The Welfare State and Canadian Federalism (2nd ed.) (Montreal, 1987), p. 32.

12. "Introduction: An Historical Framework" in Carl A. Melicke and Janet L. Starch (eds) Perspectives on Canadian Health and Social Services Policy: History and Emerging Trends (Ann Arbor, Mich., 1980), p. 3.

13. For studies of the poverty and depravation in Canadian cities and industry in the late 1800s see Gregory Kealey, Canada Investigates Industrialism (Toronto, 1973); Terry Copp, The Anatomy of Poverty (Toronto, 1974).

14. A.E. Grauer, Public Assistance and Social Insurance (Appendix # 6 to the Report of the Royal Commission on Dominion-Provincial Relations) (Ottawa, 1939), p. 55.

15. Grauer, 1939, p. 57.

16. Thomas Hockin, Government In Canada (Toronto, 1975), p. 73.

17. See Leo Panitch, "The Role and Nature of the Canadian State", in Panitch, The Canadian State (Toronto, 1977), p. 20. He discusses how the welfare function of the state was retarded by the political ascendancy of the petit-bourgeois farmer class, despite the espousal of state activism by such prominent political figures as Mackenzie King.

18. Kenneth Bryden, Old Age Pensions and Policymaking in Canada (Montreal, 1974), Chapter 1.

19. Andrew Armitage, Social Welfare in Canada (Toronto, 1975), p. 5.

20. Bryden, 1974, p. 20.

21. Dennis Guest, The Emergence of Social Security in Canada (Vancouver, 1980), Chapter 2.

22. Ronald Manzer, Public Policy and Political Development in Canada (Toronto, 1985), p. 52.

23. James Struthers No Fault of Their Own (Toronto, 1983), p. 6.

24. Struthers, 1983, p. 7.

25. Tishler, 1971, p. 64. In Gompers' words, charity was not a remedy for social problems, but "merely a patch upon the awful sore of the body economic of our time".

26. Union leaders spoke frequently of the "erosion of character in the charity recipient"; charity essentially "unmans the character". In Gompers' words, "Men who once accept charity ... unless their conditions materially change, are likely to become accustomed to depend on that charity, and make no great effort to work out of the rut". Tischler, 1971, p. 65.

27. "Self Help is the Best Help" American Federationist Vol. XXII, No., 3 (March, 1915), p. 113-15.

28. As Rober Hunter claimed, unions saw charity as an "opiate .... The fatal draught, once imbibed ... degrades each newly made dependent to the level of a spaniel whining after a bone; he is no longer God's freeman, demanding justice." Tischler, 1971, p. 65.

29. Tischler, 1971, p. 67-8.

30. Tischler, 1971, p. 184.

31. Panitch, 1977, p. 20.

32. These laws were designed to ensure that individual claims for injuries received in the course of the working day could be remedied expeditiously, without the complications of lengthy and expensive litigation.

33. Tishler, 1971, p. 84, citing Darwin Kingsley, President of the New York Life Insurance Company.

34. Weaver, 1982, p. 39, citing an official of the Pennsylvania Chamber of Commerce.

35. Wallace, 1950, p. 383-4.

36. Michael Bliss, A Living Profit: Studies in the Social History of Canadian Business, 1883-1911 (Toronto, 1974), p. 62-63.

37. Bliss, 1974, p. 64 ff. Bliss notes the fear of businessmen of the costs to their competitive position if forced to improve conditions, raise wages, or pay for welfare programs.

38. Bliss, 1974, p. 67 ff; Bliss cites an editorial from Industrial Canada in 1907 revealing the businessman's point of view. "Considering that we Canadians have attained the good life to a greater degree than in

most other nations, that our people of all classes are sharing in a uniform prosperity, that we have approached so near to true democracy, where opportunities and rewards are fairly distributed and where all citizens have it within their power to live in comfort and comparative independence, why should there arise a desire to change existing economic conditions, upon which all these are based?". Ibid, p. 73.

39. For a complete discussion of the early years of the system, see William H. Glasson, History of Military Pension Legislation in the United States (New York, 1900).

40. General M.M. Trumbull, "Soldiers' Pensions in the United States", Popular Science Monthly Vol. 35, p. 722-9, (October, 1889) Reprinted in Lamar T. Beman, Selected articles on Old Age Pensions (New York, 1927), p. 74.

41. Curiously, as the number of Civil War veterans diminished, the numbers of supplicants on the pension rolls increased. See Walter Lippmann, "Gratitude and Graft", Everybody,s Magazine Vol. 25, (August, 1911), p. 245-46; Reprinted in Ibid, p. 85-91.

42. Desmond Morton, "Resisting the Pension Evil: Bureaucracy, Democracy and Canada's Board of Pension Commissioners, 1916-33" Canadian Historical Review Vol.LXVIII, No.2, (June, 1987), p. 202.

43. Banting, 1987, p. 32. He notes the consensus on the Canadian state's insensitivity to welfare needs among writers of varied ideological stripes.

44. Copp 1974; Kealey 1973; Herbert Ames The City Below the Hill (Toronto, 1972).

45. Tamara Hareven, "An Ambiguous Alliance: Some Aspects of American Influences on Canadian Social Welfare" Histoire Sociale/ Social History, No. 3 (April, 1969),p. 82-98.

46. Veronica Stong-Boag, "`Wages for Housework.' Mothers' Allowances and the Beginnings of Social Security in Canada" Journal of Canadian Studies Vol.14, No.1, (Spring, 1979), p. 24 ff.

47. Michael J. Piva, "The Workmen's Compensation Movement in Ontario" Ontario History Vol. LXVII, No. 1 (March 1975), p. 39-56.

## 4 Emergence of Old Age Pensions in America

### a) Emergence of the Old Age Pension Issue

Industrialization and urbanization, and the growth in numbers of aged citizens, gradually increased interest in the plight of the indigent elderly in America. As industrial mechanization and specialization made it increasingly difficult for aged workers to retain employment, and as families ceased to be a reliable source of support, more people and organizations advocated some systematic way of ensuring adequate income for senior citizens. Disparity had emerged between those privileged few - veterans, government employees, and those in good private pensions schemes - and the majority of the impoverished elderly. Private corporate pension schemes emerged after the turn of the century, and spread to include many large concerns, such as major railways, food processing and manufacturing companies. However, the number of employees covered by such schemes remained small.[1] The vast majority remained without adequate means of support in old age, and often were forced to seek shelter in community poorhouses, with minimal care and appalling conditions, alongside mental defectives, the infirm, and disreputable paupers.

Stimulated by overseas debate and legislation, state governments began to appoint commissions to investigate the conditions of the elderly and consider alternative means of providing for their needs. Massachusetts proceeded first, but its commission recommended against any form of state-run compulsory pension system: "The idea itself is essentially distasteful to Americans ... in view of the prejudice against compulsion."[2] But the untenability of individual savings and familial support caused more organizations to challenge the dogma of individual responsibility. Collective, systematized solutions gained acceptance. Debate increasingly focussed on whether compulsion under government auspices was preferable to private voluntary collective schemes, managed by employers, unions or charitable societies. And controversy also

remained over contributory versus non-contributory schemes, and the impact on individual thrift and self reliance.[3]

b) Evolution of Union Attitudes

American unionists initially disapproved of public pensions as part of their overall voluntarist critique of state-sponsored social security. At the convention of 1902, the Resolutions Committee rejected a fairly conservative proposal for old age pensions of $12 per month restricted to US citizens of 21 years residence earning under $1000 per year. The advocates had suggested that pensions should be awarded to workers, as the creators of economic "values", since it was impossible under the current system for workers to accumulate sufficient savings and property to sustain themselves in their declining years. Pensions were seen as consistent with "the prime objective of the trade union movement to improve and elevate the standard of living of the working class everywhere and in every way possible".[4]

However, the voluntarists prevailed, asserting that workers should not have to bear the cost of pensions via taxes. John Lennon, leading the attack, declared: " Working people do not want charity from the government - they want justice .... [in the form of] less government by the people and more government by the unions."[5] Union rejection of public pensions reflected more than a reflex ideological preference for voluntarist solutions; it also reflected the self-interest of union organizers. Private union-sponsored pension plans, promoted with increased vigour by the first world war, were an important device for attracting and retaining members; this was of no small concern to a union movement accustomed to drastic decreases in membership during depression years.[6] Compulsory state pension schemes would undermine this desirable device and would require ceding of union authority at the expense of increased state power.[7]

Union leaders believed increased wages would allow workers sufficent savings to permit self sufficiency in old age. They demanded increased bargaining power to achieve

this objective, and feared higher pensions would dull the crusade. Their position was easy to sell to workers who could see little logic in trading the tangible sacrifice of increased taxes in the present for uncertain future pensions benefits.[8]

When increased incomes failed to offset old age destitution, AFL conventions grew increasingly divided on this issue[9].Many AFL leaders now realized "that the development of industrial conditions, in their ever-increasing concentration, weakens the efforts of the workers to remain self-reliant".[10] AFL conventions endorsed federal old age pension in principle; in particular, pensions for federal government employees were advocated.[11] Although maintaining his overall hostility to state social insurance, Gompers seemed to make an exception in 1916 for workmen's compensation and old age pensions.[12]

However, the vigour with which Gompers and the leadership acted on the convention resolutions has been questioned; and the support for pension legislation was not consistently maintained.[13] From 1921 onward, stalling tactics, such as executive council investigations and references to constitutional uncertainty, were employed to avoid a definitive commitment.[14] Charges circulated that, despite the public acceptance of the principle, AFL leaders acted covertly to oppose any move toward public pensions, in concert with employer interests like the National Civic Federation.[15]

In 1929, a full-fledged effort to devise draft legislation for consideration by the states ended this prolonged procrastination.[16] As state labour federations had done previously[17], the AFL finally acknowledged that a living wage sufficient to permit saving for old age was not attainable in the foreseeable future.[18] As Edward McGrady, American Federation of Labor Legislative Representative declared:

> the American Federation of Labor asks the Congress of the United States, the People's Parliament, to enact legislation giving to our superannuated working men and women an adequate pension so that these people, who by their toil and skill helped to make this the most prosperous

> nation that the world has ever dreamed of, may be relieved of the dread of poverty degradation, of dependency, of hunger, and of taking that heart-breaking, soul-searing march over the hill to the poorhouse.[19]

The AFL condemned management discrimination against the aged, in its search for technological sophistication and increased worker productivity, which made use of younger workers more advantageous. The AFL declared: "This cynical waste and repudiation of obligations on the part of business, shifts the responsibility to the community. Society cannot leave men and women to starve".[20]

All voluntary approaches were now considered flawed. Low wages, private insurance and pension contributions, accidents, sickness and other demands on worker income made saving for old age an impossibility; family care was "unfeasible" and institutional care "inadequate".[21] Company pensions contributed to the redundancy of the aged since many employers were reluctant to carry the high premiums required for older workers. These plans were also criticized for binding workers to a single firm and requiring faithful service (including repudiation of strikes) for workers to qualify, thereby acting as a device to control workers to the detriment of union organization.[22] Many cases were reported of workers being dismissed by employers just before they qualified for pensions to preclude necessity to pay them.[23] Since employer pensions were not a reliable source of support, and union plans were not economically viable, the AFL now claimed that only pensions provided by government were capable of providing adequately for old age.

In a clear departure from earlier AFL concern respecting thrift, the federation also advocated non-contributory pensions, funded by progressive income taxes.[24] It was considered "much cheaper, simpler and safer to take the money necessary to care for the old directly out of the national income by an income tax" than to build up a fund from employer, worker and state contributions; proponents of an actuarially sound fund merely sought to make public pensions ineffective through a spurious emulation of

private sector methods.[25] Initially, for largely constitutional reasons, the AFL suggested the states should be left to determine if they chose to participate in the pension scheme.[26] Inadequacy of local and state fiscal resources made it imperative that the federal government provide funding[27]. Existing state pensions were increasingly criticized, principally for their discrimination between the extravagant pensions for the well-paid state employee and the "pittance" offered to poor or ordinary workers. The AFL aim thus became a uniform national system, introduced by federal funding incentives to the states or direct federal action, to provide equal treatment for all persons irrespective of prior income. Such a scheme would be more democratic, more conducive to labour mobility and simpler to administer[28].

c) Business Community Resistance

Most business leaders consistently opposed state old age pensions from the earliest proposals. Arguments centred principally on the defence of thrift and initiative, which would be undermined by state pensions. Particularly odious were non-contributory pensions, based on public taxation, supplying support as a right; this approach was seen as the most detrimental to the values of thrift essential to economic prosperity.[29] An NAM spokesman is representative:

> "Public old age pensions, in common with other forms of paternalistic social insurance, health unemployment, etc. tend to impair those individual virtues of initiative, thrift, forethought and self-reliance upon which any lasting public prosperity and social well-being must rely. Why save if the state will provide for us from the public treasury?"[30]

America was considered exceptional as compared to European nations: pensions overseas were required because of the "inequality of opportunity abroad which theoretically differentiates our social structure from that of Europe".[31] Although a stable income for the aged was desirable, a National Association of Manufacturers report of 1917 suggested that it was "a fundamental American principle that every one in the United States has an

opportunity" to provide for their retirement; "It is fair to state ... that every able-bodied man who is reasonably intelligent and industrious should, through his own efforts on reaching the age of sixty-five, have this provision available", perhaps with supplements from his children.[32] Americans should not copy foreign models but should "reject such paternalistic legislation with its resultant bureaucratic control of individual life".[33] Instead, Americans should look to voluntary institutions, like private industrial pensions, individual savings and insurance, and group plans to cover any post-retirement needs.[34] Insurance company executives praised private insurance as an institution based on American values, which contributed to economic growth through the accumulation of funds for private investment; these benefits would be lost if state pensions were adopted, since these "would undermine the thrift function at every period of life".[35]

Business at times suggested the problem of old age dependency was exaggerated by pension advocates. Thus a National Civic Federation report stated that the clamour for old age pensions was based on sentiment, not on fact; scientific information was needed to counter "political propaganda ... [and] extravagant exaggerations about the prevalence of poverty among the aged".[36] The study claimed "a much better financial condition among aged persons than has been realized generally", with some relying on relatives, but most having sufficient savings, earnings or property "to provide for themselves at least for some years".[37] Criticism of the poorhouse, a venerable American institution, was also considered exaggerated, since improvements in administration could solve most major problems; it was misleading to suggest pensions could ever displace institutional care, since a sizeable proportion of the aged - enfeebled, incompetent and dependent - would always need supervision and care.[38] Public pensions were no less degrading than the poorhouse[39]; but they could worsen the problem by providing "a subsidy or reward for shiftlessness and incompetence".[40] Even business leaders willing to support state health and accident insurance

rejected pensions as "less valuable socially" since, unlike these programmes, they did not contribute to labour productivity.[41]

However, at times the problem was acknowledged, but welcomed as a desirable incentive.

> At stake was the future of the nation and race. The fearsome prospect of old age dependency was the `most powerful incentive which makes for character and growth in a democracy.'Abolish it for the `vast majority of the thrifty and industrious members of society' and an irreparable blow would be struck against the `root of national life and character'. Progress was synonymous with struggle, but the national `capacity for suffering, self-sacrifice, and self-denial' was already on the decline, and pensions would hasten the deterioration.[42]

Given "the importance of preserving the best quality of citizenship for the United States", pensions were rejected and employers encouraged to "assist and inspire ... employes [sic] with the importance and necessity of ways and means for making provision for the contingencies of life - including old age."[43] Demoralization and high cost could be avoided by improving private instruments for care of the aged, such as employee savings plans, stock ownership, life insurance, profit-sharing, and contributory private pensions.[44]

Businessmen were also concerned lest pensions be used as a first step leading to a comprehensive, expensive and socially demoralizing social insurance system.[45] Leaders of the pension movement, like Abraham Epstein were cited to indicate the sweeping ambitions of pension advocates, who hoped to use pensions laws "as an entering wedge to secure adoption of other legislation which ... could not be secured by a frontal effort".[46] Noel Sargent of the NAM warned: "A complete public social insurance system is socially unwise because it lessens reliance of the individual on his own efforts. It is economically unwise because the costs steadily mount; industrial efficiency is impaired and the competitive ability of nations is seriously affected".[47] The development of such a system would involve a drastic alteration in the economic and social system: "instead of providing protection of

opportunity, [our laws] would provide protection for opportunity plus assurance of realization".[48] The spectre of subversion and communism were raised at times; the NAM viewed all social insurance proposals as "seemingly coordinated in a sweeping programme designed to lead eventually to complete socialization."[49] Furthermore, "complete social insurance or services must eventually lead to rigid government control of all industry" since national insurance required an "ordered industrialism".[50]

Behind the rhetoric, the basic complaint remained - fear that the high costs of pensions would fall upon American business. The National Industrial Conference Board pointed out that the "cost of supporting those [aged] who do not produce anything and who do not render any useful service must fall upon the producers, because national income is the result of productive effort".[51] The NAM complained that "industry, which pays a large proportion of the taxes in the country, is being constantly and unnecessarily restricted by social and legislative encroachments that make it increasingly difficult to do business".[52] In the case of old age pensions, the burden would fall upon the young and productive, both workers and managers, who would see their purchasing power drained off to the improvident at the expense of overall economic activity.[53] Despite efforts to devise an actuarially sound pension fund to preclude future drain upon public revenues, business feared the inevitable pressures to liberalize beneficiary qualifications and increase pension stipends would eventually create a massive expenditure and economic drain. The experience of England[54] and Europe were cited to support this position.[55]

Not all business organizations consistently rejected any form of public pension. The Chamber of Commerce of the United States felt that public pensions, "when properly safeguarded by rigid eligibility requirements and restricted to the relief of the indigent, serve a valid social purpose and are not detrimental to the interests of American business"[56] or to thrift.[57] The Chamber saw the need for a better system which "reduces the degradation of the

poorhouse, and permits unfortunate aged citizens to maintain their self-respect at a decent level of subsistence".[58] Since old age dependence was beyond individual remedy[59], and private pensions were inadequate[60], modest programmes of compulsory public pensions were acceptable[61] if they were not prohibitively expensive, could coexist with established industrial plans, and were left to the option of the states.[62] Retailers were more supportive of federal action, seeing the problem as national in scope.[63]

But most business concerns continued to advocate strictly voluntary solutions, preferably some form of industrial pension under employer control. The National Civic Federation conducted a crusade for employer pensions[64], or annuities, financed out of the wages of the work force and not the profits of industry.[65] The NCF suggested that such plans be made contractual and actuarially sound; but they still believed employers should control pensions, which should be given as a reward for meritorious and continuous service.[66] Even those willing to provide guaranteed pensions for all employees, still insisted that private plans, tailored to the needs of individual firms, were more desirable.[67] Industry itself could cope with any problem of old age indigence; businessmen had both the moral conviction[68] and economic incentive[69] to introduce effective pension programmes.[70]

d) Depression Era Pension Debates

Predictably, reactions to the Roosevelt administration's proposed Social Security Act in the mid 1930s reflected these established positions. Business continued to resist the establishment of a comprehensive federal programme, and sought to minimize their tax burdens in the event a programme was established. The Farrell-Birmingham Company attacked the act for its dictatorial interference in capital markets and investment, its inevitably inefficient administration, and its threat to economic well-being, which would eventually produce "social insecurity"[71].

Business was particularly concerned about the method of financing the plan; instead of a compulsory savings plan for workers, based on premiums charged only to employees, the act envisioned a payroll tax, paid by employers, based on the size of their workforce. The added cost was seen as a crippling burden to industry at a time when revenues were needed for reinvestment and recovery[72]. Business warned of the "distortion in price and wage relationships, and hence the interference with industrial production, arising from the inevitably higher labour costs compelled by the payroll tax"[73]. Winthrop A. Aldrich, of the Chase Bank, warned that the "nature and incidence of the payroll tax ... may so disrupt or dislocate the processes of production that, instead of taking from A to help B, it will directly or indirectly hurt both A and B and help no one"[74]. Even the business sympathizers were sceptical of the taxing provisions[75], and urged cautious design of a system which would not prove economically unsound.[76]

Many business leaders were resigned to the eventual enactment of the old age security provisions, given the political climate of the times; particularly after the election of 1934 returned a liberal Congress, the Chamber of Commerce of the United States demonstrated a willingness to cooperate with the administration[77]. But the Chamber advocated independent state old age assistance and annuities, with federal grants-in aid, limited tax burdens, shared by employers and employees, exemption of needy agricultural and domestic workers, and other measures to limit the economic burden of the programme[78]. Aldrich of the Chase National Bank, insisted that the plan should provide assistance only to the needy aged[79]. There was also a desire to safeguard existing company pensions, which had built up invested reserves and generated good will for management[80]; exemptions from social security contributions were advocated for companies with sound private pensions.[81] The insurance industry was willing to support the social security law if it complemented private plans and did not displace them[82]. But the cost and disruptive effect of the federal social security plan remained a consistent concern,

even for those more favourably disposed.[83]

Labour leaders were at once detached and divided in their attitude to the old age assistance plan. Organized labour was most interested in unemployment insurance, and took little role in development of the old age security provisions[84]. Eventually the AFL leadership indicated its support to key congressmen[85]. Commentary in labour publications demonstrated support for the comprehensive national scheme of old age pensions incorporated in the Social Security Act; AFL spokespersons called on the Congress not only to pass the act, but to employ its powers to reorganize the numbers on the Supreme Court, if necessary, to prevent judicial interference[86]. Voluntarists influence still lingered in the AFL, making support for the programme partial and lukewarm[87]. Labour leaders recognized that doubts persisted, but called upon supporters of old age security to rally around the administration[88].

Pressure for federal action was great in the desperate years of the depression. Many in the public supported radical proposals for generous, non-contributory, non-means tested pensions, with generous benefits. The so-called Townsend plan was particularly appealing, as a measure to stimulate consumption by requiring that pensions of $200 per month be spent immediately. The high cost of this plan was disturbing to business and political leaders, who feared its success could undermine the free economy by bringing a high percentage of the national income into social security. But while the impracticability of the plan prevented adoption, the popular support for it, and the high expectations aroused, reduced opposition to old age pensions in the administration and the business community.[89] The pressure on conservatives to accept some form of social security for the aged was intensified by more radical proposals for the redistribution of wealth, which received consideration in Congress, and increasing popular support.[90] Bipartisan support, union endorsement and progressive business conversion ensured passage of the old age pension legislation. Pensions were carefully designed to provide consumer stimulus, to remove of the aged from the depressed

job market, and to reduce the burden of family support while avoiding undue burden on the private economy.[91]

e) The Social Security Act, 1935

The Presidents' Committee on Economic Security reported in favour of a two-part programme to provide comprehensive coverage to the aged[92]. Old age assistance was to be available to those in need, over age sixty-five, on a means tested basis, to be paid out of general tax revenues. The federal government would provide matching grants to states which established means-tested assistance meeting federal requirements. Old age insurance was to be available to all as a right upon reaching age sixty-five, paid for out of a fund accumulated from employee and employer contributions, via a payroll tax.[93] The administration, fiscally conservative in this depression era, insisted upon this regressive financing, to ensure the programme would not become a fiscal drain.[94] The American programme hence exceeded the comprehensiveness of the Canadian pensions of 1927, albeit funded by regressive payroll taxes. Despite pressure from more radical elements, and opponents of social insurance, Congress opted for the administration's middle path, and adopted the programme in 1935[95], with some minor amendments.[96]

The act did not fully satisfy the major lobby groups. The split between industrial and trade unionists erupted into the open shortly after the adoption of the measure. The new Congress of Industrial Organizations adopted a more radical position, and rejected the levy of a tax on employees' wages as part of the financing arrangement. The CIO advocated unification of the contributory old age security and non-contributory old age assistance for the needy, into a single programme, financed by progressive taxation on wealth and incomes. Pensions could then act as a tool to correct the existing "mal-distribution of income", a goal far different from the administration plan[97]. Union positions merged during the war, after the enrolment of mass membership radicalized the AFL, and anti-communist pressures and wartime patriotism deradicalized

the CIO. Ironically, positions were somewhat reversed, with the CIO somewhat wary that large federal social security benefits would undermine union ability to win pension benefits for members through collective bargaining[98]; the AFL, which had traditionally shared this concern, abandoned it since its affiliates, less able to win concessions in bargaining, relied more on federal pension assistance than the CIO.[99] But the unified union central after 1955 acted in concert with elements within the social security administration to advance proposals for a more comprehensive and generous social security system. Even radical elements such as the UAW came to accept the contributory social insurance system and abandon preference for universal, non-contributory pensions.[100]

Business leaders continued to express reservations about the high costs of the programme and its disincentive effects. The size of the accumulated social security fund was criticized for removing capital from the control of private investors; payment of pensions from current revenues could allow more adequate evaluation of needs and avoid over accumulation of resources in the hands of the state. The tax on payrolls was also economically disastrous, since it allegedly induced price increases, wage decreases and increased unemployment, as employers sought to pass on the costs or avoid payment. A pension plan, paid out of general revenues and limited to cases of need could help reduce these burdens.[101] Private insurance companies also rejected the programme as "economically preposterous and legally indefensible".[102]

Despite such reservations, many corporate leaders accepted the existence of the programme, and did not consider its repeal a viable alternative, especially after the Republican Alf Landon's overwhelming defeat on this platform in the 1936 Presidential election. After the Supreme Court validation of the Social Security Act in 1937, the legitimacy of the state's role in this field was no longer contested. Addition of dependants and survivors benefits in 1939 also met little business opposition. This absence of intransigence, and retreat from voluntarist

alternatives indicated that business associations did not find the programme threatening to their interests once it was in operation. One perceived advantage of public pensions was the dampening effect these had on union demands for more generous private pensions through collective bargaining.[103] However, the expansion of the social security system, in both the scale of benefits and the scope of coverage, was generally resisted.

Nonetheless, as pension opponents had predicted, political pressures inevitably led to increased generosity in the American social security system. Business critics were not able to forestall an increase in benefit levels nor to prevent erosion of its insurance character. In the early years, the old age assistance plan covered far more pensioners than the insurance portion, since few had accumulated the necessary contributions until the 1950s. As more became eligible for old age insurance, the Congress retreated from the actuarial basis of the original plan, providing subsidies from general revenues to supplement the fund. This helped to offset the regressive financing of the social security programme. At the same time, benefit levels were boosted above original predictions. This pattern of expansion was to continue for almost 40 years: "The convergence of a growing economy and a still-maturing program allowed for an almost painless procession of rising benefits that only later would take on a sorcerer's apprentice image of uncontrollability".[104] The departure from insurance principles increasingly threatened the solvency of the social security fund, and ultimately the survival of the programme. Nonetheless, this practice of conceding to political demand would continue unabated through the economic boom years of the 1960s. It would only be the fiscal crisis of the 1970s and the Reagan New Right agenda of the 1980s which would slow the expansion of the American social security system.

## Notes

1. Abraham Epstein, Facing Old Age (New York, 1972), p. 244-45. This is a reprint of his book from the 1920s, when he was an important advocate of public social security programs.

2. Cited in Epstein, 1972, p. 247.

3. Roy Lubove, The Struggle for Social Security (Pittsburgh, 1986), p. 117.

4. American Federation of Labor, Proceedings of the Annual Convention 1902, p. 134.

5. AFL Proceedings, 1902, p. 226.

6. Hace S. Tishler Self Reliance and Social Security (Port Washington, N.Y., 1971), p. 73 cites union spokesmen who saw benefit schemes as the best way to increase membership; "The increase in loyalty and of permanence is perhaps the chief gain which the union as an organization derives from the insurance system ... it furnishes an additional means of discipline."

7. Carolyn Weaver The Crisis in Social Security (Durham, N.C., 1982), p. 40.

8. Weaver, 1982, p. 50.

9. Tishler, 1971, p. 88.

10. American Federation of Labor, Proceedings, 1909, p. 27.

11. See the American Federation of Labor convention proceedings of 1911, p. 268; 1912, p. 52, 347; 1913, p. 58, 276; 1914, p. 87, 327; 1915, p. 111; 1916, p. 105, 265-8, 354; 1917, p. 352; 1918, p. 237.

12. Wilbur J. Cohen, "Attitude of Organized Groups Towards Social Insurance", in William Haber and Cohen, (eds.), Readings in Social Security (New York, 1948),p. 130.

13. The 1920 convention, for instance "refused to authorise the Executive Council to make such provisions as shall be necessary to establish a system whereby employees in private employment may have assistance in making provision for old age". American Federation of Labor, History, Encyclopedia, Reference Book Vol. 2 (Washington, 1924), p. 209.

14. AFL 1924, p. 209-11. Until 1923, no endorsement of old age pensions was given, even in principle; after 1923, support for pensions was largely passive, while internal study continued.

15. Abraham Epstein, "Old Age Pensions and American Labor Leadership" American Labor Monthly Vol. I, (June, 1923), p.31.

16. "Old Age Pensions Finally Favoured by A.F. of L." American Labor Legislation Review Vol.XIX, No.4, (December, 1929), p. 354-5.

17. Massachusetts, Report of the Special Commission on Social Insurance, "Non-contributory Old Age Pensions", in Lamar T. Beman, Selected Articles on Old Age Pensions (New York, 1927), p 171.

18. See the statements by Edward F. McGrady, Legislative Representative, American Federation of Labor to a Hearing Before the Subcommittee of the United States Congress, Senate, Committee on Pensions, 11th Congress, 3rd Session, on S3257, A Bill to Encourage and Assist the States in Providing Pensions to the Aged, (February 24, 1931), p. 27 ff.

19. Edward F. McGrady, Legislative Representative, American Federation of Labor, "Old Age Pensions", American Federationist Vol.37, No.5, (May, 1930), p. 544-5.

20. "Progress in Old Age Pensions", American Federationist Vol.37, No.5, (May, 1930), p. 534.

21. "Old Age Pensions", American Federationist Vol.37, No.4, (April, 1930), p. 404.

22. See the statements by A.B. Chapman, Vice President, Brotherhood of Railroad Employees (Clerks) to a Hearing Before the Subcommittee of the United States Congress, Senate, Committee on Pensions, 11th Congress, 3rd Session, on S3257, A Bill to Encourage and Assist the States in Providing Pensions to the Aged, (February 24, 1931), p. 11.

23. See the statements by Thomas Kennedy, Secretary, United Mine Workers of America to a Hearing Before the Subcommittee of the United States Congress, Senate, Committee on Pensions, 11th Congress, 3rd Session, on S3257, A Bill to Encourage and Assist the States in Providing Pensions to the Aged, (February 24, 1931), p. 8-10.

24. McGrady, 1930, p. 546-7.

25. Jennie M. Turner, "Old Age Pensions: Direct, National, Equal, Universal", American Federationist Vol.42, No.1, (January, 1935), p. 17.

26. McGrady, 1930, p. 546-7.

27. Statement of Edward F. McGrady, Legislative Representative, American Federation of Labor to the House of Representatives Committee on Labor, Hearings

on Old Age Pensions, 73rd Congress, 2nd Session, (February 21, 1930), p. 93. While the AFL instinct had been initially to favour federal action, constitutional objections had caused it to lobby for state action, only to find that fiscal incapacities made adequate pension programs unlikely without federal financial assistance.

28. Turner, 1935, p. 19 ff.

29. P. Tecumseh Sherman, Dangerous Tendencies in the Social Insurance Movement An Address Delivered Before the 138th meeting of the Insurance Society of New York, Nov. 21, 1916, p. 1.

30. Noel Sargent, Manager, Industrial Relations, National Association of Manufacturers "This Question of Public Pensions", Savings Bank Journal 11:7-8, 59, (April, 1930) In Johnsen, 1927, p. 237.

31. W.E. Odom, President, Industrial Relations Incorporated, "Do we Need State Old Age Pensions? No.", Annals of the American Academy of Political and Social Science Vol. 170, (November, 1933), p. 103-06.

32. S.P. Bush, General Manager, Buckeye Steel Castings Company, Special Report on Old Age Pensions National Association of Manufacturers, Proceedings of the 22nd Annual Convention (New York, 1917), p. 48.

33. Sargent, 1930, p. 237.

34. Frederick L. Hoffman, "Systems of Wage Earner's Insurance" American Labor Legislation Review Vol. 3, No. 2, (June, 1913), p. 217-8.

35. Hoffman, 1913, p. 221-2.

36. National Civic Federation, Industrial Welfare Department, Extent of Old Age Dependency, (New York, 1928), p. 1.

37. NCF, 1917, p. 76.

38. Odom, 1933, p. 230.

39. George T. Martin, State Manager, Associated Industries of Montana, Report on the Operation of the Montana Old Age Pension Plan (1926).Pensions were also less likely to contribute to the care of the needy, given reports of pensioners spending their stipends on bootleg whisky.

40. Odom, 1933, p. 103-06.

41. Boston Chamber of Commerce, Report of the Special Committee on Social Insurance and Non-contributory Old Age Pensions and Health Insurance (Boston, 1917), p. 3.

42. Lubove, 1986, p. 117.

43. Bush, 1917, p. 63.

44. Odom, 1933, p. 103-06.

45. For an example of a strong critique of a comprehensive social insurance system, see Walter Linn ((Secretary, Pennsylvania Self-Insurer's Association) "Social Insurance: Constructive Destruction" Annals of the American Academy of Political and Social Science Vol.170 (November, 1933), p. 7-17.

46. National Association of Manufacturers, Public Old Age Pensions (New York, 1930), p. 20.

47. Sargent, 1930, p. 237.

48. Odom, 1933, p. 228.

49. NAM, 1930, p. 3.

50. NAM, 1930, p. 60 ff. The NAM reasoned as follows: "Complete insurance is the complete rationalization of expenditure and represents the elimination of hazard. The very basis and justification of capitalism is the necessity for individuals to assume speculative risks of industry. If the state or industry should assume the burden of social insurance, it would be forced to adopt every measure of standardization and rationalization of industry, for to embrace any other policy would mean destruction.No trade association, no industry, could adopt this overtopping [sic] burden without eliminating, as far as possible, all possible risks of industry. Nor could any state permit itself to be involved without assuming jurisdiction over the industry".

51. National Industrial Conference Board, CB Information Service: Domestic Affairs Service, Memorandum Number 40, The Townsend Old Age Pension Plan (New York, 1935), p. II. "Income can not be created by government fiat, but government can bring about a redistribution of the national income. It can transfer income from the rich to the poor; from the efficient to the inefficient; from the industrious to the lazy; from the thrifty to the improvident".

52. NAM, 1930, p. 4.

53. NICB, Memo #40, 1935, p. III.

54. Associated Industries of Montana, Memorandum and Compilation in Re Results and Operation of Montana Old Age Pension Law (New York, 1925), p. 2.

55. NAM, 1930, p. 63-7.

56. Chamber of Commerce of the United States, Report of the Special Chamber Committee on Employee Retirement Annuities (Washington, 1932), p. 9.

57. Chamber of Commerce, 1932, p. 36.

58. Chamber of Commerce, 1932,, p. 37.

59. Chamber of Commerce, 1932, p. 36.

60. Chamber of Commerce, 1932, p. 37.

61. Henry I. Harriman, President, Chamber of Commerce of the United States, Two Years: A Review (Washington, 1935), p. 26.

62. Harriman, 1935, p. 28-9.

63. Frank L. Weil, (Counsel, New York Retail Dry Goods Association), "American Business Looks Toward Social Security", 8th. Conference, American Association for Social Security, (New York, 1935), p. 226-27; this writer feared distortion in the migration of both labour and capital between states if a national pension system was not established.

64. Percy S. Straus, Vice Chairman, Industrial Welfare Department, National Civic Federation, "Opening Remarks", National Civic Federation Conference on Old Age Pensions (New York, 1927), p. 1-3.

65. National Civic Federation, Industrial Welfare Department, Old Age Annuities: A practical Guide for a sound solution of the Pension Problem (New York, 1925), p. 5. "Security for the wage-workers in old age calls chiefly for organized, cooperative and assisted thrift ... [or] means whereby the wage workers will be enabled automatically to provide for themselves in old-age largely out of their own wages".

66. NAM, 1930, p. 31. Western Union Telegraph Company, "Employe's Pensions and Insurance", American Employer Vol. 1, No. 11, (June, 1913), p. 675-6.

67. P. Tecumseh Sherman, "Old Age Pensions and Compulsory Old Age Insurance of Wage Workers", in National Civic Federation, Industrial Welfare Department, Old Age Pensions Conference (New York, April 29, 1927), p. 4.

68. Colonel George Pope, President of the NAM, insisted that, in 1916, "there is a keener sense of social responsibility among the great body of manufacturers than ever before ... [which] is not minimized by the unwillingness of the manufacturer to embrace every new scheme of alleged social benefit that is proposed" Cited in NAM, 1930, p. 20.

69. See the arguments of the Metropolitan Life Insurance Company, respecting the gains to productivity and good will in industry of a content an secure work force looking forward to a guarantee of security in old age. Ingalls Kimball, "Industrial Pensions vs. State Poor Relief" The Annalist (January 22, 1926), p. 7-8.

70. Numerous detailed proposals for elaborate, guaranteed industry pensions were put forward. As an example, see National Civic Federation, Industrial Welfare Department, Old Age Annuities: A Practical Guide for an Economically Sound Solution of the Pension Problem, (New York, 1925).

71. Allen W. Rucker and N.W. Pickering, Economic Pitfalls in the Federal Social Security Act (Ansonia, Conn., 1935), p. 4, 5, 14.

72. Chamber of Commerce of the United States, Committee on Social Reserves, Report, "Social Legislation", (Washington, 1935), p. 6.

73. Rucker and Pickering, p. 4.

74. Winthrop W. Aldrich, Chairman, Board of Directors, Chase National Bank, An Appraisal of the Federal Social Security Act (New York, 1936), p. 41.

75. Harriman, 1935, p. 29.

76. Weil, p. 226-27.

77. Rinehart J. Swenson, "The Chamber of Commerce and The New Deal", Annals of The American Academy of Political and Social Science Vol. 179, (May, 1935), p. 137.

78. Chamber of Commerce of the United States, "Social Legislation", 1935, p. 4-19.

79. Aldrich, 1936, p. 40.

80. Winthrop A. Aldrich, An Appraisal of the Federal Social Security Act An Address by the Chairman of the Board of Directors of the Chase National Bank before the Institute of Public Affairs, University of Virginia (Charlottesville, Va., July 10, 1936).

81. See for instance Aldrich, 1936, p. 33-4; Chamber of Commerce of the United States, "Social Legislation", 1935, p. 3-5; Harriman, 1935, p. 30.

82. William J. Graham, Vice President, Equitable Life Insurance Society, "Social Security", Radio Address Delivered Before the 60th. Annual Meeting of the New York Board of Trade, Inc., December 17, 1936, p. 4.

83. See the observations a decade later in Social Security: A Statement by the Committees of the American Life Convention, Life Insurance Association

of America, and The National Association of Life Underwriters (February, 1945), p. 2 ff. re the need for caution respecting the size of benefits and burdens to ensure an actuarially sound plan, so that productivity was not undermined. "Just as benefits must not be so large as to interfere with the will to work, so the cost of social security must not be so high nor so allocated among taxpayers as to discourage industry and saving". Ibid, p. 2.

84. Martha Derthick, Policy Making for Social Security (Washington, 1979), p. 111.

85. Edwin E. Witte, The Development of the Social Security Act (Madison, 1962), p. 87-88.

86. Turner, 1935, p. 20-24.

87. Derthick, 1979, p. 112.

88. Edward F. McGrady, "The Need for A United Front in Social Security", 8th. Conference, American Association for Social Security, (New York, 1935), p. 200.

89. Paul H. Douglas, Social Security in the United States (New York, 1936), p. 73.

90. Weaver, 1982, p. 70.

91. William Graebner, "From Pensions to Social Security: Social Insurance and the Rise of Dependency" in John N. Schadt (ed.), The Quest for Security: Papers on the Origins and the Future of the American Social Insurance System (Iowa City, Iowa, 1982), p. 28-29.

92. Edwin E. Witte, The Development of the Social Security Act (Madison. Wisc., 1962), p. 146.

93. Weaver, 1982, p. 66-68.

94. Mark H. Leff, "Historical Perspectives on Old Age Insurance: The State of the Art on the Art of the State" in Edward D. Berkowitz, (ed.) Social Security After Fifty (New York, 1987), p. 32.

95. Weaver, 1982, p. 72.

96. Weaver, 1982, Chapter 5; Witte, 1962, p. 146 ff.

97. Derthick, 1979, p. 113.

98. John L. Lewis, "Pensions: The Coming Issue in Collective Bargaining" U.S. News and World Report Vol.25, No.21, (November 19, 1948), p. 34-41.

99. Derthick, 1979, p. 119-21.

100. Derthick, 1979, p. 128-29.

101. Aldrich, 1936, p. 39 ff.

102. Cited in Derthick, 1979, p. 134.

103. Derthick, 1979, p. 132-134.

104. Leff, 1987, p. 47.

## 5 Canadian Old Age Pensions

### a) Early Canadian Voluntarism

By the end of the nineteenth century, changing economic and social circumstances also forced Canadians to reconsider the financial plight of senior citizens.[1] The municipal systems of provision often condemned the aged to a place in a poorhouse alongside the infirm or mentally ill; where such Elizabethan institutions were not developed, the indigent poor were often consigned to the jailhouse.[2] As such injustices became more widespread, it was acknowledged that many deserving individuals could not make enough to provide for their future after retirement, and that government should take responsibility for their needs.[3] While Canadians did not approach the Europeans in attachment to state solutions, "there was apparent a growing disinclination to limit the sphere of government to its traditional functions"; "the government should intervene to prevent men and women from dying of hunger in the street whether or not the destitution were their own fault".[4]

Federal and provincial decisionmakers received increasing pressure from segments of the public to adopt new approaches. Prominent among the proponents were major trade unions, which did not follow American voluntarism and accepted the necessity for public pensions. Union conventions from the late 1890s onward urged a national pension programme modelled after European practice. Despite this mounting concern, verified by government investigations of the abject conditions of the indigent elderly, procrastination was the practice.[5] Government officials denied the problem, or insisted there was no widespread demand for action. The ideology of the time suggested that individual frugality and thrift were the routes to avoidance of the poorhouse.[6] Thus, the Royal Commission on the Relations of Labour and Capital, reporting in 1889, urged the government to facilitate the prospects for individual savings to prevent destitution and dependency in old age.[7] Pensions were regarded only as

rewards for faithful service, to be dispensed solely on the whim of private employers.[8]

In addition, politicians feared the adverse views which potential foreign investors and immigrants would develop if Canada, through the adoption of a pension system, admitted poverty was a widespread problem. The federal government initially pursued an approach which was consistent with the individualistic ideology. Habits of thrift were encouraged by the development of government and post-office savings banks, to act as the repository for individual savings. Despite the presence of high profile labourites in the Liberal caucus, government leaders continued to resist a public pension, which would reward the improvident at the expense of the frugal. In 1907, the Liberal regime of Wilfrid Laurier introduced a system of government annuities, to be sold to the public for a minimal outlay, and extended on the basis of irregular payments. The individual would thereby be encouraged to put more of his money into savings for the future, and the thrifty would receive larger payments upon retirement than the spendthrift.[9]

Trade unionists quickly condemned the plan as inadequate, since many workers could not afford to buy annuities. Spurred on by the adoption of pension schemes in Britain, Germany, Australia and New Zealand, unions advocated a government programme, financed from general revenues or from sale of crown land.[10] The Trades and Labour Congress of Canada noted that, since government gave generous incentives and grants to industry, "it should not be difficult to find the necessary funds to take care of the soldiers of toil who, after a lifetime of good citizenship, find themselves helpless in old age".[11] A good pension system was essential to draw skilled workers from Britain and those European countries which had adopted such plans. Union pressure was heightened as federal and provincial governments developed more generous pension schemes to aid their own employees and railway workers. The inequity of excluding organized and unorganized workers in private industry from such plans added to the appeal of

comprehensive pensions.

Nonetheless, politicians continued to express concerns about the social impact of such a programme, citing the potential deterioration of thrift and savings. Government spokesmen made much of the difficulties of separating the deserving from the undeserving aged, of distinguishing which indigents had at least attempted to provide for themselves, and which had merely accepted state relief after a wasteful life. "Reward for service" as a principle made this possible since each employer could independently assess the merits of a claimant; hence the state should provide retirement pensions only for public sector employees, as was the existing practice. In debates in the House of Commons, this voluntarist approach was justified by appeals to the vast opportunity available to Canadians in a wealthy, expanding young economy. "There is enough for all, and none need suffer except for want of effort" remained the appealing creed.[12]

Pensions were raised repeatedly in the House of Commons in the years prior to World War I. A Parliamentary commission collected submissions from numerous labour, business, charitable and municipal organizations; a high degree of public support for pensions was uncovered.[13] Nonetheless, encouraged by business opposition,[14] the proposal was ignored by the government of the day. The high cost of a national programme would potentially exact a heavy price on the young economy. Governments concentrated their attention on improving economic performance, and increasing the size of the Canadian economy. Growth and prosperity would enable increasing numbers of workmen to provide for their own future, through savings or annuities, public and private.

While the war enhanced the federal government's authority and financial resources, it also distracted politicians from the pension issue; the reconstruction emphasis on return to private initiative and federal fiscal frugality also inhibited serious consideration of such a costly innovative programme. Despite recommendations in favour of old age pensions from both the Royal Commission

on Industrial Relations and the Industrial Conference of September, 1919, the Conservative government of Robert Borden accepted the employers' position in favour of government retrenchment and balanced budgets.[15] And, notwithstanding the commitment at the 1919 Liberal leadership convention, the Liberal government of Mackenzie King in the early 1920s also allowed the prosperous times to deflect it from consideration of pensions.

b) The Emergence of Old Age Pensions, 1927

Led by labour and progressive members, Canada's Parliament made several inconclusive investigations of pensions after World War I. Finally, a Special Committee of the House was established to consider an old age pensions system for Canada. In its 1924 report, the Committee recommended a system of pensions for the needy over age 70, who were British subjects with a long history of residence in Canada. Pensions of $20 per month were to be available, but were reduced if pensioners received other income. Pensions were to be financed on a cost-shared basis with the federal government to pay 50% of the costs, and the provinces the other 50%. Cooperation with the provinces was considered desirable, since constitutional jurisdiction for old age pensions was undetermined.[16] The King administration hesitated, citing constitutional uncertainty; it was induced to act when a pension system was demanded as the price of support by the labourite "Ginger Group", which held the balance of power in Parliament in 1925. On the advice of the Department of Justice, Mackenzie King offered federal assistance to any province which voluntarily set up its own pension system conforming to federal standards.

Labour welcomed the initiatives in Parliament, but applied pressure for more generous terms. The Parliamentary Committee was criticized for treating pensions as a matter of "business" rather than of "brotherhood". The Toronto District Labour Council advocated a scheme of universally available pensions at a rate of $30 per month; individuals should not have to wait until they are "on the brink of

starvation" to qualify for pensions.[17] The Trades and Labour Congress of Canada argued that "[m]odern industry is willing only to use the most efficient workers and this makes it difficult for thousands of aged workers to earn sufficient to keep them in the necessities of life. Neglect and indifference on the part of the Government of Canada to fulfil its duties to this class of citizens is inexcusable".[18] The TLC criticized the disqualification for individuals with high savings as discriminatory and unacceptable.[19] A national pension system, fully funded by Ottawa, was also preferred[20], to avoid variations in provincial standards of pensions and ensure "equality of treatment".[21] While welcoming the introduction of a precedent for state social security,[22] and expressing support for the government's programme as a first step[23], the TLC continued to press for amendments to make the plan more comprehensive[24] and generous.[25] The TLC was quick to condemn the failure by the Senate to pass the old age pension bill once approved by parliament; the TLC went so far as to advocate curtailment of the authority of this appointed body, to ensure the triumph of the people's will.[26].

Private pensions were not seen as an alternative because they discouraged hiring of older workers, restricted labour mobility, and served as a tool of employer coercion.[27] Only a few unions, notably the Railway Brotherhoods, supported retention of private company pensions[28] which should be improved to act as a complement to any government pension plan.[29] But their success must be made available to the community at large; the railwaymen declared "the desirability and the crying need of an old age pension system for all Canada".[30] The Senate was denounced as an "obstruction to social justice".[31]

Business leaders resisted the move to state provision for social security. The Monetary Times argued that while "progress is being made in the struggle of the people to break the increasing hold the government has been taking in their private affairs, the idea that it is a function of government to interfere on behalf of the economically weak

persists". Such policies inevitably meant that productive elements of society must be expected to support unproductive groups, an approach which would threaten the economic foundation of society, and the spirit of independence of the citizens.[32] Old age pensions on a national scale were resisted as a dole[33], although provincial schemes not conforming to rigid federal standards were considered less objectionable.[34] Concerns were raised over the costs of a non-contributory system, which was viewed as potentially a significant economic drain. The Canadian Manufacturers' Association took a prominent role in rejecting pensions, citing foreign experience with such programmes, which allegedly created massively inflated tax burdens, and resultant economic drain; any initial cost estimates could be dismissed as "inevitably much lower than what is proved in the event".[35] Business resistance to increased expenditures, and its demands for lower taxes and balanced budgets may have been important in inducing government caution and delay.[36]

Despite these objections, political developments eventually dictated adoption of public pensions.[37] After defeat of the bill in the Senate, and an election precipitated by the constitutional crisis of 1926, the pension issue remained at the top of the political agenda; the new majority government of Mackenzie King was committed to the reintroduction and passage of the plan.[38] Canadians only slowly reaped the benefits, as some provinces took another half decade to subscribe. After the Conservatives altered their position, and actually increased the federal contribution to 75% in the 1930s, reluctant premiers and the fiscally weak provinces were able to participate, and the means-tested, non-contributory model came into effect.

Business response to pensions remained critical. The Canadian Manufacturers' Association convention of 1929 argued that Canada was going against trends in adopting a non-contributory system, which could only put "a premium on thriftlessness and fraud". A contributory pension programme would be both less costly and less of a drain on the moral strength of workers.[39] The present system was repeatedly

condemned for its disastrous economic impact, and pressure for reform remained constant in subsequent years.[40] The CMA remained in the forefront, at one point even suggesting an amendment to require close relatives to support senior citizens to save money.[41] In a more constructive vein, the CMA advocated a conversion to a universal contributory system; this would reduce the tax burden, and remove barriers to thrift created by the existing limits on additional savings and earnings.[42]

In contrast, labour spokesmen suggested the programme was insufficiently generous,[43] and demanded a lower eligibility age, and a larger monthly payment.[44] Claiming that workers wore out at an early age in a modern economy, various union locals called upon the government to adopt a more generous programme.[45] The plan was also criticized for its provision for government takeover of deeds to pensioners' homes upon their death as a means of recouping the cost of the pensions, which was an infringement on the rights of descendants.[46] Farmers' organizations joined in the demands.[47] Others were concerned to improve portability of pensions among the provinces, to assist mobility of labour.[48] Municipalities concerned about their growing relief roles joined in demands for a lowering in age for pension eligibility to reduce their liability.[49]

Despite serious concerns, the largest union central, the Trades and Labour Congress of Canada supported the new programme. Unionists took an active role in encouraging all the provinces to participate in the pension scheme, no easy accomplishment in the depression years which followed. Unionists used the argument that, since national taxes were used to pay the federal portion of the programme, unionists in non-participating provinces were being asked to pay for a service they could not receive.[50]

c) Reforms and Debates in the 1950s

The 1927 act remained on the statute books for the next 24 years. It received increasing criticism on a number of fronts. Reform groups and labour organizations attacked

the programme for its small benefits, high eligibility age, and degrading means test.[51] Inconsistencies between provincial programmes and the long residency requirements were also condemned by labour as inequitable, and restrictive of labour mobility. Labour was particularly keen to lower the pensionable age during the great depression, to increase job opportunities for younger workers.[52] Business groups continued their criticism of the high cost and economic disincentives of the plan.[53] Press commentary urged changes to make the programme more adequate in the expensive post-war economy.[54] It was not until serious post-war inflation in the late 1940s that the federal government considered major alterations to the pension programme. An increase in the benefit size to $40 per month in 1947 was followed by comprehensive reassessment of the programme by a special parliamentary committee in the early 1950s.[55]

Business organizations resisted expansion of "government guaranteed security", which limited individual freedom, and reduced personal responsibility.[56] C.C. Thackray, President of Dominion Rubber Company argued:

> People need protection against old age, unemployment and disability ... but this protection should come first of all from the thrift of the individual, from his own efforts and self-reliance. Government benefits should come last and should be held down to a minimum. When the government takes the lead in developing human aid a nation's walk down the road to socialism turns into a gallop.[57]

Stockholders' organizations argued that high taxes on owners and investors, Canadian and foreign, would inevitably prove costly to the economy; the electorate should not be duped into "a piecemeal institution of socialism [which] ... is exactly what would happen if pensions were paid to `have-nots' by money taken from `haves'".[58] The Chamber of Commerce held to traditional conceptions of individual thrift and responsibility as the route to economic growth, upon which all security must ultimately rest. "So-called social security provided by the state, ... grows by what it feeds on and destroys the incentives which lead to a real social security".[59] The

Chamber warned of a need "to guard against building an edifice of fixed expenditures which, if dark days should come upon us, our economy could not possibly carry".[60] There was considerable concern, lest any increase in benefit levels, reduction in the age limit, or elimination of the means test[61] should make an already expensive programme prohibitively burdensome.[62]

In its brief to the Parliamentary Committee, the Chamber of Commerce accepted the political inevitability of a broadening of the pension system , and concentrated on securing the least economically and morally damaging alternative. Warning, in this cold war period, that generous social programmes might prove incompatible with adequate military security, the Chamber called for a pension limited to $30 per month, payable to long-term residents over age 70, and advocated elimination of the means test to avoid disincentives[63]; the public pension was considered only a bare minimum to prevent destitution.[64] Financing by universal contributions was also suggested, to spread the burden as widely as possible, and to discourage increased benefits, by making more people feel the cost of such generosity. "This should provide an automatic check on demands for increased social welfare beyond the willingness and capacity of the citizen to pay".[65]

The life insurance industry shared most of the Chamber of Commerce positions, calling for limited benefits, strict eligibility requirements, and contributory financing. Careful design of the programme was crucial to avoid disincentives and economic drain. In particular, the pension should be a bare minimum which would not discourage continued productive effort by the aged:

> During the past half century there has been a substantial increase in longevity and a marked improvement in the general level of health, and in most occupations working conditions have become less onerous and hours of work much shorter. The result is that people should now be able to continue some form of employment longer than was previously the case.[66]

Benefits should be paid on a flat rate basis to all, and not linked to previous earnings, to keep down the cost of

both benefits and record-keeping. Contributions should also not be progressive with increasing income, but should be on a flat rate or set percentage of income, to avoid impinging on private savings, pension contributions or insurance premiums. A pay-as-you-go system out of current contributions was preferred to an actuarial fund, as the latter would require costly administration; contributions should only be charged to individuals, the future recipients of pensions, and should not be levied on employers.[67]

Albeit grudgingly[68], manufacturers saw the benefits of a pension programme financed by worker contributions as a less costly, and more responsible system.[69] The CMA acknowledged the inadequacy of private pensions, and no doubt welcomed the reduced pension burden on industry after the establishment of a government pension programme. Public pensions were lauded for lessening inflation, since they "reduce[d] the danger of `pie-in-the-sky' demands by unions".[70] Since demands for protection would inevitably increase, the Association preferred a move away from the current costly non-contributory system, with its disincentives from the means tests. The CMA argued that "considerations of coverage, equity, the avoidance of costly and discriminatory relief or charity payments and the protection of the economy of our country and the aged in our population, all argue for the inauguration of an over-all, contributory old age pension plan on a reasonably adequate basis".[71] The CMA also favoured a graded benefit scheme, to ensure larger pensions to those whose efforts had reaped larger incomes in the working years; this was considered an additional incentive to effort by workers.[72] The CMA still urged retention high age and residency requirements, and cautioned that the programme must be self-financing to avoid undue tax burdens.[73]

The labour movement had become more fragmented by 1950, and this prompted a more diverse range of positions towards pension reform. The Quebec-based Confederation des Travailleurs Catholique maintained its concerns respecting Quebec's autonomy in social policy matters.[74] However, this

union strongly supported a more adequate system of pensions: "The worker, who has, for the advantage of his community, devoted all of his life to the practice of a trade or a profession is entitled to demand that the community look after his subsistence when he has reached retirement age".[75] The CTCC argued that government should first encourage expansion of private pension programmes, while providing a complementary public pension as a "minimum under which one could not decently go"; the CTCC also called for a lower age of eligibility, to relieve pressures on the job market.[76] Elimination of the "humiliating" means test and provision of more generous benefits were also advocated as well within the means of a rich and expanding country like Canada.[77] But any new programme should conform to the "excellent ... present system of concurrent legislation based on federal-provincial co-operation" to avoid erosion of Quebec's social policy jurisdiction.[78] The Union Catholique des Cultivateurs recommended increased benefits, reduced qualifying age, cost of living adjustments, a more flexible means test, and voluntary annuities beyond the basic pension; it likewise maintained the Quebec preference that "the provinces remain the administrators of the programme, each one attempting in its own jurisdiction to adapt it to the mentality and the economic and social conditions of its environment".[79]

The Trades and Labour Congress of Canada, impatient at the lack of government action[80], resisted the contributory principle for many years, favouring a more generous state-sponsored programme for the needy. However, by the 1950s the TLC had accepted the contributory, all-inclusive model, as part of a comprehensive social security package[81]. The Congress was concerned lest the inability of many to receive government pensions would induce greater reliance on private pension plans[82] which promoted inequities and gaps in coverage (such as for seasonal workers) labour market immobility, and employer preference for younger workers.[83] The TLC plan would include a universally available contributory pension from age 65 without means

test, with generous benefits and relaxed residency requirements.[84] Contributions should be progressive, levied on incomes. Federal financing and administration were also advocated, to ensure a uniform national standard, and elimination of provincial residency requirements to facilitate mobility.[85] The pension plan should be integrated into a comprehensive social security package, to ensure that "a thriving country, capable of providing a high standard of living for its population, shall at no time number among its citizens persons who, through no fault of their own, find themselves without financial means to purchase their own food, clothing, shelter, and a share of the good things of life".[86] Generous public pensions were also considered prudent, since communism, the principal enemy of democracy, thrived on the discontent of the impoverished.[87]

The Canadian Congress of Labour, composed of industrial unions, adopted a more radical position. Current provisions for the aged were soundly condemned as inadequate: "[i]t might be far more humane to club our aged to death ... than to condemn them to the barren existence of miserable back rooms, shabby clothing, bad food, and indifferent care".[88] Noting the more generous pension systems of many Western nations, including the United States, the Congress called for a basic non-contributory pension, paid for by the federal government, available to all over age 65 as a matter of right, at a rate of $50 per month. This should be supplemented by a contributory pension plan for those able to accumulate sufficient contributions, with graduated premiums and benefits. For those too old or otherwise unable to accumulate pension rights, an additional old age assistance programme should pay extra benefits from federal funds. Pensions should be increased yearly to match rising living costs, with a 2% productivity bonus. These elaborate policies could be financed by increased corporate taxes and progressive income tax.[89] Such revisions would prevent the Canadian pension plan from remaining "a modern equivalent of the old poor laws".[90] In addition, the means test should be

abolished so that pensioners could receive additional benefits from industrial pensions obtained via collective bargaining.[91] A simpler call for generous, non-contributory pensions, payable at age 60, was advanced by the United Electrical, Radio, and Machine Workers of America. High pensions would act as an economic stimulus to promote full-employment, and could be financed by reduced military spending.[92]

The Committee ultimately recommended a two-tier programme, with contributory pensions (old age security) available to all over the age of 70, at a rate of $40 per month, administered federally, and a supplementary means-tested, non-contributory old age assistance plan available to individuals between 65-69 years of age, administered by the provinces on a cost-shared basis. With the appropriate constitutional amendment, and the passage of two complementary bills, this political compromise package was implemented in 1951.[93] Naturally the protagonists were not entirely satisfied, and appeals for revisions were forthcoming[94]. However, there was sufficient cause for satisfaction with the programme, at least as a first step[95]; the new policy improved on the position of the aged[96], while redressing business concerns about the high costs of the current plan.[97] Nonetheless, despite Liberal expression of strong support of state responsibility for welfare provision[98], the programme fell short of America's OASDI in its scope, age limits and generosity. Only in 1958 did Canada extend federal cost sharing to disability benefits, for example.[99]

d) Reforms and Debates in the 1960s

It was not until the mid-1960s that Canada rationalized and upgraded its pension system into a fully contributory plan, available to all over age 65. Conservative and reform pressures again pushed in similar directions. Business and bureaucrats joined together in their desire to end the flat-rate benefit and contribution system, which, it was claimed, would escalate costs and detract from incentive. On the other hand, those interested

in improving benefit levels also believed contributory pensions would facilitate a more generous system which avoided the uncertainties and rigidities of private pensions. British and Swedish models of contributory pensions, with contributions and benefits based on earnings, served as the model for both reform factions.[100]

Business retained its cautious approach, demanding a programme designed to minimize interference in the economy.[101] Both the Chamber of Commerce and the Life Insurance industry favoured government encouragement of private pensions and insurance schemes, and resisted expansion of public pensions beyond the minimum floor previously established.[102] Actuaries feared the costs of the programme, and felt private plans were both more efficient and less expensive, while providing new capital for private investment. They resorted to traditional rhetoric in condemning Canadians' "excessive dependence on governmental support and ... expectation of income totally unrelated to the contribution the individual himself has made".[103] The Chamber of Commerce feared the size of the proposed fund, which would drain capital from private investment,[104] and expand "the growth of government at the expense of private development".[105] Higher tax burdens to pay for the plan would also hurt the international competitiveness of Canadian business[106]; only a limited, flat rate benefit could avoid this cost escalation.[107] But other business organizations accepted the overall desirability of the new plan, despite specific criticisms.[108]

Unions were more enthusiastic about the potential for expansion of benefits to include such contingencies as disability and survivors needs, and provide full portability and wage related benefits, long features of U.S. pension policy. Unions were concerned to ensure that contributions and benefits worked in progressive fashion, to provide the minimum income necessary to support a healthy and decent retirement, including adjustments linked to the cost of living. Ultimately the government initiatives of the 1960s were considered worthy of support.[109] Indeed, unions mounted a strong campaign in

favour of contributory pensions, to counter Chamber and insurance industry attacks.[110]

Hesitant in the face of business pressures, the minority Liberal government of Lester Pearson was forced into action in 1965 by the New Democratic Party, its social democratic partner in the House. Inducement also came from the well-developed Quebec plan, which that province threatened to enact unilaterally. These diverse pressures, and byzantine negotiations with the provinces, notably Quebec, produced a compromise policy, which introduced a contributory, portable, earnings-related pension on top of the universal, flat rate pension. By 1970, pension benefits under both schemes were gradually made available, without means test, to all over age 65. Accumulation of a pension reserve fund, available to provinces for investment in securities, was part of an effort to control costs, and ensure self-financing. Under pressure from Quebec, Ottawa eventually accepted survivor, death and disability provisions, bringing the Canadian programme closer to US practice.[111] Thus, the American legislative accomplishment of the 1930s was finally emulated in this country, ending several decades in which Canadian pensioners received far less extensive assistance. By the 1970s, beneficiaries received somewhat similar payments in the two countries, with the Americans still spending more per capita, if using less progressive contribution and benefit scales. Fear of constitutional complications had caused the Canadian plan to evolve in several stages, as against the comprehensive American initiative of the 1930s.[112]

## Notes

1. Elizabeth Wallace, "The Origin of the Social Welfare State in Canada", Canadian Journal of Economics and Political Science Vol.16 , No.3, (August, 1950), p. 386-87.

2. The provision of the Criminal Code of Canada permitting the poor to be consigned to prison was only removed in 1900. Joseph E. Laycock, The Canadian System of Old Age Pensions (PhD. Thesis, University of Chicago, 1952), p. 18.

3. Wallace 1950, p. 387, noted that the depressions of the late 1800s engendered doubt among the Canadian populace as to whether the aged poor were indeed "the chief architects of their own poverty".

4. William R. Lafferty, The Genesis of Old Age Security Legislation in Canada, 1906-1927 (Ottawa, Carleton University Master of Social Work MSW Thesis, 1970), p. 9.

5. Laycock, 1952, p. 7. He notes that the 1889 report of the Royal Commission on the Relations of Labour and Capital documented the problems of the indigent aged but did not advocate federal policy, since the individual had responsibility for self-provision in this regard.

6. See Laycock's summary of the attitude of the Canadian Conference on Charities and Corrections of the late 1890s. Laycock, 1952, p. 17.

7. Frederick Peters, The Cooperative Commonwealth Federation and Old Age Security: A Review, 1932-1967 (Ottawa, Carleton University MSW Thesis, n.d.), p. 5.

8. Laurence E. Coward, "Some History of Pensions in Canada" in Coward (ed.) Pensions in Canada (Toronto, 1964), p. 199.

9. Roger Roome, Ideology and Social Welfare Legislation in Canada - A Case Study: The Government Annuities Act of 1908 (Ottawa, Carleton University MSW Thesis, 1980).

10. For a summary of union representations to government on the issue see Memorandum re Representations Received from Municipal Labour Bodies, Etc. in Favour of Adoption of a System of Old Age Pensions in Canada in Public Archives of Canada, Department of Labour Papers, RG 27, Vol. 167 File 612.3:6 Vol. 1.

11. Roome, 1980, p. 38-9.

12. Lafferty, 1970.

13. Canada, Parliament, House of Commons, Committee on an Old Age Pension System for Canada Memorandum (Ottawa, 1912).

14. See Ibid, p. 24, for an example of business concern about the impact of public pensions on thrift, expressed by the representative of the New Glasgow Steel and Coal Co.

15. Dennis Guest, The Emergence of Social Security in Canada (Vancouver, 1980), p. 66-68.

16. Internal Memorandum re Pensions in PAC, Department of Labour Papers, RG 27, Vol. 160.

17. Old Age Pension Association, Toronto District Labour Council Legislative Committee Report (April 6, 1925) in PAC, Department of National Health and Welfare RG 29 Vol. 126, File 208-1-18. Appealing to King's political instincts, the Council urged: "Free yourself from tyrannical capitalism. Lead the people to a brighter and happy future while on this earth. By doing this, you will earn the gratitude of those now living. Your name will be revered by future generations as one who tried to do justice to aged and dependent poor. `The poor ye have always with you'".

18. Excerpt from "Old Age Pensions", Canadian Congress Journal (November, 1924) found in PAC, Department of National Health and Welfare, RG 29 Vol. 127, File 208-1-18.

19. "Memorandum on Old Age Pensions, Canadian Congress Journal Vol.6, No.3, (March, 1927), p. 15.

20. For extended discussion of the TLC position on these issues see Canada, Parliament, House of Commons, Journals, 1924, Appendix 4, Special Committee on an Old Age Pension System for Canada, Minutes of Evidence Testimony of Tom Moore, President, Trades and Labour Congress of Canada, May 1924, p. 51-61.

21. Trades and Labour Congress of Canada, Report on Proceedings of the 42nd. Annual Convention, Montreal, September 20-26, 1926, p. 14.

22. Ibid, p. 51. "This proposed legislation, whilst far from satisfactory, either as to the age at which it should be granted or the amount to be provided, did at least recognize the principle of state responsibility to protect its aged workers".

23. "Old Age Pensions" Canadian Congress Journal Vol.V, No.4, (April, 1926), p. 34. The TLC intended to support the bill to ensure immediate assistance to the aged needy, while urging extension of coverage.

24. Thus, the TLC lamented the incomplete coverage which the proposed measure, which was so "restricted as to leave outside its scope great numbers of worthy citizens who we sincerely believe should be entitled to its benefits". "old Age Pensions" Canadian Congress Journal Vol.V, No.4, (April, 1926), p. 12.

25. "Tom Moore on Old Age Pensions", Winnipeg Free Press (February 1, 1927), p. 20. Trades and Labour Congress of Canada, Report of Proceedings of the 43rd Annual Convention Edmonton, Alberta, Aug 22-26, 1927, p. 15. The TLC sought pensions payable at age 65, worth $39 per month, with greater allowances for additional savings or earnings. But again, the bill passed in 1926 was considered an "important first step" because it "recognises the responsibility of the state to provide for the maintenance of those who find

themselves without means of support in their old age and brings within measurable distance the accomplishment of an ideal which has been one of the chief planks of Labour's programme since the inauguration of the Congress. Ibid, p. 51.

26. Trades and Labour Congress of Canada, Report of Proceedings of the 42nd. Annual Convention Montreal, Sept. 20-26, 1926, p. 51.

27. "Old Age Pensions", Canadian Congress Journal Vol.V, No.4, (April, 1926), p. 34.

28. "The Old Age Pension Bill", Canadian Railroad Employees Monthly Vol.XII, No.2, (April, 1926), p. 38.

29. Railway Transportation Brotherhoods, Canadian Legislative Board, Memorandum to the Chairman and Members of the Special Committee Appointed to Make Inquiry into an Old Age Pension System (submitted by Canadian Railway Engine, Train and Yard Service Employees) (June 2, 1924). PAC, Department of National Health and Welfare, RG 29 Vol. 127 File 208-1-18.

30. Memorandum of the Railway Transportation Brotherhood to the Special Committee on an Old Age Pension System for Canada, House Journals, 1924, Appendix 4, p. 65.

31. Quoted from an editorial in the Ottawa Citizen reprinted in Canadian Railroad Employee's Monthly Vol.XII, No.6, (August, 1926), p. 132.

32. The editorialist's comments echoed the strongest American laissez-faire rhetoric. Holding that provision of security for property and persons was the "only necessary function of government", he argued that "Where persons and property are secure, the individual is free to work out his economic affairs in peace and safety. ... as long as opportunity is not arbitrarily denied to the economically weak, the state must keep its hands off - not in the interest of the preservation of the property of the economically strong, but in the interest of the public morale, for we must not lean upon the government nor upon one another. Every able-bodied man must win his food and shelter by the sweat of his brow. This is the only assurance any of us have that the art of wresting a living from nature will not be lost". Monetary Times (June 11, 1926), p. 7.

33. Monetary Times (March 26, 1926), p. 7.

34. Monetary Times (April 2, 1926), p. 5; Ibid (June 11, 1926), p. 7.

35. Humfrey Mitchell, "What Will Old Age Pensions Cost Canada?", Industrial Canada Vol.28, No.10, (February, 1928), p. 41-43.

36. Laycock, p. 50 ff.

37. Leo Zakuta, A Protest Movement Becalmed: A Study of Change in the CCF (Toronto, 1964), p. 74 ff.

38. "Old Age Pensions Sought by Heenan at Coming Session", Toronto Globe (February 5, 1927); Department of Labour, Internal Memorandum re Special Committee on Old Age Pension PAC, Department of Labour Papers, RG 27, Vol. 167 File 612.3:6 Vol. 1.

39. "CMA Report Against New Pension Plan", Windsor Star (June 5, 1929).

40. See the call for a contributory old age annuity, found in a clipping from the Canadian Business Magazine, where the pension program was condemned for leading the federal treasury to disaster; "unless the tendency to lean more on federal finances were halted, Canada's future would be its past". PAC Department of Labour Papers, RG 27, Vol. 167 File 612.3:6 Vol. 1.

41. "Submissions of the Canadian Manufacturers' Association, Inc.: Old Age Pensions and Unemployment Insurance" Industrial Canada Vol.XXXIX, No.2, (February, 1938), p. 77.

42. H.W. MacDonnell, "Analysis of the Old Age Pension Problem" Industrial Canada Vol.XXXVIII, No.7, (November, 1937), p. 34-35.

43. Unions were forced to confront proposals that would reduce pension payments during the depression crisis. See Edmonton Trades and Labour Council, to R.B..Bennett, (April 30, 1933) in PAC, Department of National Health and Welfare, RG 29 Vol. 130 File 208-3-5.

44. Memorandum to Minister, February 27, 1927 Re Resolution of the 2nd. Convention, All Canadian Congress of Labour, PAC, Department of Labour Papers, RG 27, Vol. 167 File 612.3:6 Vol. 1.

45. See for instance the submission to the government from the Women's Section, U.F.L.T.A. of Coleman Alberta to the Old Age Pension Department, (March 19, 1930) in PAC, Department of National Health and Welfare, RG 29 Vol. 130, File 208-3-5.

46. W.J. Douglas, Secretary National Labour Council of Toronto, (All Canadian Congress of Labour), to the Old Age Pension Board Department of Labour, (December 18, 1934) in PAC, Department of National Health and Welfare, RG 29 Vol. 130, File 203-3-5.

47. W. Otter, Watson Saskatchewan Farmers Union, to R.B. Bennett, in PAC, Department of National Health and Welfare, RG 29 Vol. 130, File 208-3-5.

48. Rev. J.H.L. Joslyn to Peter Heenan, Minister of Labour, (March 12, 1930); National Order of Canada (representing Canadians of UK origin) Matters in Respect to the Dominion Old Age Pension Scheme (January, 1930) in PAC, Department of National Health and Welfare, RG 29 Vol. 130, File 208-3-5.

49. PAC, Department of National Health and Welfare, RG 29 Vol. 130 File 208-3-5.

50. "Progress in Pensions", Canadian Congress Journal (August, 1933); clipping found in PAC, Department of Labour Papers, RG 27, Vol. 167 File 612.3:6 Vol. 1.

51. Elisabeth Wallace, "Old Age Security in Canada: Changing Attitudes", Canadian Journal of Economic and Political Science Vol.XVII, No.2, (May, 1952), p. 130.

52. Trades and Labour Congress of Canada, Legislative Program Presented to the Prime Minister and Cabinet by the Executive Council of the Trades and Labour Congress of Canada (January 27, 1933), p. 10.

53. Canadian Manufacturers' Association, Report of the Executive Council to the Annual General Meeting of the Canadian Manufacturers' Association (Montreal, June 7-8, 1934).

54. As examples, see "Pensions for All", Ottawa Citizen (April 7, 1947); "Social Security Legislation Coming at Ottawa" Toronto Star (January 16, 1948). "Lucky Mr. King" Halifax Herald (December 9, 1948);Editorial, Toronto Globe and Mail (February 4, 1948)

55. While consideration here focuses on the positions of business and labour groups, much of the impetus for the committee investigation stemmed from reform and social welfare advocates. Among those submitting briefs to the committee in favour of a modernization and expansion of the pension system were the Canadian Association of Social Workers, Canadian Welfare Council, Regina Security Club, Welfare Council of Greater Toronto, Canadian Federation of the Blind, Montreal Council of Social Agencies, etc.

56. Canadian Chamber of Commerce, Newsletter No. 106 (April, 1951), p. 1.

57. "Who Objects to What?" Canadian Chamber of Commerce Newsletter No. 128 (April, 1953).

58. American Stockholders' Union, Memorandum to the Old-Age Security Committee of the Senate and the Commons (Toronto, May 8, 1950), p. 1.

59. "Who Objects to What?" Canadian Chamber of Commerce Newsletter No. 128 (April, 1953), p. 2.

60. "Where Are We Going" Canadian Chamber of Commerce Newsletter (July-August, 1951), p. 1. Any program of social spending, it was argued, must rest on increased productivity.

61. Business was divided in its response to the means test. A minority of business leaders expressed concern respecting the impact of the means test on company pension plans: representatives of steel manufacturers called for removal of the means test to ensure that employers would not be dissuaded from participating in company pension or savings plans. G.M. Igersoll to A. MacNamara, Memorandum re Proposal of C.H. Millard, United Steelworkers, to Dosco for Joint Union-Company Representation re Industrial Pensions and Means Test for Old Age Pensions (January 13, 1950). PAC, Department of Labour Papers, RG 27, Vol. 3529, File 3-26-27, pt. 1.

62. F.D. Tolchard, General Manager, Board of Trade of the City of Toronto, to Chairmen and Members of the Joint Committee of the Senate and House of Commons on Old Age Security, (May 5, 1950).

63. J.H. Bruce, Chairman, Executive Council, Canadian Chamber of Commerce, Memorandum to the Joint Committee of the Senate and House of Commons on Old Age Security (May 10, 1950), p. 2.

64. Bruce, 1950, p. 6.

65. Bruce, 1950, p. 6-7. In the Chambers view, "where the number of those benefitting exceeds the number of those who pay, the political pressure for continuation and increase of benefits grows irresistible. An intolerable position of this kind must be avoided".

66. Canadian Life Insurance Officers Association, Submission made to the Joint Committee of the Senate and the House of Commons on Old Age Security (Ottawa, May, 1950), p. 7.

67. CLIOA Brief, 1950, p. 10-17.

68. The political realism of the CMA was involved in their position: "In the world of today it may be too much to hope that we can revert to the individualism that created our Empire and country. We cannot escape all contrary influences. Some compromises may be necessary, at least temporarily, but all should realize the present trend and endeavour to check the dismal descent toward some form of state socialism". W.D. Black, Annual Review of the President Canadian Manufacturers' Association, 68th Annual General Meeting, in PAC, Department of Labour Papers, RG 27, Vol. 121.

69. G.H. Shields, First Vice President, Canadian Manufacturers' Association to Honourable Milton Gregg, Minister of Labour, (September 29, 1951) Contributions by workers would increase their sense of entitlement to pensions; "the fact that the money to p[ay benefits is contributed in part by beneficiaries is calculated to act as a brake on premature or unreasonable demands for increases in the amount of the benefits".

70. PAC, Canadian Manufacturers' Association Papers MG 28 I 230 Vol. 93 Discussion Re CMA Brief to the House-Senate Committee on Old Age Security.

71. Canadian Manufacturers' Association Memorandum to the Joint Committee of the Senate and House of Commons on Old Age Security (May 15, 1950), p. 3.

72. CMA Supplementary Memo to the Committee on Old Age Security (June, 1950), p. 3-4.

73. CMA Memorandum (May 15, 1950), p. 6 ff.

74. Kenneth Bryden, Old Age Pensions and Policy-Making in Canada (Montreal, 1974), p. 111.

75. Confederation des Travailleurs Catholiques du Canada, Brief Submitted to the Joint Committee on Old Age Pensions (May, 1950), p. 1.

76. CTCC Brief, 1950, p. 2.

77. CTCC Brief, 1950, p. 2-3.

78. CTCC Brief, 1950, p. 2.

79. L'Union Catholique des Cultivateurs, Brief Submitted ... to the Joint Committee of the Senate ad House of Commons on Old Age Pensions (May, 1950), p. 3-4.

80. "Politicians and Pie Crust Promises" Trades and Labour Congress Journal Vol.XXIX, No.5, (May, 1950), p. 9.

81. Bryden, 1974, p. 108, 110.

82. The TLC seemed determined to halt the spread of such plans, which were seen as restrictive of the economic freedom of individual workers. "Congress Demands Economic Security for All" TLC News (March 9, 1950).

83. Trades and Labour Congress of Canada, Submission to the Joint Committee of the Senate and House of Commons on Old Age Security (May 16, 1950), p. 3-4.

84. The benefit would be increased to $60 per month and the residency requirement in Canada reduced to 15 years.

85. TLC Submission, 1950, p. 7-8.

86. TLC Submission, 1950, p. 9.

87. "Trades Congress Meets the Federal Government to make Annual Submission" TLC News (April 12, 1951). In good cold war fashion, the Congress declared that "social and economic security can be achieved without interference with the exercise of personal freedom and civil liberty." Social security reform was requested to provide "internal economic and social conditions in which democracy can prosper and our way of life be protected from the vicious designs of those who would destroy it".

88. Canadian Congress of Labour, News Release (May 10, 1950), p. 1.

89. Canadian Congress of Labour, Submission to the Joint Committee of the Senate and the House of Commons on Old Age Security (Ottawa, May 11, 1950), p. 6 ff.

90. "Congress Presents Brief on Old Age Security", Canadian Congress Journal Vol.24, No.6, (June, 1950), p. 131.

91. "End the Means Test", Canadian Unionist Vol.24, No.3, (March, 1950), p. 53.

92. United Electrical, Radio, and Machine Workers of America, District Five, Brief to the Joint Committee of the House of Commons and Senate on Old Age Security (May 5, 1950).

93. Bryden, 1964, p. 104-105.

94. "Old Age Security", Trades and Labour Congress Journal Vol.XXIX, No.7, (July, 1950), p. 9-10.

95. Trades and Labour Congress of Canada, Memorandum Presented to the Government of Canada by the Trades and Labour Congress of Canada (April 10, 1951), p. 5. "While we do not agree with the amount of the monthly payment and the age limit set by the Committee, as a step in the right direction we urge your Government to implement at least these sections of the Committee's Report at this session of Parliament".

96. TLC Memorandum, 1951, p. 9.

97. The Canadian Chamber of Commerce expressed satisfaction with the responsible attitude of the St. Laurent administration, which recognized the need to keep taxes low and to keep social security expenditures to an affordable level. "Taxes and Social Security" Canadian Chamber of Commerce Newsletter No. 122 (October, 1952), p. 1.

98. David Kroll, cited in Wallace, 1952, p. 131.

99. George M. Hougham, Economic Security for the Aged in the United States and Canada (Ottawa, 1959, p. 12-13.

100. Bryden, 1974, p. 129-130.

101. "Welfare Priorities", Canadian Chamber of Commerce Newsletter No. 251 (July-August, 1964), p. 1. The chamber was particularly concerned lest the development of an enormous fund, based on the contributions from employees, would place "in the hands of provincial governments across the country tremendous economic and financial power, a concentration of power which has never before been proposed in Canada".

102. Bryden, 1974, p. 161.

103. Canada Pension Plan: Panacea or Pitfall for Canada? Press release from Alexander and Alexander, Consulting Actuaries and Employee Benefit Plan Consultants, (July, 1963). PAC, Department of Labour Papers, RG 27, Vol. 3529, File 3-26-27, pt. 2.

104. Canadian Chamber of Commerce Newsletter No. 249 (May, 1964), p. 2. The author notes how the Canada Pension Plan would allow provincial governments to have access to investment fund "without resorting to the normal channels of the market".

105. "The Cost of Welfare Programs" Canadian Chamber of Commerce Newsletter No. 252 (September, 1964), p. 2.

106. Chamber of Commerce Newsletter, No. 252, p. 2.

107. Canadian Chamber of Commerce Newsletter No. 255 (December, 1964), p. 4.

108. Bryden, p. 162.

109. Canadian Labour Congress, Submission ... to the Special Joint Committee of the Senate and of the House of Commons Appointed to Consider and Report Upon Bill C-136 (Canada Pensions Plan) (January 22, , 1965).

110. Bryden, 1974, p. 162.

111. Bryden, 1974, p. 172.

112. Robert T. Kurdle and Theodore Marmor, "The Development of Welfare States in North America" in Peter Flora and Arnold J. Heidenheimer (eds.) The Development of Welfare States in Europe and North America (New Brunswick, N.J., 1981), p. 91-95. Canada's system was still cited as more egalitarian because of its financing from progressive income taxes, and its more egalitarian benefit structures, less tied to pre-retirement income differentials.

## 6 American Unemployment Insurance

### a) Early Consideration of Unemployment Insurance

Despite widespread joblessness in recession periods, Americans were slow to abandon the belief in individual responsibility for the destitution of unemployment. Poverty was considered a result of individual failings, not of lack of employment opportunity.[1] The able-bodied employable were targets of public scorn, not sympathy[2]; any assistance to them should be administered by local, private agencies, able to distinguish the deserving unfortunate from the undeserving indolent.[3] As the impact of economic fluctuations became more frequent and apparent, the belief in individual responsibility was increasingly questioned: more members of the community began "to grasp the truth that under modern industrial conditions great numbers of working men out of work are not personally blameworthy for their misfortunes", that opportunity was less readily available in an industrial society than it had been in frontier days.[4] Nonetheless, the individualistic ideology ensured that progress towards new methods of addressing the unemployment problem was limited. Although the progressives of early century generated considerable support for new remedies the pace of reform was slow, "a laborious push against entrenched opposition".[5]

The movement for public unemployment insurance was led by the American Association for Labor Legislation, under the leadership of John R. Commons and John B. Andrews. Isolationist and nativistic sentiments meant that references to European precedents were unpopular with the American public. John Andrews explained that it was a mistake

> "for us in this country to spend an undue amount of time discussing the British or any other system of European unemployment insurance. I think we can much more wisely build out of our own American experience with accident insurance a practical unemployment compensation system with much better prospects of enactment here."[6]

A compromise was sought, combining advantages of the American philosophy of self-help and public unemployment

insurance; the demoralizing European dole was not an appropriate model for America.[7]

Workmen's compensation acts, which had promoted a decline in accident rates in American industry, were used as a model. Commons suggested that unemployment insurance should be designed to encourage employment stabilization in industry, to reduce the extent of unemployment.[8] "Unemployment prevention" became the platform of the AALL; its influence in Wisconsin led to the formulation of the Huber programme, of unemployment reserves, financed by employer contributions linked to industry and company performance in avoidance of unemployment.[9] Levels of benefit were to be quite low, to avoid encouraging workers to reject low-paid employment.

While this initiative was rebuffed for many years, it remained the most influential model for unemployment compensation.[10] High costs of European systems, high employment levels in the expanding American economy[11], and ideological resistance combined to stall this legislation. Up to the great depression, "progressive thought on the subject regarded the regularization of industry and the prevention of unemployment, rather than the alleviation of its consequences, as the objective."[12]

b) Union Voluntarism and Unemployment Insurance

Samuel Gompers was concerned about the plight of the jobless and recognized the situation as a social problem, beyond the control of individual workers.[13] Man possessed a basic "right to the opportunity to work", and when "that right is denied him, society does him and his [family] an injustice".[14] With the spread of new machines and industrial restructuring and the use of low-paid apprentices, workers were in constant danger of the demoralizing "lay-off"; prolonged unemployment was socially costly since it diminished the worker's familiarity with the discipline and skills of his trade.[15]

But Gompers was unwilling to support compulsory unemployment insurance. As he declared, the "American workman refuses to regard unemployment as a permanent evil

attending the industrial and economic forces of our country"[16]; it could be alleviated or eliminated through job-sharing and increased worker consuming power, which would stimulate demand and employment. Hence, the unions' struggles for increased wages and shorter hours were all that was needed; further gains in labour organization could help achieve these aims.[17] Public works, and farsighted employer planning could reduce the tendency toward labour surplus.[18] Compulsory unemployment insurance shared common evils with other types of social insurance: it would impose odious controls and inspections over workers' lives, restrict worker mobility, independence and self-reliance, and promote a class of labour expected to subsist on sub-standard income.[19] If any relief were needed, the AFL preferred union unemployment funds, as an inducement to worker organization and cohesion.[20]

Technological displacement, business recessions and seasonal layoffs continued to besiege workers through the 1920s. But the AFL and the independent railway unions continued to advocate non-governmental solutions.[21] Private alternatives were pursued, like union and company plans.[22] American unions developed a variety of unemployment benefit funds, financed from members' contributions.[23] But such measures were only remedial actions where unemployment could not be eliminated through shorter hours and better production decisions.[24]

Towards the end of the 1920s, many unionists began to recognize the inadequacies of private options; while better paid than his European counterpart, the American worker was still unable to meet the costs of unemployment on his own.[25] Union efforts to provide unemployment funds were woefully inadequate during extended periods of joblessness.[26] But union ideology discouraged demands for state action[27], despite internal disagreements.[28] Compulsory programmes, which would deprive workers of independence, mobility and self-respect, received constant condemnation from the AFL.[29]

c) Early Business Responses

Many business leaders felt public unemployment

insurance was inevitable if labour and business failed to solve the problem on their own. Although some condemned it for contributing to labour turnover and a hobo lifestyle on the part of many workers[30], other business associations sought to cooperate in designing the most effective public and private plans.[31] A few even welcomed government initiatives of this sort as "necessary and salutary", if designed not to interfere with the basic incentives of the free enterprise system.[32] But most resisted the inevitability of unemployment insurance and insisted that business, the insurance industry and labour could forestall a public plan through appropriate action.[33] Any programme of compulsory unemployment insurance was condemned as "fundamentally repugnant to American ideas of social equality and justice"; Americans should not follow alien European practice by providing rewards to the idle.[34]

Responding to the severe and unpredictable fluctuations in the labour market, - and to the necessity of labour surpluses in many industries[35] - American employers began to devise private solutions to the unemployment problem by the 1920s.[36] Rejecting the British approach of public unemployment insurance[37], progressive business leaders advocated creation of company funds to assist faithful employees in times of unemployment.[38] Employers now accepted the need for more guarantees, both to protect their supply of labour and to forestall government action.[39] The National Industrial Conference Board expressed optimism about these embryonic plans; while they covered too few workers, they demonstrated both the effectiveness and the flexibility required to relieve the unemployment problem.[40] The Conference Board indicated considerable confidence that "there exists an increasing sense of the problem of unemployment as an industrial responsibility".[41]

d) Debates in the Great Depression

The massive dislocations of the Great Depression ensured considerable public attention to the plight of the unemployed. Many private unemployment insurance plans

collapsed during this crisis, bringing the voluntary approach into doubt.[42] But the preference for unemployment prevention remained influential among interest groups and decisionmakers.[43] The initial response of the Hoover administration in 1930 was to promote private action to stabilize employment and reinvigorate the economy. These efforts proved futile and the level of unemployment increased; municipal relief was clearly inadequate to the task.

The AALL revived its proposals for unemployment reserves geared to company performance, and initiated legislative efforts in the states.[44] In a modification of the Huber model, its "American Plan" called for state-run, individual employer or industry funds, with contributions linked to unemployment levels.[45] Critics charged that this programme would provide benefits inadequate in both amount and duration. The Ohio Commission on Unemployment Insurance of 1932 advocated a British-style pooled fund, based on flat rate employer and employee contributions to permit more extensive benefits[46]; social responsibility for unemployment was affirmed over that of the individual company.[47] Others experimented with variations of the two, introducing such elements as extended waiting periods to permit longer, larger benefits.[48] Finally, radical activists advocated more generous programmes of unemployment assistance, with unlimited benefit duration, as part of a comprehensive social insurance system, funded by progressive income and corporate taxes. The Lundeen bill to this effect drew extensive political support by 1933, putting pressure on politicians, business, labour and reformers to seriously consider less costly options.[49]

Despite the crisis, only a limited number of employers recognised the need for federal action.[50] Business feared that the federal government would be forced by circumstances to impose undesirable solutions. William Procter of Procter and Gamble warned:

> Recurring periods of unemployment are one of the great weaknesses - if not the greatest - in our present social system. ... The injustice is so great and so evident that industry must solve it, or the problem will be taken from her hands and

> placed in those of others not so competent for its proper solution.[51]

Industry alone should not bear the burden; since society shared responsibility for the depression, some government action was necessary.[52] For instance, many businesses supported public works through government contracts with private firms[53]. But government should not have license for undesirable interference in the economy, such as regulations for shorter hours, or public unemployment insurance.[54]

Ideological objections were also advanced. The National Association of Manufacturers feared unemployment insurance would be a first step toward a comprehensive social insurance system, with potentially disastrous consequences for the American way of life.[55] Actuaries, condemned the proposal because it would fundamentally challenge the sacred American principle of property rights, establishing instead a policy of "levelling".[56] Unemployment insurance violated the principles of natural justice enshrined in the American constitution.[57] It reflected an undesirable trend of looking to the government to solve all social and economic problems, which would undermine the self-reliance upon which the nation had been founded.[58]

Practical economic concerns reinforced business rejection of this "well-intentioned but unsound social legislation".[59] Public unemployment insurance was especially feared for its disincentive effects; it would become a demoralizing dole encouraging idleness since it would be difficult to weed out malingerers.[60] Liberalization of benefits due to political pressure would discourage workers from accepting low-paying jobs; the means tests would encourage idleness by disqualifying workers who earned extra income from employment.[61] The NAM condemned compulsory unemployment insurance for its high costs, as evidenced by British experience. Unemployment insurance would impose high tax burdens detrimental to economic well-being[62] and provide generous benefits, stifling individual initiative[63]. It would diminish employers' flexibility in dismissing workers for valid reasons and provide financial

reward to the ineffective and insubordinate.[64] Some business associations also questioned whether unemployment was an insurable risk.[65] The National Industrial Conference Board argued that a severe depression was a "catastrophic hazard, of "incalculable", "unpredictable" and "uninsurable" nature; the costs of an accumulated reserve were "prohibitive".[66]

The National Metal Trades Association believed that only individual reserves would provide against the contingency of unemployment without rewarding idleness and undermining the national economy.[67] The NICB solution was for workers to provide as much as possible for their own situation, aided by public relief paid for by the state out of general tax revenues.[68] The NAM argued for private plans, supplemented by severance pay, public works, seasonal wages to encourage off-season hiring, and reduced taxation to promote prosperity and employment.[69] Private insurance companies, boasting of their record in other aspects of social insurance, believed they could meet the current contingencies, if governments removed prohibitions on private unemployment insurance.[70] While not all forms of job loss were insurable on an actuarial basis, experiments with priivate plans were desirable.[71] Individual worker insurance policies, underwritten by established insurance companies would avoid restrictions on mobility and preserve individual responsibility.[72] The state should provide employment bureaus to assist job-seekers; relief in the form of charity, not insurance as a right, should be the means of addressing a prolonged depression.[73]

Employers boasted that private plans encouraged workers to save money from their wages to meet unemployment.[74] For instance, textile industries were praised for their unemployment insurance programme, "which assures each worker safety from abject poverty through involuntary unemployment, without charity".[75] Employer plans might provide benefits of limited duration and size. But these plans avoided the disincentive effects of a generous public dole such as Britain's, by "plac[ing] upon the worker the responsibility of surveying his own

problem", while providing a brief cushion during which the unemployed could seek new work.[76]

Major business associations, like the Chamber of Commerce actively promoted sound company plans, to dampen demand for a national, compulsory system.[77] Other companies, notably Procter and Gamble, suggested guaranteed employment periods, or work-sharing, as contributing to employee security and loyalty, employment stabilization and financial responsibility.[78] By the early years of the great depression, many business establishments had implemented dismissal wages, unemployment reserves, work sharing, and other devices to ensure better provision for the unemployed[79], and better "public relations" for industry.[80] Business spokesmen were buoyed by the support of AFL voluntarists, who shared these concerns and preferences.[81]

e) Union Conversion

Many union leaders doubted the good intentions of employers. Unless unions were in a strong bargaining position - which was not the case in a serious depression - it was unlikely that an adequate number of plans could be negotiated to ensure sufficient coverage.[82] Union plans might be more desirable as a means of maintaining worker loyalty but were inadequate in times of low wages and high unemployment.[83] AFL leaders expressed a concern with social stability: with expectations so sorely dashed by the crisis, delay in enacting a comprehensive programme of insurance "increases the number who turn to radical movements and dangerous leaders".[84] With revolution as the only other alternative, unionists were persuaded to consider seriously a government unemployment insurance programme.[85]

Union conversion on this issue was not obtained without considerable resistance from voluntarists. Delegates to AFL conventions, such as John Forseth of the Seamen, feared unemployment insurance would inevitably contribute to diminished independence for the worker, and would place new powers in the hands of employers and the state.[86] Sharing the ideological concerns of business

conservatives, he declared that the AFL "should not play recklessly with your human freedom":

> the road you are travelling is the road that leads to the destruction of humanity and the destruction of the nation and of all other nations that can find no other way than to make out of a man a pleading beggar and a man who must go for his goods to others.[87]

A.F. Whitney, President of the Brotherhood of Railroad Trainmen, suggested the undesirability of public unemployment insurance, which would impose "an unbearable load on the public treasury", and exert a bad effect on the psychology of the worker.[88] Commentary in union journals still emphasized efforts to eliminate unemployment by eradicating fluctuations in the business cycle.[89]

AFL leaders insisted that unemployment relief must be designed cautiously.[90] The official AFL position was critical of the reporting requirements of unemployment insurance, which could serve as a new tool of employer control.[91] State benefits could act as an excuse for layoffs, serving to perpetuate unemployment.[92] Unionists maintained that the "best relief that can be offered an unemployed person is a job"[93], and demanded a guaranteed "right to work".[94] Any relief should involve direct government payments, not a contributory unemployment insurance system.[95] Capital should be used for employment-generating investment instead of unproductive benefits to the idle.[96]

Widespread deprivation in the depression era caused the AFL executive to finally admit the need for government action. The executive committee report to the 1932 convention acknowledged this.

> The economic facts arising out of the unemployment situation, the continued displacement of millions of working men through the mechanization of industry, and the substitution of power for human service, makes it absolutely necessary ... to develop and put into operation through the enactment of appropriate legislation, an unemployment insurance plan which will provide for the payment of weekly benefits to working men and women who are forced to suffer from unemployment.[97]

The AFL eventually became an outspoken advocate of public

unemployment insurance; its publications now argued that "mass unemployment is beyond the control of both workers and employers"[98] and a permanent solution was required. Labour preferred "a national system of unemployment insurance" with national standards imposed on the states.[99] Since management was largely responsible for unemployment[100], the AFL opposed compulsory worker contributions, and favoured employer financing.[101] This moderate proposal prevailed, despite minority demands for radical programmes of income redistribution via inheritance and income taxes.[102]

f) Unemployment Insurance and the Economic Security Act

The Democratic administration of Franklin Roosevelt initially employed conventional responses to the problem of unemployment. Policies were designed to get workers back on the job, and to assist local governments and charities with the provision of relief. Congressional action was slow to emerge, but eventually several measures were put forward, notably the Wagner-Lewis initiative of 1934. The President himself demonstrated a conservative orientation, preferring a strict application of insurance principles, which included employee contributions.[103]

Panicked by state programmes and by serious federal proposals, business executives took on a more urgent tone in their commentary and proposals. A few appeared to concede the potential benefits of a government-mandated unemployment reserves programme, managed by individual industries, designed to encourage employers to stabilize their employment levels, and to stabilize consumption in society.[104] Most still advocated private, voluntary solutions.[105] Efforts to create private reserves and benefit funds were expedited, since failure to act voluntarily would make compulsory government action inevitable.[106]

Ultimately, the crisis proved too extensive and many firms found creation of an unemployment insurance programme an impossible burden. State governments were paralysed by lack of funds and fear that the imposition of unemployment insurance contributions on industry would prove a

disincentive to investment.[107] Action by the national government became essential. Senator Robert Wagner took the lead by introducing a measure which would have imposed a payroll tax on all employers, to be refunded in states which levied a similar tax to pay for unemployment insurance systems. This bill was designed to eliminate the disincentive to state action, and stimulate creation of unemployment insurance plans.[108] The Roosevelt administration's Committee on Economic Security of 1934-35 considered this and other proposed methods of federal-state cooperation. It eventually opted for a weakened version of Wagner's proposal, with fewer prescribed standards for the state plans; effectively, the committee avoided taking the tough political decisions on the specific make-up of the plan[109], and passed the decisions on benefit levels and duration and contribution method and scale on to state legislatures.[110] Politically, the state run programme was the only viable alternative, as rival proposals received no serious consideration in Congress.

As depression continued without respite, progressive corporate leaders accepted that government action might be needed to give business the incentive to adopt company plans and stabilize employment levels.[111] When legislation was designed, business associations sought to minimize the negative consequences. Lobbyists urged legislators to, at the very least, leave room for private unemployment plans, if they adhered to minimum standards.[112] Others proffered specific suggestions to lessen the perceived economic drain of such a scheme, notably by providing for a long waiting period for receipt of benefits and restricting insurance benefits to a true crisis.[113] The burden on industry should be reduced by employee and state contributions to the fund and limitations on the size of any payroll tax.[114] The Chamber of Commerce of the United States argued for administration of any mandatory insurance plan at the level of each enterprise, and not by either level of government.[115] Federal enforcement of national standards on state programmes was attacked on constitutional grounds as an "unwarranted intrusion of the Federal Government into

matters previously considered ... to be subject exclusively to the jurisdiction of the states".[116] But the more progressive elements ultimately supported, or restrained criticism of the Roosevelt administration's bill.[117]

The Economic Security Bill of 1935 opted for unemployment insurance operated and funded by the states, with the "role assigned to the national government ... principally that of inducing the states to pass unemployment compensation laws" through the excise tax rebate plan, and grants to assist in administration.[118] But the absence of specific standards did not result in a highly heterogeneous system. Despite some important variations in state legislation, many important similarities appeared, as legislators responded to the models provided in the Social Security Act, and to the practicalities of administration. Most states opted for a pooled fund to improve the solvency and simplify administration. But they followed the spirit of the Wisconsin plan in including provision for merit or experience rating of individual employers, to act as a stimulus to unemployment prevention.[119]

While first acknowledging the benefits of this flexible programme, business eventually became concerned about the financing of the state plans. Business sought to limit their burden by advocating matching employee contributions. Enamoured of the Wisconsin approach, which rewarded business for reducing unemployment in individual enterprises, business associations called for "experience rating" in determining contributions, to link the economic burden to the level of success in employment stabilization.[120] This approach was favoured because the it would induce employers to stabilize employment, encourage employer policing of fraudulent claims, and ensure that the social cost of unemployment was reflected in a company's prices.[121] The Social Security Act was criticized for its failure to be specific in this regard; a requirement that state plans introduce such a provision, or allow continuation of private plans which were so devised, was made by business in appeals to Congressional committees.[122]

Business leaders resented the intrusion into their affairs necessitated by the reporting requirements of the Social Security Act and the state unemployment insurance acts.[123] But, eventually, business succeeded in influencing unemployment insurance legislation in desirable fashion. Changes in federal and state law by 1939 had simplified reporting procedures and reduced the size of the payroll tax.[124] The Committee on Economic Security considered unemployment insurance to be only a "first line of defence" for employees, paying minimal benefits for a short period of time; more liberal benefit plans, as existed in other countries, or the Ohio or Lundeen models, were not urged upon the states.[125] Since the states followed this recommendation closely, decisionmakers seemed to accept business concerns respecting the tax burden and the solvency of funds.[126]

The Social Security Act did not specify national standards for benefits and contributions. This allowed business associations in each state to pressure legislators to adopt favourable provisions. Although the Social Security Act had been designed to end state competition for business investment by minimizing the burdens of unemployment insurance contributions, the possibility for such manipulations remained. This paved the way for business to secure the desired move to experience rating. Business lobbyists were able to pressure states into adopting such a provision to maintain a favourable climate for investment.[127] Unions were critical of the Social Security Act for assigning such a weak role to the federal government. The AFL feared such a policy would lead to a weak, fragmented unemployment insurance programme. The lack of criteria for benefits and contributions would permit interstate rivalry for business investment to occur at the expense of an adequate unemployment compensation level. States might require employee contributions, imposing a double burden, since workers would effectively pay the employer's share through higher prices.[128] Unionists wanted a single national programme or strict standards to ensure generous, equitable benefits.[129] President Green argued for

a federal subsidy to the states, available only if strict national criteria for financing and benefits were met.[130] After the Social Security Act granted states considerable flexibility, the AFL sought more generous state programmes, backed by federal "reassurance grants" to preserve the solvency of state funds without benefit reductions.[131] The CIO was more persistent in demanding that unemployment, a problem of national scope and origin, be addressed by a national programme with uniform taxes, benefits and other standards.[132]

Unions were particularly critical of experience rating, as a device to minimise employer contributions, which would threaten the quality of the unemployment insurance programme.[133] Experience rating was blamed for encouraging interstate competition, and reducing benefit levels, by limiting fund growth in boom periods.[134] In many states, numerous employers were not making any contribution to the fund; many employers "were slipping out of their responsibility through the escape hatch of experience rating"[135]. This worked directly against the preference of unions for increased benefit levels, "to achieve a substantial replacement of wage loss due to involuntary unemployment".[136] Faced with the inflationary pressures of the next decades, the union movement maintained its pressure for a more adequate means of financing, to provide larger benefits for a longer period.[137]

Unions did help promote a gradual broadening of the unemployment insurance system. Both the categories of insurable employment and the size and duration of benefits were extended in the following years.[138] It was impossible to justify the initial limitations on eligibility, or to devise other means of providing for those who did not qualify, or who had exhausted their benefit period.[139] As the nation continued to experience fluctuations in employment, for seasonal, structural, technological and cyclical reasons, states bowed to political pressure and extended the system; occasional federal intervention hastened this process, in response to pronounced economic recession.[140] Eventually, all major interest groups became

reconciled to the existence of an unemployment insurance system. But business and labour remained divided in their aims, as the latter induced increased generosity in state programmes while the former resisted greater contributions. These opposing tendencies created continuing controversy over the nature of the American system.

## Notes

1. Frank R. Breul, "Early History of Aid to the Unemployed in the United States" in Joseph M. Becker In Aid of the Unemployed (Baltimore, 1965), p. 8.

2. Joseph M. Becker, "Twenty Five Years of Unemployment Insurance: An Experiment in Competitive Collectivism" Political Science Quarterly Vol.LXXV, No.4, (December, 1960), p. 484.

3. Breul, 1965, p. 12.

4. An editorial from 1908, cited in Daniel Nelson, Unemployment Insurance: The American Experience (Madison, Wisc., 1969), p. 3.

5. Breul, 1965, p. 10.

6. Cited in Roy Lubove, The Struggle for Social Security 1900-1935 (Pittsburgh, 1986), p. 113-4.

7. Harry Malisoff, "The Emergence of Unemployment Compensation III" Political Science Quarterly Vol.LIV, No.4, (December, 1939), p. 578-79.

8. Nelson, 1969, p. 11-13.

9. Edwin E. Witte, "Development of Unemployment Compensation" Yale Law Journal Vol.55, No.1, (December, 1945), p. 24. Commons reasoned that "if employers were required to pay a substantial part of the costs of unemployment [through their contributions to reserves] they would find means of greatly reducing unemployment".

10. Arthur Larson and Merrill G. Murray, "The Development of Unemployment Insurance in the United States" Vanderbilt Law Review Vol.8, No.2, (February, 1955), p. 184.

11. Nelson, 1969, p. 23-27.

12. Witte, 1945, p. 23.

13. A good summary of the AFL position may be found in Nelson, 1969, Chapter 2.

14. Samuel Gompers, Labor and the Employer (Compiled by Hayes Robbins) (New York, 1920), p. 134. Chapter VII, entitled "Unemployment, Insurance and Compensation", contains excerpts from Gompers' speeches on this subject from the late 1800s to 1920, and will be relied on in this overview of his ideas.

15. Gompers, 1920, p. 141-43.

16. Gompers, 1920, p. 143.

17. Gompers, 1920, p. 151.

18. Gompers, 1920, p. 157.

19. Gompers, 1920, p. 149, 152-55.

20. Gompers, 1920, p. 143.

21. R.F. Green, "Prevention of Unemployment in Wisconsin: Railroad Brotherhoods Supporting Unemployment Prevention Measure", Brotherhood of Locomotive Enginemen and Firemen's Magazine Vol.74, No.4, (April, 1923), p. 164-65.

22. William Green, (President, American Federation of Labor) "Why Men Are Out of Work", North American Review Vol.228, No.6, (June, 1926), p. 676.

23. David P. Smelser, "Unemployment and American Trade Unions", Johns Hopkins University Studies in American History Ser.37, No.1, (Baltimore, 1919); John B. Andrews, "Trade Union Out of Work Benefits" in Business Cycles and Unemployment (An investigation under the auspices of the National Bureau of Economic Research for a Committee of the Presidential Conference on Unemployment) (New York, 1923), p. 293-301.

24. Green, 1927, p. 676.

25. Israel Mufson, "As Labor Sees Unemployment Insurance" Survey Vol.LXI, No.2, (October 15, 1928), p. 87-88.

26. Andrews, 1923, passim.

27. Andrews, 1923.

28. "Security" American Federationist Vol.38, No.2,(February, 1930), p. 147.

29. See the comments by President William Green in American Federation of Labor Report of Proceedings 50th. Annual Convention (Boston, 1930), p. 314-317.

30. Dudley R. Kennedy, (Director, Labor Department, B.F. Goodrich Co.), Statement to the Conference on Social Insurance (Washington, 1916), p. 889.

31. Rochester Chamber of Commerce, Industrial Management Council, Unemployment Insurance at a Glance (Rochester, N.Y., 1922).

32. Edwin F. Gay, (President, New York Evening Post Co.), "Is State Intervention Necessary to Prevent Unemployment", American Labor Legislation Review Vol.XI, No.2, (June, 1921).

33. John F. Crowell, New York Chamber of Commerce, "Unemployment Insurance in Britain", Proceedings of a Conference on Social Insurance, Bulletin of the United States Bureau of Labor Statistics #212, (June, 1917), p. 894.

34. "Unemployment Insurance in the United States", Factory (April 1, 1921), p. 878.

35. John Calder, "How the Employer can Safeguard a Man's Job" Survey Midmonthly (October 15, 1922), p. 95-6. Since surpluses were inevitable and even essential in many industries, employers should devise plans of support for the idle, to ensure availability of a steady and skilled labour force whenever required.

36. See as an example the report by Henry S. Dennison (President, Dennison Manufacturing Company) about his company's success with such a plan in Dennison, "Unemployment Relief: A Burden or and Investment?" System: the Magazine of Business (June, 1926), p. 795-96.

37. The British program was criticized for its cumbersome administration and its escalating drain on public revenues, as the insurance principle was abandoned to avoid unpopular increases in worker contributions. See "Experience with Unemployment Insurance" Factory (April 1, 1921), p. 876-8. Henry Lesser, (President, (British) National Federation of Employees' Approved Societies), "The Advantages of Unemployment Insurance by Industries Instead of Under A National or State Scheme" Economic World Vol.113 (April 19, 1924), p. 561-63.

38. Nelson, 1969, p. 29.

39. For a criticism of the British approach and a specification of an appropriate American model of private unemployment reserves to meet the consequences of the business cycle, see Frederick L. Hoffman, (Consulting Statistician, Prudential Insurance Company of America) "Unemployment Insurance by Industry from the Standpoint of American Conditions", Economic World Vol.113, (April 26, 1924), p. 598-600.

40. National Industrial Conference Board, Unemployment Insurance in theory and Practice Research Report #51 (New York, 1922), p. 89.

41. NICB, 1922, p. 89.

42. Harry Malisoff, "The Emergence of Unemployment Compensation I" Political Science Quarterly Vol.LIV, No.2, (June, 1939), p. 247.

43. Ethelbert Stewart (United States Commissioner of Labor), "Shall We Have Employment Insurance, or Unemployment Insurance" Railroad Trainman Vol.47, No.7, (July, 1930), p. 509.

44. Nelson, 1969, p. 145 ff.

45. This model was adopted in Wisconsin in a 1932 statute; the AALL model bill called for pooling on an industry or community basis only if individual employer funds would face solvency problems. Harry Malisoff, "The Emergence of Unemployment Compensation II" Political Science Quarterly Vol.LIV, No.3, (September, 1939), p. 396.

46. Malisoff II, p. 397.

47. Larson and Murray, 1955, p. 185.

48. Larson and Murray, 1955, p. 185. See the discussion of the Minnesota plan, which tacked a four-week waiting period onto the Wisconsin model.

49. Paul H. Douglas, Social Security in the United States: An Analysis and Appraisal of the Federal Social Security Act (New York, 1936), p. 82.

50. For a frank statement of the business position in this respect, see John E, Egerton, "Opposing Unemployment Insurance", Address Delivered at the Conference on Permanent Preventatives of Unemployment Insurance, (Washington, January 26-27, 1931), p. 46-56.

51. William C. Procter (president, Procter and Gamble Co.) "Experience With Guaranteed Employment", Review of Reviews Vol.83, No.3, (April, 1931), p. 86.

52. Daniel Willard, (President Baltimore and Ohio Railroad), Address before the National Institute of Social Scientists, (New York, April 30, 1929).

53. Otto T. Mallery, (Industrial Relations Committee, Philadelphia Chamber of Commerce), Public Works to Stabilize Employment and Industry (Philadelphia, 1931).

54. Mallery, 1931. However, some employers eventually accepted Labour's call to shorten the work week to "share the work". Stanley S. Langendorf, Idle Men and Idle Money Spell Depression (San Francisco, 1932). Chamber of Commerce of the United States The Share the Work Movement (Washington, 1932).

55. P.T. Sherman, Address at the 1929 Annual Meeting of the National Association of Manufacturers, cited in National Association of Manufacturers, Unemployment Insurance Handbook (New York, 1933), p. 27.

56. Clarence W. Hobbs, "Social Insurance and the Constitution", Proceedings of the Casualty Actuarial Society Vol.XXII, Pt.1, No. 45 (November 15, 1935), p. 33.

57. Hobbs, 1935, p. 33.

58. James D. Craig, "Is Unemployment Insurance Feasible and Practical and Can it be Made Secure from an Actuarial Basis Under a Political Government?", in American Bankers Association, Is Unemployment Insurable? (New York, 1932), p. 5.

59. National Metal Trades Association, Committee on Industrial Relations Thrift and Unemployment (Chicago, 1932), p. 5.

60. Charles M. Mills, "Dole-itis: even more than unemployment itself, breeds physical, mental, and moral depression ...", reprinted in N.J. Weiss and K.G. Hance, A Handbook on Unemployment Insurance for High School Debaters (Albion, Mich., 1931), p. 128-131. He declared his concerns in expressive tones: "It vitiates the pride of craftsmenship descended from the guilds of the Middle Ages. It destroys the spirit inherited from intrepid pioneers who founded a vast Colonial Empire".

61. E. Wright Bakke, "Insurance and Relief", Personnel Journal Vol.14, No.3, (September, 1935), p. 102-109.

62. Noel Sargent, "Public Unemployment Insurance" An Address by the Manager, Industrial relations Department, National Association of Manufacturers at a Conference of the People's Lobby (New York, Oct. 6, 1930); John Edgerton, Public Unemployment Insurance (New York, 1931), p. 11.

63. National Association of Manufacturers, Industrial Relations Department, Fundamental Faults of Compulsory Public Unemployment Insurance (New York, 1931), p. 10.

64. NAM, 1931, p. 8.

65. Frederick H. Ecker, (President, Metropolitan Life Insurance Company), "Is Unemployment Insurable?", Academy of Political Science (New York, 1932), p. 7; Leroy L. Lincoln, "Practicability of Unemployment Insurance" (Paper Read at Round Table Conference of the Insurance Department of the Chamber of Commerce of the United States) (Atlantic City, N.J., April 29, 1931).

66. National Industrial Conference Board Essentials of a Program of Unemployment Reserves (New York, 1933), p. 6.

67. National Metal Trades Association, 1932, p. 5.

68. NICB, 1933, p. 6-8.

69. "Good Remedies if Taken", Business Week (April 16, 1930), p. 7.

70. See the information provided to the United States Senate on this position. United States Congress, Senate, Committee on Education and Labor, Hearings, 70th. Congress, 2nd. Session, "Statement submitted by the Metropolitan Life Insurance Company in Response to a Request Made by Senator Couzens, on January 17, 1929", (February, 1929), p. 456-64. See also their memorandum on "A Practical Phase of Unemployment Insurance" in Ibid, p. 464-68.

71. James D. Craig, "Unemployment insurance and the Insurance Company" in Proceedings of the Conference on Unemployment and Other Interstate Problems (Albany, N.Y., January 23-25, 1931), p. 80-83.

72. Metropolitan Life Insurance Company, Group Insurance Division, Unemployment Insurance (New York, 1929), p. 6-7.

73. Metropolitan Life Insurance Company, The Limitations of Unemployment Insurance: The Need for Supplementary State Aid Monograph #6, Social Insurance Series (New York, 1932), p. 26. The company proposed emergency relief, public works, and even subsidies from government to private insurance companies to enable them to provide benefits of sufficient size and duration.

74. As examples, see "The Employe's Savings Plan of the General Motors Corporation", Industrial Relations Department, Princeton University, Kansas Debate Handbook , p. 213-16; "Company Loans to Unemployed Workers", in Ibid, p. 216-21.

75. "Clothing Workers Saved Up for A Rainy Day" Business Week (April 2, 1930), p. 11.

76. John L. Leary, "If We Had the Dole", The American Magazine (December, 1931), p. 13.

77. Chamber of Commerce of the United States, Department of Manufactures, Company Plans for Unemployment Reserves (Washington, 1932).

78. Procter, 1931, p. 86.

79. Morris E. Leeds, (Leeds and Northrup Co.), Statement to the United States Congress, Senate, Committee on Education and Labor, Hearings ... 70th. Congress, 2nd. Session (February 7, 1929), p. 205-12. The painful experiences of his men when layoffs became necessary stimulated creation of an unemployment insurance plan.

80. J. Douglas Brown, "The Manufacturers and the Unemployed" Current History Vol.34, No.7, (July, 1931), p. 517-20.

81. Walter H. Bennet, (Secretary-Counsel, National Association of Insurance Agents), Speech before the 35th. Annual Convention of the "What's Ahead for Insurance" National Association of Insurance Agents (Dallas, October 8, 1930); James A. Emery, (General Counsel, National Association of Manufacturers) Compulsory Public Unemployment Insurance (An Address to the California Manufacturers Association, (February 18, 1931), p. 16.

82. Charles B. Fowler, "Private Unemployment Benefit Schemes in the United States", in American Federation of Labor, A Study of Unemployment Insurance (Washington, 1934).

83. Fowler, 1934.

84. "Social Security", American Federationist Vol.42, No.4, (April, 1935), p. 356-7.

85. See the comments of William Green in "Good Remedies if Taken", Business Week (April 16, 1930), p. 7.

86. American Federation of Labor, Report of Proceedings 52nd. Annual Convention (Cincinnati, 1932), p. 336. He argued that "no such law has ever been enacted ... as will return to the working man his independence and courage". Showing a great distrust of government in these pre-Wagner act times, he suggested that "practically every law ... put[s] into the hands of the employer a power which ought not go into human hands at all".

87. AFL Proceedings, 1932, p. 336..

88. A.F. Whitney, President of the Brotherhood of Railroad Trainmen, "Unemployment Insurance" Railroad Trainman (April, 1931), p. 100.

89. Lewis B. Tebbetts, "Assured Opportunity vs. Unemployment Insurance" American Federationist Vol.38, No.7, (July, 1931), p. 826-28.

90. American Federation of Labor, Proceedings 1934, p. 603.

91. American Federation of Labor, Report of Proceedings 51st. Annual Convention, (Vancouver, B.C.1931), p. 368-69. The Executive Committee was concerned that the requirement of the UK and European systems that employers verify the unemployed efforts to seek employment unsuccessfully could be used as a means to punish union activists by denying such certification.

92. Unemployment insurance was seen as providing employers with an excuse to continue practices tending to create unemployment. Thus unemployment insurance "advocates say the jobless workers, created by the will of the employer, shall be supported on starvation rations during their idleness. This scheme perpetuates unemployment. It sets up two groups of workers, with two living standards", one employed and well-off, the other unemployed and destitute. The scheme would perpetuate joblessness and be an excuse for low wages. "Labor abhors unemployment insurance. Labor abhors any institution that will perpetuate unemployment. ... Labor demands that unemployment shall be prevented, not perpetuated", by such means as job sharing, shorter hours, etc. "Government insurance to perpetuate unemployment is thoroughly unreasonable". American Federation of Labor. Weekly News Service Vol.22, No.17, (July 2, 1932).

93. "Budget the Unemployed", American Federationist Vol.38, No.9, (September, 1931), p. 105.

94. "The Right to Work", American Federationist Vol.38, No.11, (November, 1931). The editorialist suggested the "right to work implies a legal right to income from the industrial undertaking". This was essential because "Work entitles the individual to the means for sustenance because it is an essential factor in the creation of wealth. Persistent denial of the right to work in effect abrogates the right to life, liberty and the pursuit of happiness". Thus, the workers' job security should be legally assured, to acknowledge his investment in the success of the industry.

95. "Green calls for unemployment relief for the jobless", American Federation of Labor Weekly News Service Vol.22, No.16, (June 25, 1932).

96. "Insurance or Dole", American Federationist Vol.38, No.3, (March, 1930), p. 278-9. Accepting the business community's concerns about the drain of such as system on productive enterprise, the editorialist asked: "Would it not be better to plan to use capital for productive purposes which would provide work, incomes for workers, and new wealth? ... We must not let people starve - neither must we let that which feeds them starve".

97. American Federation of Labor, Report of Proceedings 52nd. Annual Convention, (Cincinnati, 1932), p. 40-44.

98. Charles Burnell Fowler, The Need For Unemployment Insurance (Washington, 1934), p. 2.

99. Robert J. Watt, "What Labor Expects from Unemployment Insurance", American Association for Social Security 8th. Conference Report (New York, 1935), p. 180.

100. William Green, "Why Labor Opposes Forced Worker Contributions in Job Insurance" American Labor Legislation Review 1934, cited in George H. Trafton, "Should Workers be Compelled to Contribute?" Law and Contemporary Problems Vol.III, No.1, (January, 1936), p. 51. The AFL President declared: "Labor is not responsible for unemployment. Workers are not in a position to control the causes of unemployment. That is a function of management. ... Simple justice demands that workers should not be forced out of their inadequate earnings to pay for management's failure to stabilize employment".

101. Trafton, 1936, p. 51. This was also considered just, since employers could pass their premiums on to the public in the form of higher prices; workers obviously were not in a position to do the same.

102. O.J. Hall, Local Action Committee for Workers, American Federation of Labor , Speech (Philadelphia, n.d.).

103. Witte, 1945, p. 25.

104. See the proposals of Ernest Draper, (Vice President, Hills Brothers Company), "Why Unemployment Reserve Funds?" in Progressive Employers for Unemployment Reserve Funds Reprinted from the American Labor Legislation Review (New York, n.d.). He suggested that employers could pass the costs of unemployment insurance on to consumers, but still benefit from the stimulus thereby given to employment stabilization. See also "Legislative Stimulant Needed", Ibid, for a similar opinion form the Industrial Relations Counsellors, Inc. For further elaboration of Draper's views, see "Industry Needs Unemployment Reserves" American Labor Legislation Review Vol.22, No.1, (March, 1932), p. 29-32.

105. Several business leaders supported private efforts at creation of individual company reserves for exactly the same reasons. They accepted the AFL view that workers' wages should be treated like dividends, and that reserves should be accumulated in peak periods to be dispensed in slack times, stabilizing employment; the payouts from the funds would obviously fluctuate with employment levels, inducing increased managerial efforts to stabilize employment and production levels. See Henry S. Dennison (President, Dennison Manufacturing Co.), "Experience Demonstrates Advantages of Unemployment Reserve Funds", American Labor Legislation Review Vol.XXI, No.1, (March, 1931);

See also the comments of John G. Lonsdale, President, American Bankers Association, in Ibid, p. 39.

106. Chamber of Commerce of the United States, Company Plans for Unemployment Reserves (Washington, 1932), p. 14. "Aside from the intrinsic merits of unemployment reserve plans, the decided preference of American business men for voluntary action in meeting economic problems points to the desirability of adoption of these plans as a means of avoiding unsound legislation".

107. Malisoff, 1939 I, p. 250.

108. Larson and Murray, 1955, p. 186.

109. Malisoff notes that the Committee provided model bills based on four different plans: Wisconsin style unemployment reserves; Ohio unemployment insurance with pooled fund; partially pooled American plan; and individual employer plans (guaranteed employment account). Malisoff II, p. 399.

110. Munts, 1976, p. 76-7.

111. Nelson, 1969, p. 194.

112. National Industrial Conference Board, Essentials of a Progam of Unemployment Reserves (New York, 1933), p. 36-41.

113. Sam. A. Lewisohn, Principles of Unemployment Insurance Reprint from Review of Reviews and World's Work (March, 1933).

114. Retail Merchants Committee for the Study of Unemployment Legislation, 2nd. Study Pamphlet, Unemployment Reserves: Opinions and Suggestions and Lessons from British Experience (New York, 1935), p. 11.

115. Chamber of Commerce of the United States, Department of Manufacture, Unemployment Reserve Legislation (Washington, April, 1933), p. 4.

116. Chamber of Commerce of the United States, Providing Reserves Against Unemployment (Washington, (June, 1934), p. 29.

117. Nelson, 1969, p. 213-14.

118. Witte, 1945, p. 32.

119. Malisoff II, p. 403.

120. Winthrop W. Aldrich, (Chairman, Chase National Bank) An Appraisal of the Federal Social Security Act Speech to the Institute of Public Affairs, University of

Virginia (Charlottesville, Va., July 10, 1936), p. 7-11.

121. Becker, 1960, p. 492 ff.

122. Nelson, 1969, p. 213.

123. H.A. Ehrmann, (Comptroller, Consolidated Edison Company) "Problems of Industrial Relations Arising From Social Security Legislation" in American Management Association, Social Security and Industrial Relations (New York, 1937), p. 15.

124. Malisoff 1939 III, p. 591-92; 597-98.

125. Malisoff 1939 III, p. 582.

126. Malisoff, 1939 III, p. 585.

127. Joseph M. Becker, Experience Rating in Unemployment Insurance (Baltimore, 1972), p. 12-16.

128. Statement of William Green, President, American Federation of Labor to United States Congress, House of Representatives, Committee on Ways and Means, Hearings on Economic Security Act, 74th. Congress, 1st. Session, 1935, p. 384 ff.

129. Raymond Munts, "Policy Development in Unemployment Insurance" in Joseph Goldberg et. al., Federal Policies and Worker Status Since the Thirties (Madison, Wisc., 1976), p. 79.

130. Statement of William Green, President, American Federation of Labor to United States Congress, House of Representatives, Committee on Ways and Means, Hearings on Economic Security Act, 74th. Congress, 1st. Session, 1935, p. 384 ff.

131. Malisoff 1939 III, p. 595.

132. Congress of Industrial Organizations, Department of Industrial Union Councils, Unemployment Insurance (Washington, 1952), p. 89-90.

133. William Green, "Experience Rating Will Bankrupt Funds and Menace Benefits" American Federationist Vol., No., (January, 1939).

134. Becker, 1960, p. 495 ff.

135. Becker, 1972, p. 211

136. Munts, 1976, p. 79.

137. A.J. Hayes, (President, International Association of Machinists, AFL-CIO) Unemployment Compensation: Too Little, For Too Few, Too Late (Washington, 1960).

138. Robert T. Kurdle and Theodore Marmor, "The Development of Welfare States in North America" in Peter Flora and Arnold J. Heidenheimer (eds.) The Development of Welfare States in Europe and North America (New Brunswick, N.J., 1981), p. 95-98. Although it varied depending on the state, American benefits generally were higher than those in Canada's national plan, while the number of workers covered was usually narrower and benefit periods often shorter.

139. Burns, 1945, p. 9.

140. Kurdle and Marmor, 1981, p. 95. Constance Sorrentino, "Unemployment Compensation in Eight Industrial Nations", Monthly Labor Review Vol.99, No.7, (July, 1976), p. 18. She notes that a temporary broadening in coverage and benefit period put the United States momentarily second only to Sweden in the latter category.

## 7 Canadian Unemployment Insurance

### a) Early Unemployment Relief Policy

Unemployment was not as acute in Canada as in the United States in the eighteenth century. Serious problems of surplus labour emerged later in this less-developed economy. Nonetheless, economic fluctuations did produce dislocations for workers. The poor law tradition, and Quebec's Catholic practices, ensured that municipal governments and private charities would be the agency for coping with those affected. The prevailing philosophy of "less eligibility" ensured that relief would be minimal, and offered in institutional settings so as not to be an attractive alternative to low-paid employment, and in particular to farm and other seasonal labour.[1] Despite the pronounced depressions of the 1870s and 1913, little serious consideration was given to federal or provincial action to aid the unemployed before World War I.[2]

High levels of unemployment were feared in the aftermath of World War I as the economy readjusted to peacetime operations. Thousands of Canadians had abandoned rural life for employment in the armed forces, or in war-related factories; not all would find employment in peacetime industries. Drawing on foriegn precedents, the Royal Commission on Industrial Relations of 1919 recommended an unemployment insurance system to placate workers insecure about post-war prospects.[3] Canada supported moves at the International Labour Organization to encourage member nations to create unemployment insurance systems.[4]

Moreover, officials of the Department of Justice advised the federal government that it did have the constitutional authority to enact such a programme. At the Department of Labour, draft legislation was prepared.[5] Fearing social unrest and political unpopularity if many were left without assistance, the wartime Union coaltion government planned to resettle soldiers on agricultural land and to move the idle into new work through the federal-provincial employment offices; to assist those left jobless, federal revenue was provided for municipal relief

and public works during the winters of 1920 and 1921.[6] Many in the federal bureaucracy advocated unemployment insurance as a means to meet future crises.[7]

Labour also asked the government to consider a permanent programme of unemployment insurance, to cope with seasonal and structural variations in employment levels. The TLC played on the fears of the politicians and public, warning that "the presence in our midst of great numbers of men forced out of employment and into involuntary poverty constitutes a grave menace to our national well-being". The TLC argued that a permanent scheme would be more efficient and economical than piecemeal emergency plans.[8]

However, these federal policies did not herald a permanent commitment. The relief and works assistance were explicitly termed emergency measures, and were dropped despite the continued severe seasonal unemployment of subsequent winters. The Canadian government retreated, even though renewed post-war immigration increased the rolls of the jobless. The employment service was rapidly emasculated by the King regime after 1921, since its agrarian partners in the minority parliaments of the 1920s blamed federal relief assistance and the employment service for siphoning cheap labour off the farm. The farmers' view of unemployment was simple; unemployment was a voluntary state. There was enough seasonal farm work to occupy all, if public works and relief in the cities was not made too attractive.[9]

Labour politicians were able to initiate a parliamentary committee investigation into the unemployment situation in 1924. But the King government adopted a cautious approach: despite the precedent for joint action in pensions, provincial jurisdiction was cited as the reason for procrastination. Fear of the expense, and of political opposition were important considerations.[10] The political strength of provincial premiers and prarie farmers in the 1920s ensured that no serious consideration of unemployment insurance could occur.

b) Early Interest Group Positions

Although Canadian unions did attempt to create union jobless benefits, their limited resources and lack of mobility rights made them inadequate.[11] Therefore, throughout the 1920s the Trades and Labour Congress of Canada advocated a national unemployment insurance programme.[12] Individual responsibility for joblessness was regarded as an anachronistic belief, since "every industrial worker is constantly exposed to the hazard of unemployment" and the "duration of a job may not depend on his efficiency, workmanship or loyalty but is often more dependent on the personnel, production, marketing and financial policies of business management".[13] Unemployment prevention was the ideal, but an unemployment insurance plan was essential to care for those workers left jobless through no fault of their own.[14] Submissions to the Commons Committee on Industrial and International Relations repeatedly urged a federal programme, to ensure a uniform response to a problem of national origin and scope.[15] Low benefits and careful separation of the deserving jobless and the indolent idle could prevent high costs and disincentives; tripartite contributions of state, employer and employee were also accepted, to acknowledge the social, industrial and individual nature of the risk and to encourage all these parties to strive for reduced unemployment.[16] This policy would reduce worker insecurity and labour unrest.[17]

The All Canadian Congress of Labour hesitated to support immediate reforms when replacement of capitalism was ultimately desirable[18]; a socialist system might provide employment for all able-bodied citizens.[19] This union eventually also demanded unemployment insurance as a more practical objective. Since most joblessness resulted from business decisions respecting investment, technological change and production levels, the plan should be financed by "a direct charge upon industry alone".[20] The unemployed were not "victims of their own indolence" and deserved "a degree of support by the industries from which they are involuntarily excluded".[21] The Catholic Workers Union of

Canada, based in Quebec, indicated support for a nationwide contributory system, implemented by the federal government unilaterally if consultation with the provinces failed.[22] The hostile political climate and low unemployment in the 1920s limited the effectiveness of union advocacy.[23]

Before the 1930s, business commentary often seemed tentative and cautious.[24] But the Canadian Manufacturers' Association noted that Canada could not afford to move ahead of the United States in social legislation; unemployment insurance would constitute an extra cost of production in Canada which would handicap Canadian manufacturers in both foreign and domestic markets. Unemployment occurred mostly in seasonal industries, and steady manufacturing enterprises should not be forced to contribute.[25] The CMA representatives also denied there was a shortage of work for the jobless. Canada was an expanding economy with abundant opportunities. Canadians' mentality induced workers to seek new work when unemployed. It was "infinitely preferable that a man who is out of work should bestir himself and look for a new job rather than sit down and twirl his hands and look for unemployment relief".[26]

c) The Great Depression and Union Agitation

Union pressure for unemployment insurance gained new vigour during the depression years. The TLC adopted the most moderate platform. Unemployment insurance would increase buying power, and reduce unemployment; it would encourage employment stabilization, and reduce seasonal fluctuations; it would raise living standards and reduce industrial unrest; and it would avoid the inefficiencies of ad hoc relief plans. The TLC ideally envisioned a programme funded mainly by industry, with some government involvement; this would place the burden upon those most responsible, and also encourage employment stabilization. The TLC eventually accepted tripartite state, employer and worker contributions to an unemployment insurance fund.[27]

The All Canadian Congress of Labour was not willing to make such a concession: the "only fair scheme of insurance should ... be of a non-contributory character so

far as the workers are concerned".[28] Although more concerned to encourage federal-provincial consultation, the Quebec-based Federation of Catholic Workers of Canada also urged a uniform programme of national scope, through "common action" of all governments.[29] In the existing crisis, the Railroad Brotherhoods saw the need for cooperation of federal, provincial, and municipal authorities to provide essential relief, and to devise a more permanent solution: a federal-provincial conference was demanded to consider how to implement unemployment insurance.[30] Labour was gratified when the desperate Liberal government of Mackenzie King proposed unemployment insurance prior to the 1930 general election.[31]

But the King government was defeated in the election, and the new government abandoned any consideration of an insurance programme. As the Depression dramatically multiplied the ranks of the unemployed, Canada remained unprepared to meet the crisis. The ideology of individual responsibility and local relief left Canada without the expertise or policies needed to cope with the massive dislocations of this era. The Conservative administration of R.B. Bennett from 1930-1935 relied primarily on traditional policies. Relief for the unemployed was still seen as a local responsibility, although the federal government made emergency assistance available. A programme of public works was initiated, but then withdrawn, as concern for the deficit and restoration of investor confidence took precedence. Finally, the government moved to end its relief contributions to reduce its deficit. This left a system of inadequate, inequitable municipal relief, with built-in disincentives to labour mobility and frugality.[32]

Unions condemned the Bennett government responses to depression as inadequate. Noting the inability of municipal and provincial governments to enact adequate relief programmes, the Railroad Brotherhoods called for federal action to introduce a national unemployment insurance system.[33] These brotherhoods saw relief work as only a temporary solution, which did not address the profound

structural causes of unemployment, notably technological change, and irregular seasonal employment; a broader programme was needed to address the human misery of the Great Depression and provide a "remedy for ... industrial and economic ills".[34] The TLC was sharply critical of constitutional delaying tactics, and called for constitutional change to enable the federal state to undertake the necessary national social programmes; otherwise, the expectations of workers would be dashed and the prospects of dangerous unrest would be increased.[35]

d) Business Concerns

Canadian business welcomed the change of government. Business had denounced King's unemployment insurance proposal as a costly dole, not a panacea for the nation's ills.[36] The Bank of Nova Scotia preferred the incentives of the present system. "So long as the worker cannot claim insurance benefit or any such subvention, he has the strongest motives for finding work". Establishment of unemployment insurance would merely swell the ranks of the unemployed, by causing people not to emigrate, or return to the land.[37] The Canadian Manufacturers' Association declared the programme too costly for the nation, especially since direct relief would still be needed to deal with those many workers in unsteady jobs who would not qualify for an "actuarially sound" insurance plan.[38] Hugh Wolfenden, an actuarial specialist working for the Canadian Life Insurance Officers Association, argued that unemployment insurance did not share the sound principles of workmen's compensation plans, with their stimulus to prevention. There was:

> no "proper justification for removing the onus of providing against ... contingencies [like unemployment] from the shoulders of the individual himself .... the philosophy of self-help is abandoned, and ... in its place appears a theory which ... invites social irresponsibility".

Only a system devised to place the cost upon the beneficiaries would preserve "personal initiative, ambition and self-reliance".[39]

However, business heeded government warnings that, if the private sector did not devise solutions, "the state must step in".[40] Canadian employers, particularly branch plants of American firms, adopted voluntary unemployment plans to offset pressures for government action.[41] Businessmen began to recognize the profound cost of direct relief, and the economic burdens of municipal bankruptcy; this caused business leaders, like Charles Gordon of the Bank of Montreal, to suggest that a well-developed, self-financing system of unemployment insurance had to be superior to the existing costly chaos.[42] Despite CMA hostility, some manufacturers condemned the disincentives of relief, and favoured unemployment insurance as a less demoralizing, punitive system.[43] Business leaders made proposals to keep the cost of such a plan low by limiting the size and duration of benefit, restricting coverage to good risks, and extending waiting periods.[44]

e) The Bennett New Deal

As the Depression dragged on, the political position of the Bennett regime became increasingly precarious. Finally, the government considered a major change of course, emulating the American New Deal.[45] In January, 1935, Prime Minister Bennett, proclaiming the "end of laissez-faire",[46] announced a sweeping reform package which included a contributory unemployment insurance plan.[47] The policy change has been seen as ideological conversion from laissez faire to interventionism[48]; certainly, the Prime Minister's rhetoric was geared to generate visions of conversion and acceptance of federal responsibility for the unemployed.[49] But the government was simultaneously withdrawing from direct relief; since the policy as devised was clearly unconstitutional, as an invasion of provincial jurisdiction, the whole New Deal plan may have been a diversionary tactic to seek electoral gain.[50] Nonetheless, interest groups took the proposal seriously, and debate on the matter was enlivened.

Employers criticised the new initiative. Merchants termed the unemployment insurance contributions a new tax,

which would force employers to cut back in other areas, notably off-season employment; the net effect would be an increase in unemployment and a decrease in employee income and self-respect.[51] The direct cost of the contribution and the indirect costs and burden of administration and record-keeping were also targets of employer vitriol.[52] The Canadian Chamber of Commerce preferred tried and true methods of direct relief, administered locally, with federal financial aid. The depressed economy and tax base of the 1930s did not offer propitious conditions for the initiation of such an ambitious programme: "no unemployment insurance initiated today could offer any substantial prospects of assisting in the relief of need in the near future".[53] The high cost of the plan was inconsistent with the need for balanced budgets to promote economic recovery. Nor would a national plan be sufficiently sensitive to regional and local variations in availability of work, or prevailing wage levels.[54] A balance should be reached between federal supervision of relief, to prevent corruption, abuse, patronage and waste, with the necessary local alertness to fraudulent claims.[55]

Business sought the same amendments as were promoted in the United States. Many companies, notably banks and large retailers, sought exclusion from unemployment insurance contributions on the grounds that their employees did not face layoffs.[56] The retailers objected to "the increased cost imposed upon a character of business which we do not feel is exposed to the need of unemployment insurance".[57] Similar sentiments were expressed by representatives of the banks, insurance companies, and phone companies, all of whom claimed to provide virtually guaranteed employment to all clerical workers.[58] This position drew criticism from the manufacturers, who believed the fund could not remain solvent if the good risks were all excluded. Nonetheless, the Canadian Manufacturers' Association argued for merit rating, so that industries could be rated according to their hazards of unemployment.[59] This differentiation was needed to induce business to stabilize employment levels and to reward those

who succeeded. As A.L. Code, representing the small manufacturers of Perth, Ontario, declared: "We do not believe that good risks should be asked to assume equal obligations with the bad, who, in many cases, have shown little or no ability or willingness to ameliorate ... conditions."[60]

Labour also had reservations about the 1935 measure. Some workers remained distrustful of the whole process and expressed concern that employers would use the plan as an excuse for layoffs, and for wage reductions in seasonal industries.[61] The ACCL gave it only reluctant support.[62] This union central criticized the bill for its conservatism, since it stressed actuarial soundness over adequate benefits, and left too many workers out of its coverage.[63] A non-contributory system was still the first preference, but if contributions were to be required these should be imposed across as many occupational categories as possible.[64] The Trades and Labour Congress of Canada was willing to accept the contributory system; actuarial conservatism was needed to spread the risk and ensure a workable programme. But the TLC sought the widest possible coverage, to prevent the need for higher premiums.[65] Private insurance was not an alternative due to its prohibitive costs and potential abuses.[66] The TLC accepted the Bennett bill despite its shortcomings, as "a basis on which we might build for the future".[67]

The Employment and Social Insurance Act was ill-fated. It was reported out of the Senate in 1935 in a fashion favourable to labour, with the exemptions for banks and insurance companies removed. However, the defeat of the Bennett government and the jurisdictional caution of the new King administration ensured the bill's demise. King objected to the unilateral action of Bennett, and promised the provinces a more conciliatory, consultative approach to social policy. While claiming not to challenge the "social justification" of the unemployment insurance legislation, but rather its "constitutional validity"[68], King had the entire plan referred to the Judicial Committee of the Privy Council in London. In early 1937, the Act was ruled ultra

vires the jurisdiction of the federal Parliament.[69] But King continued the federal government's retreat from direct relief, despite the deprivation of depression. Policy still emphasized local relief, and return of the jobless to farm employment.[70] Hence, while the United States had moved to a comprehensive unemployment insurance and assistance programme by 1935, Canada continued with an underfunded municipal relief system for the entire duration of the Depression.

In the late 1930s, business grew more divided on the advantages of an insurance programme. Canadian Manufacturers' Association spokesmen continued to criticize the insurance approach as inappropriate in the Depression, as government would still have to bear a great burden of direct relief.[71] The continued high costs of the Depression, human and financial, convinced the Toronto Board of Trade, of the advantages of a uniform federal unemployment insurance policy; this would eliminate differing local and provincial tax burdens and create a more uniform, competitive position for business.[72] Unions were unanimous in support of the policy while divided on the method of financing.[73] Unions were as one in condemning the use of federal-provincial jurisdictional squabbles as a reason for delay. This position received credibility with the report of the National Employment Commission recommending federal action to aid the unemployed.[74] Meanwhile, the government continued to exhibit jurisdictional caution, while claiming the depth of depression was not an opportune time to permit development of a solvent unemployment insurance fund. Federal efforts to introduce a programme after the court decisions of 1937 were stalled by disagreement with the strong provincial premiers of these years.[75]

f) <u>The Adoption of Unemployment Insurance</u>

The outbreak of World War II removed the employment crisis, and generated the prosperity needed to initiate a programme. It strengthened the federal power versus the provinces; and it created an urgent need to maintain labour peace and political stability. Concern about post-war

depression and readjustment added to the sense of urgency. 1940 also witnessed the report of the Royal Commission on Dominion Provincial Relations, which favoured constitutional change to allow federal control over unemployment insurance; the defeat of the nationalist Quebec government of Maurice Duplessis removed a major obstacle to such constitutional alteration.[76] Hence, the King government secured provincial support, and proceeded with a national unemployment insurance programme.

A bill was introduced into Parliament which resembled the Bennett bill of 1935 in its contributory nature and its exclusion of seasonal workers. However, it recommended graded benefits and contributions having "regard for the normal standard of living of the insured worker"[77]. It reduced the number of qualifying weeks from 40 to 30, while increasing coverage of the workforce from 66% to 75%; this reflected the change in the occupational makeup of the labour force more than greater inclusiveness of policy.[78]

The Canadian Manufacturers' Association remained the staunchest opponent. High seasonal unemployment, labour mobility and vast geographic distances would make a British style national pool very costly to administer.[79] The CMA asked the Special Commons Committee on Unemployment Insurance to delay passage of the bill for a year to permit consideration of alternatives. It continued to advocate a voluntary, company reserve plan as the ideal, but was willing to consider compulsory individual savings or joint employee-employer savings schemes. These would leave more public money for the war effort, limit employer contributions for any employee to a set maximum, and could be abandoned later if proved too costly.[80] Government policy should avoid interference with existing private plans and permit employers with adequate plans to "opt out".[81] Industries with low unemployment rates should be given lower premiums as good risks, as in private insurance. And an unemployment assistance programme, providing minimal relief for those in unsteady employment should also be created to prevent a drain on the unemployment insurance fund.[82]

The Canadian Chamber of Commerce also resisted a public unemployment insurance system. "Business has already demonstrated through its many individual company benefit plans that it is sympathetic to social security for wage earners". Introduction of a programme which would absorb so many financial and administrative resources was resisted at a time when the war effort was already straining the administrative and economic capacity of the country;[83] "a company savings plan might fill the bill better and with less expense"[84]. Concern for the international competitiveness of Canadian manufacturers, caused the Montreal[85] and Toronto Boards of Trade[86] to request postponement of the proposal until after the end of the global conflict. Exemptions from contributions, on the basis of employment stability, were again requested by bankers[87], insurance companies[88] and major retailers[89]: "inclusion of [their] employees within the operation of the act would amount to nothing more nor less than the imposition of a tax on them for the benefit of other industries".[90]

The TLC expressed relief that constitutional barriers had been removed and sought swift passage of Bill 98, rejecting the CMA's delaying tactics.[91] The 1940 measure was accepted by the TLC as a "good start" which did not go too far ahead of public opinion.[92] It improved on the 1935 Act by linking benefit to income, facilitating administration and reducing inequities and anomalies. Limits on the scope of coverage were still considered objectionable and unnecessary; but extensions of coverage must be made with caution to preserve the actuarial soundness of the bill. The TLC leadership pledged to seek amendment after careful assessment based on experience with implementation of the Act.[93] The Confederation des Tavailleurs Catholique du Canada also supported the contributory, national fund to supplement voluntary savings. This Quebec union also sought broader coverage to include seasonal workers like longshoremen but would also seek amendment after the programme was in place.[94]

The All Canadian Congress of Labour also responded to

business delaying tactics by supporting the government, to ensure early adoption of the programme despite its shortcomings.[95] A wartime period of full employment and prosperity was considered an opportune moment to introduce the programme, to ensure accumulation of a healthy fund for the anticipated high unemployment of the reconversion period in peacetime.[96] The Congress still maintained that individual workers were not responsible for unemployment, and thus should not contribute; but its leaders recognized that industry would not accept this, and so acquiesced, even though contributions would "impose a hardship upon low-paid workers".[97] C.H. Millard, Secretary of the Canadian Committee on Industrial Organization admitted that some workers in good risk industries would pay for benefits they would rarely if ever need; but such good risks would support contributions to a programme beneficial to society and to labour as a class.[98] The Railroad Brotherhoods would also benefit little despite extensive contributions, but supported the act "without hesitation because they believe that it is in the interest of all workers" according to the maxim "Bear ye one another's burdens".[99]

After adoption, business criticised the complexity of administrative and record-keeping requirements, and sought simplification.[100] Business eventually acknowledged the usefulness of social insurance programmes to prevent a slump in consumption during post-war reconstruction.[101] But while acceptingg an adequate minimum, business leaders remained vigilant about the size of the tax burden, especially when actuarial guidelines were neglected and direct relief drawn from the insurance fund.[102] The Chamber of Commerce declared it necessary to ensure that social programmes did not outrun the fiscal resources and economic capacity of the country: unemployment insurance violated this condition by the mid- 1960s.[103] In representations to government commissions, the CMA urged elimination of claims from the seasonally unemployed, and reduction of abuses to restore the actuarial health of the programme.[104] Corporate leaders also sought to retain a lengthy qualifying period of employment, low benefit increases, limited number of

benefit weeks, etc. Business associations divided over the usefulness of experience rating, depending on their unemployment records,[105] but invariably welcomed proposals to limit the possibilities for abuse and reduce costs.[106]

While concerned about abuse[107], unions continued to defend the existing unemployment insurance programme against its many critics, claiming both humanitarian and economic advantages.[108] Their efforts were directed at reducing the numbers of excluded occupations.[109] They also sought to increase the scale of benefits to ensure more complete replacement of lost earnings in jobless periods[110]; any resulting shortfall in the fund should be recovered from general government revenues, financed by progressive taxation.[111] The Catholic unions of Quebec demanded larger payments to aid the heads of Quebec's large, Catholic families.[112] In the 1970s, unions continued these efforts, seeking reduced qualifying and waiting periods, preservation of seasonal benefits, and so forth.[113]

The evolution of unemployment insurance policy has reflected an attempt to balance these competing demands for liberalization and financial responsibility.[114] As in the United States, political pressures ensured some government responsiveness to labour demands for use of the programme for social ends[115]; increased benefits and coverage were steadily introduced to the early 1970s. High costs of this generous system rapidly led to restrictions to reduce potential for abuse; fiscal concerns caused the government favour contraction of the programme.[116] The complexities of the programme's evolution in these decades precludes detailed consideration here. Nonetheless, the basic pattern of group reactions in recent years resembles American group attitudes. But the policy itself differed from the American practice of employer funding, since it included employee and state contributions In that respect, it revealed a lower responsiveness to labour's initial demands, while limiting the programme's usefulness in promoting employment stabilization and monitoring of abuse.

## Notes

1. James Struthers, No Fault of Their Own: Unemployment and the Canadian Welfare State, 1914-1931 (Toronto, 1983), p. 3-7.

2. Leslie A. Pal, State, Class, and Bureaucracy: Canadian Unemployment Insurance and Public Policy (Montreal, 1988), p. 33-34.

3. Canada, Royal Commission on Industrial Relations, Report (Ottawa, 1919), p. 12.

4. James Struthers, "Prelude to Depression: The Federal Government and Unemployment, 1918-29" Canadian Historical Review Vol.LVIII, No.3, (September, 1977), p. 281.

5. Struthers, 1977, p. 281 ff..

6. Carl Cuneo, "State, Class and Reserve Labour: The Case of the 1941 Canadian Unemployment Insurance Act" Canadian Review of Sociology and Anthropology Vol.16, No.2, (Spring, 1979), p. 151-54.

7. Memorandum to the Minister of Labour re Recommendations of the Employment Service Council passed at the meeting in Ottawa, Sept 23-24, 1920 (October 14, 1920). Public Archives of Canada, Department of Labour Papers, RG 27, Vol. 167, File 612.5:3 Vol. 1

8. Circular of the Executive Council of the TLC , January, 1921, reprinted in Trades and Labour Congress of Canada, The Trades and Labour Congress of Canada and its Policies on Employment, Unemployment and Underemployment (submitted to the 47th. Annual Convention, Vancouver, B.C., September, 1931. (TLC 1931).

9. Struthers, 1977, p. 285.

10. Leslie A. Pal, "Relative Autonomy Revisited: The Origins of Canadian Unemployment Insurance" Canadian Journal of Political Science Vol.XIX, No.1, (March, 1986), p. 85-86.

11. Carl Cuneo, "State Mediation of Class Contradictions in Canadian Unemployment Insurance, 1030-1935", Studies in Political Economy No.3, (Spring, 1980), p. 38-39. The most radical proposal was made by the Communist Workers Unity league, which called for non-contributory unemployment insurance, funded by progressive taxation and reduced military spending, managed by councils elected from trade unions and the unemployed.

12. Trades and Labour Congress of Canada, Proceedings of the 42nd. Annual Convention (Montreal, 1926).

13. This declaration of the 1928 TLC convention was cited in Thomas M. Cane A Test-Case for Canadian Federalism: The Unemployment Insurance Issue, 1919-1940 (PhD. Thesis, University of Western Ontario) (London, Ont., 1971), p. 12.

14. Cane, 1971, p. 13.

15. TLC, 1930: this pamphlet reviews the many submissions made by the TLC.

16. Cane, 1971, p. 14-15.

17. TLC 1930.

18. "Unemployment Insurance" Canadian Unionist Vol.1, No.4, (September, 1927), p. 56. "To tackle the problem of unemployment, without first removing the cause, capitalism, is like patching a leaking boiler, and only postponing the time when replacement will be required. Any measure of reform, any means of keeping the slaves alive, will necessarily be to some extent a method of bolstering up capitalism. And yet, as an immediate human problem, unemployment must be dealt with in a human way".

19. Testimony of A.R. Mosher, President All Canadian Congress of Labour to the House of Commons Committee on Industrial and International Relations (April 11, 1928), p. 31.

20. All Canadian Congress of Labour, Memorandum to the Honourable Peter Heenan, Minister of Labour re Unemployment, Sickness and Invalidity Insurance (March 1, 1929) in Public Archives of Canada, Department of Labour Papers, RG 27, Vol. 166.

21. All Canadian Congress of Labour, Memorandum re Unemployment Insurance (no date) Public Archives of Canada, Canadian Labour Congress Papers MG 28 I 103 Vol. 195, File 195-15.

22. Testimony of Pierre Beaulé, President, Catholic Workers Union of Canada to the House of Commons Standing Committee on Industrial and International Relations (April 11, 1928), p. 23.

23. Cuneo, 1980, p. 38-39.

24. Pal, 1988, p. 65-66.

25. Testimony of W.L. Coulter, Chairman, Industrial Relations Committee, Canadian Manufacturers' Association to the House of Commons Standing Committee on Industrial and International Relations (April 24, 1928), p. 61-63.

26. Testimony of H.W. MacDonnell, Secretary, Industrial Relations Department, Canadian Manufacturers' Association in Ibid, p. 73-74.

27. TLC 1930.

28. W.T. Burford, Secretary Treasurer, All Canadian Congress of Labour to Honourable Peter Heenan, Minister of Labour, (January 15, 1930). Public Archives of Canada, Department of Labour Papers, RG 27, Vol. 166.

29. Resolution of the Executive Committee of the Federation of Catholic Workers of Canada, adopted at Convention, Sherbrooke, Que., (August 6-9, 1932). Public Archives of Canada, Department of Labour Papers, RG 27, Vol. 166.

30. Unemployment Situation in Canada Resolution by the Executive Committee, Canadian Legislative Board, Brotherhood of Locomotive Firemen and Enginemen (January, 1930). Public Archives of Canada, Department of Labour Papers, RG 27, Vol. 166.

31. "Labour Gratified by Forecast of Prime Minister" Ottawa Morning Citizen (February 27, 1930).

32. James Struthers, Canadian Unemployment Policy in the 1930s Windy Pine Papers No. 1 Trent University Canadian Studies Program (Peterborough, Ontario, 1984), p. 2-11.

33. Memorandum of Proposed Legislation Submitted by the Dominion Joint Legislative Committee of the Railway Transportation Brotherhoods (Ottawa, Feb. 13, 1930). Public Archives of Canada, Department of Labour Papers, RG 27, Vol. 3508 File 1-27-2 pt. 1.

34. Memorandum of Proposed Legislation Submitted by the Dominion Joint Legislative Committee of the Railway Transportation Brotherhoods (Ottawa, March 6, 1933), Ibid.

35. Canadian Congress Journal Vol.14, No.3, (March, 1935).

36. Financial Post (March 6, 1930).

37. "Risks of Unemployment in Canada and the Cost of Unemployment Insurance" Monthly Review of the Bank of Nova Scotia Vol.VIII, No.8, (Toronto, August, 1934).

38. Pal, 1988, p. 66.

39. Hugh Wolfenden, Unemployment Funds: A Survey and Proposal (Toronto, 1934), p. 153; 163.

40. Toronto Globe (February 5, 1930). This warning was given by the Minister of Labour, Peter Heenan, in response to a Canadian Manufacturers' Association

declaration in favour of voluntary solutions. The newspaper commented: "The expressed preference for the handling of it by the industries themselves instead of imposing the obligation on the state, is well worth the serious consideration of business if it wishes to avoid Government interference with what it regards as its affairs." If industry did not act, public pressure would induce state action: "Thus legislative paternalism creeps into business, although it might be avoided by industry and business anticipating the situation and moving accordingly".

41. Note, for instance, the unemployment reserves plan of Canadian Kodak Ltd., in Memorandum from Canadian Kodak Ltd. (May 1, 1931). Public Archives of Canada, Department of Labour Papers, RG 27, Vol. 167, File 612.5:3 Vol. 1.

42. Alvin Finkel, Business and Social Reform in the Thirties (Toronto, 1979), p. 86-87.

43. Ibid, p. 88.

44. T.A. Fleming, "Unemployment Insurance: Its Possibilities in Canada" Canadian Machinery and Manufacturing News Vol.45, No.4, (April, 1934), p. 17-18.

45. T.W.L. MacDermot, "Roosevelt Shows the Way?" in J.R.H. Wilbur (ed.) The Bennett New Deal: Fraud or Portent? (Toronto, 1968), p. 60-67.

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47. Canada, Parliament, House of Commons, Debates 1935 Vol. I, p. 278 ff.

48. W.H. McConnell, "The Genesis of the Canadian `New Deal'" Journal of Canadian Studies Vol.4, No.2, (May, 1969), p. 31.

49. "Bennett Platform is Government Control: Time Has Come for Economic Reform" Montreal Gazette (January 3, 1935).

50. Struthers, 1984, p. 12. See the articles in Wilbur, 1968 for a thorough discussion of the nature and merits of the Bennett reform proposals.

51. "The Opinion of a Merchant Regarding Bennett's Unemployment Insurance Bill" Charlottetown Patriot (February 8, 1935).

52. "Calculation Shows Costs of Jobless Insurance" Toronto Financial Post (April 6, 1935).

53. Canadian Chamber of Commerce Policy Declarations (Winnipeg, 1934) Public Archives of Canada, Canadian Chamber of Commerce Papers MG 28 III 62 Vol. 17.

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55. Canadian Chamber of Commerce Policy Declarations (Toronto, 1936) Public Archives of Canada, Canadian Chamber of Commerce Papers, MG 28 III 62 Vol. 17.

56. See the testimony of representatives of the Bank of Montreal, and the retailers Eaton's, Simpson's and the Hudson Bay Company as summarized in A Brief Synopsis of Evidence Given Before the Standing Committee on Banking and Commerce Respecting the Unemployment Insurance Act of 1935 Public Archives of Canada, Department of Labour Papers, RG 27, Vol. 166 File 612-01: 68-7 Vol. 2.

57. Testimony of H.D. Gibson, Vice President, Robert Simpson Co., to the Senate Standing Committee on Banking and Commerce, Hearings on Bill 8, "An Act to Establish an Employment and Social Insurance Commission". (March 28, 1935), p. B-3. His views were supported by M.J.E. Dodds of Eaton's and F.F. Martin of the Hudson Bay Company.

58. Ibid for the testimony of M. Kilgour of North American Life Insurance Co.; J.E. MacPherson of Bell Telephone,M.W. Wilson of the Royal Bank, and President Henwood of the Canadian Bankers Association.

59. Testimony of H.W. MacDonnell, President, Canadian Manufacturers' Association in Ibid, p. H-4.

60. Testimony of A.L.Code in Ibid, p. G-3.

61. "Labour Desires Plan for Insurance to be Non-Contributory" Winnipeg Free Press (May 4, 1935).

62. "A Good Start at Social Insurance" Canadian Unionist Vol.8, No.10, (March, 1935), p. 239.

63. Canadian Unionist Vol.8, No.9, (February, 1935), p. 217.

64. Testimony of W.T. Burford, Secretary-Treasurer, All Canadian Congress of Labour to Senate Standing Committee on Banking and Commerce, (April 16, 1935), p. A-2 ff.

65. Testimony of Tom Moore, President, Trades and Labour Congress of Canada to the Senate Standing Committee on Banking and Commerce (April 3, 1935), p. D-6.

66. Ibid, p. E-6.

67. Ibid, p. C-3

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71. "Submissions of The Canadian Manufacturers' Association, Inc.: Old Age Pensions and Unemployment Insurance" Industrial Canada Vol. XXXIX, No.2, (February, 1938).

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77. Department of Labour Memorandum Contrast Between the Unemployment Insurance Bill, 1940 and the Employment and Social Insurance Act, 1935 Public Archives of Canada, Department of Labour Papers, RG 27, Vol. 166 File 612-01:68-7 Vol. 2

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81. MacDonnell, 1940, p. 2.

82. W.C. Coulter, Re: Unemployment Insurance Act, 1940 Statement presented to the Special Committee on Unemployment Insurance (Ottawa, 1940).

83. N.J. Dawes, Chairman, Executive Subcommittee, Canadian Chamber of Commerce to the Chairman of the Special Committee on Unemployment Insurance, (July 23, 1940).

84. Testimony of R.P. Jellett to the House of Commons Special Committee on Unemployment Insurance, p. 129.

85. J. Stanley, Coop, Secretary, Montreal Board of Trade, to the Chairman of the Special Committee on Unemployment Insurance, (July 22, 1940).

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88. Testimony of V.R. Smith to the Special Committee, (July 24, 1940), p. 190 ff.

89. Retail Merchants Association, Memorandum Submitted ... Re: Bill 98 - An Act to Provide for Insurance Against Unemployment (Ottawa, 1940), p. 1.

90. Montreal Tramways Company, Memorandum submitted ... to the Special Committee on Bill No. 98 respecting Unemployment Insurance (Montreal, July 25, 1940), p. 4.

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100. C.H. Kercher, to Dr. Bryce M. Stewart, Deputy Minister of Labour, (January 10, 1941) Public Archives of Canada, Department of Labour Papers, RG 27, Vol. 3494, File 4-1 pt. 1.

101. Canadian Chamber of Commerce The Record No. 13 (September, 1944).

102. Canadian Chamber of Commerce The Record No. 44 (July, 1950).

103. Canadian Chamber of Commerce Newsletter No. 245 (January, 1964), p. 4.

104. Pal, 1988, p. 72.

105. Pal, 1988, p. 79-81.

106. G.E. Brown, Vice-Chairman, Executive Council, Canadian Chamber of Commerce The Report of the Committee of Inquiry into the Unemployment Insurance Act (n.d.), p. 4.

107. Robert Douglas, "Trying to Beat Unemployment Insurance" Canadian Unionist Vol.24, No.1, (January, 1950), p. 12-13..

108. Canadian Labour Congress, Submission to the Commission of Inquiry into the Unemployment Insurance Act (Ottawa, October 16, 1961).

109. "Recommend Hospital Employees Come Under Unemployment Insurance Act" TLC News (May 25, 1951).

110. Pal, 1988, p. 73, notes the unions' efforts to have benefits raised to 2/3 of earnings.

111. Canadian Labour Congress, Submission ... to the Committee of Inquiry into the Unemployment Insurance Act (October 16, 1961).

112. Alfred Charpentier, President, Confederation des Travailleurs Catholique du Canada to N. MacLarty, Minister of Labour, (May 7, 1941) Public Archives of Canada, Department of Labour Papers, RG 27, Vol. 3494, File 4-1 pt. 1.

113. Pal, 1988, p. 79-81.

114. Gary Dingledine, A Chronology of Response: The Evolution of Unemployment Insurance from 1940 to 1980 (Ottawa, 1981), p. 110.

115. Laurence A. Kelly, Unemployment Insurance in Canada: Economic, Social and Financial Aspects (PhD. Thesis, Queen's University) (Kingston, Ont., 1967); L.A. Pal, "The Rise and Fall of Developmental Uses of UI Funds" Canadian Public Policy Vol.IX, No.1, (March, 1983), p. 81-93.

116. For an assessment of the changes of the late 1970s see C.M. Beach and S.F. Kaliski, "The Impact of the 1979 Unemployment Insurance Amendments" Canadian Public Policy Vol.IX, No.2, (June, 1983); L. Osberg, "Unemployment Insurance in Canada: A Review of the Recent Amendments", Canadian Public Policy Vol.IV, No. 2, (Spring, 1979).

## 8 Health Insurance Debates in the United States

### a) Early Interest in Health Insurance

Inspired by European experiments, American reformers promoted compulsory health insurance during World War I. Voluntary health insurance could not offset the mounting toll in lost wages, and the ruination which major illnesses brought to workers; government health insurance on the German model was proffered as an essential remedy.[1] In 1914, the American Association for Labor Legislation drafted a model health insurance bill, to provide health insurance for the poorest members of society, under local administration, with employee, employer and state contributions.[2] Despite its conservative character, the proposal was thwarted in many states.[3] Although initially claiming support from employer, labour and medical associations, the AALL became a lone voice for many years.[4]

The American medical profession was not initially hostile towards compulsory health insurance.[5] While no official stance was taken for some years, many American Medical Association spokesmen expressed open support for the AALL plan[6]. The AMA "had established no precedents of unalterable antagonism for compulsory health insurance and had formulated no doctrinaire position that precluded consideration of new approaches to the problem of meeting the costs of medical care".[7] Other association positions at the time suggest support for state action to promote the distribution of preventative and remedial health services.

While discussing its shortcomings, the Journal of the American Medical Association, contained favourable articles and enthusiatic commentary.[8] Many doctors supported government insurance both for humanitarian reasons and to insure protection against defaults by the poor on medical care debts.[9] Furthermore, the success of European measures[10] meant that health insurance was certain to receive serious attention from American legislators[11];the AMA ought to ensure its input so that health insurance would be as acceptable as possible to doctors.[12]

b) Professional, Business and Union Opposition

Critics of the proposal came to the fore in the organization and the Journal by 1917. There was concern that compulsory government health insurance would reduce doctors to the level of salaried state employees, and increase government regulation of the health care system. This perceived threat to the income and independence of the profession soon convinced many doctors to back off from support for government insurance schemes.[13] The medical profession's position did not involve an unquestioning anti-statism, since some medical critics advocated state action to improve the health and ability to pay of the poor[14].

However, the rhetoric employed eventually did resemble an anti-statist philosophy. Organized medicine seized upon the patriotic sentiments of Americans during the World War I to condemn health insurance as a product of an alien German ideology hostile to American democratic traditions. The interests of the profession rather than ideological purity was uppermost in the minds of the critics. In Lubove's words, "Health insurance challenged the profession's corporate autonomy and power. The objectives of compulsory insurance conflicted with the tradition of entrepreneurial, solo practice which the profession equated with its status, economic interests, and standards of medical care".[15] This fear of lost autonomy, income and status was reflected in editorial comment at the time: doctors insisted that the spread of "socialized medicine" "has become a major menace to medical men in their standing, ideals and progress. If we do not destroy socialism in medicine, it will destroy us".[16] The tone of comment often took on elitist, nativistic[17] and even racist[18] overtones, as medical practitioners protested against the vagaries of democratic politics. Any programme perceived as a precedent for comprehensive state intervention was opposed.[19]

But the war and other sources of opposition had already undermined the vigour of the compulsory health insurance movement.[20] Health insurance faced strong

opposition from the major business organizations. Partly, the rejection was nativistic[21] and ideological: health insurance was simply "un-American", "undemocratic" and "bureaucratic", however organized and financed.[22] Others denied that the problem of access to medical care was widespread and in need of state remedy.[23] Most gainfully employed workers were quite capable of providing for their own health care needs; any programme should be confined to the needy and should not become a financial drain on workers and owners.[24] Health conditions of Americans were said to be superior to those of European nations having such compulsory programmes.[25]

Even business leaders who saw health insurance as a potentially useful means of increasing worker productivity and reducing man days lost to illness and injury[26] were concerned about the cost.[27] Corporate leaders resisted the imposition of taxes on the healthy to support the sick[28] and feared its contribution to wage pressures.[29] The probability that employees would feign illness once covered by such a scheme was also considered a drawback[30]; reformers should concern themselves with improving workers' habits of thrift and workplace commitment, since idleness, intemperance and sheer indolence were a greater drain on workers' health and purse.[31] Any problem of medical care access was best addressed by private employer managed health schemes, or mutual benefit societies.[32] Some businesses suggested it was a plot by physicians to increase the economic advantage of their monopoly professional position.[33]

Led by Gompers, American unionists challenged the AALL proposal as paternalistic interference.[34] Government health insurance threatened the union's ability to deliver exclusive benefits to their membership, through wage increases and union insurance plans.[35] In Gompers' words:

> The efforts of trade unions are directed at ... secur[ing] to all workers a living wage that will enable them to have sanitary homes, conditions of living that are conducive to good health, adequate clothing, nourishing food and other things that are essential to the maintenance of good health. ... In attacking the health problem from the preventative and constructive side they are doing infinitely more than any health

> insurance law could do which provides only for relief in case of sickness and yet the compulsory law would undermine the trade union activity.[36]

Unionists argued that, "[i]nstead of trying to bail out a leaky boat, we should stop the leaks - begin at the other end and pay a living wage".[37] Unions were making great progress in establishing insurance schemes to meet the contingencies of illness. Despite this, workers would be asked to contribute an additional amount to a public insurance system.[38] Unionists also saw the scheme as a plot to undermine the unity and strength of unions[39] or as a plan to benefit doctors at the expense of workers, business and taxpayers.[40]

The problems of high medical costs were not entirely ignored.[41] A minority[42] in the AFL warned of the inadequacy of union and employer insurance.[43] Most leaders emphasized the primacy of freedom; as Hamilton declared:

> With the workers, ... it is a question of the right to freedom .... We may prematurely - and do unnecessarily - lose ... a large number of our fellows by reason of ill health; but it is even of greater concern to all the working people of our country that under no guise, however well-intentioned, shall they lose their liberties.[44]

Under public health insurance, workers would be subjected to bureaucratization of medical services, intrusive inspections, and other interference with private life[45]; administrative agencies would increase their authority at the expense of the unions.[46]

c) Depression-Era Problems and Debates

This concerted opposition from professionals and major interest associations ensured that the health insurance proposal did not make significant headway. Medical associations assumed the issue had been permanently addressed, and could confidently ignore the problems raised by the Committee on the Costs of Medical Care in 1928. However, the ravages of the great depression "resurrected the spectre of socialized medicine".[47] Compulsory health insurance proposals were again raised as part of the Roosevelt administration's comprehensive revision of social

legislation.

The depression meant losses for many physicians forced to perform increased charitable work. Certain groups of dissident doctors did advocate national health insurance as the only solution to the problems of unequal access and declining income.[48] Their activities only intensified the concern of the medical establishment, by lending credibility to the pro-insurance campaign, and magnifying the threat to the profession's independence.[49] Despite the exaggerated problems of access to medical care, the AMA would only accept temporary federal assistance to state and local programmes for the indigent, to insure physicians received payment from charity cases.[50] Federal intervention was feared as an intrusion on professional integrity[51] and as an inevitable source of public dependency[52]; any discussion of compulsory health insurance as part of the Roosevelt administration's planning for social insurance, was vigorously condemned by the AMA. However, in response to the rapid growth of private hospital and health care insurance plans, the AMA dropped its former rejection of private insurance; out of fear of government action, the profession also began to create its own programmes of pre-paid medical care.

Organized labour's shift from voluntarism was more gradual in the health insurance field. Despite the acknowledged problems of access, and the abuse of employer programmes as a device of labour discipline[53], the AFL was reluctant to support[54] or even investigate public health insurance.[55] Editorials in the American Federationist indicated the leadership's preference for voluntary measures to address the problem, in cooperation with the medical profession.[56] However, medical costs for American workers mounted[57] in depression conditions[58]. And pressure from activists in industrial unions[59] eventually altered the Federation's attitude[60].

Editorials first documented the extent of the problem[61], and suggested that health insurance was a possibility, if solutions could not be found by the profession on its own.[62] By 1935, the AFL urged an amendment

to the Social Security Act to provide public health insurance[63]. Shunning the voluntarist ethos, the AFL declared that "[s]ocial purpose and profitmaking have nothing in common" and therefore, private insurance companies and medical association schemes were inappropriate in this field;[64] "[s]ickness insurance ... is an important phase of social security which must be included as we broaden our program".[65] Frustrated by the inaction of Congress and the recalcitrance of employers, unions made health insurance plans a major focus of collective bargaining and political lobbying.[66]

Organized labour's conversion was insufficient to convince the Roosevelt administration to move ahead with health insurance. Labour's emphasis on unemployment insurance to the exclusion of other topics in congressional hearings did nothing to impress upon Congress the political expediency of introducing a health insurance programme. The business community, although wavering on this aspect of social security[67], also remained opposed to health insurance[68]. This, combined with the opposition of the medical profession, was influential in persuading Roosevelt to bypass health insurance in the Social Security Act of 1935. The administration feared that opposition of the medical profession could lead to the defeat of the whole Social Security measure in Congress.[69] AMA propaganda also caused Congress to back away[70] despite subsequent depression era proposals for a National Health Program.[71]

d) Truman Administration and Health Insurance

While health insurance proposals retained exponents in Congress, serious consideration of the programme did not resume until the end of international conflict. First Roosevelt and then President Harry S. Truman planned to expand the social security system to include such a programme.[72] The AMA dreaded the combined action of the President and powerful congressional allies[73]. Although both administrative planners[74] and the Congressional sponsors[75] took care to address the medical profession's concerns about regimentation, interference in the doctor-patient

relationship, and loss of professional independence, the medical profession attacked any such plan as "socialized medicine", verging on a "totalitarian" regime.[76]

American doctors were more divided, as several groups of medical practitioners became strong supporters of the public health insurance.[77] This merely increased the stridency of opponents. The AMA's propaganda efforts were directed by professional public relations experts[78], using editorials, pamphlets, newsletters[79], surveys[80], and congressional testimony to oppose the administration's health proposals. Both the motives of[81] and the evidence employed by pro-insurance spokesmen[82] were subjected to question.

National health insurance[83] was attacked as a compulsory tax, and not as insurance in an actuarial sense. Eurpoean systems had an inferior record compared to the American free-enterprise approach[84]; standardization would diminish the quality and individual responsiveness of medical care.[85] Public insurance would become an inducement to malingering and hypochondria[86], resulting in exaggerated demand and unnecessary service[87]. It would interfere with the doctor-patient relationship[88], and impose regulations of inexpert government officials on professional decisions. Compulsory health insurance would also be inordinately expensive[89] and would create a giant, insensitive federal bureaucracy[90], and confining, confusing red tape[91]. The President's plan would not rectify the lack of supply of existing medical services. Voluntary health insurance, the preference of the American public[92], would allegedly avoid this litany of limitations[93], if it conformed to AMA standards.[94]

The AMA received support from hospital administrators[95], public health associations[96] and other professional societies.[97] It coordinated the opposition of civic, trade and business associations to defeat pro-insurance legislators.[98] Employers and actuaries continued to be divided[99], but largely critical of compulsory insurance.[100] America's medical system had reached its current level of excellence through a combination of

liberty and philanthropy; the coming of "political control", with the conversion of the medical profession into a "government-run machine", would prove disastrous.[101] If broad discretion was given to officials and inflexible rules were established, the flexibility and initiative essential to experimentation and advance would be eliminated.[102] Many also feared the high cost of a comprehensive health insurance system,[103] dreading payroll tax increases and the potential for abuse and overuse.[104] Employers preferred increased government involvement in preventative medicine, which would be less costly[105], while still promoting a healthy work force. A preventative plan, alongside private, employer sponsored health insurance[106] and medical society plans[107] would avoid both economic damage and bureaucratic control of society.[108]

Organized labour solidified its position in favour of compulsory national health insurance. Articles critical of medical profession intransigence appeared in American Federation of Labor publications.[109] Doctors sympathetic to the cause were frequent contributors to labour publications, citing the advantages of a well-designed health insurance programme.[110] AFL spokesmen, notably Nelson H. Cruikshank and William Green, articulated labour's support for President Truman's proposed insurance system.[111] The AFL moved far from its preceding voluntarism in rejecting the Republican and AMA proposals for federal assistance to state and voluntary plans[112]:

> The issue ... [is] whether we shall move forward by establishing a method for pooling both the risks of illness and the funds to meet the costs of illness by an extension of the insurance principle, or whether we shall go backward to the outworn concept of poor laws and provide such care on a charity basis, with the accompanying evils of the means test.[113]

The AFL demanded a comprehensive national insurance scheme which avoided constraints on doctor and patient freedom.[114] CIO unions had secured many private medical care plans via collective bargaining.[115] These piecemeal efforts were considered inadequate[116]: "the demand for health insurance should be met by a comprehensive national health program

... to fill the gap between where we are and where we could be in bringing the best in medical care to the people."[117]

The Democratic administration, and its congressional allies, continued to press for adoption of a national health policy.[118] Truman repeatedly urged congressional action, to make the advances of medical science available to all.[119] Although his advocacy was criticized as insufficient and ineffective,[120] he refused all attempts to compromise and introduce a more limited programme, and conducted an ongoing battle with the AMA.[121] Truman won a surprise victory in the 1948 presidential campaign, while making compulsory health insurance a major policy commitment[122]; the Democrats remained committed to the full national health programme into the 1950 midterm elections.[123] The proposal met rejection from the Republican dominated Congress of these years.[124] The AMA's startling success in defeating pro-insurance candidates in the congressional campaigns of 1950 coupled with the onset of the Korean conflict, finally served to deflect the Democrats from this goal. The election of a Republican administration in 1952 put any comprehensive reform efforts on hold.[125] Nonetheless, the highest elected officer in the nation had come to espouse a proposal akin to the social democratic reforms adopted in other western democracies.

Opponents of the measure did adopt an anti-statist ideology. Warning of the dangers of a decline into socialism, fascism, or both, critics spoke of the deleterious effects on American morale of the adoption of socialized medicine, "the keystone to the arch of the socialist state".[126] Republican Senator Robert Taft declared American values at stake in the health insurance debate: "The fundamental issue is whether the Government shall look after the indigent or whether it shall look after the entire population. The first principle has always been embodied in the law of every free Anglo-Saxon people; the second is socialism".[127] He contended: "I cannot conceive of a measure which will more greatly extend the power of the State or move further in one jump towards an all-powerful central government, than federal compulsory health

insurance".[128] Spokesmen for voluntary hospital and medical insurance plans suggested that Communist infiltration into the Social Security Administration might explain its commitment to a socialistic health programme.[129] The fact that communist and socialist organizations favoured compulsory health insurance was proof of its socialist character.[130] The fear tactics contained the underlying warning: "If the United States of America adopts political medicine ... it will have taken a long step toward state medicine as rigidly controlled as Russia's";[131] those other nations which had adopted compulsory insurance had a less sound commitment to democracy and freedom.[132]

However, advocates of health insurance demonstrated attachment to communitarian action: a vital public service like medical treatment must be put on par with education and made available to all. Eveline Burns argued that private insurance would never provide complete coverage; in view of the massive public investment in hospitals and medical education, doctors should not be free to make decisions which might restrict availability of medical resources - "the general interest must prevail".[133] Health insurance was a means to achieving the basic American rights of life, liberty and the pursuit of happiness.[134] For the Physicians' Forum, compulsory health insurance was merely an extension of the reform liberal state acting to provide public utilities, services and social security; it did not constitute a threat to democracy, but an enhancement of it through accepted, limited state actions.[135] Since voluntary insurance was inadequate to meet the needs of ordinary American workers, the Committee for the Nation's Health considered it the responsibility of the federal government.[136] While exhibiting "no doctrinaire bias" in favour of a government programme, union leaders saw voluntary and compulsory programmes as potentially compatible; government action should aid voluntary plans, but also introduce a compulsory national scheme to fill gaps for the unemployed, aged and indigent.[137]

e) The Compromise of Medicare

In subsequent years, administration and congressional advocates reduced their ambitions, proposing partial schemes to extend health coverage to the needy and the aged. Proponents adjusted to the political the political muscle exhibited by the medical profession and private insurance carriers. After a hiatus during the Eisenhower administration, the 1958 Forand proposals for national health insurance for the aged revived the issue in Congress. From this time to the mid 1960s, the issue was rejoined and the protagonists again active.

Organized labour remained committed to a comprehensive national insurance plan as the only solution, since many younger and employed workers could not find complete insurance coverage nor afford the costs of medical emergencies.[138] Despite success in securing private insurance coverage in collective bargaining, and a willingness to give medicine and private insurance a chance to solve the problem[139] the major union centrals continued to suggest a national plan as an alternative in the subsequent decades[140] to "fill the gaps which remain in the wake of private health insurance plans".[141]

The Chamber of Commerce advocating only limited, state-run programmes[142] to assist those who could not pay for private insurance[143]; any broader plan was too costly, bureaucratic and less efficient.[144] Insurance companies resisted even "piecemeal" moves towards socialization of medicine.[145] Manufacturers feared that assistance to the indigent would be the first step towards a comprehensive system of compulsion and mediocre conformity; while state plans might be tolerated, the "proper federal role in health care is a simple one: encourage the continued expansion of voluntary health insurance by abandoning the field to private effort".[146] The health care field was too complex to be effectively managed by the central government; decentralization and competition were crucial, but might be lost if private insurance was not made more effective to forestall the demands of reformers.[147]

The medical profession maintained its opposition and

escalated the sophistication of its lobbying techniques. Having originated as a professional organization, the AMA now developed into a political organ of considerable efficiency. Its lobbying arm, the American Medical Political Action Committee (AMPAC) conducted letter-writing campaigns, and concerted efforts to defeat liberal congressmen and senators, through financial and organizational means.[148] It brought opponents of government action into a united front, coordinating lobby activity. All proposals for health insurance, even if limited to the indigent and aged, were condemned as "socialized medicine". The profession simply denied that the aged had significant problems of health or of ability to pay[149]; all gaps could be filled by charity work, by voluntary plans, or by state subsidies for private insurance premiums of the needy.[150]

Fearing political defeat, the AMA eventually accepted federal aid to state programmes for the aged poor; the determination of congressional and adminstration advocates made this a tactical necessity to forestall a bolder action. Thus the AMA acquiesced in the Kerr-Mills act of 1960.[151] Nonetheless, the AMA continued to oppose vehemently the addition of health insurance to federal social security.

The 1964 Democratic party sweep of the presidential and congressional elections made federal action possible. For the first time, the House of Representatives, the principal conservative force in previous years, had a liberal Democratic majority, able to to defeat the conservative coalition of Republican and Southern Democrats and to move the proposal out of committee.[152] In 1965, an amendment to the Social Security Act introduced a Medicare programme for all Americans over the age of 65. The AMA seemed to have suffered a setback; but most doctors benefitted financially from Medicare, which compensated for market deficiencies while allowing a largely private system to continue.[153] Opponents had managed to limit the measure to coverage for hospital and related expenses; proponents were only able to obtain provision for a voluntary supplementary plan to pay for physicians' care and other

medical and health care requirements.[154] A similar programme was adopted for the poor in 1968[155]; in subsequent years, a piecemeal expansion has been pursued, to include "catastrophic" health care benefits. But no comprehensive national insurance system has emerged although some state plans have since been ratified.

The absence of national action has been attributed to the influence of opposition lobbyists, and the conservative coalitions dominant in congressional committees.[156] Both congressional actors responding to political lobbying and campaign tactics, and administrative actors anticipating group criticism[157], have readjusted their ambitions and accepted a more limited scheme than was adopted in Canada.[158] Continuous bureaucratic and administration attachment to a broader policy[159] did not produce legislative action, as it would have in a parliamentary system, since congressional politics provided many openings for delay by interest groups and conservative politicians.

## Notes

1. John B. Andrews, "Proposed Legislation for Health Insurance", in United States Department of Labor, Bureau of Labor Statistics, Proceedings of a Conference on Social Insurance (Washington, 1917), p. 549-58.

2. John R. Commons, "A Reconstruction Health Program" The Commonwealth (March, 1919), p. 34.

3. Frederick R. Green, "The Social Responsibility of Modern Medicine", Journal of the American Medical Association Vol.26, No.22, (May 28, 1921), p. 1478-79.

4. Andrews, 1917, p. 552.

5. The American Medical Association, the principal voice of organised medicine, did express criticism of prepayment medical plans which put doctors on a pre-arranged salary; the association considered the renumeration from such plans inadequate. James G. Burrow, AMA: Voice of American Medicine (Baltimore, 1963), p. 140.

6. Ronald L. Numbers, Almost Persuaded: American Physicians and Compulsory Health Insurance, 1912-1920 (Baltimore, 1978), p. 32-33, 27.

7. Burrow, 1963, p. 140.

8. An editorial written after the initial proposal was made suggested that the AALL bill heralded "the inauguration of a great movement which ought to result in an improvement in the health of the industrial population and improve the conditions for medical service among the wage earners". Journal of the American Medical Association editorial of 1916, cited in Ronald Numbers, "The Spectre of Socialized Medicine: American Physicians and Compulsory Health Insurance" in Numbers (ed.) Compulsory Health Insurance (Westport, Conn., 1982), p. 5.

9. Numbers, 1982, p. 5.

10. Numbers, 1982, p. 32.

11. James P. Warbasse, M.D. "The Socialization of Medicine", Journal of the American Medical Association Vol.LXIII, No.3, (July 18, 1914), p. 264-66.

12. Numbers, 1978, p. 38.

13. For example, New York doctors rejected the insurance scheme as akin to a contract for doctors, entailing provision of service to maximum numbers of patients at minimum cost. Numbers, 1978, p. 39.

14. While seeking to keep the state out of health payments, doctors often advocated state action to improve the nation's health via such means as social reforms, housing renewal, regulated working conditions and other measures. Burrow, 1963, p. 149.

15. Roy Lubove, The Struggle for Social Security (Pittsburgh, 1986), p. 76.

16. James A. Gardner, "Socialistic Tendencies in Medicine", Journal of the American Medical Association Vol.79, No.7, (August 12, 1922), p. 516.

17. The suggestion that immigrants were responsible for health insurance pressures can be found in Gardner, 1922, p. 516, when he suggests: "I deplore this general and growing tendency to ask the government to do it rather than to do it ourselves. This inclination has been in direct ratio to the increase in our unassimilated aliens. ... This class is easily influenced by propaganda to believe in the socialization of everything. We are being standardized and sterilized and uplifted to the point of stupidity."

18. Noting the greater predilection of ignorant, poor voters to support schemes of socialization, William Mayo, founder of the famous Mayo Clinic argued: "The ignorant negro vote has been eliminated in the South, but congested in Northern cities it is a menace to

good government. Is it wise to put the loaded gun of the ballot in the hands of persons who are mentally children and of aliens who have no racial sympathy with Anglo-Saxon institutions?" William J. Mayo, "The Medical Profession and The Public", Journal of the American Medical Association Vol.76, No.14, (April 2, 1921), p. 923.

19. For an example, see the condemnation of a federal proposal for comprehensive health insurance for army veterans in "Federalized Medical Treatment Versus The Private Practitioner", Current Comment in Journal of the American Medical Association Vol.86, No.24, (June 12, 1926), p. 1840.

20. In a resolution adopted at the convention of 1920, the association objected "to the institution of any plan embodying the system of compulsory contributory insurance against illness, or any other plan of compulsory insurance which provides for medical service to be rendered contributors or their dependents, provided, controlled, or regulated by any state or the federal government". Burrow, 1963 p. 150.

21. Business leaders joined the clamour of condemnation of health insurance as an alien invention, and as an effort to impose undemocratic, German paternalism on Americans. See Frederick L. Hoffman (3rd. Vice President and Statistician, Prudential Insurance Company of America), More Facts and Fallacies of Compulsory Health Insurance (Newark, 1920), p. 5.

22. A. Parker Nevin, (General Counsel, National Association of Manufacturers) "Un-American Tendencies"; Democracy, Even With Less Efficiency, Preferred to Foreign Bureaucracy", in National Civic Federation, Social Insurance Department, Compulsory Health Insurance (Annual Meeting Addresses) (New York, January 22, 1917), p. 16-20. Nevin declared that questions re state financing and employer tax burdens were of lesser concern. "The vital questions are: Is this proposal American in its principle and spirit, or is it foreign? Is it democratic or is it bureaucratic? Does it make a certain group do a thing which they have a right not to do? If so, it is undemocratic and un-American". Ibid, p. 18.

23. Thus Frederick Hoffman argued that only a small percentage of American workers were at or near the poverty line. He argued "that the condition of this small remnant should determine the social and economic status and interests of the remainder is a perverted political philosophy which will not be accepted by those who have been honestly and impartially concerned with ways and means to improve the condition of American labor". Frederick L. Hoffman "Some Facts and Fallacies of Social Insurance", in NCF, Compulsory Health Insurance (1917), p. 21, 23.

24. Frank F. Dresser (National Association of Manufacturers and National Association of Machine Tool Builders) "Assurance of Health Versus Sickness Insurance", in United States Department of Labor, Bureau of Labor Statistics, Proceedings of a Conference on Social Insurance (Washington, 1917), p. 582-83.

25. Ibid, p. 30-31.

26. The potential advantages to be gained from a healthy workforce meant that for business, health insurance was considered by the Committee on Industrial Betterment of the National Association of Manufacturers the "least objectionable form of state action in the field of health care, and although the NAM itself did not officially support this position, many individual employers did endorse the Model Bill" of the AALL. See Daniel S. Hirschfield, The Lost Reform: The Campaign for Compulsory Health Insurance in the United States from 1932 to 1943 (Cambridge, Massachusetts, 1970), p. 19.

27. Boston Chamber of Commerce, Report of the Special Committee on Social Insurance Concerning Non-Contributory Old Age Pensions and Health Insurance (Boston, 1917), p. 14-15.

28. Hoffman warned that, since insufficient information existed to devise an actuarially sound program, all estimates of its cost were "a mere matter of speculative assumption". "It is a foregone conclusion, however, that the cost would be much higher than assumed in view of the recklessness certain to result from the free use of money payments of employer and the State in behalf of employees". Hoffman, 1917, p. 25.

29. Workers would pay thrice over, through their workplace contributions, through higher product prices to pay the employers' share and through higher taxes to fund the state contribution; such financial pressures would prompt them to seek inflationary wage demands. See Dresser, 1917, p. 584-85.

30. Ibid, p. 12.

31. Dresser, 1917, p. 573.

32. As an example of this voluntarist alternative, see the proposal by Harold A. Ley, President, Fred T. Ley and Co., Inc., "The Right Kind of Mutual Benefit Associations for Employees and How It Succeeded", Address before the American Paper and Pulp Association (Chicago, Nov. 11, 1920). M. W. Alexander, General Electric, "Mutual Benefit Associations", in National Civic Federation , Compulsory Health Insurance 1917, p. 53.

33. John Franklin Crowell, (Executive Officer, Chamber of Commerce of the United States "General Economic and Social Phases", in National Civic Federation, Compulsory Health Insurance (1917), p. 71-73. He suggested that the "main interest in getting this matter shifted over into the state control, the main economic interest, is not the labourer nor the employer, but the physician. And I distrust the physician because he is a monopolist". Ibid, p. 73.

34. Warren S. Stone, (Grand Chief, International Brotherhood of Locomotive Engineers), "Do Voluntary Forms of Insurance Furnish Adequate Protection to Wage Earners? Workers Want a Living Wage - Not Paternalism", National Civic Federation, Compulsory Health Insurance (1917), p. 15. See also Timothy Healy, (International President, Stationary Firemen's Union), "Opposition of Labor Unions to Compulsory Health Insurance", in Ibid, p. 66-67.

35. For a good restatement of the voluntarist position as related to health insurance, see Grant Hamilton, (Legislative Committee, American Federation of Labor), "Proposed Legislation for Health Insurance", in United States Department of Labor, Bureau of Labor Statistics, Proceedings of a Conference on Social Insurance (Washington, 1917), p. 559 ff.

36. Samuel Gompers, "Not Even Compulsory Benevolence Will Do: Infringement of Personal Liberty" in National Civic Federation, Compulsory Health Insurance (1917), p. 6.

37. Warren Stone, cited in Hamilton, 1917, p. 568.

38. Stone, 1917, p. 12

39. AN example of this suspicion of health insurance advocates can be found in American Federation of Labor, History, Encyclopedia, and Reference Book Vol. I (Washington, 1919), p. 239. It was noted that an AFL special committee on health insurance "was instructed also to investigate the persons and organizations that have tried for several years to obtain the approval of labor organizations to a scheme of social health insurance, as suspicion has been aroused that it is supported by those who for years have sought to retard the cause of the workers".

40. Stone, 1917, p. 11. He declared: "I can understand why this new idea of compulsory health insurance is endorsed by many of the medical societies, because it would permit a small percentage of doctors to control most of the industrial practice".

41. Thus, the AFL conventions of 1919 and 1920 witnessed efforts to initiate a careful Executive Committee study of health insurance proposals. See American Federation of Labor, History, Encyclopedia, and

Reference Book Vol. II (Washington, 1924), p. 94. The policy had great potential, but was "fraught with danger" and should be reviewed with caution.

42. Among the prominent supporters in union ranks was William Green of the United Mine Workers, who subsequently became President of the American Federation of Labor. See William Green, "Trade Union Sick Funds and Compulsory Health Insurance" American Labor Legislation Review Vol.7, No.3, (March, 1917), p. 91-95.

43. For an example of such concerns, see Thomas J. Curtis, "Attitude of Organized Labor Toward Social Insurance", in National Civic Federation, Compulsory Health Insurance (1917), p. 69-71.

44. Hamilton, 1917, p. 571.

45. Some of these concerns verged on paranoia about intrusions on private lives of workers. However, union leaders also feared that, as in the case of workmen's compensation, mandatory health test could be used by employers to discriminate against the sick or even to remove troublesome unionists from employment. See Hamilton, 1917, p. 563.

46. Gompers, 1917, p. 8-10.

47. Numbers, 1982, p 9.

48. See for instance the arguments of Dr. Simon Frucht, "Doctors Demand Socialized Medicine", in American Association for Social Security, 7th. Conference, Report (Washington, 1934, p. 111. Dr. Frucht argued that health insurance was needed to ensure an adequate annual salary to all doctors, particularly in time of economic crisis. Medicine was also a service which should be more widely and equitably distributed. "Just as every child has a right to go to school ... so we say that every person has a right to be treated when sick and that the city or state or nation must pay for it."

49. Burrow, 1963, p. 200-01.

50. Burrow, 1963, p. 188-89.

51. Thus, the continual warnings that state health insurance would reduce physicians to the level of "report makers", saddled with massive amounts of red tape. Doctors were urged to make a concerted effort "to forestall further encroachments on prerogatives, which, by virtue of training and experience, belong to us as ... members of an honoured and honourable profession". William G. Morgan, M.D., "The Medical Profession and the Paternalistic Tendencies of the Times", Journal of the American Medical Association Vol.94, No.26, (June, 1928), p. 2037; 2042. See also

"The Epstein State Health Insurance Bill" (editorial) in Ibid Vol.104, No.5, (February, 2 1935), p. 400-01.

52. Morgan, 1930, p. 2039 ff.

53. See the resolution criticizing the "ulterior uses" of private insurance plans, used to tie workers to their jobs; American Federation of Labor, 48th. Annual Convention, Report of Proceedings (Washington, 1928), p. 142-43.

54. A resolution introduced at the 1934 convention noted the AFL's support for old age pensions and unemployment insurance, but criticized its failure to address health insurance, since the "social and economic hazards of sickness continually threaten the security of the worker and his family". American Federation of Labor, 54th. Annual Convention, Report of Proceedings (Washington, 1934), p. 272. The resolution, which was adopted, called for an AFL investigation of the matter, and was accepted by the AFL's Committee on Resolutions. Ibid, p. 603.

55. American Federation of Labor, 55th. Annual Convention, Report of Proceedings (Washington, 1935), p. 93. The Executive Committee used a lack of funds as an excuse for its failure to implement the resolution of the previous year calling for a thorough investigation of health insurance

56. See for instance "Group Medical Services", (editorial) American Federationist Vol.39, No.11, (November, 1932), p. 1223-24. the writer suggested that "Upon the medical profession rests responsibility for making medical care possible for all who need it".

57. The American Federationist frequently commented on the results of independent studies, by the Committee on the Costs of Medical Care, which revealed the burdens faced by workers. See for example, "Medical Care for All", American Federationist Vol.40, No.1, (January, 1933), p. 12-13; "Provision for Medical Care", Ibid Vol.40, No.4, (April, 1933), p. 344-45; "Meeting the Cost of Medical Care", Ibid Vol.43, No.8, (August, 1936), p. 806-7; "National; Health Survey", Ibid, Vol.45, No.2, (February, 1938), p. 130-31.

58. Harry Becker, "Organized Labor and the Problem of Medical Care", Annals of the American Academy of Political and Social Science Vol.273, (January, 1951), p. 123.

59. The resolution at the 1934 convention, referred to above, was moved by Frank Martel, of the International Typographical Union. At the 1935 convention, a resolution was moved in support of health insurance, by Thomas Kennedy, United Mineworkers of America, and by Julius Hochman, of the International Ladies Garment Workers Union, and others known for their radical

criticism of the conservative AFL leadership. See the 1934 convention, op. cit., p. 272; 1935 convention op. cit., p. 269-70.

60. Change was evident between the depression era conventions. By 1936, the executive committee had conducted a thorough study of evidence on the matter, and concluded that health insurance must be an integral part of a complete social insurance system, since "health is a social as well as an individual concern". But its recommendations stopped short of complete advocacy, and instead urged federal study of the matter. See American Federation of Labor 56th. Annual Convention Report of Proceedings (Washington, 1936), p. 32; 160-8.

61. Articles outlining the crushing depression era burden of medical care include William T. Foster, "Hospital Care in the Worker's Budget", American Federationist Vol.43, No.4, (April, 1936), p. 390-93.

62. In 1933, the American Federationist was still willing to give the profession a chance to improve matters, but warned of possible societal action in the event of inaction or failure to meet the cost problem. "Upon the medical profession rests primarily responsibility ... for assuming leadership in developing plans to make medical care available to all. If the organized medical profession does not act, society must". "Provision for Medical Care" American Federationist Vol.40, No.4, (April, 1933), p. 345.

63. William Green "A National Health Plan", American Federationist Vol.45, No.8, (August, 1938), p. 809-811.

64. "Medical Care", American Federationist Vol.45, No.12, (December, 1938), p. 1287.

65. "Medical Care", American Federationist Vol.43, No.2, (February, 1936), p. 134.

66. Becker, 1951, p. 123.

67. For an example of an actuary supportive of health insurance see, C.A. Kulp, "The Federal Program for Economic Security" Annals of the American Academy of Political and Social Science Vol.

68. Wilbur J. Cohen, "Attitude of Organized Groups Toward Social INsurance" in W.M. Haber and W. Cohen (eds.), Readings in Social Security (New York, 1948), p. 132.

69. For a description of the Roosevelt Administration's caution in this respect, see Edwin E. Witte, The Development of the Social Security Act, (Madison, Wisc., 1962), p. 188 ff.; Hirschfield, 1970, p. 57-59.

70. Witte, 1962, p. 185.

71. See the historical summary of congressional inaction on health insurance proposals in Congressional Digest Vol.28, No. 3, (March, 1949), p. 71, 96.

72. Monte M. Poen, "The Truman Legacy: The Retreat to Medicare" in Numbers, 1982, p. 97-98. See also Frank P. Huddle, "Medical Insurance", in Editorial Research Reports Vol.1, No.4, (January 25, 1944), p. 65.

73. Numbers, 1982, p. 9-10.

74. See the statement from the Social Security Board on Health Insurance in "Social Security Board Outlines a Policy for Health Insurance", American Journal of Public Health Vol.35, No.6, (June, 1945), p. 567.

75. See the comments of Senator James A. Murray, one of the sponsors of the Wagner-Murray-Dingwell initiative, in Congressional Digest Vol.28, No.3, (March, 1949), p. 80, 82.

76. "The President's National Health Program and the New Wagner Health Bill" (editorial), Journal of the American Medical Association Vol.129, No.14, (December 1, 1945), p. 950 The bill was sponsored by "socialistic" elements in minor medical societies, social sciences and government bureaucracies and would result in bureaucratization and even "socialization of the American system of government. ... This is the kind of regimentation that led to totalitarianism in Germany and the downfall of that nation".

77. As examples see Ernest P. Boas, M.D., (President, Physicians Forum), arguing in favour of compulsory health insurance, in testimony to the Senate Committee on Labor and Public Welfare, reprinted in Congressional Digest Vol.28, No. 3, (March, 1949), p. 92. For Greater detail on the Physicians Forum' views, see their pamphlet entitled For the People's Health (New York, 1945), p. 9-15.

78. For a discussion of the AMA's use of the firm of Whittaker and Baxter, see "Annals of Legislation: Medicare", New Yorker (July 2, 1966), p. 43 ff.

79. A new newsletter was initiated, containing virulent attacks on compulsory health insurance as a plot by "communist fellow-travellers", and as "a road leading to Moscow". See American Medicine and the Political Scene Vol.1, No.2, (July 9, 1947), p. 2-3; Ibid Vol.1, No.3, (July 16, 1947), p. 2-4. Ibid Vol.1, No.4, (July 23, 1947), p. 4.

80. For a good example of a survey purporting widespread public support for the profession's positions see Gordon B. Duncan, "Our Public Health Challenge" Hygiea Vol.22, No.6, (June, 1944), p. 423-25, 445.

81. Again, the honesty and integrity of health insurance advocates came into question, even at the level of the Senate and the President himself. "The President's National Health Program and the New Wagner Health Bill" (editorial), Journal of the American Medical Association Vol.129, No.14, (December 1, 1945), p. 951. For a strong attack on Claude Pepper, a pro-insurance Senator, see "Pepper - With a Grain of Salt", Medical Economics Vol.24, No. 1, (October, 1946), p. 75.

82. "Statistics and Propaganda", (editorial reprinted from the Journal of the American Medical Association) Hygiea Vol.23, No. 6, (June, 1945), p. 444.

83. For a good summary of the AMA's principal concerns, see L.H. Bauer, "Compulsory Health Insurance", Hygiea Vol.23, No.6, (June, 1945), p. 428-29.

84. It was suggested in Congressional testimony that the British and German rates of man-days lost to illness had increased after adoption of compulsory health insurance. See the testimony of Lowell S. Goin, M.D. before the Senate Committee on Labor and Public Welfare, reprinted in Congressional Digest Vol.28, No.3, (March, 1949), p. 89.

85. Ernest E. Irons, "Medical Care Must Develop by Evolution", Hygiea Vol.22, No.10, (October, 1944), p. 759.

86. The extreme to which this concern was taken can be seen in the following quote from the New York State Journal of Medicine: We readily admit that under ... [the present system] a certain number of cases of early tuberculosis and cancer, for example, may go undetected. Is it not better that a few such should perish than that the majority of the population should be encouraged on every occasion to run snivelling to the doctor?" Cited in Committee for the Nation's Health, National Health Insurance Handbook (Washington, 1950?), p. 51.

87. George Baehr, M.D. (President, New York Academy of Medicine) "Medical Care and Public Health: Evolutionary Transformation of Medical Practice is Essential", Vital Speeches of the Day Vol.XII, No.8, (February 1, 1946), p. 251.

88. Morris Fishbein, "The President's National Health Program", Hygiea Vol.24, No.1, (January, 1946), p. 15.

89. Edward R. Cunliffe, M.D., "Compulsory Insurance and Public Health: Inferior Medical Service and Rackets", Address Delivered to the Annual Meeting of the Medical Society of the State of New York, May 1, 1946, Vital Speeches of the Day Vol.XII, No. 16, (June 1, 1946), p. 511.

90. Warnings on this point can be found in American Medical Association, National Education Campaign, Your Medical Program: Voluntary or Compulsory (Chicago, n.d.), p. 1.

91. Cunnliffe, 1946, p. 512.

92. Morris Fishbein, "The Nation's Health", Hygiea Vol.26, No.11, (November, 1948), p. 781.

93. Bauer, 1945, p. 428-29.

94. "Doctors Declare Medical Care Goals", Hygiea Vol.23, No. 9, (September, 1945), p. 653.

95. John H. Hayes, (President, American Hospital Association), testimony the Senate Committee on Labor and Public Welfare, reprinted in Congressional Digest Vol.28, No. 3, (March, 1949), p. 81, 83.

96. The American Association for Public Health was somewhat more restrained and constructive in its discussion of the Wagner-Murray-Dingell bill. See "The Wagner Bill of 1945", in American Journal of Public Health Vol.35, No. 8, (August, 1945), p. 824-25. But, ultimately, this association also rejected the initiative. While admitting the shortcomings of voluntary insurance, and the possible benefits of the compulsory approach, the Association warned of the dangers of experimentation with an exclusively federal plan, and urged greater federal-state cooperation. It warned that "one needs to consider the price, other than financial, that would be paid for the security that this bill is intended to provide." "The Wagner-Murray Bill" American Journal of Public Health Vol.33, No.10, (October, 1943), p. 1274-76.

97. Aaron M. Sargent, "Socialized Medicine: You Will Pay the Bill", Speech delivered over the ABC Radio Network, Dec. 12, 1948, Vital Speeches of the Day Vol.XV, No. 10, (March, 1949), p. 295-97.

98. Eugene Feingold, Medicare: Policy and Politics (San Francisco, 1966), p. 98-99.

99. Thus, major life insurance companies saw "no necessary conflict between voluntary provision and a soundly designed Social Security plan" and would tolerate the latter as "an instrument through which a democratic society founded on a sound economy protects itself against the destructive effects of poverty in its midst". In particular, the "life insurance business, so directly affected by anything which concerns health and longevity, is deeply interested in the success of all soundly conceived measures for improving the distribution of medical and hospital care", particularly if benefits were not so high as to act as a disincentive to private efforts or a drain on the economy. Social Security Committees, American Life

Convention, Life Insurance Association of America, and the National Association of Life Underwriters, Social Security: A Statement ... (New York, February, 1945), p. 15-16; 6.

100. Elizabeth Wilson, Christian Science Monitor Dec. 11, 1948. She criticizes the British Health Insurance system for leading to inferior service.

101. Merwin K. Hart, (President, National Economic Council, Inc.), pamphlet on medical insurance reprinted in Congressional Digest Vol.28, No.3, (March, 1949), p. 91 ff.

102. W.A. Millman (Second Vice President, Equitable Trust), "Compulsory Prepaid Medical Care', in Chamber of Commerce of the United States, American Economic Security (Washington, May, 1946), p. 6.

103. Adolph Schmidt, "What Will Compulsory Health Insurance Cost?" Transactions of the Fourteenth Annual Meeting of the Industrial Hygiene Foundation (Pittsburgh, Pa., November 17, 1949), p. 2-4.

104. Millman, 1946, p. 10 ff.

105. Insurance Economics Society of America, Ways of Meeting the Costs of Illness (Chicago, 1950). "Any system selected should interfere as little as possible with the normal freedom of economic activity".

106. Insurance industry spokesmen were optimistic that as demand for comprehensive, voluntary medical coverage grew, the established companies and employer and union plans would be sufficient to meet needs. See W.A. Millman, (Associate Actuary, Equitable Life Assurance Society), "Insurance Carriers and Medical Care Plans", in Chamber of Commerce of the United States, Health Insurance in America (2nd. National Conference on Social Security, (Washington, January, 1945), p. 39-45.

107. Health and Accident Underwriters Conference, Association of Accident and Health Insurance Companies, American Medical Association Medical Care Program (Chicago, 1950). The medical society plans were approved, since they would leave a prominent role for private underwriters.

108. Insurance Economics Society of America, More Medical Care or Less Sickness (Chicago, 1945?). In the view of this employer group, the "inauguration of a broad preventative program as outlined would not only benefit the people directly, by improving their health, but it would likewise benefit them indirectly, through the resultant strengthening of our economic system. This is in contrast to the establishment of a health insurance and medical care program, which many believe could only weaken our economy and steel the

hand of bureaucratic control. And a strengthened economy would give additional impetus to expansion of the plans of private enterprise to provide for the insurance and medical needs of employees, as is now being done in a rapidly increasing number of instances".

109. Sometimes, dissident medical practitioners were cited to support this attack. See Channing Frotheringham, M.D. "Don't Ask Your Doctor for Economic Advice", American Federationist Vol.52, No.12, (December, 1945), p. 21.

110. As examples, see Miles Atkinson, M.D., "Medical Care for All", American Federationist Vol.52, No.6, (June, 1945), p. 25-27; Dr. Henry B. Richardson, "A Health Program for America", American Federationist Vol.53, No.1, (January, 1946), p. 18-21.

111. William Green expressed labor's support for the measure and indicated his impatience at the delaying tactics of the medical profession. See Nelson H. Cruikshank, "Health Hearings in Washington", American Federationist Vol.53, No.5, (May, 1946), p. 25.

112. Nelson H. Cruikshank, "Issues in Social Security", American Federationist Vol.54, No.2, (February, 1947), p. 28.

113. Cruikshank, 1947, p. 28.

114. American Federation of Labor, Social Security Committee, Provisions of Social Insurance Legislation: Recommendations (Washington, 1949), p, 3-4.

115. Harry Becker, "The UAW-CIO and the Problem of Medical Care", Reprinted from the American Journal of Public Health Vol.41, No.9, (September, 1951) (New York, 1951), passim.

116. While noting their shortcomings, the CIO unions seemed resigned to pursuing private solutions via collective bargaining; even if government action was forthcoming, it was not seen as incompatible with these efforts, and governmental and non-governmental progress was sought simultaneously. See Becker, 1951, p. 130.

117. United Auto Workers, CIO, Social Security Department, The Problem of Prepaid Medical Care (Detroit, 1950).

118. Louis W. Koenig, The Truman Administration: Its Principles and Practice (New York, 1956), p. 216-222.

119. Harry S. Truman "National Health Insurance Program", Message to Congress, delivered to the United States Senate, April 22, 1949, in Vital Speeches of the Day Vol.XV, No.14, (May, 1949), p. 418-20.

120. Poen, "Truman Legacy", p. 100.

121. Monte M. Poem, Truman Versus the American Medical Lobby (Columbia, Mo., 1979).

122. Truman was acting in this instance defensively to forestall the loss of progressive voters to Henry Wallace's dissident campaign. Poen, 1982, p. 102-03.

123. Democratic National Committee, Better Health Care That You Can Afford (Washington, 1951).

124. Susan M. Hartmann, Truman and the 80th. Congress (Columbia, Mo., 1971), p. 72-73, 104, 130-1, 188-191.

125. Numbers, 1982, p. 10-11.

126. Sargent, 1949, p. 296.

127. "Taft Maps Offensive Against Nationalized Medicine: Warns M.D.s against false optimism", Medical Economics (November, 1946), p. 96. He continued: This is the basic issue today in most legislation that comes before Congress. We must determine whether we are going to progress along the lines that have made this country the greatest in the world, or whether we are going to turn over our destiny to a bureaucracy of self-styled experts". Ibid, p. 89.

128. Robert H. Taft, Speech to the Wayne County (Mich.) Medical Society (October 6, 1946). Reprinted in Congressional Digest Vol.28, No.3, (March, 1949), p. 81.

129. Paul R. Hawley, M.D., "Economics of Medical Care: A Proper American Solution to the Problem", Vital Speeches of the Day Vol.XV, No.14, (May 1, 1949), p. 421. He stated: "Our people are now appalled by the disclosures of the infiltration of Communists into high places in our government. This may explain the origin of the propaganda now being broadcast by the Federal Security Administration".

130. American Medical Association, National Education Campaign, Your Medical Program: Compulsory or Voluntary? (Chicago, n.d.), p. 3.

131. Hart, 1949, p. 95.

132. Morris Fishbein, "Must We Socialize Medicine?", (Abstract of an Address Before the Canadian Pharmaceutical Association), in American Medical Association, Voluntary Health Insurance Versus Compulsory Sickness Insurance: A Compilation of Articles (Chicago, 1946), p. 24.

133. Eveline M. Burns, "Pro", in Shall We Have Compulsory Health Insurance? Reprint from the Womens' Press, (June, 1949), p. 4.

134. Physicians Forum for the Study of Medical Care, For the People's Health (New York, 1945), p. 9.

135. Physicians' Forum, 1945, p. 11-12, 14.

136. Committee for the Nation's Health, AMA Plans to Camouflage High Costs of Sickness Bulletin #3, (Washington, March, 1952); Committee for the Nation's Health, Short Guide to National Health Insurance (Washington, 1954).

137. Committee for the Nation's Health, Union Leaders Urge Broad Government Action on Health (Selected Excerpts from Committee Hearings #2 of a series) (Washington, 1954), passim.

138. Odin W. Anderson, The Uneasy Equilibrium (New Haven, Conn., 1968), p. 132-33.

139. Al Hayes (President, International Association of Machinists), A New Look at Health Insurance (Remarks made before the 1955 convention of the American Hospital Association) (Washington, 1955), p. 13-14.

140. See as examples Jerome Pollack, (Consultant, UAW-CIO Social Security Department), "A Labor View of Health Security", Presented before the 24th. Annual Tri-State Hospital Assembly (Chicago, Ill., May 3, 1954); Jerome Pollack, "Health Insurance Today and Tomorrow: A Labor View", Presented Before the Annual Group Luncheon, Health Insurance Association of America, (Chicago, Ill., February 17, 1958), p. 16-17; AFL-CIO, America's Health Needs: The Government's Role (Washington, 1963); Lisbeth Bamberger, Medical Care Dollars for Better Health (Washington, 1968); George Meany (President, AFL-CIO) National Health Insurance: Labor's Number 1 Political Goal, (Washington, 1970); AFL-CIO Health Security: Best Buy for Union Members (Washington, 1972).

141. Nelson H. Cruikshank, (Director, Social Security Department, AFL-CIO), Labor and Medical Care (Washington, 1963), p. 1.

142. Chamber of Commerce of the United States, Health Insurance (Washington, 1954).

143. Chamber of Commerce of the United States, Poverty: The Sick, Disabled and Aged (Washington, 1965), p. 28. The chamber suggested that hospitals be reimbursed for welfare patients' costs, to ensure no need to overcharge paying patients to make up the difference. But government revenues, rather than additional insurance premiums on industry should be the method of finance.

144. Chamber of Commerce of the United States, Free Health Care for Everyone? (Washington, 1955).

145. E.J. Faulkner (President, Woodmen Accident and Life Company), Common Sense and Health Care Costs (Chicago, 1959), p. 6-8.

146. W.P. Gullander, (President, National Association of Manufacturers) The Federal Role in Medical Care: Compulsion and Conformity (New York, 1963).

147. Willis B. Goldheck, A Business Perspective on Industry and Health Care (New York, 1978), p. 3, 63.

148. Max. J. Skidmore Medicare and the American Rhetoric of Reconciliation (University, Alabama, 1970), p. 130.

149. Skidmore, 1970, p. 128.

150. Anderson, 1968, p. 186.

151. Theodore R. Marmor, The Politics of Medicare (London, 1970), p. 40-1.

152. "Social Security Medicare Program Enacted", Congressional Quarterly Almanac, 89th. Congress, 1st. Session, 1965, p. 236.

153. Steven Jonas, M.D., Health Care Delivery in the United States (New York, 1977), p. 440.

154. Wilbur J. Cohen and Robert M. Ball, "Social Security Amendments of 1965: Summary and Legislative History", Social Security Bulletin (September, 1965), p. 3-13.

155. Robert T. Kurdle and Theodore R. Marmor, "The Development of Welfare States in North America" in Peter Flora and Arnold J. Heidenheimer (eds.) The Development of Welfare States in Europe and North America (New Brunswick, N.J., 1981), p. 104.

156. Thus, Marmor cautions against attributing too much influence to interest groups like the AMA, when they had only marginal influence over internal congressional rivalries. Marmor, 1970, p. 114-15.

157. Marmor, 1970, p. 111.

158. Poen, 1982, p. 106 ff.

159. While Johnson and Kennedy favoured the scheme only for the aged, and Republicans have not moved beyond the catastrophic illness proposal, the Carter adminstration pushed for a broader plan, to ensure all were covered by either voluntary or government insurance schemes. See Jimmy Carter, Message to Congress, National Health Plan (June 12, 1979).

## 9 The Evolution of Canadian Health Insurance.

### a) Early Resistance to Health Insurance

Canada's comprehensive public health insurance is often cited as evidence of its distinctive attachment to interventionist social policy. Nonetheless, serious consideration of this policy occurred later in Canada; few private organizations or public actors seriously studied or advocated health insurance before World War I. Eventually, British adoption of health insurance and the lively American debate of the Great War years did initiate Canadian consideration.[1]

These early discussions showed considerable similarity to American debates. The Canadian medical profession shared close ties to organized medicine in the United States. The Canadian Medical Association[2] adapted its initial professional code from the Americans, and as a result shared many of the AMA's ideological preferences.[3] Canadian doctors shared the ambiguous attitudes of American practitioners towards health insurance. Concerns were expressed about the British precedent; the conservative Dr. Andrew MacPhail feared that, under public health insurance, "the spirit of charity would be replaced by a cold, official atmosphere which is not congenial to a member of a free profession".[4] But many doctors saw the financial advantages of public payment for the medical bills of the indigent.[5] The wartime spirit of patriotism encouraged many doctors to support a study of health insurance; the CMA should "seize the initiative" in policy development "to safeguard the true interests of the profession"[6]. Canadian doctors wanted a health insurance system which would safeguard incomes and professional autonomy while avoiding the dangers of lay control, and contract practice.

Doctors' interest in health insurance waned after the armistice in Europe. Individualist, laissez-faire views reasserted themselves within professional ranks. The radical ethos infusing western Canadian politics at this time did prompt serious consideration of a plan in British Columbia; but professional opposition, high cost, and

constitutional uncertainty caused the provincial regime to postpone its adoption.[7] The conservative ethos of the 1920s, and high doctors' incomes dissuaded experimentation.[8]

However, trade union advocacy gained in force, with the TLC constantly urging federal government action.[9] Pressed by the labour faction in the minority parliaments of the day, a Commons committee considered health insurance as part of a larger review of social security matters in late decade; it advocated joint federal-provincial action.[10] The CMA resisted, despite pressures from Western Canadian practitioners.[11] Doctors wanted to limit encroachments on their income and autonomy from contract and salaried practice.[12]

b) Union and Professional Advocacy in the Great Depression

Advocacy was intensified during the Depression. Large numbers of Canadians were left without adequate medical care. Unionists suggested that "a distinct social awakening and an increased appreciation of human values" made a national health insurance policy inevitable.[13] The TLC advocated a contributory health insurance system to spread the burdens of illness among business, labour and the state; it would improve the "lot of thousands".[14]

The Depression also revived professional interest in health insurance. Doctors' incomes were undermined by the inability of much of the population to pay for medical attention. Particularly in Western Canada, many practitioners joined relief rolls or received payment in kind from impoverished farmers. Canadian doctors sought government assistance with the medical bills of the indigent, fully half the available practice in the worse-off regions.[15] Some provincial governments did provide aid to indigent patients, although most provinces were too impoverished to act effectively.[16] Doctors cooperated with provincial studies of health insurance in the Western region, and resorted to strike action in Winnipeg when no provincial assistance was provided for the medical bills of those on relief.[17]

The Canadian Medical Association also began preparing

plans for government medical insurance to alleviate this crisis situation.[18] In 1934, its Committee on Economics produced a report proposing a public plan to remove the burden of indigent care from the profession.[19] Health insurance would be made available to low income workers and the unemployed. Those with higher incomes could participate only in voluntary hospital insurance, leaving general practitioners free to charge well-off patients a market price for their services.[20] The CMA plan proposed provincial health departments as the administrators of the insurance, in preference to meddlesome, profit-minded private companies; advisory committees representative of organized medicine would play a central role. The insurance scheme was to be contributory, with employee, employer and state contributions. Doctors in each province were to choose the method of payment, with contract, salaried practice limited to rural areas where the small clientele limited earnings.[21]

Ottawa procrastinated, citing provincial jurisdiction; the fiscally weakened provinces maintained medical relief programmes, but of insufficient scope.[22] The British Columbia health insurance plan, proposed in the late 1930s, excluded the unemployed and lowest paid; hence, the CMA turned critical of this initiative, which would not restore income levels.[23] Despite the constitutional setback for the Employment and Social Insurance Act, the CMA chastised the federal government for its failure to provide a solution to the continued problem of indigent medical care.[24] Rather than await government action, medical associations across the country began developing physician sponsored health insurance plans modelled on American Blue Cross.[25]

c) The Profession's Retreat

World War II did not bring an immediate increase in doctors' incomes and fear persisted about renewed post war depression and wartime attrition of doctors' practices[26]. A 1943 policy declaration confirmed CMA acceptance of the principle of health insurance "if such a plan be fair to both the insured and to all those rendering service"[27]. The CMA assertively sought to ensure the latter by helping the

Department of Pensions and National Health devise a proposal conforming to most of the CMA demands.[28] The profession was increasingly concerned with autonomy[29] and income, and now insisted on administration of public insurance by an independent commission controlled by medical professionals[30]; restriction on participation by wealthier individuals was maintained and universal coverage rejected as "state medicine".[31]

Although accepted by a special parliamentary committee, this proposal, was vetoed by the Department of Finance, which objected to such a costly undertaking in wartime, and so soon after the unemployment insurance programme of 1940. Despite continued support from allied professionals[32], organized farmers[33] and labour unions[34], and pressure from the CCF, the federal government eventually opted for family allowances as its major post-war social policy.[35] The provinces' rejected the federal government's fiscal and programmatic proposals in the post-war Dominion-Provincial Conference on Reconstruction. Combined with business concerns over the economic burdens of new social security policies[36], this opposition delayed consideration of national health insurance for two decades.[37]

This survey of attitudes to 1944 confirms that CMA enthusiasm for state action outlived that of American medical professionals. Observers like Shillington see the CMA proposals for health insurance as evidence that Canadian doctors shared a tolerance for government action absent in the American doctor's philosophy[38]. However, as Bothwell and English suggest, the doctors' support "was always very qualified ... and enthusiasm varied inversely with the economic condition of the profession."[39] The CMA policy aimed at preservation of doctors incomes and reduction of the burden of charity work, and was never designed to address questions of universal access and adequate treatment. As the conflict dragged on, improvement in doctors' incomes and rancorous American debates prompted a change in CMA policy. Hostility to state action grew to the point that health insurance was compared to the "National Socialism" of Hitler's Germany.[40]

d) Business and Professional Voluntarism

Business reaction to federal and provincial proposals remained negative. Drug manufacturers feared health insurance would reduce their business.[41] Life insurance executives praised the governments' farsightedness in studying health insurance, and supported a contributory insurance plan[42]; but they warned against a costly, inflexible plan financed out of taxation. If not carefully designed to preserve voluntary options, health insurance would violate Canada's liberal principles and could come to resemble totalitarianism:

> I do not believe the medical profession would relish being socialized or dragooned ... Our ancestors came to this country because it offered a great opportunity to individual initiative and resourcefulness.... we will not accept either political or economic regimentation of our daily lives by any socialistic party. ... I am afraid ... of the grand over all plans of those who assume that they have fallen heir to the Divine Right of Kings - to order us in every detail of our daily lives ....[43]

Catholic hospital administrators, concentrated in Quebec, also resisted federal involvement; a voluntary health insurance system was "far more in line with our philosophy of life" because it left primary responsibility for health care in the family and preserved the freedom and independence of Catholic hospitals.[44]

Professional resistance was also aroused by the innovations of the social democratic CCF government in the province of Saskatchewan. The Health Services Act of 1944 proposed a health insurance commission with no medical association representation, promoting fears of lost autonomy. Saskatchewan proposed health insurance with universal coverage, which would reduce professional autonomy in charging wealthy patients, striking a blow at earning power.[45] The financial position of the province limited the programme to assistance for public welfare recipients, and a province-wide hospital insurance programme.[46] However, doctors' fears mounted and the growth of physician sponsored pre-paid medical care plans was expedited[47] to forestall demands for government action.[48]

Subsequent developments would seem to refute Kurdle and Marmor's claim, that "Canadian doctors ... have a lower level of anxiety about the negative consequences of state action".[49] Soon, Canadian medicine became no less vocal than American doctors, in rejecting compulsory, universal state health insurance. This change was precipitated at least in part by the rise of voluntary health insurance on the American model in Canada after World War II. In Blishen's words,

> "[t]he Canadian Medical Association recognized the growth of voluntary and other forms of prepayment and changed its view concerning the necessity for collective action on medical care insurance by government. The Association, although recognizing such action was necessary to protect those unable to afford medical care premiums and costs, now affirmed its belief in the principle of voluntary action ... ."[50]

As voluntary plans proliferated, Canadian doctors began to see a solution to the problems of prohibitive health care costs through private group plans supplemented by state subsidy for the poor.

The 1949 General Policy of the CMA advocated the extension of voluntary pre-paid medicare plans, under supervision of the profession, with state subsidy for those unable to make premium payments. The profession now rejected a comprehensive national plan.[51] The CMA President even welcomed the arrival of the Korean conflict as it would delay consideration of federal government action in the health care field.[52] Fears of "regimentation, too much [government control] and insufficient renumeration" ensured continued resistance.[53] The profession's voluntary, nationwide prepaid medical care plan, called Trans-Canada Medicare Plans, was its answer to public demand for health insurance, to prevent "a completely socialized form of medical care".[54] Henceforth, the Canadian Medical Association's policy was "energetically directed to the finding of voluntary solutions that make further government action unnecessary".[55]

Business leaders joined doctors in expressing preference for voluntary solutions. In 1953, the Canadian Chamber of Commerce declared that "the continued rapid

growth of the various voluntary prepayment and insurance plans will soon result in the Canadian people being reasonably well covered against the costs of health services without sacrifice of individual responsibility".[56] The Chamber held that, "in a free society it is the responsibility of the individual to bear the cost of medical care for himself and his family".[57] Drug manufacturers were also supporters of private insurance coverage and wary of complete "nationalization" of medicine.[58] Manufacturers warned of the threat to the Canadian economy of such an ambitious and costly medical programme, which would raise the cost of Canadian industrial production and hurt international competitiveness. Private enterprise was needed for the enormous development requirements of this young economy and for the preservation of Canada's democratic life.[59] Editorial commentary in the Financial Post denounced state health insurance as "an unwarranted intrusion on the individual's freedom of choice and responsibility" which would prompt a "distinct lessening of bearable family responsibilities".[60] This combination of pragmatic economic concern and ideological opposition remained central to business attitudes into the 1960s.

e) Movement Towards Government Action

Unions condemned arguments that cold war defence needs precluded ambitious social programmes, and asserted that domestic subversion and radicalism were likely to be fuelled by an inadequate social security system.[61] The TLC called for a contributory, comprehensive health plan covering all citizens and medical contingencies, with government subsidizing individual premiums from an excess profits tax.[62] Private plans could never provide adequate coverage; the federal government should stop "passing the buck" and assume leadership if the provinces would or could not act.[63] The Canadian Congress of Labour showed a similar preference for a comprehensive, contributory plan; health insurance was made a major priority by the new Canadian Labour Congress after 1955.[64] These demands were supported

by numerous local and national labour bodies, notably the Railway Transportation Brotherhoods. Even the Canadian Catholic Confederation of Labour supported a constitutional amendment to permit unilateral federal action, if Quebec would not cooperate.[65] For unions, there was a major gap in social security policy, which did not provide for the most basic of individual needs: good health.[66]

After World War II, the federal government gradually and cautiously extended its role in health services. In 1948, the federal authorities began paying conditional grants to the provinces to assist in provision of medical care, ranging from hospital construction and medical education, to control of specific diseases. During the 1950s, several provincial governments moved to establish hospital insurance plans to address the rising costs of modern medical care. After overcoming provincial resistance, the federal government introduced the Hospital and Diagnostic Services Act of 1957, providing federal financial assistance to provincial hospital insurance which featured universal access to hospital and diagnostic services.[67]

These initiatives drew cautious support from the medical profession. Although preferring a private, voluntary approach, the CMA bowed to public opinion and announced its cooperation with provincial authorities in establishing the national hospital insurance system from 1957.[68] But the profession insisted on exclusion of doctors' care from coverage in the plan.[69] Professional resistance ensured that a complete national health insurance plan, to cover the services of physicians and surgeons, would only emerge at a later date.[70]

Saskatchewan was the first province to introduce a comprehensive health insurance system in 1960. Although the CMA accepted the government's popular mandate, rank and file doctors from this province expressed an intention to oppose implementation of health insurance. After passage of the programme in 1961, the College of Physicians and Surgeons of Saskatchewan refused to allow its members to participate in implementation or administration.

Introduction of health insurance on July 1, 1962 sparked an almost complete withdrawal of all but emergency services by doctors during a three week strike. While doctors eventually agreed to cooperate with the plan, the depth of opposition to a comprehensive health insurance programme was revealed by this bitter confrontation.[71]

Meanwhile, the Conservative federal government of John Diefenbaker established the Royal Commission on Health Services to consider a national strategy. This commission, led by Emmett Hall, became a major focal point of interest group lobbying. While expressing impatience[72], the Canadian Labour Congress urged the Hall Commission to recommend a comprehensive, national plan. Voluntary group plans were inadequate, inaccessible to many, and just as bureaucratic and inflexible as public insurance.[73] Only government was seen as having the resources and authority to provide adequate coverage for all Canadians.[74] Quebec's reorganized Confederation des Syndicats Nationaux preferred a fiscal readjustment to permit independent provincial health plans; but, pending this constitutional readjustment, a cooperative, federal-provincial model was acceptable, with provincial administration and standards.[75] A compulsory national plan was also supported by the Canadian Federation of Agriculture and the Civil Service Federation.[76]

f) Business and Professional Resistance

At its annual convention in 1960, the CMA confirmed its desire for preservation of multiple, voluntary insurance carriers.[77] In its submissions to the Royal Commission, the medical profession placed health insurance low on its agenda for government action. Advocates of comprehensive public insurance were "ideologically minded", and desirous of acquiring "control of medical practice and its practitioners by controlling their financial affairs"; the CMA asserted that Canadians did not desire such "political control" of medicine.[78] Arguing that "[c]ompulsory participation for all citizens is an undue limitation of the rights of the public" the Association continued:

> we consider government intervention into the field of prepaid medical care to the point of becoming a monopolistic purchaser of medical services, to be a measure of civil conscription. We would urge this Royal Commission to support our view that, exclusive of states of emergency, civil conscription of any segment of the Canadian population is contrary to our democratic philosophy.[79]

Claiming status as the pioneer in voluntary pre-paid medical plans, the CMA chastised the government for forcing a compulsory system upon doctors.[80] A programme creating easy access to health services would increase abuse and imagined illness.[81] As an alternative, the CMA proposed "selective aid" as "feasible, humanitarian [and] appropriate to the state of Canada's economic position".[82] A variety of private insurance programmes, featuring "service", "indemnity", "reimbursement" or "refund", preserved the public's and the profession's freedom of choice.[83] The CMA urged that "the role of government should be to supplement existing voluntary medical care programmes" by providing assistance for the aged or needy.[84]

The Quebec based Association des Medecins de la Langue Francaise du Canada also advocated a plan retaining voluntary options, with government assistance for the premiums of indigents; Quebec doctors placed great stress on provincial autonomy in the design and adminstration of health insurance.[85] The Quebec College of Physicians and Surgeons advocated health insurance only if administered by a board controlled by the profession; any mention of government-run health insurance was regarded as akin to a socialistic, even Stalinist, proposal.[86] Anaesthetists feared that imposition of government direction over the medical profession would destroy doctor and patient freedom, and discourage new recruits to the profession; "the whole structure of medical care as we know it will eventually collapse"[87].

The Canadian Manufacturers' Association similarly urged that private, voluntary policies be employed Voluntary measures, undertaken often by business, had met much of the public's needs; in addition, such plans were superior, since their disincentive fees would discourage

overuse of medical facilities and keep costs down. Only the aged, chronically ill and indigent, who could not afford or qualify for private insurance coverage, should receive assistance via a public plan, with appropriate means tests.[88] The Chamber of Commerce shared the manufacturers' fears of the economic burden of an expensive national plan, and its effect on Canada's competitiveness; these associations preferred the flexibility and freedom for patients and doctors provided by voluntary arrangements.[89]

The insurance industry, represented by the Canadian Health Insurance Association, had hardened its position since the 1940s, with the success of voluntary health insurance plans. It recommended widespread private insurance coverage,[90] with public subsidization of insurance premiums of the needy.[91] Voluntary insurance was lauded for preserving patient and practitioner freedom to choose the method of meeting medical care costs.[92] It was said to be consonant with the free enterprise ethos of Canadians, and to preserve the advantages of market competition and efficiency. It also preserved individual liberty: "it does not compel everyone to accept exactly the same arrangements to provide for health care".[93]

g) Establishment of National Health Insurance

In its 1964 report, entitled "A Health Charter for Canadians", the Royal Commission on Health Services criticized the haphazard policies of voluntary and provincial agencies. It declared: "[a]s a nation, Canada should now take the necessary legislative, organizational, and financial decisions to make the fruits of all the health sciences available to all our residents without hindrance"[94]. Preservation and subsidy of private insurance would lead to incomplete coverage, duplication, administrative problems, and private profiteering from public funds. The Hall report called for a universal, comprehensive health care plan with federal funding and provincial adminstration. The programme should be supported by a provincial health services levy, but should have no user fees to discourage abuse, since these would be too

onerous for the poor[95].

Unions were quick to support these proposals.[96] The CLC expressed impatience at intergovernmental consultations and delay[97], and urged Ottawa to take the lead with the comprehensive, compulsory model.[98] Provincial proposals for voluntary insurance and private insurance carriers were condemned as a "sell-out".[99] Public sector workers rejected private health insurance coverage as "costly, inefficient and incomplete"; adoption of the Hall recommendations was strongly urged.[100]

Organized medicine declared itself "definitely antagonistic to the recommendation of a health service that provides for a single and monopolistic source of funds to be in the hands ... of government".[101] Medical men made use of democratic ideology in attacking the Hall Commission recommendations. The CMA executive declared that "policy should be consonant with those liberties which are the basic tenets of our democracy. ... [N]o citizen, be he patient or physician, should be forced to conform to a pattern of medical care which is unacceptable to him".[102] Government support should only be given to those unable to provide for their own medical needs.[103] Above all, "[g]overnment activity in the field of medical care should not be exercised in such a way as to curtail individual freedom or personal initiative".[104] A physician's freedom to opt out of any plan and to set his own fees were inviolable.[105]

Provincial medical societies also rejected the Hall proposals as an unwarranted constraint on freedom of choice for doctors, as those not participating in the plan would suffer drastic erosion of income.[106] While some medical academics in Canadian universities initially appeared open to a national health insurance plan,[107] they were largely "opposed to the belief that the state knows better than the individual what is best".[108] Accepting the inevitability of the government programme by 1965, the CMA still advocated "freedom of choice" among a number of competing plans and preservation of private, voluntary alternatives.[109]

Business leaders were alarmed by economist's

predictions of dramatic tax increases to fund health insurance.[110] The Chamber of Commerce feared the impact on Canada's international competitiveness.[111] The Chamber declared: "if we are to maintain a satisfactory rate of growth there must be more emphasis on increased savings, capital investment and productivity and less on new welfare programmes"[112]. But individualist ideology contributed to the objections:

> When illness strikes, the role of the individual cannot be over-emphasized. Canadians have a desire, even a deep determination, to pay their own way and choose their own doctor. Financial assistance by the government should therefore be directed to assisting those to whom the expense of illness or medical protection is clearly beyond their means.[113]

Governments should not assume so much power as to limit individual freedom.[114] Voluntary health insurance was preferred to the government plan proposed by Hall.[115] The Chamber preferred provincial programmes, with no federal restrictions on the choice of private or public insurance carriers.[116] Chamber public statements warned Canadians that medicare was not "free" since it would increase taxes.[117]

Manufacturers also preferred voluntary insurance, supplemented by provincial plans tailored to local conditions. Universality was particularly objectionable, since many could afford to pay: "Total coverage means the loss of one more civil liberty".[118] The insurance industry also derided:

> The idea of regimenting 100% of the public and 100% of the medical profession to cope with the happily-small minority who run into heavy expenses in any single year is neither desirable nor logical nor economic.[119]

Pharmaceutical manufacturers feared the high costs would prove economically disastrous.[120] Adoption of the broad plan conceived in the Hall report "could result in a wholesale disruption of the present system of providing medical care which has proven effective"; government insurance should be limited to assisting indigents with costs of prescription medicine.[121]

After the election of 1963, the new Liberal government of Lester Pearson came under strong pressure from the

social democratic NDP party in the minority parliaments of the time to implement the recommendations of the Hall commission. Despite strong support in Cabinet, Pearson's government hesitated because of the high costs, and business and professional opposition. Some provincial governments were also critical: for instance, Premier Manning of Alberta attacked the Hall plan as "a direct challenge to individual liberty and responsibility".[122] Three provinces began preparations for a plan based on government subsidies of private insurance premiums.[123]

In negotiations with the provinces, the federal government insisted on four conditions for cost-sharing of provincial health insurance programmes: comprehensive coverage, interprovincial portability of benefits, non-profit or government administration, and universal, uniform contributions and benefits. These conditions ruled out the subsidized, means-tested, private, options pushed by business and medical practitioners.[124] Most of the provinces appeared willing to alter their plans to meet these conditions; after a delay for the 1965 election, the medicare plan was finally approved overwhelmingly by Parliament in late 1966, without major concessions to CMA demands.[125]

Canada's medicare system, which came into effect on July 1, 1968, involved federal subsidization of up to fifty percent of the costs of provincially-run programmes confroming to federal standards.[126] All provinces eventually qualified for federal assistance by adopting universal public medicare.[127] As a final appeal, doctors sought to ensure their right to opt out without patients losing their benefits.[128] In Quebec, doctors went on strike in the early 1970s, to protest introduction of a compatible medicare programme in that province.[129] Most doctors ultimately accepted the new funding system which boosted their incomes as Canadians took advantage of pre-paid care to use health facilities and doctors services at an increased level.[130] Business concerns about costs remained, but Canadian enterprises may also have benefitted from reduced pressures for employer-sponsored plans and a healthier workforce.[131]

As governments sought to limit cost increases in the 1970s and to restrict growth of doctors incomes, the profession again resisted state control and asserted autonomy via efforts at extra-billing, to prevent doctors' reduction to the status of state employees[132]; the passions of the past were revived with doctors even withdrawing services for a time in Ontario when the practice was outlawed in the 1980s. Fiscal constraints and business pressures for limited government spending, have also prompted governments to scale down their commitments to the health program, despite continued popular support.[133]

Thus, the compulsory, public health insurance programme which differentiates Canada from the United States was not adopted in a climate of ideological consensus. Rather, it emerged over a protracted period, with considerable controversy and acrimony. Many of the same ideological objections to state action, aired in American debates on the issue, received considerable support in this country. Preference for voluntary action by the profession and its business allies was pronounced and unequivocal. To be sure, the acceptance of a state role in providing coverage for the indigent and aged did distinguish Canadian doctors from the most extreme American critics; this could reflect an attenuated anti-statism in this country. But other factors were also at work: the heavy income losses of charity work to the profession in a smaller market, and a political system giving greater strength to administration advocates of comprehensive insurance. These factors will be discussed more thoroughly in the conclusions to this thesis.

## Notes

1. C. David Naylor, Private Practice, Public Payment: Canadian Medicine and The Politics of Health Insurance, 1911-1966 (Montreal, 1986), p. 37.

2. For this chapter only, the abbreviation CMA will be used to designate the Canadian Medical Association and not the Canadian Manufacturers' Association as in other chapters.

3. C. David Naylor, The CMA's First Code of Ethics: Medical Morality or Borrowed Ideology?" Journal of Canadian Studies Vol. XVII, No. 1 (Winter, 1982-83), p. 20-32.

4. Naylor, 1986, p. 29.

5. Naylor, 1986, p. 34.

6. Robert S. Bothwell and John R. English, "Pragmatic Physicians: Canadian Medicine and Health Insurance, 1910-1945" in S.E.D. Shortt (ed.) Medicine in Canadian Society: Historical Perspectives (Montreal, 1981), p. 480.

7. Naylor, 1986, p. 40-44.

8. Naylor, 1986, p. 46.

9. Percy R. Bengough, Vice President, Trades and Labour Congress of Canada, "Health Insurance', Canadian Congress Journal Vol.XIV, No.5, (May, 1935), p. 15-16.

10. C. Howard Shillington, The Road to Medicare in Canada (Toronto, 1972), p. 20.

11. Bothwell and English, 1981, p. 481.

12. Naylor, 1986, p. 49 ff.; Shillington, 1972, p. 20.

13. Dominion Joint Legislative Committee of the Railway Transportation Brotherhoods, Memorandum of Proposed Legislation ... (Ottawa, Jan. 14, 1938), p. 10.

14. Bengough, 1935, p. 15-16.

15. Bothwell and English 1981, p. 482-83.

16. Bernard Blishen Doctors and Doctrines: The Ideology of Medical Care in Canada (Toronto, 1969), p. 111.

17. C. David Naylor, "Canada's First Doctors' Strike: Medical Relief in Winnipeg, 1933-4" Canadian Historical Review Vol.LXVII, No.2, (June, 1986), p. 151-80. (1986b).

18. Naylor, 1986, p. 59-69.

19. Bothwell and English, p. 484.

20. Naylor, 1986, p. 69.

21. Naylor, 1986, p. 69-70.

22. Janice P. Dickin McGinnis, "Whose Responsibility? Public Health in Canada" in Martin S. Staum and Donald E. Larsen (eds.) Doctors, Patients and Society Power and Authority in Medical Care (Waterloo, Ont., 1981), p. 215.

23. H.F. Angus, "Health Insurance in British Columbia" Canadian Forum Vol.XVII, No.195, Nov., 1935, p. 12-14.

24. Canadian Medical Association, Submission to the Royal Commission on Dominion-Provincial Relations (1937), p.11.

25. Bothwell and English, 1981, p. 485; Naylor, 1986, p. 101.

26. McGinnis, 1981, p. 217.

27. General Council, Canadian Medical Association, Resolution re Health Insurance (Ottawa, January, 18, 1943).

28. J.J. Heagerty, "The Proposed Canadian National Health Insurance Bill" American Journal of Public Health Vol.34, No.,2 (February, 1944), p. 117-122.

29. Blishen, 1969, p. 105.

30. Canadian Medical Association, Statement of Principles 1944 (Extracts) in Statements by Various Associations, Public Opinion Polls ... Found in PAC Health and Welfare RG 29 Acc. 77-78/198 Box. 46 File 700-100-1-50. Hereinafter cited as Statements... (op cit).

31. Naylor, 1986, p. 105-06.

32. The Canadian Pharmaceutical Association indicated support of the CMA position on health insurance with the proviso that this professions' official organizations be represented on the administrative bodies, and that safeguards be built in to avoid overuse of the system and disincentives to professional and technological advances in medicine. Canadian Pharmaceutical Association, Submission ... to the Special Committee on Social Security (May 7, 1943).

33. Canadian Federation of Agriculture, Health on the March: Principles for a Plan of National Health Insurance, (Submitted to the Special Committee on Social Security, May 14, 1943).

34. Dominion Joint Legislative Committee, Railway Transportation Brotherhoods, Memorandum of Proposed Legislation ... (February, 1944), p. 11. The war effort was portrayed as generating new health problems, and as earning the working population the right to a secure, healthy future.

35. Alongside unemployment insurance, family allowances paid to families with children both raised a families financial situation. indirectly contributing to health, and stimulated the wartime economy in the face of the expected post-war depression. See McGinnis, 1981, p. 221.

36. Donald Swartz, "The Politics of Reform: Conflict and Accommodation in Canadian Health Policy" in Leo Panitch (ed.) The Canadian State: Political Economy and Political Power (Toronto, 1977), p. 322.

37. Irving J. Goffman, "The Political History of National Hospital Insurance in Canada" Journal of Commonwealth Political Studies Vol.III, No.2, (July, 1965), p. 137 ff. Goffman describes how the King government's proposals for cost shared health insurance were rejected by Ontario. which resisted the taxing provisions, by Quebec, which resented the jurisdictional intrusion into a provincial policy field, and by Saskatchewan, which wanted a non-contributory programme financed from general, progressive taxation.

38. Shillington, p. 16; Blishen, 1969, p. 160-61.

39. Bothwell and English, 1981, p. 492.

40. Bothwell and English, p. 491.

41. J.D. Heagerty to Editor, Canadian Pharmaceutical Journal (Toronto, Oct. 14, 1943) in PAC Health and Welfare Papers, RG 29 Vol. 1112 File 504-2-5 Pt. 1.

42. Canadian Life Insurance Officers Association, A Preliminary Submission Upon the Proposed Inauguration of Public Health and Health Insurance Plans in Canada (presented to the Special Committee on Social Security, (June 7, 1943), p. 6-9.

43. V.R. Smith, Canadian Life Insurance Officers Association, Health Insurance: A Challenge to the Medical Profession Reprinted from the Bulletin of the Academy of Medicine Vol. XVII, No.9, (Toronto, June 1944), p. 8, ff.

44. Catholic Hospital Council of Canada, Health Insurance, A Brief for Presentation Before the Select Standing Committee of the House of Commons and the Senate of Canada, (1950).

45. Blishen, 1969, p. 119.

46. Shillington, p. 84; Blishen, p. 119-121. The programme also included a a regional comprehensive health insurance plan for the city of Swift Current.

47. Blishen, 1969, p. 120; Shillington, 1972, Chapter 5.

48. Malcolm C. Brown National Health Insurance in Canada and Australia: A Comparative Political Economy Analysis (Canberra, 1983), p. 40.

49. Robert T. Kurdle and Theodore R. Marmor, "The Development of Welfare States in North America" in Peter Flora and Arnold J. Heidenheimer The Development

of Welfare States in Europe and North America (New Brunswick, N.J., 1981), p. 105.

50. Blishen, 1969, p. 147.

51. Statements... (op cit), p. 3.

52. Dr. Norman H. Gosse, President of the Canadian Medical Association was quoted as declaring: "If the noise of battle postpones the evil day, doctors should be grateful for the extra time in which to marshall opposition to bureaucratic control of medicine" Cited in Canadian Pharmaceutical Manufacturers Association, Health Insurance Digest No.38 (January 26, 1951), p.7.

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54. Statements... (op cit), p. 3,5.

55. Malcolm G. Taylor, "The Role of the Medical Profession in the Formulation and Execution of Public Policy" Canadian Journal of Economic and Political Science Vol.XXVI, No.1, (February, 1960), p. 114.

56. Canadian Chamber of Commerce Policy Declaration on National Health and Health Services, cited in A.W.S. Bennett to R.E.G. Davis, Executive Director, Canadian Welfare Council (May 26, 1954) in PAC, Labour Papers, RG 29, Vol. BX46, ACC> 77-78-198, File R700-100-3.

57. Statements... (op cit).

58. Canadian Pharmaceutical Manufacturers Association Health Insurance Digest No. 38 (January 26, 1951), p. 5.

59. "Stelco Man Worried: State Health Insurance `Threat to Economy'" Montreal Gazette (February 22, 1956).

60. Quoted in Vivienne Walters "State, Capital and Labour: the introduction of federal-provincial insurance for physician care in Canada" Canadian Review of Sociology and Anthropology Vol.19, No.2, (May, 1982), p. 162.

61. "Trade Congress Meets the Federal Government to Make Annual Submission" TLC News (Ottawa, April, 14, 1951).

62. Statements... (op cit).

63. Ibid.

64. Ibid, re the demand of the TLC-CCL conference of April, 1955, for a national health insurance plan.

65. Ibid, re the 1949 statements of these unions.

66. George Harris, Secretary-Treasurer, United Electrical, Radio and Machine Workers of America, (Canadian

Division) to Rt. Hon. John Diefenbaker, Prime Minister of Canada, (January 22, 1960), p. 2.

67. Goffman, 1965, p. 140 ff.; Shillington, p. 78 ff.

68. "Doctors Approve Hospital Insurance Plan But Would Prefer Private Voluntary System" Globe and Mail (June 13, 1956), p. 1-2.

69. "Medical Association OKs National Health Insurance: Insists on Exclusion of Doctors" Toronto Telegram (June 13, 1956).

70. Maurice LeClair, "The Canadian Health Care System" in Spyros Andreopoulos (ed.) National Health Insurance: Can We Learn From Canada? (New York, 1975), p. 22.

71. For greater details on this episode, its origins and resolution, see Robin F. Badgley and Samuel Wolfe, Doctors' Strike: Medical Care and Conflict in Saskatchewan (Toronto, 1967).

72. Canadian Labour Congress, Memorandum to the Government of Canada (February 2, 1961), p. 13.

73. Canadian Labour Congress Statement to Royal Commission on Health Services (May 25, 1962).

74. Canadian Labour Congress Submission to the Royal Commission on Health Services (May, 1962), p. 32-33. For further details on the CLC's position, see Canadian Labour Congress, Supplementary Submission to the Royal Commission on Health Services (Sept., 1962).

75. Confederation des Syndicats Nationaux, Memoire Soumis a la Commission Royale d'Enquete sur les Services de Sante (April 9, 1962).

76. Globe and Mail (March 21, 1962).

77. "The Canadian Medical Association Statement on Medical Services Insurance", Canadian Medical Association Journal Vol.83, No.9, (September, 1960), p. 498.

78. Canadian Medical Association Summary Submission ... to the Royal Commission on Health Services (October 16, 1962), p. 4.

79. Ibid, p. 5.

80. Globe and Mail (May 16, 1962).

81. Notes on Hearing of the Royal Commission on Health Services (September 27-28, 1961) in PAC Health and Welfare Papers, RG 29 Vol. 1128, File 504-4-12 pt. 1.

82. Ibid, p. 6.

83. Ibid, p. 8.

84. Ibid. For commentary on the presentations to this effect by the Canadian Medical Association and the Association des Medicins de la langue francaise du Canada see Globe and Mail (September 28, 1961).

85. Association des Medecins de la Langue Francaise du Canada, Memoire a la Commission Royale Sur les Services du Sante (n.d., 1962).

86. Jacques Ferron, M.D., Letter to the Editor, Le Devoir (March 15, 1962); Translated by A.F. Smith, in PAC Health and Welfare Papers RG 29 Vol. R710/100-3-5.

87. Globe and Mail (March 24, 1962).

88. Canadian Manufacturers' Association, Submission ... to the Royal Commission on Health Services (April-July, 1962).

89. "Notes on Hearings ..." (op cit).

90. Globe and Mail (November 11, 1961).

91. Canadian Health Insurance Association, Submission to the Royal Commission on Health Services (April 17, 1962), p. 9.; Globe and Mail (March 23, 1962) cites the comments of the Metropolitan Life and Great West Life Insurance Companies to this effect.

92. Great West Life Assurance Company and Metropolitan Life Insurance Company, Joint Statement to the Royal Commission on Health Services (March 16, 1962).

93. CHIA Submission, p. 9.

94. Canadian Annual Review 1964, p. 390.

95. Globe and Mail (November 4, 1964).

96. Clifford A. Scotton, "The Hall Commission" Canadian Labour Vol.10, No.2, (February, 1965), p. 5-9.

97. Canadian Congress of Labour, Press Release (October 14, 1966).

98. "LaMarsh Non-Committal on Health Charter", Canadian Labour Vol.9, No.11, (November, 1964), p. 30.

99. Canadian Labour Congress Press Release, (June 18, 1965).

100. Canadian Union of Public Employees, Local 98 (Estevan, Sask.) Comments of the Royal Commission on Health Services, in PAC Health and Welfare Papers, RG 29 Vol. 1129 File 504-4-16 Pt. 1.

101. "Definitely Antagonistic to Medicare Proposal: CMA Chiefs" Globe and Mail (June 27, 1964), p. 4.

102. Canadian Medical Association, Special Committee on Policy, Statement on Medical Care With Conclusions and Recommendations (May, 1964), p. 1.

103. Canadian Medical Association, 1964, p. 8.

104. Canadian Medical Association, 1964, p. 8.

105. "CMA Sees Forced Participation as Key Issue in Medicare Plans" Globe and Mail (February 1, 1965).

106. "OMA Says Hall Plan Bars Right of Choice" Globe and Mail (February 20, 1965).

107. Globe and Mail (April 4, 1962) reports on the support for health insurance by Dr. Pierre John of Laval University; Ibid (May 15, 1962) re the comments of Dr. A.J. Rhodes of the University of Toronto.

108. "Opposed to State-Run Health Insurance Plan But Not Afraid, Dymond Declares" Globe and Mail (June 24, 1964). The head of the Association of Medical Colleges continued: "The Government should not do things that we can do for ourselves. They should only give assistance for those who cannot pay".

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110. Canadian Annual Review 1964, p. 395.

111. Statement by Lionel Kent, Co-Chairman, Public Finance and Taxation Committee, Canadian Chamber of Commerce, to the Federal Cabinet, (November 6, 1964) in PAC Chamber of Commerce Papers, MG 28 III Vol. 68 File 564.

112. Canadian Chamber of Commerce Newsletter No. 245 (January, 1964), p. 1.

113. Canadian Chamber of Commerce Newsletter No. 245 (January, 1965), p. 4.

114. Canadian Chamber of Commerce Newsletter No. 245 (January, 1964).

115. Statement by Dr. W.H. Cruikshank, Chairman, Health and Welfare Committee, Canadian Chamber of Commerce, to the Federal Cabinet, (November 6, 1964) PAC Chamber of Commerce Papers MG 28 III Vol. 68, File 564.

116. Canadian Chamber of Commerce, "Medical Services Insurance" Statement of Policy (August 31, 1965) in PAC Chamber of Commerce Papers, MG 28 III Vol. 62, File 561.

117. Canadian Chamber of Commerce Radiogram (September 1, 1965).

118. Canadian Manufacturers' Association Press Release, (December 9, 1966) Re: Passing of Medicare Bill C-277.

119. Robert Catherwood "Real Medicare Fight Still Over Costs and Rights - Not the Date" Financial Post (September 17, 1966).

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132. Anne Crichton, "Medicine and the State" in Staum and Larsen (op cit), p. 241; 245.

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## III INDUSTRIAL RELATIONS CASE STUDIES

### 10 Early Policy and Attitudes

a) Common Law and Frontier Conditions

Early labour policy in both Canada and the United States was derived from the practices and principles of British common law. Based initially on pre-industrial social conditions, the common law was originally a tool to ensure the maintenance of feudal relations by compelling workers to accept working conditions imposed by feudal lords; intervention on behalf of employers remained an element of legal tradition after industrialization. North American labour market conditions, with a marked shortage of skilled labour and many opportunities for mobility into untapped agricultural regions, reinforced the employers' desire to have judicial remedies available to require discipline and retain control over individual workers. This was particularly important given the small size of new industrial enterprises, which in a competitive system, with disparate and often small markets, could face fatal pressures from prolonged strikes or unbridled wage increases.[1] Not surprisingly, employers in the early 1800s turned frequently to the state, especially the courts, to enforce their contracts with dissident labourers. Labour organization for collective promotion was alien to this common law regime. Hence the courts initially viewed unions as beyond the scope of legal association. A series of legal devices was employed in different states and provinces in different periods.

b) Judicial Intervention in America

American labour organizations were first dogged by the common law stigma of "conspiracy". This doctrine was employed by the courts at the behest of business to prevent the joining together of workers in combinations to raise wages, shorten hours, or otherwise to improve working conditions. A series of notable court cases from the 1820s hindered the expansion of union

organizations by outlawing any activities deemed to be disadvantageous to property. Cordwainers, tailors and others found themselves convicted for "perniciously and deceitfully forming an unlawful club and combination to govern themselves and ... to extort large sums of money by means thereof" while threatening the interests of masters and non-members.[2]

An appeal in a Massachusetts case, Commonwealth versus Hunt, in 1840 ended this practice by recognizing unions as legitimate voluntary organizations. However, efforts to enforce union rules in a workplace were still condemned in the courts as conspiratorial exercises infringing on the independence of free individuals.[3] The enshrined practice to the late 19th century involved staunch judicial action to defend employers' property rights from the unwarranted interference of "dangerous" combinations of workmen, thereby quashing emergent labour unions and stopping recruitment drives. When conspiracy grounds were eventually limited by court rulings or by state statutes, ingenious employers and judges turned to the tactic of outlawing unions as combinations in restraint of trade. In addition, the courts employed injunctions and temporary restraining orders to restrict strike action and thereby undermine union recruitment and bargaining power. The right of employers to do business was defended under the constitution as a property right which could not be violated by union refusal to work when requested by the employers.[4]

Thus, the general tendency of judicial intervention was to retard the emergence of effective union organization even up to the 1920s. As Witte observed:

> the power of the courts was invoked to assist in defeating most of the more important strikes ... to prevent the successful spreading of labour boycotts ... and ... to prevent organizing activities where the workers were engaged under individual nonunion or "yellow-dog" contracts. [5]

Violations were punishable as contempt of court. Even the most peaceful forms of persuasion were enjoined by judicial action; the right to picket was severely limited and

numbers of picketers closely controlled. Legislative attitudes varied from state to state, but at times included repressive anti-union legislation. Some states actively assisted judicial harassment through anti-union clauses in anti-trust laws, and measures limiting or outlawing picketing and boycotts. Executive actors often used their authority to confine union activities. At the request of employers, both state Governors and Presidents called in the National Guard or militia to repress union protests and strikes. Frequently, such episodes ended with significant casualties.[6]

Therefore, it is not surprising that the American labour movement developed a marked aversion to state action in respect of industrial relations and disputes settlement. Coupled with the failure of initial efforts at development of a working class political party, the harsh state approach of the time served to paint government as the enemy of labour advance.[7] While recognizing the potential of certain legislation to assist the spread of labour organization and defend the rights of unions to bargain with employers, any assumption of strong powers in disputes settlement was feared; such concentrated government authority was as likely as not to be used to assist employers' resistance to union development and undermine workers' bargaining power. Anti-statist liberalism was consonant with the experience of labour leaders; organic and formal ideologies hence pointed in the same direction.

c) Canadian Judicial Intervention

In Canada the conspiracy doctrine also found employment as an anti-labour device, designed to preclude union efforts to dictate to management. Given the later development of an industrial economy and labour movement, it is perhaps not surprising that employers had recourse to this legal device at a later period. Thus, in the 1850s, the conspiracy doctrine was invoked by the courts to convict tailors who resisted the spreading displacement of men by sewing machines and cheaper unskilled women

operators[8]; as late as 1871, this tactic was successfully initiated by iron founders against the moulders' union in Brantford, Ontario. As Martin Robin summarizes:

> Attempts at organized employee resistance through combinations were combatted by the legal system with its battery of sanctions. The early labour law in Canada, as elsewhere, was assumed to be at the service of the employers and was called into service for various offenses: breach of contract, trade union organization, and rioting. Workmen's combinations were widely treated as criminal offenses.[9]

Early Canadian unionists faced charges for illegal conspiracy and restraint of trade, and were denied standing in the courts to enforce their rights.[10] Business leaders sought to protect the prerogatives of management to hire and fire at will, and rejected union efforts to interfere in any manner with the property of the company as "absolutely lawless".[11]

This position received ample support from the legal establishment.

> Legal thought was also dominated by the idea of individual freedom, that is the right of every person under the law to full freedom in disposing of his own labour or his own capital according to his own will. The common law knew nothing of the trade union movement or its particular objects.[12]

As in the United States, the courts shaped early state responses to labour organizations and industrial relations in an anti-union fashion in Canada:

> It became public policy to regard the attempts of working people to bargain regarding hours, wages and conditions of employment as combinations whose objectives were to interfere with business undertakings in a fashion detrimental to the public interest.[13]

The law acted to secure the business position by "severely inhibiting the development of employee organizations in Canada"[14] In addition, Canadian governments were not averse to intervention using police or troops to thwart strike action, even if employer abuse was evident.[15]

In a series of bitter strikes in the prinitng industry, master printers found recourse to this legal subterfuge. The most famous episode was the attempt by

George Brown, Reform (later Liberal) party editor of the Toronto Globe, to charge striking printers with conspiracy, to undermine their resistance to increased mechanization. Employer expressions on this theme sounded reminiscent of American precedents of earlier decades. Thus, Brown argued:

> Any attempt on the part of the Employees to dictate to [the employers], in what way, or to what extent they shall lawfully use their own resources is not only an unwarranted interference with the rights of others, but a very transparent attempt to introduce amongst us the Communistic system of levelling.[16]

The master printers in this dispute reflected a dogmatic resistance to union growth which exactly matched that of American employers. In Donald Creighton's words:

> In the eyes of these master printers a combination of capitalists, united to impose a uniform set of hours and wages, was entirely lawful; but a combination of workmen, united to maintain another and slightly different system of hours and wages, was entirely illegitimate.[17]

The episode starkly revealed the backward state of Canadian legislation respecting trade unions at this period. Rather than intervene paternalistically as predicted, the Canadian state ignored labour problems, leaving the common law unreformed despite earlier alterations in England. Therefore,

> "Canadian unions enjoyed no statutory protection at all ... [and] any union or society of workmen which went on strike ... was an illegal combination. The working-class movement stood in a more vulnerable position in the Dominion than in either Great Britain or the United States. Canadian labour was governed by a set of antiquated common-law decisions."[18]

d) Early Canadian Legislation

As a result of the printers' dispute, the Canadian Parliament passed the Trades Union Act of 1872, which recognized the right of workers to form collective organizations for the purpose of negotiation with employers. This law diminished use of the conspiracy doctrine to hinder labour organization. It was motivated in part by

fear that without protection comparable to that offered to unions under new British statutes or under recent American judicial rulings, it would be difficult, if not impossible, to attract skilled immigrant labour to Canada. It also reflected the political nervousness of the declining Macdonald administration, which felt the growing labour force might become an essential political constituency in the coming federal election[19]. While this statute's efficacy in promoting the growth of labour organizations has been challenged, there remains considerable evidence that labour confidence in the federal Conservatives was heightened[20]; this bill was also an important precedent for state action supportive of labour interests.

However the favourable impact of the legislation for Canadian unions was limited because registration was required for unions to receive protection against civil actions by employers; the weak state of worker organization at the time meant few unions were in a position to take advantage of the clause. The act contained no recognition of the right to organization, no protection of activists from discriminatory dismissal or punishment, and no right of collective bargaining. And the Trade Union Act was accompanied by a Criminal Law Amendment Act, which prohibitted "intimidation" by labour, which referred to any use of mass picketing. Workplace militancy was still on occasion met by coercive force of armed police and militia. In later years, amendments to the Criminal Code limited the tools available for organizing drives and strikes, when virtually any form of picketing was enjoined under the proscription on "besetting and watching".[21]

e) Early Union Responses to the State

Still, the absence of anti-trust laws in Canada reduced one source of state harassment. The sporadic successes of working class politicians seeking office under the auspices of the established political parties also gave some semblance of labour influence on state actions and legislation, perhaps inducing the union

leadership to take the prospects for supportive legislation that much more seriously.[22] The Macdonald Conservatives forged a cross-class alliance of "producers" supportive of such National Policy planks as the high tariff and railway subsidies, which assisted the central Canadian worker while also aiding capital accumulation.[23] By the turn of the century the Liberal Party had inherited this labour constituency; such prominent labour leaders as Ralph Smith and Alphonse Verville held seats in parliament as Liberal MPs. These links may have induced greater acceptance of political action, both through established parties or through class-based organizations, as a potentially important contributor to the advance of labour.

This was particularly so, given the weakness of Canadian labour organizations in private bargaining. The seasonal nature of much employment, the flood of immigrants and the hostile attitudes of employers combined to limit gains in membership within an industrial structure of scattered resource and transportation projects and limited urban industry. "Labour organization in nineteenth century Canada succeeded only when there was a durable labour scarcity".[24] Particularly in depression years, such as the 1870s, unions perceived the need for assistance from government to prevent their elimination by employers.[25] Experience as much as ideology had made Canadian trade unionists appreciative of the potential of legislative intervention by the turn of the century. The most visible difference between the two trade union movements was the Trades and Labour Congress of Canada support for compulsory arbitration, which the AFL, "badly burned by the experience", strongly opposed.[26]

But differences in attitudes between the two countries' labour movements should not be exaggerated. American unionists did not always reject disputes resolution under state auspices. The Knights of Labour, the most powerful union central in the early 1880s supported a provision for compulsory arbitration, reflecting the weaker standing of unions and their then lesser ability to secure concessions from management through private bargaining.

Decisions enforced by government arbitrators were considered preferable to continued losses in costly strikes against unresponsive employers.[27] Although abandonment of this position by the AFL occurred at an early date in the U.S., Canada's unions also moved away from their support by early century, with increased bargaining strength; thus the railway unions resisted the attempt to include compulsory arbitration provisions in the Railway Disputes Bill of 1902.[28] And Canadian unions were as adamant in their determination to preserve the right to strike against any form of government intervention or regulation.[29] The TLC convention of 1902 cemented this stance with affiliation to the AFL and acceptance of its policies.[30] Any differences in the consistency and vehemence of union policy in the two countries seems more attributable to the perceived costs and benefits of government action - a function of union strength in private bargaining at any given time - than to profound differences in attitudes towards the state.

f) Early Business Attitudes

Employers in both countries considered a state presence in industrial relations desirable. While laissez-faire arguments were used to dissuade government action beneficial to labourers, such as regulations on women and child labour, factory conditions, hours or wages, or union rights, the industrialists of the day did not hesitate to call for the state to intervene, often in very coercive guise, to limit the gains of labour organizations. Business leaders in both countries actively encouraged the continuous intervention of state actors, particularly the courts, in the resolution of industrial disputes. The state was viewed as a tool with which to stifle the emergence of union activity and provide business with the stable economy and low wage workers required for maximum profit taking. Appeal to the public interest, in Hegelian terms, would be forthcoming where market conditions enabled labourers to exert effective pressure on industry, via strike action, to permit organization or increase wages. The 'national interest" superseded labour calls to class solidarity and

the state should act to assure its ascendancy. Therefore, while legislation stimulating union organization was derided as "class legislation", Canadian[31] and American[32] business relied on the state to limit the spread of union organization and to lessen the impact of strikes; Canadian employers perhaps exceeded Americans in hostility to unions.[33] Even in this classical period of liberalism, business was selective in its condemnations of state economic intervention.

g) The Imperative of Policy

However, after the turn of the century, government leaders in the two countries were forced to intervene with increasing frequency in industrial relations matters. Most urgent was state action to resolve industrial disputes particularly disruptive of economic life or threatening to public well-being. Subsequently continued strife, violence and confusion in industrial relations moved governments to put collective bargaining between labour and management on a more orderly footing. The increasing electoral strength of labour impelled greater recognition of union bargaining rights and more responsiveness to union demands for workplace reform. Abuses of authority within the union movement subsequently required regulation of internal union affairs to ensure unions represented workers and to protect the rights of rank and file members. How the two countries responded to such challenges at the national level constitutes the subject of the case studies in this section.

## Notes

1. H.C. Pentland, "The Canadian Industrial Relations System: Some Formative Factors" Labour/Le Travailleur Vol. 4 (1979), p. 9-11.

2. Court decisions cited in Christopher Tomlins, The State and the Unions (New York, 1985), 37 ff.

3. Tomlins, 1985, p. 42-43.

4. Harry Millis and Emily C. Brown, From the Wagner Act to Taft-Hartley: A Study of National Labour Policy and Labour Relations (Chicago, 1950), p. 10.

5. Millis and Brown, 1950, p. 8.

6. Gabriel Kolko, Main Currents in Modern American History (New York, 1984), p. 174 ff.

7. Charles M. Redus, et. al., Labour and American Politics (New York, 1964), p. 85 ff. Gompers suggested that the "industrial field is littered with more corpses of organizations destroyed by the damning influences of partisan political action than from all other causes combined".

8. Bryan D. Palmer, Working Class Experience: The Rise and Reconstitution of Canadian Labour 1800-1980 (Toronto, 1983), p. 67-8.

9. Martin Robin, Radical Politics and Canadian Labour, (Kingston, Queen's University, Industrial Relations Centre, 1968), p. 11.

10. John C. Anderson and Morley Gunderson, Union-Management Relations in Canada (Don Mills, Ont., 1982), p. 32-33.

11. Industrial Canada, Vol. VII, No.5, (December, 1906), p. 427. This attitude, expressed after the legalization of trade union status in 1872, reflected the staunch resistance of employers to legal unions. Resistance included the familiar devices of "yellow dog", non-union contracts, intimidation and the like. See Gerald E. Phillips, The Practice of Labour Relations and Collective Bargaining in Canada (Toronto, 1977), p. 12.

12. A. E. Grauer, Labour Legislation: A Study Prepared for the Royal Commission on Dominion-Provincial Relations, (Ottawa, 1939), p. 65.

13. Queen's University, Department of Industrial Relations, The Conciliation and Arbitration of Labour Disputes in Canada, (Kingston, 1949), p. 5.

14. Phillips, 1977, p. 12.

15. Desmond Morton and Terry Copp, Working People (Ottawa, 1980), p. 4. They cite instances of bankrupt railway operators, who refused to pay construction workers. "Governments were more likely to meet the swindled workers with troops and police rather than sympathy".

16. Cited in Bernard Ostry, "Conservatives, Liberals and Labour in the 1870s", Canadian Historical Review, Vol. 41, No. 2 (June, 1960), p 98.

17. Donald G. Creighton, "George Brown, Sir John Macdonald, and the 'Workingman'" Canadian Historical Review, Vol. XXIV, No. 4, Dec. 1943, p. 368-69.

18. Creighton, 1943, p. 371-72.

19. Creighton, 1943, p. 372-73.

20. Bryan D. Palmer, Working Class Experience: The Rise and Reconstitution of Canadian Labour, 1800-1980 (Toronto, 1983), p. 92ff; p130ff.

21. Phillips, 1977, p. 13.

22. Bernard Ostry, "Conservatives, Liberals and Labour in the 1880s" Canadian Journal of Economics and Political Science Vol.XXVII, No.2, (May, 1961), p. 141-161.

23. Paul Craven and Tom Traves, "The Class Politics of the National Policy, 1872-1933", Journal of Canadian Studies Vol.14, No.3 (Autumn, 1979), p. 14-38.

24. Morton and Copp, 1980, p. 10.

25. Especially difficult were major depressions, like that of the 1870s, when employers used a labour surplus to rid themselves of unions. Ibid, p. 28 ff.

26. Morton and Copp, 1980, p. 75.

27. F. Harvey Middleton, Railways and Organized Labour (Chicago, 1941), p. 27.

28. Brockville Recorder, (July, 24, 1902).

29. Ibid; Ottawa Journal, (August, 2, 1902).

30. Robert Babcock, "Samuel Gompers and the Berlin Decisions of 1902", in R.A. Preston, (ed.) The Influence of the United States on Canadian Development (Durham, N.C., 1972), p. 185-204.

31. Stuart Jamieson, Industrial Relations in Canada (Toronto, 1957), p. 63.

32. Kolko, 1984, p. 176 ff.

33. Stuart Jamieson, Times of Trouble: Labour Unrest and Industrial Conflict in Canada, 1900-1960 (Ottawa, 1968), p. 52.

## 11 Industrial Disputes Investigation Act, 1907

### a) The Emergence of the Act

Concern over the impact of lengthy strikes in public utilities and mines was first reflected in Canadian federal legislation at the turn of the century. Measures for voluntary investigation, conciliation and arbitration were introduced in 1900, as the government sought means of settling costly disputes[1]; in 1903, these measures were extended to the railways.[2] In 1907, the Canadian Parliament consolidated and amended these provisions in the Industrial Disputes Investigation Act. This measure, enacted in response to the bitter strikes in the Alberta and British Columbia mining camps in the winter of 1906-07, was designed to enhance the role of the state in the resolution of industrial disputes in fields of significant public import. The measure was the brainchild of William Lyon Mackenzie King, then Deputy Minister of Labour[3], who, after investigating the coal dispute, declared:

> organized society alone makes possible the operation of mines to the mutual benefit of those engaged in the work of production [so] a recognition of the obligation due society by the parties is something which the State is justified in compelling if the parties are unwilling to concede it. In any civilized community private rights should cease when they become public wrongs. [4]

But despite this strong rhetoric, King stopped short of compulsory arbitration, then in force elsewhere. Canadian labour had abandoned its traditional support for compulsory arbitration (owing to American influence and affiliation with the AFL in 1902)[5]. Union opposition dissuaded the government from enacting this provision.

Instead, King selected compulsory investigation in serious disputes in industries under federal jurisdiction.[6] The Industrial Disputes Investigation Act of 1907 required the parties to an impending dispute to call for a public investigation of the points of disagreement before resorting to the expedients of strike or lockout. Boards were set up consisting of one representative of each party,

with a neutral chairman agreed on by the parties (or selected by the Minister of Labour in event of disagreement). Penalties were imposed on any party violating the temporary delay of strike or lockout. However, the report of the inquiry board was not binding on the parties, who were free to continue the dispute using strike or lockout as soon as the report was made public. King hoped public opinion would dissuade the parties from rejecting the boards recommendations; this would promote settlements without resort to damaging work stoppages.[7]

b) Initial Union Response

Labour unions were divided in their response. The Railroad Brotherhoods were sharply critical of the inclusion of Canada's railways under this measure. They preferred the voluntary investigation and conciliation measure, the Railway Disputes Act of 1903, and objected to the new compulsory investigation and strike delay provisions. These would give employers time to prepare to defeat any strike through the employment of strike breakers, and other devices; the railways could also use the act to procrastinate in reaching a settlement.[8] A leading spokesman for the railwaymen, John Hall, declared that the measure was designed to legislate unions out of existence and to enforce settlements on railwaymen.[9] Pressure from this quarter succeeded in forcing the government into a compromise, whereby the railroad brotherhoods could opt to employ the machinery of the 1903 Act in preference to the new procedures, in exchange for accepting compulsory investigation.

The Trades and Labour Congress, headed at the time by a Liberal M.P., Alphonse Verville, not surprisingly came out in favour of the measure.[10] With many representatives in the councils of government, this organization did not distrust state action.[11] The T.L.C. Convention of September 1907 endorsed the new law by a wide margin, declaring:

> Organized labour does not want to strike to enforce its demands if the consideration of them can be attained without recourse to that remedy.... Nor is organized labour blind to the fact that in every great industrial struggle the

> public have a large interest as well in the result as in the means adopted to reach that result. The least the public are entitled to is a knowledge of the merits of the dispute.... [12]

This resolution reflected the primary concern of labour leaders. Lauding the "happy day when every labour dispute can be settled by the parties meeting together in the presence of an impartial tribunal to discuss their differences", the union executive complained: "[o]ur greatest difficulty in the past has been that we could not get a hearing"[13] The T.L.C. leadership was confident that the new measure "assured a fair hearing of the demands of the workers". One leader praised the law "because it gives the workingman the opportunity of bringing his complaints and his real situation before the general public. Furthermore, the law has recognized the official existence of labour organizations".[14] Labour proponents believed the bill could give labour publicity for its claims while still ensuring the men an income from gainful employment during the course of the investigation.[15]

Certainly, many unionists feared the loss of advantage conceded by the limitation on strikes, since conditions could be more likely improved by sudden work stoppages than through dragged out negotiations and deferred strikes. The neutrality of the state in the investigation and settlement process was also questioned: among Canadian labour, noted a contemporary observer, the "distrust of Government intervention arises from a feeling that the intervening authority has a class bias against labour"[16] Some TLC affiliates began to criticize the act, as implementation affected them unfavourably. Considerable pressure soon mounted within the T.L.C. for alteration of the law. At the 1908 convention, critics[17] persuaded the Congress to seek changes.[18]

When these concerns were met in part, through amendments passed by the Canadian Parliament in that same year, TLC criticism of the act receded. The Executive Council reported the satisfaction of most affiliates with the quality of the awards recommended by the investigating committees. Continuing, the executive officers noted

> the principle of compromise, so powerful a factor in society as it is constituted today, has been recognized, the duration of strikes has been reduced, large strike funds have become less important as a fighting weapon, and outside interference has not only become unnecessary, but even a cause of loss of public sympathy.[19]

Representatives of labour on investigating boards similarly expressed enthusiasm for the act, albeit noting shifts in labour attitudes with variations in the nature of the awards.[20] And, despite some fears, most independent labour leaders remained supportive of the government.[21]

c) Evolution of Labour Attitudes

The reactions of the railway men demonstrate the changing response of labour unions based on their most recent experience under the act. Railroad maintenance-of-way employees and railroad telegraphers, were consistently supportive after enactment of the act. Having had much experience of the benefits of the measure[22], the railway workers resisted the growing discontent in the T.L.C. and broke from this body when repeal sentiment grew in 1912. By the World War I, these organizations contained some of the strongest supporters of the measure. Glowing praise emanated from the heads of the Order of Maintenance of Way Men and the Order of Railway Telegraphers who said "the act has been of distinct advantage to our organization. We have always secured favourable results by reference of disputes to boards"[23] D. Campbell, third vice-president of the Order of Railway Telegraphers strongly defended it in a letter to Samuel Gompers. Campbell approved of the law "because it is not detrimental to the interests of wage earners, but rather a benefit in almost every particular". Rather than weakening labour "by partially grinding the edge off ... [the strike] weapon", exposure of the facts to the scrutiny of public opinion acted to increase public awareness of labour's position and to enhance the chances of successful negotiations.[24]

Labour views continued to oscillate from one convention to the next. Thus while the 1915 convention

rejected repeal demands[25], by 1916 the T.L.C. favoured scrapping the act. Strong U.S. opposition to tentative Presidential and Congressional consideration of a similar measure as a wartime expedient, may have influenced the Canadian affiliates' position to some extent. However, the booming wartime economy, the shortage of skilled labour and the essential need for maintenance of service in key industries - all of which made strike action a potent weapon - may also have convinced Canadian unionists that there was more to be gained through confrontational contract negotiations in the private sphere than via state sponsored investigation and conciliation. This was especially so since the government, anxious to keep down the costs of the war effort, resisted demands for wage increases.

Extension of IDIA coverage to the private sector, especially to munitions industries, may account for the added hostility at that time. With the exception of the miners, it was unions not previously covered by the measure which led the opposition in the T.L.C. conventions. The labour movement remained divided however. Strong unions felt they had more to gain through unfettered strike action, while weak unions felt government sponsorship and enforcement of fair wage provisions was more advantageous.[26]

Even when repeal was supported at the 1916 convention, criticism did not extend to the strident anti-statism often expressed by Gompers and the A.F.L.. At no time did labour critics of I.D.I.A. express unqualified voluntarism or describe the state as a potential source of working class oppression; the desirability of state action in industrial affairs was never directly challenged.[27] As Ben Selekman summarizes:

> hardly any of the Canadian trade unionists advance the argument heard in this country against President Wilson's measure [proposed during World War One, based on Canada's investigation law] - that such a law means compulsory servitude for the wage earners. On the contrary, most of them approve the principle of the law and direct their criticism purely against administrative defects. [28]

The equivocal, shifting response of labour seems

understandable, given the ambiguous impact of the act, for, in Russell's words: "While state intervention did not increase the chance of victory, it probably lessened the probability of total defeat for the labour movement ... particularly ... for the less powerful or unified unions".[29] It was only the strong unions who favoured repeal, and even these only when market conditions were favourable. In the post war period, when unionism was on the defensive and bargaining strength lessened, the TLC resumed support for the act; the union central was strongly in favour of restoring the law in some fashion after it was nullified by a ruling of the Judicial Committee of the Privy Council in 1925.[30]

d) Business Responses to the IDIA

Initial business reaction to the IDIA was muted. This resulted in part from the fact that the Act applied to only limited categories of employers, in transportation, and vital resource industries like coal mining. The Canadian Manufacturers Association decided to make no comments on the measure before it was adopted by Parliament.[31] Railway executives supported the act, which was seen as a means of averting the costly strikes which had loomed before 1900. If anything, they regarded the measure as too mild, having previously advocated compulsory arbitration.[32] Business support broadened after implementation of the new law. In an address to the Canadian Manufacturers' Association meeting of September, 1909, the President, Mr. Robert Hobson, credited the Lemieux Act with inducing a reduction in the number of strikes "without unduly interfering with the rights of either party".[33]

There was criticism of the enforcement of the act, specifically the failure to penalize unionists who went on strike before the prescribed period for an investigation. However, as one employer opined

> [n]otwithstanding the weaknesses I have referred to, I think the employers, even those who have seen their men violate the act, would be sorry to have it repealed. While the penalties may never be imposed, still they stand as a wholesome

> preventive against rash conduct for the sober-minded man, who is generally in the majority, and so long as they exercise even this deterrent effort employers will regard the measure with favour.[34]

G.M. Murray, Secretary of the Canadian Manufacturers' Association noted that, despite violations by the "less intelligent class of working people", "the better classes respected the potential penalties under the act and had learned they had nothing to lose from submitting their grievances to public investigation, providing an impetus towards more reasoned negotiation of industrial disputes".[35]

Employers praised the use of non-binding reports and recommendations which avoided the pitfalls of compulsion while still inducing settlements under the pressure of public opinion. Certain businessmen preferred the direct meetings and discussions between the parties required by the act, (even though resistance to meeting the representatives of labour had previously been high among the Canadian business class).[36] However the postponement of strike action pending investigation and conciliation, was the most frequently cited advantage. Even if the differences seemed irreconcilable after the investigation was complete, the delay before strike or lockout provided an opportunity for the parties to cool down before taking drastic action.[37] Labour's new right to call for an investigation might be an invitation to a few disgruntled employees to block or delay needed changes. But most businessmen felt this provision provided an excellent safety valve: "You cannot too strongly legislate upon the advisability of compulsory notice from the employee to employer of grievances and the absolute necessity of at once applying for a conciliation board. This keeps fomentation down and helps to keep the agitator from speechifying".[38]

Thus while employer criticism could occasionally be heard when boards ruled unfavourably, business generally recognized the important gains it had made in its ability to maintain production with the delay in strikes and invocation of investigation and conciliation. Business

support ranged across the spectrum of industries affected directly by the provision, including public utilities, shipping, and railways.[39] If anything, business leaders were critical of the failure to provide for compulsory arbitration, to end strikes considered "an unreasoning and irrational survival of the dark ages"; in this vein the Montreal Builders Exchange called upon legislators "to extend the principle of compulsory arbitration not only to disputes [affecting] public utilities, but to all trade disturbances of the industrial peace.[40] Rather than condemn state intervention in private disputes resolution, employers lauded its beneficial effects, as settlements of disputes without strike action reached significant levels after the adoption of the act.

This favourable reaction may also have reflected the significant instances in which the investigating tribunal found in favour of the employers, and union resistance met with the condemnation of public opinion and the defeat of the strike.[41]

e) Impact of the Act on Industrial Relations

Revisionist and radical historians would hardly consider this business support surprising, since they interpret the act as a means of achieving industrial stability to the benefit of industry and the detriment of labour. For instance, Bradley Rudin feels King acted deliberately to "fashion a new liberalism, based on the supremacy of the large corporation and the power of the Federal state".[42] The state was regarded as an ally of capital acting to ensure the continuity of production through the provision of mechanisms to regulate class conflict and ensure rapid settlements of disputes, by weakening labour's natural economic weaponry through the strike delay. King is viewed by Paul Craven as an organic intellectual of the dominant capitalist class, who countered the growing instability of Canadian capitalism through an interventionist policy which would enable the state to intervene to moderate the disruptive strikes produced by rapid social change[43]. Since the IDIA,

Christopher Huxley argues, "the rights of unionization and free collective bargaining have been hedged around by, even embedded in a massive legal and penal structure" as the state restricted union activity.[44] The IDIA is considered one element of a broader government strategy of aiding capital accumulation in a vulnerable resource economy.

Some non-Marxist critics agree that Canadian policy placed an emphasis on prevention of strikes which exceeded American concern for the maintenance of industrial production[45]. Data indicates that employers often did receive a better deal than employees from board rulings; strike delays could be turned to advantage, as evidenced by the poor employee record in legal strikes conducted after a board report had been rejected.[46] Benefits to employers were mitigated somewhat by the legal recognition and assistance given to unions through compulsory investigations and the conciliators' emphasis on compromise, at times running against the bottom line demands of industry[47]. On the whole, however, the measure seemed consistent with industry interests, and did not interfere with the naturally stronger position of employers in collective negotiations with unions.

f) Public Sector Attitudes and American Influences

Public sector actors expressed a different ideological justification for the act.[48] Its author, Mackenzie King, was following a progressive line respecting the right of the state to intervene to protect the public interest. Although sterner measures were operative at the time in Dominions like New Zealand, which had opted for compulsory arbitration, Canada's compulsory investigation measure was a departure from North American practice, since for the first time the state interposed itself in disputes to the extent of delaying the right to strike in the public interest.

But although this interventionist thrust differentiated it from contemporary American laws, this does not necessarily reflect ideological differences between the two countries. King was certainly aware of

similar proposals which had been brought forward in the United States by men like Charles F. Adams, his former teacher Richard Ely, and N.P. Gilman. King had made a careful study of American thought; the precedents of the Erdman Act[49] and President Theodore Roosevelt's proposals for compulsory investigation were well known to him.[50] The similarity between King's measure and these proposals is indeed striking.

Therefore, this may be an early example of an American proposal, rejected in that country, which gained legislative enactment in Canada. Unlike these thinkers, King attained a position in the civil service from which he was able to launch his initiative. The ideas were not different, only the political influence of their exponents. This may in fact demonstrate the importance of the large role of bureaucrats and administrators, as against legislators in the Canadian policymaking process. For the IDIA does not seem the result of interest group pressure on Parliament, but rather was an initiative introduced from above by the Deputy Minister of Labour. As will be considered later, there may be more scope for such bureaucratic policymaking in the Canadian versus the American system.

At the same time, political spokesmen in Canada did not see the IDIA as a statist initiative in keeping with a Canadian interventionist inheritance. Some Canadian legislators clearly considered the act to be consistent with a liberal political philosophy. A.C. Macdonnell contended that the "liberty of the individual is conceded only where the liberties of others are not infringed in consequence"; strikes on public utilities in his opinion constituted such an infringement. He elaborated:

> it is perfectly clear that in all these cases [of utility and railway work stoppages] the liberties of a great many people are being infringed in consequence of too excessive liberty on the part of others. This measure proposes to restrict individual liberty only at a point where, if it is exercised at too great a length, the liberties of others are thereby infringed.

Against critics who charged the proposed law would interfere with the freedom of contract he suggested it actually created the conditions for such freedom by equalizing the bargaining abilities of the two parties to a dispute.[51] Thus state action was considered essential to maintain the conditions for both the traditional liberty of the individual and the emergent entrepreneurial liberal creed of freedom of contract, eminently consistent with American ideology.[52]

g) American Reaction to the IDIA

The I.D.I.A. is a rare instance of a Canadian Act which drew substantial attention and comment in the United States; this affords the opportunity to assess the reaction of American figures to this form of state intervention. It was studied within a year of enactment by an official of the U.S. Department of Labour, V.S. Clark, who presented the measure in a favourable light as a contribution to industrial peace, noting how it had effectively prevented costly public service strikes. Clark emphasized the conciliation aspect of the measure and downplayed its compulsory elements.[53] Marcus M. Marks, speaking for the National Civic Federation, lauded the measure for preventing loss of service or wages, while avoiding the arousal of "evil passions" between the parties to a dispute. He continued: "[i]nvestigation under conditions of employment and order is much more likely to proceed in the direction of equity and justice than if ... both parties ... are laboring under the excitement of the abnormal conditions consequent to an open breach between employer and employed".[54] Addressing labours' concerns, he noted no union should object to an investigation which contained the promise of a fair consideration of their grievances. He thus recommended the establishment of machinery on the Canadian model to act as an "industrial fire department" charged with putting out recurrent "labour conflagrations which threaten our prosperity". Private disputes settlement via strike or lockout were wasteful and should be supplanted by a

legislative regime for peaceful resolution.[55]

Labour spokesmen in the U.S. were openly hostile to the measure. From his voluntarist perspective, Samuel Gompers saw no difference between compulsory arbitration and investigation. Both required unions to concede their vaunted right to strike at any moment, which lessened their bargaining power. In Gompers' words:

> As soon as the government steps in ... and says to the workingman ... : you must work under such conditions as are here stipulated; if you do not you will go to prison. At that moment slavery has been introduced ... call it by whatever name you please, compulsory arbitration or compulsory investigation, compulsory work pending the final determination of that investigation ...[establishes] the system of slavery.[56]

A.B. Garretson, President of the Order of Railway Conductors of America, noted how the compulsory period of delay was frequently used by the employer "to reinforce himself against the efforts of his men to better their conditions". In effect, "the machinery of the law is to be utilized as a weapon to defeat the contentions of the men who labour, regardless of how just may be the claim which they put forward on their own behalf". He asserted this situation only reinforced the view that government agencies at all levels acted "in conjunction with" and "as an aid to" the employer.[57]

In general, American reaction revealed a clearer and more consistent division between business supporters and labour opponents of compulsory investigation with a delay of strikes and lockouts. However, these sentiments were not always shared by all American unions. An editorial in The Railroad Telegrapher of December, 1916, showed the Order of Railroad Telegraphers' ability to distinguish between investigation, with its beneficial application of public opinion to major disputes, and compulsory arbitration, which would never prove acceptable to American workers. These unionists had observed the favourable treatment sometimes accorded to their Canadian counterparts by the settlement procedures. Moreover, the railway unionists had previously supported American federal efforts to strengthen mediation machinery, which had been weakened by

business resistance and the absence of compulsion. Rather than adopt a purely voluntarist line, the railwaymen were able to assess the effects of state action on their situation, and express a pragmatic view of the Canadian law as they did towards certain American initiatives in railway disputes settlement.

## Notes

1. Elmer E. Ferris, "Mackenzie King and Canadian Labour Troubles", The Outlook, October 29, 1910, p. 507-08.

2. H.A. Logan, State Intervention and Assistance in Collective Bargaining: The Canadian Experience 1943-54, (Toronto, University of Toronto Press, 1956), p. 8.

3. For a discussion of the evolution of King's ideas on the role of the state in industrial relations see Paul Craven, An Impartial Umpire: Industrial Relations and the Canadian State (Toronto, 1980), Chapter 2.

4. Cited in Elmer E. Ferris, "Mackenzie King and Canadian Labour Troubles", p. 510. For the complete text, see Labour Gazette, Dec. 1906, p. 661 ff.

5. See Babcock, 1972 (op. cit.); Robert H. Babcock, Gompers in Canada: a study in American Continentalism before the First World War (Toronto, 1974), p. 93-94, 202.

6. Labour Gazette, Dec., 1906, p. 661, ff. This reflected King's ambiguity about the role of the state as against private concern. Thus, the state should stop short of compelling the parties in specifics, and should merely require them to respect public opinion and submit the merits of their position to it.

7. See O. D. Skelton, "A Canadian Experiment in Industrial Peace" The Outlook Jan. 4, 1908.

8. This fear was apparently confirmed in the eyes of some railway union leaders after enactment of the act. Note for instance the editorial comment of the International Maintenance of Way Employees: "[once] our members became more familiar with the slow and cumbersome way in which this Act operated, the truth began to dawn on a good many that the Act was not an Act to assist in any way the working men of Canada, but rather, a barrier and a hedge behind which the railways were at liberty to go through dilatory methods and technical verbiage to gain time and money and incidentally to prepare to fight their employes". Advance Advocate (May, 12, 1913).

9. Certainly his statements at times seemed to confuse compulsory investigation with compulsory arbitration. At other times he suggested investigation was the first step toward the governments eventual aim of compulsory arbitration. See for instance the statement to this effect cited in Canada, House of Commons, Debates, Mar. 11, 1907, p. 4512.

10. Verville hailed its contribution to the public good. He intervened repeatedly in the debates on this measure to counter the criticisms levied by the Conservative opposition. As examples, see Canada, House of Commons Debates, February 19, 1907, p. 3280; February 26, 1907, p. 3813ff.

11. For instance, representatives of the Toronto District Labour Council, a TLC affiliate, felt the claims of the men could be entrusted to a tribunal and accepted the need to consider the public interest in disputes resolution. Public Archives of Canada, William Lyon Mackenzie King Papers, Vol. C14, p.10022-23.

12. Ben Selekman, Postponing Strikes; A Study of the Industrial Disputes Investigation Act of Canada, (New York, 1927), p. 150.

13. Both statements are cited in Selekman, 1927, p. 150.

14. This extract from the T.L.C. resolution is cited in Myron E. Pierce, What Canadian Leaders and Representatives of Organized Labour Think of the Law for Industrial Peace (Boston, Massachusetts Association for the Investigation of Industrial Disputes, 1909?), p. 3.

15. Other prominent labour supporters of the Act include the Toronto Trades and Labour Council, and the United Garment Workers of Canada, whose representative to the National Civic Confederation convention in New York in December, S.L. Landers, declared it "the best measure yet enacted in the interests of capital and labour". Cited in Canadian Annual Review 1910, p.270, 272.

16. Toronto Globe, August 28, 1908.

17. These delegates lead by the United Mine Workers, the Brotherhood of Locomotive Engineers, the Winnipeg Street Railway Workers and Amherst Tailors condemned the measure as "detrimental to labour as a whole"; they sought not repeal but rather amendment to the act to prevent employer abuses. Selekman, 1927, p. 151.

18. A committee was struck to recommend needed changes. The following year, the committee reported and suggested that applications for boards be required of the party seeking changes to current working conditions. The refusal by business to seek any investigation, even if it was seeking changes in industrial relations, made labour repeatedly appear

recalcitrant if it rejected an unfavourable report after it had called for the board in the first place. Selekman, 1927, p. 151 ff. Penalties were requested for the use of the strike delay merely to maintain current conditions, through employer procrastination in selecting board representatives.

19. Pearce (op. cit.).

20. Letters to the Massachusetts supporters of such a law reflect widespread satisfaction with the early results, notably the prevention of many strikes and lockouts. See Pierce, (op. cit.), passim.

21. A small national labour organization, the Canadian Federation of Labour even favoured an extension of the IDIA beyond the limited public utilities field; it also favoured compulsory awards enforceable at law. However, this small group was increasingly alienated from the mainstream of Canadian labour thinking on the act. B. Selekman, "Nine years of the Canadian Act: The Experience of Compulsory Investigation and its application to the United States", The Survey, March 31, 1917, p. 746.

22. The President of the International Brotherhood of Maintenance of Way Employees noted an example of how even the threat of calling for a public investigation by a small railway union was sufficient to induce a Nova Scotia railway to come to a reasonable agreement with a previously ignored union on rates of pay and working conditions. Ibid.

23. Ibid, p. 747.

24. D. Campbell, Third Vice President of the Order of Railway Telegraphers, letter to Samuel Gompers, reproduced in an editorial in The Railroad Telegrapher, Vol.XXXIII, No. 12, (Dec., 1916), p. 1797-1801.

25. Toronto Globe Sept. 25, 1915.

26. As T.L.C. Secretary Lodge reported at the time: "It is those who through the strength of their organization, say they can win their cause who are opposed to the act. ... When, however, it is admitted that the act aids the weaker organizations, on the principles of trade unionism, the stronger organizations should favour any legislation which aids the weaker". Ottawa Citizen, April 8, 1916.

27. V.S. Clark, "The Canadian Industrial Disputes Investigation Act". Found in King papers (op. cit.), citation unknown.

28. Selekman, "Nine Years", p. 747.

29. Bob Russell, "State constructed industrial relations and the social reproduction of production: the case of the Canadian IDIA", Canadian Review of Sociology and Anthropology Vol. 24, No. 2, (May, 1987), p. 222.

30. Selekman, 1927, p. 173.

31. The minutes of the relevant meeting reveal the belief the measure was of little import to the members of this association. "After a very careful discussion of the general principles involved in it, it is the opinion of your committee that the Association should not place itself on record in any way in respect to this measure. Canadian Manufacturer's Association, Executive Council Minutes, Mar. 21, 1907 p. 232; Public Archives of Canada, Canadian Manufacturer's Association Papers, MG 128, I 230.

32. Paul Craven, An Impartial Umpire (Toronto, 1980), Chapter 9.

33. Myron E. Pierce, Canadian Views of the Industrial Disputes Investigation Act (Boston, The Massachusetts Association for the Investigation of Industrial Disputes, 1909?), p. 3.

34. Pierce, "Canadian Views", p. 3-4.

35. Pierce, "Canadian Views", p. 4.

36. Those who represented business on the boards praised the act because the publicity generated ensured that "neither side can assume arbitrary and unreasonable positions such as were frequently taken before the law was in force". Pierce, "Canadian Views", p. 8.

37. The law "provides a platform for broad and unfettered discussion, where each party feels a freedom of individuality that, in itself, tends to conciliation and to the creation of a mental atmosphere that inevitably makes for good will and mutual understanding". Pierce, "Canadian Views", p. 9.

38. Pierce, "Canadian Views", p. 7-8.

39. Selekman, "Nine Years", p. 746.

40. Builders Exchange of Montreal, Annual Report, cited in Public Archives of Canada, William Lyon Mackenzie King Papers, Vol. C14, p. 9642. The exchange was also critical of American influences on the union movement.

41. Pierce, "Canadian Views", p. 6 . See the examples of the Canadian Pacific Railway strike and the Nova Scotia coal miners strike of 1908, which went in the employers' favour after union rejection of board recommendations.

42. Bradley Rudin, "Mackenzie King and the Writing of Canada"s (Anti) Labour Laws", Canadian Dimension, (January, 1972), p. 43.

43. Paul Craven, An Impartial Umpire (Toronto, 1980)

44. Christopher Huxley, "The State, Collective Bargaining, and the Shape of Strikes in Canada", in Grayson, p. 169. See also Leo Panitch, The Canadian State (Toronto, 1977), p. 19.

45. Stuart Jamieson, Times of Trouble: Labour Unrest and Industrial Conflict in Canada, (Ottawa, 1968)p. 52-53.

46. Russell, 1987, p.222.

47. See the opinion of W. Baker, "The Miners and the Mediator", Labour/Le Travailleur 11 1983, p. 59-117; cited in Ibid, p. 216.

48. Another category of public official well laced to judge the merits of the act were the chairmen of the boards of investigation themselves. These persons were generally well disposed towards the investigative process and supported the voluntary enforcement of the awards as against proposals for compulsory arbitration. In one well expressed sentiment: "We can point a sinner to the cross but we cannot make him accept the saviour" Pierce, 1909, p. 12.

49. This measure is considered at the start of the following chapter.

50. Public Archives of Canada, William Lyon Mackenzie King Papers, Vol. C14, Industrial Disputes Investigation Act, 1907 (No. 5), p. c100043, ff. contains numerous copies of and quotes from American commentaries on the topic, such as Ely's Evolution of Industrial Society, Gilman's Methods of Industrial Peace, Adam"s "Compulsory Investigation" pamphlet, Roosevelt's message to Congress, and other studies and commentaries. Gilman's thoughts closely parallel King's respecting the need for protection of the public interest in disputes involving vital transportation or other enterprises which "should be more subject to public control in respect to labour relations. The two parties have no proper claims to be 'let alone to inconvenience the public as much as they see fit. If they will not of themselves continue to supply the service incumbent upon them,,the state should present to them the acceptance of forfeiture of charter or other privileges, or the acceptance of working rules imposed by a government board". Ely also felt that transport and utilities "belong in a ... class in which the social interest asserts itself most vigorously. Here, clearly, the interest of society is paramount, and the duty of preserving the continuous operation of those industries is like that of the prevention of crime.... in those particular cases we

should have courts of conciliation and arbitration, with adequate powers to settle disputes without a recourse to private industrial warfare. Ibid, p.10053-10056.

51. He noted the example of a prior investigation undertaken in a dispute between Bell Telephone and its operators by Mackenzie King; his public report in favour of the operators had induced the company to capitulate in the face of public opinion. Macdonnell declared: What power had these girls, unorganized and unassisted, with no means of keeping up a strike, to make a contract on the basis of freedom of contract, with a powerful corporation like the Bell Telephone Company? Where public opinion was brought to bear on the situation for the first time was there an approach to an equality between the parties in the matter of freedom of contract." Canada, House of Commons, Debates, 1907, p 3357- 58.

52. Conservative party critics contended the law "needlessly encroach[ed] on the liberty of the subject" since it deprived workers of the universal right to leave work under intolerable conditions. Debates p 3342; 3278-80.

53. Victor S. Clark, "The Canadian Industrial Disputes Act" (Article Found in King Papers, Vol. C14).

54. Marcus M. Marks, "The Canadian Industrial Disputes Investigation Act", Annals of the American Academy of Political and Social Sciences, Vol. XLIV, No. 133 (Nov. 1912), p.2 Noting the "moral obligation of both company and men to give uninterrupted service" in key public services, he averred that both parties should come to recognize the benefits of a similar American statute. Ibid, p. 6.

55. Ibid, pp. 7-9.

56. Samuel Gompers, "Mr. Marks `Comes Back': So Do We", American Federationist Vol.XVII No.2 (Feb., 1911), p. 108-112.

57. A.B. Garretson, "The Attitude of Organized Labour Towards the Canadian Industrial Disputes Investigation Act", Annals of the American Academy of Political and Social Science, Vol. LXIX, No. 158 (Jan. 1917), p.170-72.

## 12 U.S. Railway Labour Legislation

### a) Early Congressional Action

The first target of U.S. federal industrial relations law was the vital railway sector, where industrial disputes threatened to interfere with the flow of interstate commerce. The first tentative step followed costly strikes in the 1880s. The Railway Arbitration Act of 1888 allowed the President to set up a commission to report on railway labour disputes, and to appoint a board of arbitration where both parties accepted it. However, the act saw little use in the ten years it was in force; the lone report submitted under it, into the lengthy and bitter Pullman strike of 1894, did little to promote a settlement. The weak position of railway unions at that time lessened the prospects for success, as they were rarely sufficiently organized to request investigation or arbitration.[1] Investigation alone was seen as of little usefulness and the unwillingness of parties to accept arbitration led to demands for a more adequate legislative framework for disputes' settlement.

The response of Congress in 1898 was the Erdman Act, which established machinery for federal participation in disputes' settlement for the railways. While the right of unions to organize was not granted, the statute did outlaw discriminatory discharge for union activities and prohibited individual non-union (yellow dog) contracts. Procedures were established for the use of mediation and arbitration boards, composed of equal numbers of labour and management representatives, set up at the request of either party by the federal Commissioner of Labor and the Chairman of the Interstate Commerce Commission. These mediators could not take the initiative, and the investigation and publication aspects of the former law were dropped. Arbitration was employed if both parties agreed, and the statute prevented any change in the status quo pending the arbitrators' award. Once an award was accepted any party seeking a change was enjoined to give thirty days' notice.[2] The Act was constitutional insofar as it provided for

voluntary acceptance of the awards, since binding arbitration was held to be a violation of private property rights at that time.[3]

b) Union Responses to Federal Policy

Labour organizations were mixed in their reaction to the Act. The four Railway Brotherhoods, representing conductors, trainmen, engineers and firemen, "distinctly, if not enthusiastically, favoured this step toward government intervention. Some of their spokesmen went so far as to endorse compulsory arbitration".[4] As with their Canadian counterparts, this position reflected the weak bargaining position of the brotherhoods in this early period. As Burnheim, Van Doren et. al. argue:

> Arbitration is likely to be favoured by the weaker party to a dispute. The unions were clearly the weaker party during this early period, and felt that they had nothing to lose and much to gain from government intervention.[5]

Samuel Gompers attributed this support for state action to the fact these brotherhoods were "then weak organizations with little of the promise of their present [1920s] splendid strength".[6]

Gompers maintained his staunch opposition to compulsory arbitration which he termed "involuntary servitude". But the AFL was forced to study the measure when the railway brotherhoods took a supportive stand. A legal opinion obtained in early 1897 indicated dangers in the Act, since although penalties of imprisonment were excluded, unions or individuals undertaking strike action against the award of arbitrators could find themselves liable for sequestration of assets and civil suits. Despite the weak powers of the arbitrators respecting subpoenas of witnesses and evidence, the enforcement provisions were considered "dangerous to the very existence of labour organizations".[7] Prohibition on the ability of a worker to leave employment within three months of an award, without giving thirty days notice was considered "restrictive of individual liberty ... of the grossest possible character".[8] The measure could also be used by business to

delay settlements, since they could appeal arbitrators awards on grounds of "errors in law", thus allowing maintenance of existing conditions of employment, and weakening union ability to promote members' interests.[9] The restriction on employer dismissals and union strikes and boycotts pending arbitration were considered inequitable, since the former was readily evaded and the latter so sweeping as to preclude strikes on grievances unrelated to the arbitration.[10]

These advisors' final assessment was that the Erdman Act was:

> likely to prove prejudicial and even disastrous to labour organizations submitting themselves to its provisions. In addition it sanctions serious violations of the natural right of men to surrender distasteful employment and seek occupation elsewhere. We regard the bill as dangerous in its tendencies to the extreme.[11]

The AFL leadership considered the final bill "adroitly drawn" so as to secure labour support "in forging their own shackles".[12] A special committee at the Cincinnati convention of 1898 responded by recommending A.F.L. rejection of the measure "on the ground that the proposed law contained provisions for enforcing the award"[13]; the committee declared: "Any law which will compel men to work within these United States against their will is subversive of the fundamental principles upon which the Republic is founded"[14].

The railwaymen sought competing legal advice to confirm that the law would not require workers to work against their will. Gompers was unmoved.

> I saw in the proposal to establish arbitration carrying any degree of compulsion a blow at the fundamentals of voluntary institutions which to my thinking are the heart of freedom. I felt we had to keep open opportunities for freedom and initiative. All worth-while achievement is based on the progress of individuals.[15]

Initially the AFL leaders believed an entirely new bill would be required to meet their concerns, ensure equitable treatment of union and other organizations, and avoid infringing on the right to quit work. They hoped that new research as to its implications would persuade the Railway

Brotherhoods to alter their opinion, and join in a united effort to defeat the bill.[16] The American Federation of Labor inveighed against the act with strong rhetoric:

> The Erdman Arbitration Bill ... is a piece of legislation destructive of the best interests of labour, ruinous to the liberties of our people; a step in the direction for the creation of an autocracy or an empire on the one side and a class of slaves or serfs on the other. Against such a condition of affairs the whole sentiment - the entire interest - of the wage workers should be directed.[17]

But the intransigent railway brotherhood's support for the Erdman provisions forced Gompers to compromise, as he was seeking to induce the railwaymen to affiliate with the AFL. Continued consultation and reflection produced a greater commonality in outlook, as the AFL leaders acknowledged the superiority of arbitration over strikes. After sounding the initial warning the AFL suspended its outright opposition and trusted the Brotherhoods would eventually acknowledge the error of supporting a flawed measure.[18] Gompers concentrated on preventing the extension of the Erdman provisions to other transportation sectors, notably shipping.[19]

c) Business Responses

Railroad executives, sensing the advantages for unions in securing a hearing via the arbitration provisions, resisted the adoption of the act[20]. Although the roads had frequently turned to the state for coercive assistance against potentially successful union action in the past[21], state intervention was now rejected as an "intrusion on their prerogative of determining what [a railroad] could afford to pay its employees"[22]. The major roads resisted efforts to apply the new law to demonstrate its impotence without their cooperation. Since both parties had to agree in order to bring the machinery into action, the railroads could easily negate the law by refusing to cooperate; in the early years, few disputes went to arbitration. Prosperity led to a period with few strikes, during which the railways could afford to pay workers well and forestall disputes.

Later, as the industrial balance of power shifted, the employer attitude altered. In Risher's words:

> Whereas, when the Act was passed the carriers refused to allow federal intervention, the steady growth of of the railroad brotherhoods convinced the industry that direct tests of strength were perhaps no longer the most advantageous method for settling disputes.

Railroads increasingly called for mediation and arbitration if direct negotiations failed.[23] In part, this resulted from the railroad unions' virtual monopoly of skilled labour. It also reflected a broader willingness of employers to accept government mediation of industrial disputes, as advocated by organizations like the National Civic Federation[24].

However, some employers were dissatisfied with American arbitration techniques and looked favourably upon the Canadian model, especially the strike delay provisions of the Lemieux Act.[25] Others felt a more permanent board of arbitration would be superior to the ad hoc committees formed from representatives of the interested parties, which could not demonstrate sufficient impartiality or detachment from the particulars of the case in question.[26] Distrust of the state as arbiter remained, especially given its openness to popular influence, since unionists were a more important electorate than railway management.[27] Employers never accepted the anti-discrimination clauses of the Erdman Act, which had made it an offence to use "yellow-dog" contracts[28], or to discriminate against union activists in hiring and firing. These provisions were resisted through the courts, where they were dismissed as an unconstitutional violation of freedom of contract.[29]

d) Evolution of Group Attitudes

The railway unions' attitude towards the Erdman Act varied, like Canadian response to the IDIA, with their economic power[30] and their experiences under this law. Unions showed strong support, owing to favourable rulings between 1907 and 1910. As union strength increased in later decades, the Act became a potential hindrance to their bargaining power.[31] An adverse arbitration in the important engineer's strike of 1912 produced increased scepticism in

these brotherhoods[32]. The engineers' battle "provided the railroad unions with a test of their organized strength and led them to realize that the aid of government was something to be sought only as a last resort".[33] Scepticism had also been heightened by court rulings negating anti-discrimination clauses of the Act.[34] When Congress considered a new act, the Newlands bill, the brotherhoods beleived many of the issues of wages and conditions involved in labour disputes were matters of sharp class division; a result agreeable to labour was unlikely to be achieved via arbitration, especially given the questionable objectivity of the supposedly neutral third parties. W.S. Carter, President of the Brotherhood of Locomotive Enginemen and Firemen, testified to the Congressional committee: "[a]fter years of experience under arbitration, I have reached the conclusion that a labour question is not arbitrable if the workingmen hope to secure justice in the results." [35]

Although eventually joining the railroads in supporting the Newlands machinery - which allowed the larger mediation boards to act on their own initiative[36] - the railway unions became increasingly dissatisfied with arbitration and challenged the supposed neutrality of the arbitrators. Discontent reached new levels when the railways refused to accept arbitration on the eight-hours controversy in 1916; entry into World War I, and the resultant strong bargaining position of transportation unions only reinforced this dissatisfaction. Meanwhile, the carriers, having accepted state action to lessen union pressure during successful strikes, steadfastly resisted government regulation of hours, conditions and minimum wages, which the unions increasingly sought. In this, they received the support of other employers' associations, such as the National Association of Manufacturers and the National Metal Trades Association, which saw state action on the railways as a disturbing precedent which could later be extended to other private industries.[37]

e) Government Control and Labour Advances in World War I

The federal government took control of the railways to avoid labour unrest in the midst of international conflict. The greater role of the state in railroad labour matters during the war proved an important watershed. The U.S. Railroad Administration enforced standard wages, working conditions, and safety regulations, promoted settlement of disputes by boards of adjustment under government supervision, and ensured "the right of self organization of workers without discrimination"[38]. Union growth in the railway sector was dramatic and wage gains were made without recourse to frequent strikes. Naturally, this approach secured the support of railway unions and eroded, for the time being, their opposition to state action.

The question of the proper role of the state reemerged once the conflict was over. Railroad managements "resented what they conceived to be encroachments on their field of authority"[39] and pushed for a return to private management, attacking the alleged inefficiencies of public stewardship.[40] Labour resisted, declaring in favour of at least a temporary retention of government control. In an unprecedented move, the AFL expressed support for state ownership, and backed the Plumb Plan which would have extended federal ownership for a two year trial period.[41] At successive annual conventions, the Federation adopted resolutions supportive of the railway brotherhoods' fight to retain beneficial state regulation; these were adopted after vigorous opposition from more traditional voluntarists in the federation.

f) Transportation Act, 1920

Congress proved responsive to business demands, and private ownership of railways was restored in the Transportation Act of 1920. The prevailing anti-labour attitudes of these years, fuelled by the "red scare" and business desire to roll back labour's wartime gains, influenced this legislation. The Act created the Railroad Labor Board, designed to adjudicate deadlocked disputes.

This was antagonistic to labour, since it involved compulsory arbitration. Union anger was increased by what were seen as "anti-labour" appointees to this board under the Republican President, Warren Harding. Key rulings respecting non-union contractors, and company unions went against the unions. This culminated in the railway strike of 1922, in which the Board urged the use of strikebreakers, and condemned strikers as law-breakers. The Attorney General's use of an injunction prohibiting striking or its encouragement marked the low point in the Railroad Brotherhoods' relations with the federal state and encouraged increased union political activity.[42]

Union pressure was responsible for a review of the Railroad Labor Board and the introduction of legislation for its replacement in 1925. The attitude of business towards these proposed revisions is instructive. The purported anti-statism of such interests was absent in this case, since the existing Board had served the carriers well. Thus, the railroad executives generally wished to maintain and strengthen the Board, to offset the powerful bargaining position of the Railroad Brotherhoods. Alfred P. Thom, General Counsel for the Association of Railway Executives, stated this body's support for the Railroad Labor Board: "whatever is done in respect of a method of adjusting labour disputes, the propriety and necessity of giving to some public authority effective participation in reaching results should not be lost sight of"[43] Although critical of intervention by the state in matters of railway mergers, line abandonment and other management prerogatives, these executives favoured strong state intervention (called public representation) via boards of adjustment to ensure that "coercion" would not be brought to bear on negotiations through strike action.[44]

g) <u>The Railway Labor Disputes Act, 1926</u>

Eventually, railroad managers recognized the loss of credibility of the existing Board and the need for changes. Daniel Willard, President of the Baltimore and Ohio Railroad, noted the Board could not gain the cooperation of

the Brotherhoods and could not function adequately without it.[45] And the Association of Railway Executives did cooperate with the Coolidge administration and the railway unions in drafting the Railway Labor Disputes Act of 1926[46]. This seminal bill for the first time required that attempts to reach labour-management agreements in railway disputes must be made via collective bargaining between the two parties[47]. Employers were prevented from interfering in the selection of worker representatives. Unenforceable arbitration was replaced by government sponsored mediation; emergency boards ordered by the President were empowered to impose solutions in any deadlock threatening to cripple vital transportation services in any part of the country. New procedures to delay strike action for 30 days or more during investigation by a Presidential Commission introduced a government sponsored restriction on the right to strike which was accepted by labour representatives; American unions for the first time conceded the advantages of state intervention in disputes settlement reminiscent of the Canadian IDIA procedures.[48]

While many railway executives did not like the changes, the Association of Railway Executives did support adoption of the Act. Although it was not ideal, union willingness to exhaust peaceful remedies before strike action was considered a significant advantage. In exchange, the executives accepted the unions' right to be represented by negotiators of their own choosing and a guarantee of collective bargaining aimed at resolving disputes without strike action. The employers also accepted an overall reduction in the degree of state involvement in dispute resolution. Provisions called for voluntary boards of mediation and arbitration, if desired by the parties; only in event of deadlock in emergency could the President intervene to create a government board.[49] This arrangement, and particularly government enforcement of a strike delay during emergency investigations, ensured the state a strong presence in the settlement of emergency disputes in this vital sector. However, the two parties essentially had negotiated a return to a more voluntarist approach to

disputes' resolution, with settlements reached independent of the state (except for emergencies), until the binding enforcement of final agreements.[50]

Other business organizations like the National Association of Manufacturers and the National Farm Bureau Federation condemned the act, for its alleged failure to protect the public interest, since it eliminated the automatic intervention of the state via the Railway Labor Board. Naturally, these groups feared that a cooperative labour relations regime on the railways could lead to increased freight rates, as labour and management conspired to pass exorbitant wage hikes to shippers. James Emery of the NAM criticized the failure to give government commissions power to summon papers and witnesses or to overrule undesirable private wage settlements. An interventionist proposal was offered: "power should be lodged somewhere to suspend and if necessary modify agreements reached by railroads and employees which might be considered prejudicial to the public interest".[51] Where their own monetary interests were at stake, employers' associations were thus not hesitant about inviting the state to intervene; this position must be contrasted with the associations' opposition to state intervention in disputes in manufacturing industries.[52]

h) <u>The Emergence of American Interventionism</u>

Thus federal government responses to industrial relations problems on the American railways oscillated over time. This reflected in part the shifting political and economic strength of the Railway Brotherhoods. State responsiveness in the late nineteenth century after serious labour conflicts was succeeded by indifference, and possible anti-union bias in the administration of the Erdman act. Union strength in World War I led to the most sympathetic administration, as crisis conditions required measures to placate labour. After the war, as normalcy and the declining economic health of railroads undermined the union position, the state resumed a hostile role, facilitating privatization and the enforced reduction of

wartime wages. After unions reacted with a political organizing drive, the Republicans' recognition of labour's new political strength served to ensure passage of the act of 1926. Hence the American federal government appeared to be following a pattern of crisis concessions to labour followed by retrenchment during more "normal" periods.

As depression deepened in the early 1930s, the principles pioneered in railway labour legislation were gradually broadened to cover more of American industry. The American state moved in advance of Canada to encourage the acceptance of independent unions and regularized collective bargaining. These measures, supported by enlightened employers, proved distasteful to the majority. Managers, secure in their ability to run the affairs of the modern firm, resisted any efforts to increase the say of labour over the operations of modern companies. The modern mangers, relying on doctrines of scientific, welfare and personnel management, attempted to create internal mechanisms to meet workers' welfare concerns, wage and hour demands and shop floor grievances; most managers believed union organization should remain on a plant basis, to avoid the interference of outsiders.[53]

Naturally, this approach was condemned by union leaders, who criticized the lack of independence of such employee representation committees or company unions, and sought to extend their own memberships. Gradually, the unions secured government sanction for their viewpoint. The Railway Labor Act was itself strengthened to prevent the use of company funds to support employer dominated company unions, a device used to exclude bona fide independent trade unions. In 1932, the Norris-LaGuardia Act moved to limit the use of injunctions as devices to hinder labour organizing, or to avoid reasonable efforts to settle a dispute.[54] These enactments set the stage for the New Deal era, when the modern U.S. collective bargaining regime took shape.

## Notes

1. Wayne L. McNaughton, The Development of Labor Relations Law (Washington, D.C. American Council on Public Affairs, 1941).

2. Harold Metz, Labor Policy of the Federal Government (Washington, 1945), p. 27.

3. Karl E. Klare, Labor Law as Ideology: Towards a New Historiography of Collective Bargaining Law" Industrial Relations Law Journal Vol.4 No.3 (Fall, 1981), p. 450-82.

4. Alfred L. Burnheim and Dorothy Van Doren (eds.), Labor and the Government (New York, 1935), p. 175.

5. Burnheim and Van Doren, p. 175.

6. Samuel Gompers, Seventy Years of Life and Labor (New York, 1943), p. 133-34.

7. The vague enforcement provision stated that awards were to be "specifically enforced in equity so far as the powers of the court of equity permit, except that no person shall be punished for his failure to comply with the award as for contempt of court". Having excluded criminal punishment and imprisonment, the only remedy left in equity proceedings was considered to be sequestration, which, while a tolerable threat for a large corporation, could be damaging to the very existence of unions. See "Erdman Arbitration Bill: A Legal Opinion by Ralston and Siddons", reprinted in American Federationist Vol.III, No.12, (February, 1897), p. 250. The weak powers to compel the presentation of relevant evidence was seen by these legal advisors as a concession to the railways, which were unhappy about the powers possessed by arbitrators under the 1888 law, as used during the Pullman investigation in 1894. Ibid, p. 251.

8. "Ralston and Siddons", p. 251. They elaborated: "The proposition involved is this: if the officers of a labour organization, even against the will of the individual, submit a grievance to arbitrators under this appeal, then, however unjust the award, the member affected must, against his will, continue in the service, the conditions of which have become repugnant to him. We believe that this contemplates involuntary servitude in its baldest possible form, and is justly obnoxious to the thirteenth amendment to the Constitution".

9. "Ralston and Siddons", p. 251. Delays in court consideration could, "readily defeat the whole purpose for which the award is sought. ... it may therefore be the case that because of what is finally considered to be an error of law in the record, a year or more of

time will be lost and no result of any kind arrived at, the existing status having simply been preserved".

10. "Ralston and Siddons", p. 251. A committee reporting to the Cincinatti convention of the AFL also reported that under the bill " an employer can discharge a workman at any time, but the workman can not exercise a corresponding right to leave employment at any time. "Danger Ahead", American Federationist Vol.III, No.12, (February, 1897), p. 258.

11. "Ralston and Siddons", p..251-2.

12. "Danger Ahead", p. 257.

13. Gompers, 1943, p. 134.

14. "Danger Ahead", p. 258.

15. Gompers, 1943, p. 137.

16. "We are confident that if the officers of the railroad labour organizations had been fully aware as to the real purport, tendency and hidden purpose of the bill, they would never have given it their approval, and that now [after the unbiased legal opinion] ... they will be more than pleased to join us in the effort to secure the defeat of the present measure, or to bring about such changes ... as will give the wage workers of our country an opportunity to organize". "Danger Ahead", p. 258.

17. "Danger Ahead", p. 258.

18. "Look Before You Leap", American Federationist Vol.VI, No.1, (March, 1897), p. 9-10. The Brotherhoods would likely find that they "have labored very zealously and have in a large measure succeeded in creating their own 'Frankenstein'".

19. Gompers, 1943, p. 138ff.

20. The AFL claimed that employer silence on the measure was an ominous indication that it could bode ill for union interests. "Look Before You Leap", p. 10.

21. Terry M. Cooper, "The Army as Strikebreaker: The Railroad Strikes of 1877 and 1894", Labor History, Vol.18, No.2, (Spring, 1977), p. 179-196.

22. Howard J. Risher, Jr., The Impact of Technological and Operational Changes on the Railroad Industrial Relations System and its Manpower. Vol. I, Industrial Relations Research Unit, Wharton School of Finance and Commerce (Philadelphia, 1977), p. 150.

23. Risher, 1977, p. 152. Charles M. Rehmus, The Railway Labor Act at Fifty: Collective Bargaining in the Railroad and Airline Industries (Washington, National

Mediation Board, 1976), p. 5 notes how the period of non-cooperation lasted until about 1906, but from then until the act was replaced in 1913 employers increasingly relied on the act for mediation and arbitration.

24. Business attitudes towards mediation under the auspices of the Department of Labor (and via private sector bargaining arrangements, is discussed in John S. Smith, "Organized Labor and Government in the Wilson Era, 1913-1921: Some Conclusions" Labor History, Vol.3, No.3, (Fall, 1962), p. 265-86. Smith notes that as the results of mediation efforts proved satisfactory to business and reduced the length and costs of strikes, business opposition diminished and the number of disputes sent to arbitration escalated.

25. See for instance the comments of President Frederic A. Delano of the Wabash Railroad, who praised the Lemieux act provisions for mediation and use of government authority "to compel both sides to a dispute to desist from open hostilities until the matter has been fully ventilated and carefully investigated" as "an excellent thing". Contained in a letter to the editor of the Railway Age Gazette , reprinted in "Arbitration of Railway Labor Disputes": A Discussion ... (Chicago, 1912), p. 5. Interestingly, the element of time delay, so irritating to unionists concerned about diminished effectiveness of the strike weapon, was a principle advantage cited by this employer.

26. Ibid, p. 5, 6.

27. From and April, 1911 editorial in the Railway Age Gazette, cited in Ibid, p. 6.

28. This term refers to an individual contract in which the worker gave a pledge never to join a union as a prior condition of employment.

29. Rehmus, 1976, p. 5.

30. This link was acknowledged by a worker representative, P.H. Morrissey. He noted how unions had advocated arbitration under government auspices during the initial phase of organization when employer resistance was high and union ability to achieve results was lower. "The declarations of the employees' organizations almost uniformly went for arbitration during this time, in some instances going so far as to advocate compulsory arbitration, while as a rule the principle was denied by the companies" which felt well placed to resist union demands and saw no reason to be forced to accept compulsory arbitration. Later, with employee "organizations in a highly developed state, representing practically all of the employees of their respective classes, militant, showing in isolated cases an arbitrary disposition" but avoiding

arbitration except when public criticism of a strike is feared. The companies now favour arbitration to settle wage and other controversies. As he observes, "Arbitration is usually the hope of the weaker interest in a controversy" and union avoidance now reflects greater bargaining strength. P.H. Morrissey, President, American Railroad Employees and Investors' Association, letter to Railway Age Gazette April 14, 1911, Reprinted in "Arbitration of Railway Labor Disputes", (op. cit.), p. 6-7.

31. This reversal of attitudes was noted by the Railway Age Gazette in an editorial in April, 1911. "Formerly it was the managers who said that they had nothing to arbitrate and the men who insisted on arbitration. Now the managers have become converts to arbitration; and ... in spite of the fact that every recent arbitration has resulted in an increase of wages, the men refrain from proposing it, and commonly seek to avoid it when it is proposed by the managers. the change raises the query whether they feel that their cause is less just and justifiable than it used to be, or think that the ability of their representatives as negotiators has so increased that they have more to gain by dealing with railway officers directly than indirectly through boards of arbitration". Reprinted in "Arbitration of Railway Labor Disputes", (op. cit.), p. 6.

32. Joseph G. Rayback, A History of American Labor, (New York, 1959), p. 270 ff.

33. Burnheim and Van Doren, (op. cit.), p. 175.

34. This point is made by W.S. Carter, President of the Brotherhood of Locomotive Enginemen and Firemen; distrust of government based on past court rulings also made unionists fearful of compulsory arbitration. In his words, "when the courts dictated the wages and working conditions of working people they enjoyed but little greater privileges than those of serfs. The distinction between judgements of the courts and awards resulting from compulsory arbitration is not sufficiently clear to convince the working people that they should trust their future welfare, and the welfare of coming generations of working people, to what we have been taught to call "blind justice". Letter to Railway Age Gazette reprinted in "Arbitration of Railway Labor Disputes", p. 7-8.

35. "Arbitration of Railway Labor Disputes", p. 7-8.

36. President Carter had made clear the usefulness of optional arbitration and mediation as prescribed for by the Erdman Act which he felt had successfully averted costly strikes and promoted the interests of capital and labour alike. Mediation could result in concession and compromises. Carter, 1911, p. 8.

37. An excellent survey of the NAM position on such matters as eight hour legislation, child labour laws, and injunctions is found in A.G. Taylor, The Labor Policies of the National Association of Manufacturers (Urbana, Ill., University of Ill., 1927), Chapter VI.

38. Bernhiem and Van Doren, 176-78.

39. Bernheim and Van Doren, p. 178.

40. See the editorials found in the major trade publication of the day, the Railway Age. See for instance, Vol.68, No.1, (January, 1920), p. 4 ff.

41. See the editorial comments in American Federationist, Vol.27, No.2, (February, 1920), p. 178.

42. This period is detailed in Robert H. Zeigler, "From Hostility to Moderation: Railroad Labor Policy in the 1920s" Labor History, Vol.9, No.1, (Winter, 1968), p. 23-38.

43. Quoted in Robert H. Zeigler, "From Hostility to Moderation: Railroad Labor Policy in the 1920s" Labor History, Vol. 9, No. 1 (Winter, 1968), p. 33.

44. Railway Business Association, Sixty Ninth Congress; Handbook of Talking Points for Business Men on the Proposed Amendments of the Transportation Act (New York, 1925), p. 2. Respecting strikes, the association commented: "the nation is not willing that force or the treat of it shall enter as a factor into such adjustment" of wages and conditions.

45. Zeigler, 1969, p. 33.

46. Zeigler, 1968, p. 33-34.

47. In Zeigler's words, this bill "contained the first explicit congressional endorsement of the right of collective bargaining, thus at least theoretically protecting the railroad employees against employer coercion in their choice of representatives for collective bargaining". Zeigler, 1968, p. 34.

48. On this comparison, see H.D. Woods, in R.H. Wagenberg (ed), Labor, Business and Government in North American Society Proceedings of the 11th Annual University of Windsor Seminar on Canadian-American Relations, 1969 (Windsor, 1970), p. 26. American unions seemed less diligent in defending their strike right in this instance; certainly the Railroad Brotherhoods acceptance of this provision without contention from other unionists was at odds with the many Canadian complaints respecting the unfavourable consequences of an enforced delay for the strike weapon.

49. The provisions are summarized in Railway Age, (January 9, 1926), p. 224 ff.

50. Thus note the commentary of Department of Labor observers: "Nothing savouring of compulsory service or compulsory arbitration is countenanced by the act; but once a conclusion is reached by the processes therein provided for, it is to be final and binding on the parties". "Adjustment of Disputes Between Railroads and their Employers", Monthly Labor Review, Vol. XXII, No. 6, (June, 1926), p. 33.

51. Emery's testimony to the Congress was cited in Railway Age, (January 23, 1926), p.269.

52. Allen M. Wakstein, "The National Association of Manufacturers and Labor Relations in the 1920s" Labor History Vol.10, No.2 (Spring, 1969), p. 163-75; Norman J. Wood, "Industrial Relations Policies of American Management, 1900-1933", Business History Review Vol.34, No.2 (Spring, 1960), p. 403-420.

53. Stephen Scheinberg, The Development of Corporation Labor Policy, 1900-1940 Ph.D. Thesis University of Wisconsin, (Madison, 1967).

54. Harry Millis and Emily C. Brown, From the Wagner Act to Taft Hartley (Chicago, 1950), Chapter 1.

## 13 Depression and New Deal in the United States

### a) Employer Resistance to Union Organization

Recognition of the right of workers to organize and bargain collectively, without fear of interference by management was therefore reflected in U.S. laws from the late 1920s. However, the measures devised to that point were not entirely effective in promoting independent labour organization owing to the continued resistance of management to unionization. Some business leaders had moved away from the earlier adamant rejection of any form of collective bargaining[1], and sought orderly agreements and grievance resolution. But few accepted government sanction of a worker's right to select representatives in independent trade unions. Most companies preferred to establish company unions to forestall independent labour organization and maintain manageable worker representation free of the radical influences of "outside agitators". Resistance to legislative interference remained high and employers used whatever legal devices, and economic coercion they could apply to limit the spread of independent trade unions.

### b) National Industrial Recovery Act, 1933

Nonetheless, extension of union organization and bargaining rights was an important element in early New Deal legislation. The National Industrial Recovery Act of 1933 contained a provision, Section 7(a), which explicitly reiterated workers' rights to independent representation and organization free of employer discrimination; the Act seemed to give government sanction to the spread of unions. Not surprisingly, the measure drew support from the AFL and other unionists, as a positive contribution to labour rights to organize and bargain collectively[2]. This was particularly so after unions succeeded in securing amendements to prohibit company unions.[3] Endorsement at AFL conventions was initially enthusiastic, and complaints centred not on government intrusion into private relationships, but on the lack of

effective enforcement of the new labour provisions.[4] If some still expressed concern that government's new power could eventually be used to restrict worker freedom and union strength, most voluntarists could accept the Act. It strengthened union ability to negotiate in private bargaining with employers, and thus fitted into that class of supportive legislation which voluntarists had long considered acceptable. And the virulence of employer resistance to unionization, coupled with the unfavourable depression conditions, convinced many unionists of the need to seek government assistance to increase union ability to organize and confront management[5]. As with Canadian unionists, recognition of their weakness in relation to business convinced union leaders to accept government involvement.

A strong element among business still believed independent unions would mean disaster, and resisted adoption of Section 7(a) by Congress. Business leaders certainly did not want any changes which would disrupt existing relations with workers and require acceptance of "outside" unions. Critics from the National Association of Manufacturers derided this "forced acceptance of the closed shop" as a "congressionally assisted union membership drive"[6]. Only a few business leaders publicly departed from the NAM viewpoint. It has been suggested that business opposition represented a reactionary rearguard action by small businesses unable to meet the wage demands of strong unions. However, the NAM by that time represented mostly large manufacturing concerns, of the type deemed most "progressive"; clearly the business mainstream saw harm in any government sanctioning of increased unionization.[7]

Despite these protests, the business community was not seriously concerned about the final content of 7(a). Rival proposals current at the time - for a thirty hour week (with no reduction in pay) to combat unemployment, or permanent state economic planning - were certainly more dreaded[8]. Many business leaders wanted some form of collective bargaining to force recalcitrant wage slashers

into line, so wage rates and prices could be stabilized and cut-throat competition eliminated; wage stability could also undermine the arguments of union organizers peddling independent organization as a guarantee against unpredictable wage reductions.[9]

In addition, "from management's standpoint the final version left ample opportunity to avoid dealing with trade unions. 'Labor Organization' [the phrase used] was broad enough to include trade unions, unaffiliated independent unions and company unions".[10] Business merely had to ensure that the measure was not interpreted stringently to exclude company unions. Business could also see the political advantages of including 7(a) to balance the concessions made to business via the suspension of anti-trust.[11] Since either direct repression or labour revolt presented untenable and undesirable alternatives, "[r]ecognition of trade unions by Section 7(a) would [hopefully] appeal to the interests of the established union bureaucracy which could then control any attempt at militancy by the rank and file".[12] Hence business leaders concentrated thier efforts on resisting stronger provisions[13].

But business certainly hoped to avoid the implication that 7(a) eliminated the open shop or forbade the use of company unions and insisted that the provisions did not require acceptance of "radical" AFL organizations. Business conducted a campaign of resistance to independent unions which led to violent strikes and fuelled the spread of company unions, perhaps the greatest immediate effect of 7(a). Whenever the National Labour Relations Board sought to intervene against recalcitrant employers, injunctions were sought to delay recognition proceedings, often effectively thwarting organization bids. To be sure, even the granting of rights to form into company unions potentially generated worker contact and solidarity which later could be turned toward independent labour activity. However, the conservative strategy of the AFL leaders, as concerned to prevent the spread of dual or industrial unionism as of company unions, contributed to a failure to take full advantage of the provision, since its usefulness

in organizing newer mass production industries was minimized. The NIRA regime was therefore not a serious threat to business as usual in industrial relations; although in the long term, the impetus to organization provided by company unions may have fuelled labour demands for independent unions.

Some observers believe the progressive administration of Franklin Roosevelt was responsible for the labour provisions of the NIRA. Having opted to promote economic recovery via the suspension of anti-trust, the administration sought to balance matters by strengthening unions to act as policemen of the labour dimensions of ensuing trade agreements[14]; the executive branch may also have sought to encourage labour electoral support for Roosevelt by extending these important concessions[15]. But, by other accounts, Roosevelt was unenthusiastic about direct use of government auspices to encourage union organization, preferring to leave organization to private union efforts and to provide protection for union rights once recognition was won in private dealings.[16]

Once the labour provisions were incorporated into the NRA, the administration position was ambiguous:

> [o]fficially it stood committed to the program of self-organization announced in 7a. But in administering 7a, it could not outrun the actual power situation. Where labour leadership was strong, as in coal and the needle trades, 7a benefitted labour. Where labour leadership was weak, as in steel or automobiles, 7a could not make up the deficit. ... In practice, government became less the impartial administrator of a law than a battleground of conflicting forces, some favouring the rise of an independent labour movement, others reflecting the apprehensions of the employers.[17]

Disappointment with enforcement led to creation first of a National Labor Board and later a National Labor Relations Board to oversee cases. Rivalries developed between the National Labor Relations Board, in charge of immediate proceedings in disputes over recognition and bargaining rights, and the National Recovery Administration; the latter overarching body adopted a more conservative approach to collective bargaining which

hampered the extension of government intervention in recognition elections and facilitated employer resistance to the spread of trade unions[18]. The National Labor Relations Board saw its jurisdiction eroded by combined resistance of business and the NRA; "the board had no effective means of forcing an unwilling employer to comply", an acute problem since "much of industry simply refused to cooperate"[19]. The uncertainty of the administration rendered it unable to resolve these problems.

c) Development of the Wagner Act

The declining enforcement of 7(a) was eventually reversed not by administration action but by congressional response to labour pressure. Led by Senator Robert Wagner, Congress acted to give labour not only paternalistic social security but also the ability to assert itself in collective bargaining with employers. Considering labour's right to organize as essential to democracy, Wagner also expected increased bargaining power to lead to a fairer distribution of the fruits of production throughout society. This would result in a healthier economy, since the tendency to overproduction would be cured if purchasing power were more widely diffused. Economic peace, obtained through a reduction of costly disputes over union recognition, would also contribute to industrial recovery.[20]

Wagner hence introduced a measure which would enforce effectively the proscriptions on employer interference with labour organization and encourage the regularized resolution of recognition strikes. This bill affirmed the workers' right to independent organization, outlawed discrimination against activists, provided for majority selection of representatives of an entire bargaining unit in free elections, required good faith bargaining by employers with representatives so chosen, enjoined employer subsidies for company unions, and established permanent boards to resolve disputes over recognition. Wagner's approach used the state to ensure increased effectiveness of the private bargaining process: Schlesinger suggests

this represented a departure from the New Dealer's paternalistic progressivism, which "thought instinctively in terms of government's doing things for working people rather than of giving the unions power to win workers their own victories"[21]. The act represented a qualitative change in the role of the federal government in labour matters: "Government shifted from what was essentially a laissez-faire position (intervening mainly to prevent violence or major economic disruptions) to the role of rule-maker and umpire in the collective bargaining game".[22]

d) Union Response

Since it reinforced union bargaining strength, the measure drew support initially from the AFL.[23] This union watched with dismay as enforcement of NIRA proved ineffective.[24] Union spokesmen echoed Wagner's call for the strengthening of union bargaining power to increase wages and promote economic stability.[25] Most importantly, the Act forbade employer interference in union organization, by coercion, persuasion or financial contribution; this measure was welcomed as a means of displacing the dreaded company unions. Labour leaders also supported the enhancement of democracy inherent in the guaranteed selection of representatives by majority vote[26]. The experience under 7(a) coupled with increased employer resistance to unions had convinced many that there was something to be gained from government intervention to ensure union recognition[27].

The supportive attitude of the National Labor Relations Board in matters of recognition and prevention of discrimination against unionists were reassuring to a union movement accustomed to distrusting state agencies[28]. But the AFL recognized the inadequacy of existing legislation: "There were loopholes in procedure that enabled every employer unwilling to concede labour the right to organize to carry Board decisions into the courts and thus secure delays effectively defeating the purpose of section 7 (a)".[29] When the NLRB ultimately proved unable to effectively overcome such employer resistance, the AFL

became committed to the Wagner plan. New legislation was essential to correct the unbalanced enforcement of NIRA since increased employer organization had not been matched by adequate unionization.[30] The legislation was also seen as a corrective for the natural imbalance in bargaining power between labour and business in a capitalist system.[31]

The AFL's acceptance of stronger state regulation of industrial relations did indicate a move away from earlier staunch rejection of government intervention. In Bernstein's words, "the AFL was now firmly committed to legislation, voluntarism, like last year's bonnet, being cast into discard".[32] Some AFL spokesmen even seemed sympathetic to calls for wider redistribution of material wealth, albeit in an American capitalist framework.[33] The Wagner bill was seen as a "constructive statement of the fundamental principles which motivate the workers in their struggle to realize the rights which ... are essential to build up an approach to justice in our system of wealth production and distribution"; opponents of the proposal were condemned as opposing "freedom".[34]

But wariness of government remained[35]. The Federation intended to ensure that "the extent of federal intervention was restricted to effective guarantees of freedom to organize and bargain collectively, leaving determination of the substance of both processes in the hands of the parties directly concerned."[36] In addition, the AFL leaders sought to obtain a strong position in the enforcement and administration of the new legislation, so that they could influence its implementation and impact.[37] The AFL proposals "reflected a specific attempt to safeguard the freedom of the established national unions to formulate their own organizing strategy and ... [to protect] established rights", particularly against new industrial unions seeking to expand into traditional AFL domains.[38] The "unprecedented authority the bill gave to a public agency, though perhaps unnerving, seemed a necessary price to pay to overcome employer intransigence."[39] But the AFL was determined to influence the direction of use of this new found power; there was

particular concern once it became apparent that the aggressive organizing tactics of the rival Congress of Industrial Organizations were assisted by the Wagner provisions.

e) Employer Opposition

Employer associations, saw Wagner as a radicalization and extension of the disagreeable elements of 7(a). The legislation "was opposed by organized industry with a force and fervour and expenditure of funds perhaps unparalleled".[40] Led by the National Association of Manufacturers, the business community fought against the measure from Congressional committee until after enactment. The act was attacked on constitutional grounds[41] as unwarranted interference with the freedom of contract between employers and individual workmen.[42] Employers were critical of the restrictions on company unions, which were considered a limitation on the free choice of employees.[43] They also attacked the closed shop and majority rule provisions, seen as impositions on the rights of minorities.[44] They scorned the duty to bargain provisions as a "pious wish", and as inappropriate for legislative action.[45]

Spokesmen criticized the bill's apparent failure to impose any restrictions on union coercion of prospective members or threats against employer property, to match the specific prohibitions on employer interference, intimidation or discrimination. The Commercial and Financial Chronicle called it "one of the most objectionable, as well as one of the most revolutionary pieces of legislation ever presented to Congress." It would invite "unions to use without restraint or responsibility, the most dangerous weapons of social coercion".[46] Accordingly, business conducted an increased campaign of resistance to unions, resorting to legal devices,[47] strikebreakers, intimidation, spies, discrimination, use of vigilantes and incitement to violence.[48]

There were a few progressive business leaders who

supported the strengthening of NIRA's labour provisions. In testimony on Senator Wagner's proposed amendments, Wood F. Axton, a tobacco industry spokesman, argued:

> My experience has convinced me that organized labour is a great constructive force in the betterment of economic growth .... the application of this philosophy has made consistently for the betterment of conditions of employment and progress of my company.

Established unions were a stabilizing force, for Mr. Axton continued, they "prevented agitation from the outside and radical agitation from the inside". The unions and collective agreements prevented the constant raising of trivial complaints by individual workers or agitators and regularized the raising and resolving of grievances.[49] Citing U.K. experience with strong unions, which did not make British industry "socialistic", H.M. Robertson hoped "the proposed bill will facilitate the organization of labour to the ultimate benefit not only of the workers but of industry itself"[50]. R.G. Wagenet, Director of the New York Building Congress, declared: "the Wagner bill, by establishing equalization of bargaining power will mean more stable management for American industry" and will reduce costs for security against violence and upheaval.[51] These were voices of a small minority and were not echoed by any of the major business organizations.

f) Evolution of Attitudes and Policy

Attitudes towards state action had therefore reversed since the railway labour amendments of the 1920s. The labour unions had come to see the federal government as a potential ally in efforts to extend their organization. The actual gains to labour may have been limited since enforcement again left something to be desired; ultimately the benefits accrued only to rather conservative labour organizations, who may have gained at the expense of more radical, politically motivated or class conscious alternatives. But the perception of these representatives was at least temporarily positive.

On the other hand, business had become less enamoured of the state and its impact. If the deradicalization

attained by the Wagner provisions was ultimately beneficial to capitalists, some businessmen could only see the inconvenience of dealing with any outside unions, let alone ones whose power was strengthened with the aid of the federal administration. Clearly, in this moment of crisis, the state had temporarily moved away from its customary adherence to the wishes of prominent employer groups, and acted contrary to the expressed wishes of some business sectors[52]. It would only be with hindsight that the benefits of Wagner would come to be appreciated, and this only after alterations in favour of business, after the emergency and threat of radicalization had subsided.

This alteration in positions reflects the ideological inconsistency of these two important interest groups. Rather than judge according to any consistent idea of the proper sphere of government, business and labour positions reflected an assessment of the immediate impact of labour legislation on their own interests. This is borne out in the labour case, since the AFL position became less supportive after it became clear the Wagner Act had assisted in the spread of the industrial unions. The Congress of Industrial Organizations, which broke from the AFL in 1935, quickly became the most significant rival for labour loyalties to have appeared in decades. The willingness of the NLRB to intervene in recognition disputes between AFL and CIO affiliates made the AFL wary of the usefulness of Wagner provisions, since recognition elections often went in favour of the aggressive organizers of the new rival.[53] The NLRB explicitly rejected the jurisdictional boundaries (i.e. crafts) which the AFL considered sacrosanct. Leading Board members urged organized labour to consider the new industrial model as a possible unit of labour representation which would keep pace with the changing nature of American industry. The spectre of government interference with the rights of existing unions seemed set to become reality as the NLRB used its authority in a manner which encouraged new unions to challenge AFL affiliates. The Wagner Act sparked a remarkable period of industrial union

expansion: "without government support, unionism and collective bargaining in the mass production industries would not have taken hold in a period of mass unemployment. ... The New Deal government ... provided the decisive counterforce to the corporate resistance, which was powerful and bitter".[54]

As the CIO scored increasing victories in recognition disputes, AFL spokesmen could be heard among the critics of the Wagner Act, and advocated reforms to reduce its potential use to displace existing AFL union locals through new recognition elections. Some AFL spokesmen began to demand repeal of the Act or to support claims of its unconstitutionality. As Dan Tobin phrased it: "[b]etter to fight the antagonisms of the employers against organizations of labour than to have the power and the machinery and the right of labour to settle its own disputes within itself, destroyed".[55] Condemning the "excessive readiness" of some unionists to endorse government action, the AFL conservatives did not regard legislation as a cure all. Mirroring the Canadian unionists' view of IDIA, "they did not deny the value of legislation but insisted that it should be used only when labour's bargaining power was ineffective".[56] Not surprisingly, the CIO did not join in this complete condemnation of Wagner, and despite some reservations remained more supportive of maintaining and extending government involvement in labour matters.[57]

On the part of business the earlier support for government supervision reflected the sympathetic cast of the railway labour policy of the Republican administration and the Railroad Labor Board. Given the aggressive pro-union emphasis of the NLRB, business altered its attitude and opposed state action in the 1930s. In essence, business feared the "proposed law would do more to foster trade union growth than had the NRA".[58] In fact, this is what occurred. And the corresponding increase in the bargaining strength and militancy of trade unions was to fuel still further the wrath of employers, who mounted a strident campaign to impose state sponsored

limitations on the new found power of labour. Indeed, the success of this campaign would again lead to a reversal of attitudes towards government action by both classes by the end of the next decade. But efforts to change government policy did not reflect a desire or expectation to eliminate state intervention in labour relations matters. Most business leader realized the new state prominence in labour relations with appropriate amendments "could be used to help management reduce labour power, restrict union influence, and create a stable framework of law within which businessmen were happy to live and operate".[59] As in the past, both parties sought to utilize state power and resources to promote their own ends.

The New Deal collective bargaining policy did increase the level of government intervention to unprecedented levels; it affirmed the influence of interventionist progressive public ideologies, as state actors extended what was seen as their legitimate role in settling industrial disputes in the public interest. It "represented a natural extension of a process that had been evolving since the turn of the century in respect to national labour-management policy."[60] Sentiment among state actors had long favoured this enhanced role; it was recommended by the Commission on Industrial Relations in 1915, backed during the war by Wilson's War Labor Conference board, enforced by the War Labor Board during the conflict, and advocated as permanent policy by the administration in the Industrial Conferences at war's end. But prior to the great depression, business opposition had always succeeded in dissuading politicians from pursuing the ideal. It was only with this crisis - and its resultant weakening of business influence and heightened fears of labour radicalization, that the state could attain the autonomy necessary to act in decisive fashion. The opponents of state action among business, labour leaders and conservative congressmen, were temporarily unable to resist this initiative. After crisis subsided, and state-business relations entered a more normal phase, the situation would again reverse, with important consequences for the nature of industrial

relations legislation.

## Notes

1. This reflected in part the positive experience of rationalized collective bargaining in World War I and the recognition that more orderly dealings with workers were preferable to the chaos of individual bargaining and strike action. There was a growing belief that unexpressed grievances could fuel explosive situations disruptive to profits. Concessions and orderly resolution of grievances, if carried out without outside interference of state or unions, were acknowledged as advantageous. G.N. Farr, A Study of the Origins of Section 7(a) of the National Industrial Recovery Act Ph.D. Thesis, University of Chicago, (Chicago, 1955), p. 15-16.

2. George G. Higgins, Voluntarism in Organized Labour in the United States (New York, 1969), p. 73, notes how John L. Lewis' predictions re the need for state action if business could not resolve the problems of unemployment and declining wages rapidly were in contrast to the maintenance of voluntarist rhetoric among most of the AFL leadership. There was thus no strong labour demand for action, but the AFL did react positively to the proposal, initially as an emergency measure but eventually as a permanent contribution to labour's right to organize and bargain collectively.

3. E. Cronin, Labour and the New Deal (Chicago, Rand McNally, 1963), p. 40.

4. Higgins, 1969, p. 78ff. Higgins cites a speaker in convention who pointed out how this intervention actually lessened the negative impact which government had traditionally exerted on labour organization efforts. Rev. Francis J. Haas intoned: 'the new intervention calls a halt to that of the past.... the new legislation permits workers to do what the government itself assisted in preventing them from doing before. In this very important way it has extended the freedom of all wage earners. It allows them to organize; it allows them to help themselves; it allows them to be free men." This reflected a break from past thinking whereby government was seen as a hindrance, not a contributor to, liberty.

5. Horton W. Emerson, Attitudes of the American Labour Movement Toward the Role of government in Industrial Relations: 1900-1948 Ph.D. Thesis, Yale University, (1956), p. 218, notes: after years of trying to convince business leaders to concede collective bargaining, "Slowly and reluctantly organized labour abandoned its policy of relying on its own strength and went to Congress asking for governmental aid in extending the practice of collective bargaining". See

also Ruth L. Horowitz, Political Ideologies of Organized Labour (New Brunswick, N.J., 1978), Ch. 5.

6. Farr, 1955, p. 176-79.

7. Theda Skocpol, "Political Response to Capitalist Crisis: Neo-Marxist Theories of the State and the Case of the New Deal" Politics and Society Vol.10, No.2, (1980), p. 162. She cites Ronald Radosh as among those American neo-Marxists who consider business resistance to the New Deal as emanating from "small business types with their own conservative mentality, [who] responded to the epoch in terms of the consciousness of a previous era". However, she shows evidence of how the NAM and other major business organizations were actually dominated by large business by the 1930s and acted in cohesive fashion through their major associations to oppose the New Deal. See Ibid, p. 167-68. See also Philip H. Burch, "The NAM as an Interest Group", Politics and Society Vol.4, No.1, (Fall, 1973).

8. Farr, 1955, p. 145-46. Business was seeking the power to reach industry wide settlements with no government intervention save enforcement of private trade agreements; it certainly sought to hold off more radical designs for state planning and direction of industry.

9. Thus Farr cites this commentary in the coal producers journal , Coal Age: since employers could not hope for the elimination of the labour provisions, "the bill should give enlightened open-shop employers an opportunity to strengthen their position. With the persistent wage slasher forced by government mandate into agreement with his more socially minded competitors, the open shop employer will be able to pledge his workers a wage stability impossible of maintenance under existing conditions. Such a pledge will rob the organizer of much of his persuasiveness". Coal Age June, 1933, cited in Farr, 1955, p. 150.

10. Farr, 1955, p. 219-220. Another observer suggests the Chamber of Commerce actually made a deal with the AFL to support the balance in the acts provisions: "Capital was willing to make this deal because it was convinced that the act allowed the formation of company unions." Rick Hurd, "New Deal Labour Policy and the Containment of Radical Union Activity" Review of Radical Political Economics Vol.8, No.3, (Fall, 1976), p. 34. He cites Irving Bernstein as the source for this deal.

11. Malcolm Ross, Death of a Yale Man (New York, 1939), p. 158.

12. Lewis Corey, The Decline of American Capitalism cited in Farr, 1955, p. 12. Corey goes on to provide a radical interpretation of the divisions in business

and the role of the state in mediating between conservative and progressive business factions in light of the adoption of 7(a), as the government sought to force recalcitrant businesses to abandon a self-defeating anti-labour stand which could seriously contribute to radical political action.

13. Richard Miller, "The Enigma of Section 8(5) of the Wagner Act" Industrial and Labour Relations Review Vol.18, No.2, (January, 1965), p. 169.

14. Thus, Roosevelt did not favour direct government intervention to set wages even in times of emergency. Aside from protecting a minimum wage, the state should rely on unions to bargain effectively for fair wages. To allow for this, the government should "protect legitimate union activities, encourage collective bargaining, and promote responsible leadership in labour management relations". Calling for cooperation by both parties to an industrial dispute, Roosevelt argued that "those who worked, openly or covertly, against effective bargaining power for labour were endangering national unity. They, not the union organizers, were promoting attitudes that would put industrial relations on a European `class' basis". Thomas H. Greer, What Roosevelt Thought (East Lansing, Mich., 1958), p. 70-71.

15. All the following authorities are cited in Farr, 1955, p. 123-24. See Carol Dougherty, Labour Problems in American Industry (Boston, 1938), p. 916; Emanuel Stein et al, Labour and the New Deal (New York, 1934), p. 15; Paul F. Brissenden, "Genesis and Impact of the Collective Bargaining Provisions of the Recovery Act", Economic Essays in Honour of W.C. Mitchell (New York, 1935), p. 32-34; Benjamin Stalberg, "A Government in Search of A Labour Movement", Scribner's Magazine Vol.XCIV, No.6, (December, 1933), p. 347.

16. Bernard Askell, The FDR Memoirs (Garden City, N.Y., 1973), p. 301 ff. Roosevelt thought that government should not provide the machinery through which unions established majorities and the right to bargain. While unions were the best instrument with which to balance to power of employers, they should make their majority support evident to government on their own, not with the support or assistance of government.

17. Arthur M. Schlesinger, Jr., The Coming of the New Deal (Boston, Houghton- Mifflin, 1959), p. 396.

18. The chief administrators of the NIRA certainly gave a conservative interpretation of the scope of the measure. Thus, Hugh Johnson and Daniel Richberg made statements suggesting that company unions were allowed, that exclusive representation by one union was not required, individual bargaining was allowed that closed shop was against government policy and that employers were not required to seek agreement.

James B. Atleson, Values and Assumptions in American Labour Law (New York, 1983), p. 37.

19. Atleson, 1983, p. 38.

20. Leon H.Keyserling, "The Wagner Act: Its Origin and significance" George Washington Law Review Vol.29, No.2, (December, 1960), p. 206.

21. Schlesinger, 1959, p. 402. But the supporters of the measure were themselves divided on the direction which enforcement should take. NLRB legal advisers favoured increased administrative independence and ability to enforce the substantive employee rights set out in the Wagner Act. Others amongst labour relations experts and economists felt the act should strengthen labour's ability to obtain satisfactory settlements in bargaining with employers. Tomlins, p. 138.

22. Milton Derber, "The New Deal and Labour" in John Braeman, et. al. (eds.) The New Deal: The National Level (Columbus, Ohio, 1975), p. 63.

23. "Labour's Charter of Rights" American Federationist Vol. 42, No. 4 (April, 1935), p. 374.

24. David A. MacCabe, "The American Federation of Labor and the NIRA" Annals of the American Academy of Political and Social Science Vol. 179 (May, 1935), p. 144-51.

25. "Equality in Bargaining Power" American Federationist Vol. 42, No. 6 (June, 1935), p.577. The depression had resulted because the purchasing power of workers was insufficient to absorb the output of American industry. Increased union organizing rights and bargaining power could help resolve this problem, by promoting increased wages.

26. David Brody notes the praise accorded to the act on the basis of enhanced democracy and freedom: "For the first time ... workmen had the legal right to express through majority rule their desires on the question of union representation". Cited in Jerold S. Auerbach, Labour and Liberty: The LaFollette Committee and the New Deal (New York, 1966), p. 50-51. Auerbach adds, the act gave workers the legal right to form unions and legal protection against unfair employer tactics; it therefore "constricted the sphere of legitimate management activity and expanded worker freedom". Ibid.

27. Horowitz, 1978, p. 121.

28. The AFL president, William Green had been instrumental in obtaining the NLRB (under Resolution 44 in 1934) as a replacement for the weakened NLB in enforcement of 7(a) provisions. This suggests how the

AFL leadership had shed an automatic distrust of government agencies involvement in recognition and disputes settlements, as frustration with the unfulfilled promise of 7(a) took hold. The success of this initiative further encouraged a less suspicious attitude toward state action. Horowitz, 1978, p. 122.

29. "Equality in Bargaining Power" American Federationist Vol. 42, No. 6 (June, 1935), p.577.

30. This sentiment came across clearly in testimony by John L. Lewis to the Senate Committee investigating Wagner's proposals. "If the Government is to encourage organization on the part of employers who primarily are more able to protect themselves than are the workers, then it does seem to be entirely logical for the Government at least to give workers the necessary degree of protection in the formation of trade unions." Government under the Wagner Act would not be a party to union formation but would protect workers who sought to form unions. Lewis criticized industry which "is willing to take unto itself all the advantages that may come from legislative enactments by an intelligent Congress, but, like the dog in a manger, they ask this privilege be held from the working people of America who make possible the creation of industry and the maintenance of our democratic institutions of Government". United States Congress, Senate, Committee on Education and Labour, Hearings on a bill to Create a National Labour Board, 73rd Congress, 2nd Session, (March 16, 1934), p. 140-42.

31. William Green expressed this before the Senate committee: "Labour has never asked , and does not ask, more than that the equality of bargaining power and freedom from restraint so essential if we are to carry out the recovery program be established in fact. Only through something approaching equality of bargaining power can we hope to create and maintain mass purchasing power; only through freedom from restraint on the part of employers can labour hope to build up the necessary bargaining power". Ibid, (March 15, 1934), p. 70. Richard Hague ex director of workers education, noted the primary concern with this imbalance: "In the midst of a political democracy, where we have the right to vote for everybody from the lowest magistrate to the President, you have an industrial autocracy where the right of industrial franchise is generally denied, where when it has been granted, it has been granted as the result, not of the far-seeing wisdom of those in control of industry, but as the result of pressure and frequently as the result of violence and suffering". Ibid, (March 22, 1934), p. 300.

32. Cited in Horowitz, p. 124.

33. "Business as a Social Service" AFL Weekly News Service Vol. 25, No. 16 (April 20, 1935).

34. "Liberty League Opposes Wagner Bill" AFL Weekly News Service Vol. 25 No. 16 (April 20, 1935), p. 1.

35. Thus any enthusiasm for government assistance in promoting collective bargaining remained tempered by a desire to prevent state power from being exercised without the input of the existing union central. Government should serve to promote mutually beneficial agreements between the parties.

36. Tomlins, p. 138.

37. The AFL sought the right to representation in court cases arising under the act and was not content to rely on the officers of the Department of Justice to enforce labour's rights. To preserve its existing position, the AFL sought to limit Board intervention in cases of existing closed shop agreements (often established without majority acquiesence), prevent board investigations unless requested by one of the parties to a dispute, and reduce the Board's ability to initiate proceedings to enforce orders.

38. Tomlins, p. 139

39. Tomlins, p. 141.

40. Keyserling, 1960, p. 201.

41. See for instance the declaration by R.T. Whitman, vice president and assistant general manager of Consolidated Aircraft Corporation, that "the Government, through the establishment of the National Labour relations Board would have unwarranted and unconstitutional powers to interfere with relations between employer and employee". Cited in Eleanor G. McMahon, The National Labour Relations Act: A Study of the Criticisms Evoked by its Enactment and its Enforcement MA Dissertation, Georgetown University, (Washington, 1950), p. 53.

42. Richard E. Wilcox. "Industrial Management's Policies Toward Unionism", in Milton Derber and Edwin Young, Labour and the New Deal (New York, 1972), p. 290 ff. He cites the arguments of the Liberty League, a group of lawyers sympathetic to employers re the purported unconstitutionality of the Wagner Act. Acting on Liberty League advice, many employers refused to comply with the provisions of the Wagner act until the Supreme Court had declared it constitutional; even then acceptance was grudging.

43. Wilcox, 1972, p. 291.

44. The most comprehensive presentation of these criticisms was made by James Emery, General Counsel of the National association of Manufacturers to the Senate Committee on Education and Labour, Hearings on "A Bill to Equalize the Bargaining Power of Employers and Employees, to Encourage the Amicable Settlement of Disputes Between Employers and Employees, to Create a National Labour Board and for other purposes", 73rd Congress, 2nd Session (S 2926), Mar. 26, 1934. His arguments were repeated before the Senate committee hearings on the revised Wagner Bill a year later.

45. Miller, 1965, p. 174. He cites Sumner Slichter, who goes on to comment: "You can not make it a definite duty of a man to try to agree. The words are rather meaningless. You might almost enact that the lions and the lambs shall not fail to exert every reasonable effort to lie down together."

46. Schlesinger, 1959, p. 404. A good account of business attitudes towards this aspect of the New Deal can be found in W.M. Kipliner, "Businessmen View the New Deal", in Frank Freidel, (ed.), The New Deal and The American People (Englewood Cliffs, N.J., 1964), p. 96 ff. In his words: "The government favours collective bargaining. A majority of businessmen assent in principle, but want to do it in their own ways, don't want 'outside unions', which means A.F. of L. unions. The government doesn't specify 'outside unions' but it insists on unions independent of the influence of employers. This naturally plays into the hands of the A.F. of L. because it is the principle organizer of unions. Thus employers are apt to think the government is 'pro A.F. of L.' and that it will not protect employers against unreasonable attitudes by unions"

47. Auerbach, 1966, p54-55 relates the considerable volume of litigation commenced in connection with this law. Spurred on by the Liberty League, a conservative legal organization linked to employers groups, major employers challenged the constitutionality of the measure and refused, on lawyers advice, to implement its provisions. The Wagner act initially became "little more than a vehicle for protracted litigation" until it was upheld by the Supreme Court in 1937. Even beyond this date, employer refusal to comply was cited as a major cause of strike action.

48. Wilcock, p. 292- 94.

49. United States Congress, Senate, Committee on Education and Labour, Hearings on S1958, 74th. Congress, 1st. Session, (March, 19, 1935), p. 1587. Axton concluded: "it is far better to have signed agreements with labour than to have constant controversy with them". He was joined by other tobacco industry spokesmen who shared his positive estimate of unionization. H.M. Robertson intoned: "We have found that the labour

organizations have been at all times reasonable and helpful; that they have made every attempt to understand our point of view".

50. Ibid, p. 1595.

51. United States Congress, Senate, Committee on Education and Labour, (March, 16, 1934), p. 281.

52. Hurd, 1976, p. 36. See especially the note on this page.

53. There is considerable evidence that leading Board members did favour the CIO and were closely linked to the CIO general counsel. See Derber, 1975, p. 115. But the rulings were not all one-sided as the AFL also employed Wagner to advance its position.

54. Derber, 1975, p. 112.

55. Tomlins, p. 144.

56. Emerson, 1956, p. 200.

57. See Emerson, 1956, Chapter V for an excellent summary of the changing attitudes of the two union centrals towards government activity. In the AFL, strong criticism, harking back to vintage Gompers and even rivalling the employers associations in ardour, was levelled at the "socialistic" tendencies of the New Deal, particularly by the conservative faction on the Resolutions committee. AFL conventions refused to completely accept this tone or repudiate Roosevelt's policies; however criticism of the Wagner act was continuous, and acceptance of new measures, notably the Fair Labour Standards Act, was muted. Certainly, the attitude of the AFL toward government action had hardened with the departure of the more radical and reformist affiliates in the breakaway CIO. The CIO continued to embrace state initiatives, hinting at the desirability for independent labour political action to promote better legislation; only later did voices in this union also warn of the problems attendant upon too much reliance on government action.

58. Wilcock, p. 290.

59. Howell J. Harris, The Right to Manage: Industrial Relations Policies of American Business in the 1940s (Madison, Wisc., 1982), p. 8.

60. Derber, 1975, p. 117.

## 14 War and Cold War American Policy

a) Wartime Policy Innovations

American labour's distrust of state involvement in disputes' resolution increased during World War Two. The ordinary regime in labour relations was supplanted by state-sponsored disputes' resolution which left little room for free collective bargaining. The Smith-Connally War Labor Disputes Act contained strong emergency provisions for state intervention to resolve disputes, including delay of strikes pending presidential investigation, (which extended the railroad model of the 1920s to other industries). While the wartime administration enforced labour's right to representation and freedom from discrimination, wage freezes and strike bans were common, severely limiting labour's scope for negotiation, despite its strong bargaining position. Increased corporate-government cooperation in this crisis weakened labour's position by the end of the conflict, creating a fear that the strong new federal powers could be employed by a less sympathetic administration to restrict labour rights. For labour leaders, peacetime requirements would best be met by a return to the democratic model of collective bargaining, rather than a retention of authoritative state decisions.[1]

Management also had doubts about the desirability of wartime state interventions. Maintenance of membership clauses and entrenched grievance procedures impinged upon managerial discretion in the conduct of business.[2] Business also criticised the increasing centralization of union organizations, which created more powerful opponents. These criticisms merged with a more generalized attack on the New Deal approach of increased government action; in Tomlins' words: "this entrepreneurial antipathy towards unions and "pro-union" labor relations policies merged with renewed conservative condemnations of New Deal social and economic policy to become a widespread assault on "collectivism" and on the administrative state which had fostered it".[3]

b) Business Assault on the Wagner Act

Whether the New Deal collective bargaining policy was in fact pro-union in its impact could be debated. Court interpretations of the Wagner Act ensured that it did not entail a major infringement of management's ability to conduct business according to its desires.[4] The National Labor Relations Board also amended its practice in accord with the changing climate through the "relaxation of strictures on management and imposition of them upon employees and unions", especially after World War Two. For instance, the Board supported management in its efforts to enjoin as unlawful strikes called by a new rival union to unseat an incumbent, certified union.[5]

Nonetheless, business leaders attempted to exploit the difficult post-war economic circumstances and the increased anti-labour climate to reduce state protection for unions. New legislation was advocated to curb union "abuses" and eliminate perceived inequalities in the intent and impact of the Wagner Act.[6] A post-war epidemic of strikes caused by jurisdictional rivalries and high wage demands (to catch up after war-time wage restrictions) added impetus to business concerns.[7] Corporate leaders beleived that labour was too powerful and was foisting its demands on society as a result of the biased New Deal policy.[8] Led by national organizations like the National Association of Manufacturers, business campaigned to end labour's "monopoly" position.[9]

Discontent with existing legislation did not produce a desire to eliminate state intervention in industrial relations matters. Leading business advocates sought to employ the state for their purposes, rather than to return to laissez-faire in industrial relations.[10] Corporate management "had discovered that federal regulation of labor relations could be to its advantage if government entered on the side of 'order' and against the exercise of labor power, where that was overwhelming".[11] Hence business efforts sought amendments to federal collective bargaining and organization policies to prevent the development of

unions able to bargain from a position of strength on an industry-wide basis; such powerful unions hurt competition and contributed to inflation through artificial imposition of industry-wide contracts.[12] On the other hand, business recognized that voter discontent with unions was real but limited, and would not sanction a wholesale dismantling of organization and bargaining guarantees.[13]

Accordingly, management avoided a pious invocation of laissez faire. Rhetorically, some spokesmen referred to the need to "minimize the direct intervention of government in labor disputes", based on "the assumption that under competitive capitalism, the economic functions of government are limited". But in fact proposals actually called for clearer administrative machinery, "remedial legislation" to correct imbalances of Norris-LaGuardia and Wagner, and increased regulation of unions through anti-trust and enforced decentralization.[14] As Harris observes, at the 1945 Management-Labor Conference sponsored by President Truman, management proposals

> displayed a new sophistication, a readiness to use the law selectively to assist in the solution of labor relations problems rather than to seek freedom from legislative intervention and administrative action. The latter were welcome, provided they were on the right side, helping management to deal with, and to get the better of, a powerful labor movement that existed and would continue.[15]

After the conference, management plans indicated recognition that, given the "monopolistic" power of unions in certain circumstances, private bargaining could not provide a complete solution. "Only further government intervention, in the right spirit, could measure up to the task".[16]

Having recognized the usefulness of the state, it remained for business spokesmen to reconcile the conflicting demands of rival factions. Conservative spokesmen from large heavy industries like automobiles and steel, wanted strict limits imposed on the scope of bargaining, the types of eligible union members, and the acceptable forms of strike action. Their aim was to limit collective bargaining to a narrow realm; some spokesmen,

like that of Chrysler, continued virulent opposition to any collective bargaining, which was regarded as "an assault on liberty, as an evil thing which is against the public interest, as something which will increase poverty .... one chick in the foul brood of vultures that seek to pick meat from the bones of honest men".[17] Liberals, like President Johnson of the United States Chamber of Commerce, preferred to accept the current legal rights to organization and collective bargaining in return for a continuation of a no strike pledge by union leaders into the reconversion period.[18]

However, most business leaders opted for a middle path, seeking major changes to the Wagner Act to restore "balance" to labour relations law. Business advocated a ban on coercion for or against union organization by any source; a requirement that unions bargain in good faith; compulsory adherence to the terms of a collective agreement once signed; a restriction of bargaining to single employer units or firms; a prohibition on jurisdictional or sympathy strikes, and secondary boycotts; a ban on union security clauses in contracts[19]; a ban on supervisors unions; and restoration of employer "free speech" in countering union positions during recognition disputes.[20] In short, business mounted a selective attack on perceived union abuses.[21] For business , collective bargaining "must be freed from artificial restraints wrapped around it by poor laws" and "from the exercise of monopolistic power ... by unions ... on a scale far beyond any ever dreamed of by now outlawed business combines in their heyday".[22] The "public interest" demanded an end to the damage of monopoly practices like secondary boycotts, mass picketing and political strikes.[23]

c) The Taft-Hartley Act, 1947

The Taft-Hartley Act as finally adopted over President Truman's veto contained significant changes of Wagner Act policy. Supervisory personnel were excluded from the category of employees and the right of employees not to participate in unions was strengthened.

Restrictions were imposed on employee activities in pursuit of collective agreements, encouragement was extended to craft organizations, and Board authority to resolve jurisdictional disputes between rival craft and industrial unions was increased. The Board was empowered to obtain injunctions to aid in the resolution of disputes; while the business demand that private industry reacquire this right was denied, the Board was required to respond to business complaints and seek injunctions in damaging disputes.[24] Strikes could also be delayed pending reports by Presidential Commission for up to 80 days. Registration of unions, accompanied by financial statements and affidavits disavowing communist leanings were required for certified bargaining agents. The closed shop was banned for all employers under federal jurisdiction and support of a majority of all employees in a unit (as against the majority of those voting) was required for certification. Encouragement was given to mediation, conciliation and formal grievance procedures. Unlawful union practices were specified and lawsuits for breach of contract were facilitated. The Act distinguished unions from other voluntary associations; since union security provisions gave these organizations considerable power over their membership, Congress believed itself justified in regulating their internal affairs, to guarantee the rights of the rank and file.[25]

The NAM was influential in initiating these changes[26], and business certainly exalted at the outcome.[27] But business pressure cannot be given exclusive credit. The prevalence of damaging industrial disputes, stemming often from jurisdictional conflicts or secondary boycotts to assist other unions, created the backdrop against which congressional and administrative actors and public opinion moved towards restrictive legislation.[28] Postwar inflation, the result of problems of transition to a peacetime economy, was blamed by critics on the wage demands of unions, prompting calls for a reduction of union power.

In Congress itself, a significant conservative faction had emerged after the elections of 1946. This involved a

coalition of rural Republicans and southern Democrats, joined against the urban peril of union monopoly. Responding in part to an overall climate of reaction against New Deal approaches - encouraged but not created by business propaganda campaigns - Congress considered bills which went further than the official NAM line and reflected the conservative minority preference.[29] The House of Representatives, over-representative of rural areas, put forward a highly restrictive bill. Senate pressure moderated the final outcome. But despite the opposition of administrative actors, including the President[30], this restrictive measure was adopted as law with few changes from the major demands of business.[31]

d) Union Criticism

Labour leaders expressed vitriolic criticism of the measure and the Congress which passed it.[32] Prominent among the targets of critics was the so called "cooling off period" of 80 days.[33] This was rejected as unnecessary by unionists; most collective bargaining agreements already included a provision for advance notice before strike action or termination of a contract to permit negotiation for changes to occur in orderly fashion. Union leaders feared the enforced delay in the right to strike would be used by employers to stall, to prepare for a lengthy strike and ultimately to defeat unions in disputes. In terms reminiscent of Canadian IDIA critics these spokesmen feared: "[i]f employers know unions cannot strike for a specified time, they will not negotiate in good faith".[34] Unions only employed strikes as a last resort after all efforts at peaceful resolution had been exhausted; if a period of unproductive delay were introduced, the workers might feel added frustration or pressure to strike and numbers of strikes would likely be increased. This provision would promote "a state of involuntary servitude which is abhorrent to our way of life" by forcing men to stay on the job under intolerable conditions and "[crippling] the right to strike, which is the inalienable and constitutional democratic right of our working

people".[35] The terms of this debate thus paralleled Canada's earlier discussions, as the United States government seemed to match its northern neighbour in degree of intervention in labour disputes.

Labour leaders were critical of the removal of what were seen as the equalizing effects of Wagner on an inherently inequitable balance of power in industrial relations.[36] Unions needed the protection and encouragement of the state in collective organization and bargaining because they were at a disadvantage in dealing with employers who controlled their livelihood.[37] The laws of the 1930s had merely prevented industry from using its power in an unnatural or unjust fashion; they forbade efforts to prevent "trade unions from carrying out their legitimate role in our economy"[38]. The International Association of Machinists feared the "Taft-Hartley law, by disrupting the tendency to balanced power brought about by previously enacted labor legislation, has made it possible for industry once again to have recourse to unnatural powers, and ... it lends the services of the federal government to industry in the exercise of these powers."[39] The reintroduction of injunctions[40], the "right to work" provisions[41], and reduced enforcement of union workshop rules[42] were also criticized: by increasing the power of business in negotiations, the act would "aggravate the unbalance [sic] between wages, prices and profits which already endangers our prosperity".[43]

These and other criticisms of the Act by the AFL[44], CIO[45], and other unions[46] undermined labour's support for government intervention in labour matters. George Meany, Secretary-Treasurer of the AFL, decried the subservience of Congress to reactionary business interests, seeking to "restore the old conditions of vast inequality between the individual worker and employer, to return to the medieval concept of master and servant, with the master arbitrarily commanding and the servant meekly submitting".[47] By proscribing vital union bargaining techniques, and limiting political activities by unions[48], the Act restored the hostile role of the state in industrial relations and

revived union opposition to government intervention[49]; the Act showed that "government interferes now on the side of the employer to delay the exercise of union rights".[50] The measure certainly gave credence to voluntarists' claims that any augmentation of state action, even through favourable laws like Wagner, would eventually facilitate restrictive measures.[51] While advocates of the law claimed hostility was confined to labour leaders[52], the massive pressure from unions calling on President Truman to veto the measure is indisputable.[53] The union campaign to repeal the measure was continuous for years after its inception.[54]

Despite their concerns about the measure, and their apparent awareness of business strategy,[55] labour leaders were perhaps ineffectual in using the opportunities at their disposal to influence the draft legislation. The leaders of both the CIO and the AFL refused to concede that any abuses in the use of jurisdictional and secondary strikes existed or suggest any constructive compromises for legislation.[56] In the political climate of the day this failure was crucial. The Congress was convinced of the need to implement remedial legislation, and widespread strike action - plus inflation conveniently blamed on unwarranted union wage demands - had created a climate of opinion unfavourable to the union viewpoint. Certainly, the union movement was on the defensive: "Labor looked more like a reactive than an initiating force in the process of social change; a weak institution in a powerfully organized, pervasively capitalist society". While business did not create all its opportunities in the post war climate, "it certainly seized them" and thereby "was the dynamic force in the shaping of the environment"[57] in which industrial relations transpired for the next decades. Although the administration accepted many of labour's criticisms, and maintained pressure for repeal of the Act, Congressional support could never be secured.[58]

e) <u>The Impact of Taft-Hartley</u>

In practice, the Taft-Hartley law fulfilled neither the hopes of business leaders nor the fears of union

bosses. It did not become a "slave labor" law infringing the rights of union organization. It did aid some anti-union firms in resisting union expansion; organizers were hampered in some cases by "right to work laws" which restricted their recruitment tactics. Anti-communist campaigns were assisted and radical unions were encouraged to behave more "responsibly". Politically, the Act reassured business that the uncertainty and dangers of the New Deal period were receding and business dominance in national politics was being restored. But the exact nature of its impact was still subject to specific economic conditions and to the precise conduct of industrial negotiations. And the hastily drafted provisions often produced disappointing results from a business viewpoint. Problems of featherbedding, union shop, fringe benefit bargaining and so on continued to trouble business leaders. In general, Taft-Hartley "provided a legal framework for labor relations within which business would be happy to operate. But it had not provided all the answers".[59]

Labour maintained its agitation through the 1950s for the repeal of Taft-Hartley. Experience under the Act revealed its tendency to increase the litigious nature of industrial relations, with a plethora of injunctions, damage suits and criminal prosecutions hampering labour union organization and collective bargaining.[60] Every opportunity was taken to pressure Congress to remove the new restrictions and return to the Wagner Act regime. On a couple of occasions, this pressure resulted in serious Congressional considerations of repeal or replacement. However, business vigilance and counterpressure ensured that the pro-business Congress and administration of the Eisenhower years would not act to weaken the Taft-Hartley policy. After 1953-54, labour abandoned high profile efforts to alter Taft-Hartley, recognizing the intransigence of the conservative Congress. Labour also feared that, by raising the question of amendments, it was opening the possibility for even more undesirable legislation, given the agitation of business and the anti-labour tenor of the times. Unions thus contented themselves

with preventing adoption of harsher measures.[61]

f) Business Demands for Stricter Regulation

Business pressed through the 1950s for even greater state regulation including precise controls on the internal organization and activity of unions, seeking path-breaking intrusions into the affairs of voluntary associations in American life.[62] This approach was fuelled by reports of internal union corruption: racketeering, questionable financial transactions, undemocratic local union practices, violation of union members' rights, and conflicts of interest.[63] Evidence mounted through the 1950s of the spread of these abuses to major unions like the Teamsters and Longshoremen. Many of the practices were revealed by investigations initiated by the AFL and CIO; others were uncovered by the Congressional McClellan Committee. Key union spokesmen condemned these abuses; errant affiliates were expelled and some union leaders endorsed remedial legislation, calling for full financial disclosure, with prosecution for abuses.[64]

While these activities evoked concern, employer organizations had motivations other than protection of union members' rights in mind in seeking new legislation. Thus the United States Chamber of Commerce

> admitted that its major interest in labor reform legislation was to restrict the alleged excessive power of unions. The problem, according to the Chamber, was not whether the rights of union members were properly guaranteed but whether the institution of unionism as practised today offers a major threat to national well-being.[65]

The National Association of Manufacturers' President Milton Lightner also complained that the "power of a few large unions, grown to monopolistic proportions in most of our basic industries, has undermined some of the fundamental principles of sound economic management along with some of the fundamental freedoms of our nation's economic faith, ultimately affecting all of America's people".[66] Not surprisingly, business leaders were unimpressed with labour efforts to address the problem of corruption and abuse of authority within union ranks; ethical union government

simply did not address the chief concerns of business leaders unhappy with the emergence of influential unions.[67]

As Congress began consideration of bills to eliminate corruption and encourage labour efforts to reform from within, business leaders pressed for more sweeping legislation.[68]. "Employer groups and powerful forces within Congress wanted to use the McClellan disclosures as a base for a campaign to restrict the powers of unions in collective bargaining".[69] Business concerns revolved around such issues as recognition and jurisdictional picketing, hot cargo agreements (whereby unions refused to handle cargo or use materials from a plant where workers were on strike or where non-union labour was employed) and other powerful devices employed to back union demands[70]. Compulsory union membership and dues, which swelled organized labour's ranks, and union political contributions and activity, which increased labour's influence in government, were also criticized.[71] In this, business found support from the Eisenhower administration which in 1956 proposed new restrictions on the rights of unions to use boycott methods and "blackmail" picketing.[72]

g) Labour Vacillation and Opposition

Many union leaders were supportive of legislation to address internal abuses[73]. They were concerned about the negative publicity and were anxious to appear cooperative, recognizing that "some further convincing steps were necessary to rebuild the waning prestige of labor as a law-abiding group worthy of public respect. Since the problem was not amenable to correction from within the labor movement itself, the necessity for action by the federal government was clearly indicated".[74] But labour had its own agenda, which involved reversal of the most undesirable features of Taft-Hartley. Union leaders held out for such things as special union shop rules for the construction industry, right of economic strikers to vote in representation elections, a narrowing of the categories of workers excluded from unionization as supervisory workers, and other changes to the Taft-Hartley provisions. And

unionists were wary of the particular proposals debated in Congress, which appeared to some to infringe upon the rights of legitimate law-abiding unions.[75] The Kennedy-Ives proposals of 1957 met most of the AFL-CIO's chief concerns, and included a regimen of internal regulation which the AFL-CIO considered acceptable; it was still attacked by unions like the Teamsters and Mine Workers.[76]

Ironically, with some labour voluntarists critical of new legislation, and some labour leaders holding out for more beneficial measures, labour's uncertain stance may have strengthened the conservatives' hand.[77] Labour criticism of moderate proposals in Congress contributed to their defeat[78]; by keeping the issue alive, labour thereby created the opportunity for its opponents to seek even more restrictive legislation.[79] As consideration continued, AFL-CIO leaders demonstrated an unwillingness to support proposals for a legislated "Bill of Rights" for union members, objecting to the provisions incorporated by Senator McClellan.[80] Unionists feared the extension of government authority to regulate the internal affairs of unions and the burdensome reporting requirements; they also doubted the efficacy of laws designed to enhance union democracy.[81]

However, the AFL-CIO's policy of insisting on a perfect measure - based on their confidence after the election of more pro-labour members in Congressional elections in 1958 - gave the appearance of recalcitrance, thus assisting those portraying labour as unwilling to reform of their own accord.[82] In the end, labour appears to have squandered the opportunity to secure favourable amendments and opened the possibility for restrictive measures favoured by business, Congressional conservatives and the administration. Instead of the Kennedy bill, incorporating the bill of rights and desired Taft-Hartley amendments, the eventual bill also included the more restrictive Taft-Hartley changes sought by business.[83]

h) Labor Management Reporting and Disclosure Act of 1959

The Labor Management Reporting and Disclosure Act of 1959, or Landrum-Griffin Act, was a compromise measure.

While the House and Senate Conference Committee watered down some of the tougher provisions, it still weakened labour's power in collective bargaining. "Hot Cargo" agreements were outlawed, except in construction and garment trades; organizational picketing could not extend beyond thirty days; secondary boycotts and picketing in jurisdictional disputes were further restricted.[84] It also protected union members' rights and ensured democratic, non-corrupt internal union affairs.[85] Business lobbyists and conservative congressional[86] and administrative leaders had succeeded in securing a bill which did more than rectify the abuses, and altered the balance of power in collective bargaining. They had taken advantage of the controversy over corruption to enact a wider legislative agenda - aided by the ineptness and divisions of the union movement.

This episode again reveals the efforts of both major industrial classes to employ the state as an instrument for their own ends. Business leaders had abandoned the pretext of laissez-faire. In the more complex economy of the times, corporate leaders did not feel able to dominate labour through private negotiations backed only by occasional state coercion. Now, a continuous state presence was seen as essential to regulate increasingly powerful unions and ensure their power would not intrude on management prerogatives.[87] Some business spokesmen feared that strong state interference in the internal affairs of unions could eventually lead to state regulation of industry. Charles Brooks, a management representative, feared Congress could be called upon to regulate internal business practices in connection with collective bargaining, destroying free negotiations, and ultimately replacing the free enterprise system with "dictation by government".[88] But most business complaints centred on the bill's failure to go far enough[89] to limit union "monopoly power", compulsory membership and political activity.[90] While the Act was considered an improvement, it was clear business would not be satisfied until union power was still further reduced.[91]

Unions had also rejected the voluntarism of the past, confronted as they were with an existing unfavourable

legislative regime. Labour leaders naturally sought amendments to Taft-Hartley to eliminate some of its more undesirable and restrictive elements. They adopted an aggressive political strategy to elect congressional friends and defeat potential foes. Confident after the success of these efforts, they considered themselves to be in a strong position to influence outcome and to attain positive reform of existing laws; not merely the prevention of undesirable new provisions.[92] Only after the failure of these efforts and the emergence of a more restrictive regime did labour become critical of state action per se. But even then, past voluntarist extremes were avoided, as recognition of the inevitability and desirability of a state presence had developed.[93] Thus the union movement continued efforts to alter the content or mould the implementation of the Labor-Management Reporting and Disclosure Act.[94] As in past episodes the union movement and business leaders adjusted their rhetorical stance on state action according to the outcome of a specific case of legislative activity. But both groups now recognized the need for a continuous, pragmatic effort to secure the most favourable state policies possible.

## Notes

1. Howell J. Harris, The Right to Manage: Industrial Relations Policies of American Business in the 1940s (Madison, Wi., 1982). See page 47 ff. for a discussion of labour's disadvantaged position in wartime policy.

2. This period is discussed in Nelson Lichtenstein "Ambiguous Legacy: The Union Security Problem During World War II" Labor History Vol.18, No.2, (Spring, 1977), p. 214-38.

3. Christopher Tomlins, The State and the Unions (New York, 1984), p. 255.

4. Karl E. Klare, "Judicial Deradicalization of the Wagner Act" Mann Law Review Vol. 62, 1978, p. 265-339.

5. Tomlins, 1985, p. 266.

6. As Elisha Hansen expressed it, the act "was seized upon by union leaders as a weapon for aggression upon employers. The [National Labor Relations] Board and

its prosecuting staff were used as the shock troops in the war declared by the unions upon employees". Hansen criticized the Board for enforcing compulsory union shop, maintenance of membership, reinstatement of dishonest or incompetent employees in discriminatory discharge cases. Elisha Hansen, General Counsel, American Newspaper Association, "Remarks made at the Newspaper Conference", Chicago, Sept. 4, 1947, p. 9 John R. Bongs and James W. Townsend of the Budd Company described the Wagner Act as only one third of the requisite industrial relations policy since it provided only for union and worker rights in relation to an "over-dominant" employer; the Taft-Hartley law completed the picture by protecting the public, workers and management from unscrupulous union leaders. John R. Bongs and James W. Townsend (Budd Company), "The Implications for Executives in the 1947 Labor-Management Relations Act", An Address before the 68th. annual meeting of the American Society of Mechanical Engineers (Atlantic City, N.J., 1947), p. 2-3.

7. C.C. Gregory, "Something Has to Be Done" Fortune Vol.34, No.4, (November, 1946), p. 132 ff. Gregory condemned "intolerable periodic interferences with a sound and orderly economy" caused by strikes and boycotts and the technical stagnation demanded by unions resistant to change; he traced these problems to laws which divorced union leaders "from all sense of responsibility toward the conduct of natural commerce" and put commerce and society at the mercy of union economic power.

8. Bongs and Townsend, p. 3, note how strike action by the United Mine Workers under John L. Lewis "raised the price of coal, steel and automobiles. No individual or corporation ever wielded such power over our economy." They also cite a Texas Congressman, O. C. Fischer, who noted the alarm of his constituents that John L. Lewis may "have more power than the President of the United States over the economy of the Nation. ... Some of them even suggested that he be elected President so he would not have so much power". These authors make clear their belief that it was the Wagner act, as administered by the NLRB which "tipped the scales too far toward union domination, and union power over our lives". Ibid, p. 5.

9. "Solutions to Labor-Management Problems Sought at NAM's 10th Institute on Industrial Relations" NAM News (November 9, 1946) Section 3.

10. Tomlins, 1985, p. 283.

11. Harris, 1982, p. 116.

12. NAM News (November 9, 1946) Section 3, p. 4.

13. The selection of a conservative Republican Congress signalled the desire for prudent reform. "The voters turned thumbs down on the Government's coddling of labour and the arrogant excesses of union leaders. They did not vote to destroy unions or to do away with collective bargaining; to deny labour the right to strike or to wipe out its legitimate gains. Their vote demanded an intelligent and equitable formula for industrial peace. ... This our convention must help to provide". Walter B. Weisenburger, Executive Vice President, National Association of Manufacturers' "Challenge to Industry", Speech Before the Congress of American Industry, (December 4, 1946), p. 1.

14. These inconsistencies between rhetoric and policy are to be found in editorial comment in Fortune Vol.34, No.4, (November, 1946), p. 4. William Green, President of the American Federation of Labor recognized the irony in the business position. "It is ironical that the Taft-Hartley Act should have derived its main support from businessmen and politicians who have been loudest in their opposition to government "meddling" in business affairs. With Taft-Hartley, as evidence, one might well wonder if these gentlemen are not perhaps less interested in freedom, as such, than in economic and political power." William Green, "The Taft-Hartley Act: A Critical View" Annals of the American Academy of Political and Social Science (Philadelphia) Vol. 274 (March, 1951), p. 201.

15. Harris, 1982, p. 116.

16. Harris, 1982, p. 120.

17. Harris, 1982, p. 111, citing John Scoville of Chrysler.

18. Harris, 1982, p. 111.

19. Most business leaders were strongly critical of the closed shop provisions of Wagner, which prevented them from employing non-union labour or from bargaining on an individual basis with employees. But certain specialized industries saw elimination of the closed shop as a disadvantage. Thus Fitzpatrick notes that while the new rules worked well in manufacturing, they were inappropriate in stevedoring and shipping, where no steady employment could be provided, and efforts to slash wages paid on individual basis could lead to chaos, unrest, and disruptive, competitive organization bids. Hiring of crews and stevedores through union controlled hiring halls stabilized wages and costs, and avoided conflict and damaging competition. Thus, separate legislation was seen as desirable for this industry. See Bernard H. Fitzpatrick, "Management's View of the Taft-Hartley Law" American Merchant Marine Conference, Proceedings, 1947 (Boston, 1948), p. 84.

20. Harris, 1982, p. 121.

21. See for instance these comments in Fortune respecting the replacement of individual by collective bargaining: "To the extent that this makes up for the inability of the individual worker to match the bargaining power of employers and to get what he might in a completely free market, it is a justified function"; but this process was abused by unions seeking to gain special advantages and restriction of the market through "cartelized" labour-management agreements. Fortune Vol.34, No.4, (November, 1946), p. 4.

22. "NAM's 11th Institute on Industrial Relations Points Ways to Improving Employer-Employee Relationship" NAM News (January 18, 1947) Section 2, p. 4.

23. Chamber of Commerce of the United States, Department of Manufactures, Labor Management Relations Act, 1947: Information About the Law and a Summary of its Provisions (New York, June 30, 1947); National Association of Manufacturers The Public Be Served (New York, 1947), p. 16-17.

24. While industry could not directly seek injunctions and had to make the request to the Board, critics believed that the Board was virtually bound to accept prima facie evidence from employers re the need for injunctions. See George Meany, Secretary-Treasurer, American Federation of Labor, Presentation to the Symposium on the Taft-Hartley Law, Manhattan College, (New York, Nov. 14, 1947), p. 17.

25. Sar A.Levitan and J. Joseph Loewenberg, "The Politics and Provisions of the Landrum-Griffin Act", in M.S. Estey, et. al. Regulating Union Government (New York, 1964), p. 29. Principal provisions included measures to limit the amount of initiation fees and dues, restrictions on acceptable reasons for and methods of discipline of members, etc.

26. Certainly Congressional critics recognized the role of the NAM in promoting this measure. R. Alton Lee cites Democratic opponents like Philip Philbin, Adolph Sabath, Adam Clayton Powell and others who claimed this punitive legislation" was designed by the NAM and other representatives of big business, and alleged corporate lawyers had actually drafted the act. R. Alton Lee, Truman and Taft-Hartley: A Question of Mandate (Westport, Conn., 1966), p. 62-64.

27. Note for example the remarks of Elisha Hansen, General Counsel, American Newspaper Publisher Association to a Chicago conference in 1947. Hansen suggested the law was not a "slave labor" law; and if properly administered by the courts and government agencies, "instead of enslaving labor, instead of enslaving industry as the Wagner Act, it will serve to

emancipate both and will have a lasting beneficial effect upon our political, social and industrial economy". The act would free both parties from government pressures and permit settlement of disputes and grievances around the bargaining table. It provided for "honest collective bargaining" and adherence to contracts; government intervention was appropriately reserved for policing violations. Labour criticism and resistance was to be anticipated "before certain types of union leaders who have had things their own way for the last 14 years learn that they cannot rule the economy of this country for their own selfish advantage any longer". Hansen, Remarks, p. 2-3.

28. Impatience with the numerous jurisdictional strikes which were the result of the confrontation between CIO and AFL in already organized industries spread beyond employers as the cost of these strikes to the public became manifest. President Truman called for the elimination of these categories of disputes, and the creation of machinery to resolve grievances arising under current collective agreements.

29. Numerous proposals introduced in Congress went even further. Provisions entailing a ban on industry-wide bargaining, use of injunctions, and various guarantees for individual employee rights were among those measures considered. Entailing a reduction in restrictions on employers, the drafts encouraged "extensive government intervention in the internal affairs of unions". F. LaGuardia noted the irony of the Republican's new found preference for stringent regulation in industrial relations after 14 years of opposition to any form of regulation. Quoted in Lee, 1966, p. 82-3.

30. President Truman considered the measure to be an unjustified attempt to restrict union rights, part of an orchestrated effort by business to roll back the gains of the Wagner act. In his estimate, " a definite plot was hatched at the close of the war to smash, or at least to cripple our trade union movement in a period of post-war reaction. The conspiracy was developed by a little group of politicians, working with the representatives of our most reactionary employers". See Lee, 1966, p. 15. Although the measure was passed over his veto, Truman continued his efforts to amend or repeal the act for the remaining period of his presidency. Ibid, passim.

31. Lee, p. 63, cites Congressional comparisons of the final act and NAM proposals of 1946, which revealed little important deviation.

32. For examples of the kind of rhetoric employed see California State Federation of Labor, The Taft Hartley "Slave Bill" and What it means to Labor (San Francisco, 1947); California CIO Council, The "Perfect

Crime" of Mr. Taft and Mr. Hartley (San Francisco, 1947).

33. This measure appears quite reminiscent of earlier IDIA provisions in Canada. Mayer describes the strike delay clause: "Whenever an industry is sufficiently touched with a public interest so as to affect the safety or health of large portions thereof, the Government is authorized to move in with dispatch. This law provides for cooling-off periods in so-called national emergency situations which may run as long as 140 days." The President could authorize the Attorney General to obtain an injunction prohibiting strike action for up to 80 days, with added days possible for consideration of investigator's reports. But the act also did not prevent employers from using this period to change conditions of employment in their favour; this left employers free to reduce wages, cut the work force, revise conditions of employment, etc. while the workers were enjoined from striking. H. Mayer "What is Wrong with the Taft-Hartley Law?", Labor and Nation Vol.IV, No.1, (January-February, 1948), p. 14

34. Statement by Joseph Curran, Chairman, CIO Maritime Committee, to United States Congress, Senate, Committee on Labor and Public Welfare, Hearings on S. 55 and S. J. Res. 22 (reduction of industrial strife) Congress, Session, (February, 20, 1947), p. 1419. John L. Lewis added: "Such a so-called cooling off period will destroy the very premise for collective bargaining at least during that period of time. Employers will have nothing to lose by standing pat until the expiration of such period. Without the right to strike, groups of workers are absolutely helpless to negotiate or exert any influence over the fixing of their wages or the hours and conditions of their labour". Ibid, p. 2011.

35. Statement by Morris Pizer, President, United Furniture Workers of America, in Ibid, p. 2294. John L. Lewis joined in, calling the cooling off period and mediation procedures "the first step toward imposing compulsory arbitration ... and ... the first thrust of the knife of absolutism into the heart of free America". He continued: "The proposed so-called cooling-off period of 60 days constitutes the placing of labour in irons during this period of time. The right to strike is a fundamental right of the workers". Ibid, p. 2010.

36. Thus William Green, President of the American Federation of Labor, rejected the view of Wagner as a biased statute, since it was intended to promote a balance between bargaining power of strong employers and powerless workers. "A labor law which promotes collective bargaining by forbidding employer interference with the organizational rights of workers is no more "one-sided" than a traffic law which protects the safety of pedestrians by penalizing hit-

and-run drivers". William Green, "The Taft-Hartley Act: A Critical View" Annals of the American Academy of Political and Social Science (Philadelphia) Vol. 274 (March, 1951), p. 201.

37. A spokesman for the International Association of Machinists elucidated this position. "It is erroneous to assume that labour even solidly organized, has more or as much power in collective bargaining as management. In the very nature of things the employer has an advantage." The strike weapon was inherently muted by the loss of income during strike action. "When one party to the proceedings owns the job and the other must have that job in order to eat, the bargaining power is not identical or equal. And such a condition is inevitable in our economic system". International Association of Machinists, The Truth About the Taft-Hartley Law and its Consequences to the Labor Movement Washington, 1948), p. 3-4.

38. The illegitimate practices referred to include yellow-dog contracts, strike breaking, dismissals for union activity, company spies, agents provocateurs, labour injunctions, blacklist, violence, use of police and troops, etc. These "abuses of industrial power ... added a handicap to organized labor which greatly exaggerated a disadvantage which is the normal position of trade unions with respect to the power of industry". Ibid, p. 4.

39. Ibid.

40. Mayer, 1948, p. 12, comments on the increased effectiveness of injunctions, now to be sought on employer request, by government lawyers. "Under the Taft-Hartley law the Attorney General is going to replace lawyers for private employers. With the dignity and majesty of the federal government behind such proceedings, injunctions will, it is reasonable to think, undoubtedly become the order of the day".

41. International Typographical Association, "Come Let Us Reason Together on Some Taft-Hartley Subjects" (Indianapolis, 1949). William Green of the AFL criticized the "right to work" provisions, designed to protect the individual worker's right to refuse to join a union in these terms: "This 'right' is somewhat similar to the right of a lamb to remain outside the fold at night - unobjectionable in theory, but small comfort to lambs. Where this negative 'right' is enforced at the expense of the more positive and essential right of lambs to avail themselves of the protection of the fold, the only interest which is served is that of the wolves." Green, 1951, p. 203.

42. The International Typographical Union felt it was a basic right of workers in voluntary association to join together to determine "terms upon which they will offer their services to employers", but feared loss of

the closed shop would prevent unions from enforcing such conditions. In addition, provisions excluding foremen and supervisors from union membership would make it less likely that these persons would sympathetically implement union rules in the workplace. "The Basic Issue Between ITU and the Taft-Hartley Labor Law", Labor and Nation (January-February, 1948), p.13-14. For complete assessment by this union of the law see ITU, The Taft-Hartley Law IS a Slave Labor Law (Indianapolis, 1949); ITU, Taft-Hartley and the I.T.U. (Indianapolis, 1949).

43. Francis Downing, "The Taft-Hartley Act as Viewed by Labor" Illinois Law Review Vol.43, No.3, (July-August, 1948), p. 357.

44. See for instance the comprehensive assessment by the AFL; Committee Report, unanimously adopted by the Special Conference of National and International Officers of the American Federation of Labor, (Washington, D.C, July 9, 1947). See also American Federation of Labor, What's Wrong With the Taft-Hartley Law ... Labor's Indictment (Washington, 1949).

45. Ernest Goodman, Associate Counsel, United Autoworkers - CIO "Labor's View of the Taft-Hartley Law" American Merchant Marine Conference (n.d.).

46. International Association of Machinists, The Truth About the Taft-Hartley Law and Its Consequences to the Labor Movement (Washington, 1948?).

47. George Meany, Secretary Treasurer of the AFL, Presentation to the Symposium on the Taft-Hartley Law, Manhattan College (New York, Nov. 14, 1947), p.3-7.

48. American Federation of Labor, Bulletin No. 1, "Explaining the Taft-Hartley Act" Office of the General Counsel, (Washington, 1947), p 7-8.

49. Not only labour leaders perceived these biases in the act. Professor George W. Taylor, past chairman of the National War Labor Board, argued that in passing the Taft-Hartley Act, "the government policy was evidently deliberately to diminish the power of unions". He cites the equal protection given to individual and collective bargaining, the provision for decertification, restrictions on union control over membership, strike delays, outlawing secondary boycotts, and government regulation of the scope, procedures and outcomes of collective bargaining, as devices enabling government to assist in the weakening of unions and to promote their replacement by individual bargaining in future economic crisis. George W. Taylor, "National Labor Policy" Annals of the American Academy of Political and Social Science (Philadelphia) Vol. 274 (March, 1951), p. 184-191.

50. Downing, p. 360. For many unionists, "the conclusion that the intention of the legislation was to sap the vitality of the labor movement is difficult to avoid." The act certainly coloured worker perceptions of state action, as "government intervention on behalf of injustice can hardly dampen worker resentment". Ibid, p 360-61. William Green of the American Federation of Labor, summarized labour's opinion. "While professing to "balance the scales" between unions and employers, the authors of the act added the weight of the government to the advantage already enjoyed by the antiunion employer and gave him new power, without responsibility. ... Under the pretence of correcting its "abuses", they frustrated collective bargaining, substituted government fiat, and withheld union recognition from millions of workers who suffer for the lack of it". Green, 1951, p. 201.

51. Taylor, 1951, p. 185. He notes how critics saw the unions' earlier support for Wagner as a mistake, since "the Wagner Act brought the government into industrial relations and laid the groundwork for enactment of the Taft-Hartley Act under which unions are 'worse off' than in pre-Wagner Act days". Taft-Hartley certainly revived voluntarist fears of government action as a possible prelude to totalitarianism. The American Federation of Labor certainly preferred to return to the Wagner model rather than continue to match Taft-Hartley restrictions on unions with comparable restrictions on management, which would lead to increased government intervention and an ultimate loss of freedom. As Green argued: "Such a prospect holds no attraction for American trade unionists. They prefer to defend their own rights in relation to their employers, as free men, through collective bargaining. That is why labor advocates repeal of the Taft-Hartley Act and a return to the principles of the Wagner Act." Green, 1951, p. 202.

52. Claude E. Robinson, President Public Opinion Research Corporation, "The Strange Case of the Taft Hartley Law", Look Magazine (September 30, 1947), p. 12-13; see also his "Opinion on the Taft-Hartley Law: A Rejoinder" Ibid, 378-79. Business spokesmen continually stressed the restoration of individual worker rights by Taft-Hartley. See Bongs and Townsend, p. 3-4.

53. Lee, p. 82 ff.

54. John D. Connors, The Taft Hartley Law Can Be Repealed Workers Education Bureau Reprint (New York, 1948).

55. Testimony of Walter Reuther, President UAW-CIO before the United STates Senate Committee on Labor and Public Welfare, (Fri. February 15, 1947); California CIO Council, Research Department, Memorandum, Outline of Facts Relating to Current Anti-Labor Legislation (San Francisco, February 18, 1947).

56. Millis and Brown, p. 372.

57. Harris, 1982, p. 73.

58. Harry S. Truman, "Taft-Hartley Act Repeal" Vital Speeches of the Day Vol. XV No. 10 (March 1, 1949), p. 290-92.

59. Harris, 1982 p. 127.

60. J. Albert Woll, James A. Glenn, and Herbert S. Thatcher, Legal Counsel for the American Federation of Labor, "The Terrible Taft-Hartley Act: We Were Right", reprinted from American Federationist (Washington, 1951).

61. These developments are covered in two articles by Gerald Pomper, "Labor and Congress: The Repeal of Taft-Hartley" Labor History, Vol.2, No.3, (Fall, 1961), p. 323-43; "Labor Legislation: The Revision of Taft-Hartley in 1953-54" Labor History Vol.6, No.2, (Spring, 1965), p. 143-158.

62. A convergence of views developed between management and government actors respecting the need for state action to eliminate union abuses. See Joel Seidman, "Emergence of Concern with Union Government and Administration", in M. Estey et al, Regulating Union Government (New York, 1964).

63. Phillip Taft, Rights of Union Members and the Government (Westport, Conn., 1975), Chapter 1.

64. This background is contained in Morris Weisz, "The United States Labor-Management Reporting and Disclosure Act, 1959: Its Background and Early Operation" International Labor Review Vol.LXXIV, No.1-2, (July-August, 1961), p. 77-81. For more detail on union efforts to clean their own house see Levitan and Loewenberg, p. 37-41; Samuel G. Patterson, Labor Lobbying and Labor Reform: The Passage of the Landrum-Griffin Act (Indianapolis, 1966), p.1-2.

65. Levitan and Loewenberg, p. 31-32. Rhetorically, business leaders continued to emphasize corruption as the major problem. Thus Chamber President McDonnell was quoted as declaring: "The first order of business in the next session of Congress should be the passage of labor reform legislation with enough teeth to run the racketeers out of the labor movement". Cited in Iron Age, (October, 2 1958), p. 39.

66. Milton C. Lightner, " The Changing Face of Labor Management Relations" Commercial and Financial Chronicle Vol.187, No.5732, (Thursday, April 10, 1958), p. 22. Patterson, 1966, p. 1 notes how business fears of labour monopoly were increased after the union of the AFL and CIO in 1955.

67. Thus Lightner opines, "No code adopted as yet by organized labor deals with the obligations of a union to society, to employers or to the economy of the nation". For Lightner and other business leaders, the rectification of internal abuses and the restoration of the rights of rank and file members was a secondary concern next to the economic power wielded by strong unions. Lightner, p. 22.

68. Thus note Lightner's critique of existing laws: "Fundamentally, these laws and their interpretations fail through granting to one segment of society - to labor union leadership - indulgences beyond those permitted to any other group. And they do so without imposing the balancing limitations of responsibility which sound and just laws must provide". Lightner, p. 22. Testimony by business groups to the Senate Committee on Labor reveal these concerns. A useful summary of this testimony is provided in Thomas Martin Stevenson, The Origins and Objectives of the Labor-Management Reporting and Disclosure Act of 1959 PhD thesis University of Illinois, (Ann Arbor, 1964)., p. 173-4. The restrictions on union action sought would "favorably alter the union-management power structure". Ibid, p. 174. Business leaders continued to criticize bills, like the Kennedy-Ives proposal, which rectified the internal corruption problem but dealt insufficiently with secondary boycotts, picketing and the root problem: "unrestrained monopoly power" of unions. Ibid, p. 203.

69. Levitan and Loewenberg, p. 44. This attempt seems explicit in the statement by NAM President Lightner: "this naked force which many unions have used so ruthlessly appears to have overreached itself. The investigations of the McClellan Committee have shown what happens when a nation ceases to heed the often-demonstrated truth that "power corrupts and absolute power corrupts absolutely." The revelations of this committee have aroused public opinion and brought the American people to the realization that power without restraint is dangerous and can have no place in a free society". Lightner was seeking to use the abuses uncovered by the committee as a pretext for enacting legislation to reduce union power in collective bargaining "to enforce respect for the rights of employers, employees and the public at the bargaining table. ... The objective must be to return to labor-management relations the criteria of justice and individual freedom". Lightner, p. 22.

70. These concerns are surveyed in "Labor Reform Faces Tough Going", Iron Age, (March 19, 1959), p. 82-3. While consensus was held to exist re reform of internal abuses, these other provisions were seen as more controversial: "The most bitter fights involve efforts of the Administration and conservative elements to clamp some curbs over the vast - and often abused - economic power of today's massive,

centralized labor movement. This the unions are fighting tooth and nail". Ibid., p. 82.

71. An effort was made to portray union shop and compulsory dues as devices ensuring labor corruption. In Lightner's words, "This power is what permits those who govern labor unions to ignore the wishes and the rights of union members, and to flout public opinion. It makes American labor movement more attractive and profitable to the underworld than gambling, dope or vice. It enables gangsters and their willing union associates to operate much of the nation's labor movement as their own private racket". Lightner, p. 22. Lightner also sought measures "to prevent more effectively the use of union funds for political purposes". Ibid, p. 23.

72. The Eisenhower administration proposals are discussed in "Hope Fades For Labor Reform Laws Next Year" Iron Age (October, 2 1959), p. 39-41; "Labor 'Reform' Law Is Coming But It Will Be Moderate" Iron Age (February, 5 1959), p. 39-40;

73. The initial reaction was to resist any calls for reform legislation, as in George Meany's testimony to the Senate Committee on Internal Union Practices. There was particular resistance to any extension of reform to cover subjects such as secondary boycotts, organizational picketing, and so forth. But, as Stevenson illustrates, AFL-CIO affiliates were sharply divided on the issue, with some unions backing selective legislation and others rejecting any proposals for change. Lewis of the Mine Workers, for instance felt an autocratic union leadership was more efficient in confronting management, and did not want any regulation of internal union democracy. Stevenson, 1964, p. 178. But the AFL-CIO reversed its position in later hearings after it appeared certain that some legislation regulating internal union affairs was inevitable; the union central still insisted on favourable amendment of Taft-Hartley as a prerequisite for its support of any measure. Ibid, p. 192. The complexity of resulting bills, which all included some provisions favourable to and threatening to unions, made labour's response complex and divided labour spokesmen.

74. Alan K. MacAdam, Power and Politics in Labor Legislation (New York, 1964), p. 9-10.

75. As an example see AL Hayes "Labor's Case Against the Kennedy-Ervin Bill" The Machinist Special Section, (washington, 1959).

76. Stevenson, 1964, p. 195.

77. Confusion in the position of labour stemmed from two sources; the radical stance of the Teamsters and Mine Workers, both independent of AFL-CIO (the former by

expulsion, the latter by walk-out); and the decentralized structures of the AFL-CIO itself. "A greater degree of control over the affairs of the organization is imputed to its leaders than is actually possible". Despite the best efforts at coordination within the union central, there were still many different lobbying activities by affiliates, often working at cross purposes in Congress. See Allan K. MacAdams, The Development of the Labor-Management Statute of 1959: A Study of Organization, Politics and Power PhD thesis, Stanford University (Stanford, 1960), p. 69 ff.

78. Thus note Stevenson's account of the lobbying efforts by the Teamsters and Mineworkers, after Senate adoption of the Kennedy-Ives bill. These unions joined employer groups in opposing similar measures in the House of Representatives, and help promote the defeat of the measure, thus delaying reform and contributing to a reappraisal which involved serious consideration of the more restrictive administration proposals. Stevenson, 1964, p. 205-9.

79. Levitan and Loewenberg, p. 44. Patterson argues that the AFL-CIO did support the original Kennedy-Ives bill, despite changes enacted in the Senate floor debate. However, this early measure was condemned to failure by combined opposition of business groups and conservative Congressional opponents, who felt its emphasis on internal union democracy and ethics did little to address the problem of union democracy. Patterson, 1966, p. 3. And despite official AFL-CIO endorsement, undoubtedly some labour lobbyists actively opposed it because of its inadequate rectification of Taft-Hartley problems. After the election of the more liberal Congress in 1958, union spokesmen hardened their stand in insisting on reform of Taft-Hartley provisions, despite warnings from Congressional supporters that this would open the possibility for unfavourable amendments during Senate consideration.

80. Stevenson, 1964, p. 225-229. After the incorporation of this provision, the AFL-CIO dropped its support for the milder reform efforts of Kennedy et al.

81. J. Albert Woll, Landrum-Griffin (Washington, 1960), p. 3. The harsh penalties imposed for misconduct by union leaders were seen as dissuading many potential leaders from seeking union office. "Ironically, a law purportedly intended to foster union democracy may actually be tending to hamper it".

82. At some stages, the internal disunity contributed to AFL-CIO inaction as opposed to outright opposition, which, when combined with the vocal criticism and intensive lobbying by the Teamsters and Mineworkers, gave the impression to Congress that "labour" was

unified in opposition to any reform measures. MacAdams, 1960, p. 134.

83. Stevenson, 1964, p. 239-44 comments on the impact of differing lobbying methods by labour and management, with the soft-sell approach of the latter more persuasive with Congressmen than the electoral threats of unionists. This approach served to alienate Congressional opinion and assist business in swinging the undecided to its position. At the same time, the perfectionist nature of the labour approach, whereby all objectionable features of the Elliot bill, the final draft of the milder Kennedy proposals, were staunchly resisted probably contributed to defeat of that bill and adoption of Landrum-Griffin. MacAdams, 1960, p. 312. MacAdams concludes: "the labor movement could have achieved more, in terms of its self-defined self interest, only by recognizing that its power was significantly less than it was generally believed to be, and adjusting its strategy accordingly". Ibid, p. 314.

84. Library of Congress, Legislative Reference Service, Background Provisions and Issues: Labor Management Reporting and Disclosure Bill of 1959 (Washington, 1959), p. 18 ff.

85. United States Department of Labor, Federal Labor Laws and Programs (Bulletin # 262, September, 1971), p. 37 ff.

86. Democratic Representative Alfred E. Santangelo noted how the Labor-Management Reporting and Disclosure Act was motivated in part by southern Congressmen's desire to weaken the ability of unions to move into non-unionized sectors in their regional economy. "The desire to attract industry for their states and to maintain the economic conditions which give their states a competitive edge against areas with highly unionized industries played an important part in the decision of Southern representatives to vote for the Landrum-Griffin bill". These politicians feared "that labor's economic weapons if not restrained would prevent the expansion of industry in the South or in other areas not completely unionized". Alfred E. Santangelo, "The Passage of LMRDA and Economic Motivations", in Ralph D. Slovenko, Symposium on the Labor-Management Reporting and Disclosure Act, 1959 (Washington, 1961), p. 92-3. There was certainly an effort by business lobbyists to inform Southern Congressmen that "Labor is keeping industry out of the South" and therefore legislation was needed to keep unions out. MacAdams, 1960, p. 229.

87. For an assessment of the overall desire of business for continuous state restrictions on union activities and power see MacAdam, 1964, p. 53-9.

88. Charles M. Brooks, "The New Labor Law Reform: An Appraisal", National Industrial Conference Board, Management Record Vol.22, No.3, (March, 1960), p. 26-7.

89. Chamber of Commerce of the United States, Labor and Legal Relations Department, Section by Section Analysis of S. 1555: The Senate Passed Reform Bill (Washington, 1959). The Chamber criticised the bill for failing to adequately protect union members rights within labour organizations; it also referred to the failure to eliminate all of the unnecessary union "sweeteners" which had been included in the Taft-Hartley Act.

90. National Association of Manufacturers, Digest Analysis of the Labor-Management Reporting and Disclosure Act of 1959 (Washington, 1959), p. 3. "The new law does not attack the problem of union monopoly power except to the extent that it restricts some of the techniques used and practices engaged in by some unions. Neither does it deal with the problem of compulsory union membership or with the use of union funds for political purposes. Despite these shortcomings, however the amendments to the Taft-Hartley Act do represent progress toward development of an adequate federal labor policy".

91. The American Retail Federation thus saw the act as contributing in important ways through the elimination of organizational picketing; but it feared this very provision could lead to disruptive electoral calls to determine union support. American Retail Federation, The 1959 Labor Reform Law: What it Means to You as a Retailer (Washington, 1959), p. 30.

92. George Meany, President, AFL-CIO, Labor Reform: Where We Stand (Washington, 1961).

93. See for instance the evenhanded criticism of the Landrum Griffin Law in practice in AFL-CIO Maritime Trades Department, A Report After Eight Years of the Landrum Griffin Act (Washington, 1967).

94. J. Albert Woll, Counsel to the AFL, expressed hope for favourable court interpretation. "Even more, hope for the future lies in the hands of another Congress, which will refuse to be misled by false slogans, and which will restore a proper balance of economic power between unions and management". J. Albert Woll, Landrum-Griffin, (Washington, 1960), p. 32. Burton Hall notes the efforts of unions to secure favourable court rulings and interpretations by the Secretary of Labor - especially during Democratic administrations. Burton Hall, "Law, Democracy and the Unions", in Hall (ed.), Autocracy and Insurgency in Organized Labor (New Brunswick, New Jersey, 1972), p. 109-110.

## 15 Canadian Wartime Labour Policy

### a) Labour Demands for Protection

By the outbreak of World War Two, Canada had still failed, at the national level, to emulate the key reforms of the Wagner Act: the compulsory recognition of trade unions and the mandatory acceptance of collective bargaining between freely chosen representatives of labour and management.[1] Business pressure, constitutional problems, the absence of political necessity to placate labour, and a preference for the British voluntary approach to union expansion dictated a minimal federal presence in this field.[2] This less supportive state attitude toward union growth left Canadian labour poorly organized and less influential. Collective bargaining was not established practice, outside the traditionally organized sectors in the railways, printing, building trades, coal mining, and textiles; employee committees (or company unions) were preeminent over bona fide trade unions.[3] Unionists still had to deal with judicial interference with peaceful picketing, by means of injunctions.[4]

From the mid-nineteen thirties, pressure was brought to bear on the government to adopt the American reforms, particularly by the growing industrial unions, in the C.I.O.-linked Canadian Congress of Labour. As Sefton-MacDowell comments, this issue split the industrial from the craft unions:

> The new unions, which lacked the economic strength to establish collective bargaining relationships, required government intervention to protect their organizations. The craft unions, which were strong and entrenched, did not need government intervention to gain recognition from employers, and were wary of the increased role of government implicit in the "Wagner" principles.[5]

In fact, the American model of government intervention in the settling of jurisdictional disputes seemed threatening to the established craft unions, which feared the rapid spread of the rival industrial unions. The pre-war tension reached a peak when the C.I.O.-linked

industrial affiliates were expelled from the T.L.C. in 1938, partly under A.F.L. pressure, but also because of internal tensions on the fundamental question of "craft exclusivity". While these tensions were to persist up to the merger movement of the 1950s, the onset of war, the corresponding economic changes, and the nature of government labour policy in the crisis were eventually to unite the two wings of labour in a joint political demand for the "Wagner" provisions.[6]

b) Wartime Labour Demands

From the outset of conflict in 1939, labour acknowledged the need for strong state direction during the wartime crisis.[7] Trade union leaders made suggestions for wartime federal administration of labour matters[8], with union representation in regulatory agencies. Unions also expressed a willingness to forgo strike action during the war, but rejected compulsory arbitration.[9] As the reward for cooperation in wartime activity, the union centrals expected a greater recognition of the equal place of labour in the productive sphere, greater consultation in the making of government labour policy, and the introduction of the Wagner provisions.[10]

But there was also a desire on the part of labour to take advantage of the wartime labour scarcity to augment both organizational strength and income levels. These designs eventually ran foul of government policy, aimed at keeping the costs of war to a minimum. And the Canadian state, even in these crisis circumstances, still refused to follow the American lead and require employers to respect workers' rights to organize and to select representatives to collective bargaining. A plethora of administrative orders were adopted under the War Measures Act, but most dealt with wage levels, and labour requests for enforcement of compulsory collective bargaining were ignored[11]. The best that was offered was an exhortation to employers to respect these rights voluntarily[12]. Government also gradually expanded its machinery to investigate complaints of employer discrimination.[13]

Government practice was infuriating to unions, who protested via National Labour Board inquiries and lobby efforts. Unions criticised the lack of consultation with labour on restrictive measures[14], and wage controls[15], the failure to compel employer recognition of union bargaining rights[16], and the absence of the Wagner rights even in government-run operations.[17] These policies, adopted by a government closely linked to the private sector in the running of the war economy, gave labour leaders the impression of insensitivity to their needs; major industrial disputes, such as the battles at Kirkland Lake, where the state tolerated employer defeat of union organization, sharpened this view.[18] Labour was being asked to sacrifice in a war effort where its voice went unheard, and in which capital was profiting handsomely.[19] This situation undoubtedly contributed to the unity of purpose and the vigour with which labour tried, by intensive lobbying, militant industrial action and by direct participation within the burgeoning C.C.F., to have the Canadian industrial relations policy transformed.

Labour pressed the federal government to live up to its commitment to guarantee the right to organise in trade unions, to negotiate agreements through collective bargaining, and to establish a satisfactory minimum wage and working conditions.[20] The T.L.C. proposed the extension of the IDIA to all industrial sectors, as "the most effective way of reaching industrial accord if disputes arise which cannot be settled by mutual agreement"[21] Union leaders argued that employer recalcitrance and legislative inadequacies were the real source of labour unrest in Canada.[22] Patrick Conroy, Secretary of the All Canadian Congress of Labour, underlined how a just and equitable labour policy, based on a broadly accepted labour code respected as the basis of industrial relations was essential to wartime stability. In particular, "until working class legislation is anchored with a collective bargaining policy that will be just and have attached to it a preventative means to trouble", no increase in industrial stability could be expected.[23] Criticizing

company unions[24], unionists urged that "the government delay no longer in the passage of a law that will oblige any ... employers of labour to recognise a trade union once that union has been chosen by a majority of the employees".[25] This call was echoed by many unionists during the early part of the war.[26]

By early 1943, both the TLC[27] and the CCL had[28] presented the government with plans to apply the lessons of Wagner to the Canadian setting. While distrustful of government action based on the past record, labour did not favour a diminution of the state role and made it clear that respect for authority was dependent on the character of prevailing legislation at any given moment. By acting to correct problems as identified by the unions, government could demonstrate its usefulness and regain labour confidence; its assistance in overcoming employer resistance to labour organization was indispensable.[29] Pat Conroy expressed this view, seeing state action as the key to recognition of Labour's place as an equal partner in economic life. "As an essential partner in the nation's production, Labour must and should have its right as such established by law".[30]

c) Canadian Business Conservatism

Business leaders resisted the demands of labour for state protection of the right to organize and bargain collectively. This form of industrial interaction was viewed as merely one option among several; given the independent position it accorded to labour, it was considered with suspicion.[31] Canadian business had been no less vociferous than American corporate figures in condemning union collective bargaining as interference by outside agitators in the relations between business and individual worker[32]; they had expressed scepticism about prior efforts to introduce the Wagner model into Canada.[33] Even the voluntary exhortation of the initial wartime orders was condemned as "unnecessary and ... calculated to do more harm than good".[34]

The Canadian Manufacturers Association expressed

satisfaction with the existing methods of employee representation; individual personal relations in small firms and employer sponsored shop committees and works councils must have "given satisfaction to the great majority of employees" since merely 18 per cent of workers had joined trade unions.[35] Legislation to protect independent unions was characterized as a concession to minority interests since trade unions represented less workers than company unions, which were considered more "responsible" representatives of workers.[36]

The CMA also rejected labour claims that increased unionization would lead to industrial peace. Citing U.S. figures, the brief suggested an increase in strike activity in unionized plants since the Wagner Act, which contrasted with the more harmonious relations in unorganized industries. Resisting labour's demand to make free organization and collective bargaining compulsory, the CMA claimed this would enable the unions to begin a massive and disruptive organization drive, calling on the votes of recent recruits to industry with promises of high wages and increased influence.[37] In general, it was "not sound or wise to determine employer-employee relations for the whole future on the basis of the abnormal conditions of war time".[38]

While concerned about aggressive organizing by "radical" unions,[39] The Canadian Chamber of Commerce was more willing to accept the principle of collective bargaining as long as the representatives of labour were selected by the majority under state auspices.[40] The Chamber considered binding, voluntary agreements between the two parties as the best means of settling disputes in industrial affairs.[41] But the Chamber was not willing to accept that a single trade union should be sanctioned as representative simply because it obtained majority support; rights for individual and non-unionized workers should also be assured by government action. In particular, the Chamber showed a preference for the craft model of bargaining to take account of the different skills and needs of various classes of employee.[42] Thus the American Wagner precedent

was not viewed favourably by Canadian employer associations who preferred to avoid state "sponsorship" of unionization.[43]

But if business was critical of proposed state guarantees of collective bargaining rights, it had its own agenda for intervention. In particular, business sought an even tougher regimen of wartime controls on unions, to prevent them from exploiting the favourable market conditions to secure wage increases.[44] There was a strong desire for legislation to reduce the likelihood of strikes, by providing machinery to settle disputes before they escalated into work stoppages.[45] Forced to recognize that American precedent plus the growing economic and political strength of organized labour might induce government acceptance of compulsory organization and collective bargaining, the Canadian Manufacturers' Association emphasized the need to consider labour duties alongside such rights. Thus, registration of unions, filing of constitutions, by-laws and finances, compulsory union fulfilment of contract, and annual elections to ensure genuine union democracy were urged as companion measures.[46] Using British Columbia and Nova Scotia precedents, the employers sought to ensure that unions could be held accountable to their members and financially responsible for their actions (i.e. liable via civil actions for any costs imposed or damage caused by strikes, boycotts, organization drives, etc.). In the words of the Chamber: "[a]s unions have become more powerful it becomes hard to justify their remaining outside the scope of the ordinary law. If a union is given the right to represent a group of employees it must logically be put in the position where it is bound by its own acts".[47]

Freedom of association in the form of a guaranteed right of employees <u>not</u> to join unions was also advocated, which meant prohibitions on closed shops, compulsory union due deductions and union intimidation. The right to join "independent unions", in the form of works committees, shop councils, should also be protected, since this was the preferred means of dealing with

employers and would promote cooperative, not conflictual relations.[48] The Chamber also advocated closer contacts between management and workers to allow a greater interchange of views and greater trust through more personal contact; joint production councils and internal grievance machinery should be "progressively extended". But such aims could best be achieved via private channels.[49]

d) Government Policy Evolution

Despite the purported interventionist leanings of Prime Minister King in Labour matters[50], and internal lobbying from labour board members,[51] the government was slow to respond to these combined pressures, utilizing constitutional restrictions as an excuse for inaction. Token gestures only were employed. In contrast with the New Deal policy of government intervention to redress the imbalance between capital and labour, and to encourage systematic collective bargaining, "Canadian labour policy ... was concerned only with eliminating industrial unrest".[52] Increased labour strife, notably the steel strike of 1943, revealed the inadequacy of existing policy and increased pressures for change.

Labour's growing cooperation with the C.C.F. helped precipitate a massive increase in support for this social democratic party; during 1942 and 1943, it became a credible alternative to the established parties. Government leaders finally sensed that significant policy alterations were politically expedient.[53] The first measures were adopted by the Ontario provincial regime, which, fearful of the growing C.C.F. electoral presence, adopted a collective bargaining act in spring, 1943. This first formal recognition in Canada of the rights of organization and collective bargaining increased the pressure on the federal regime to adopt similar nation-wide measures. While the Ontario law facilitated the certification of union organizations, and reduced the need for recognition strikes, it did not prevent the defeat of the provincial Liberal government and the remarkable rise of the C.C.F. to official opposition status in the

province, spurred on by labour support.[54]

These developments caused the federal Liberals to alter their resistance to labour law reforms. A broad inquiry into labour grievances and the causes of labour unrest was conducted by the National War Labour Board[55]. This led to the adoption of Privy Council Order 1003, designed to make previously voluntary collective bargaining arrangements mandatory. This enactment

> brought the national labour code more into line with the American pattern. It included the main principles of the Wagner Act and established much the same machinery to enforce it; guarantees of labour's right to organize; selection of units appropriate for collective bargaining; certification of bargaining agents; compulsory collective bargaining; and labour relations boards to investigate and correct unfair labour practices[56]

But it also placed proscriptions on union coercion and recruitment methods, forbade stoppages by either party during negotiations and provided criminal penalties for violations in prosecutions screened by the Board. It also retained the IDIA principles of conciliation, investigation and strike delays, and established compulsory binding arbitration to settle disputes where agreements were in force. The outcome was an interesting mixture of established Canadian precedent, American Wagner elements, and more recent American business proposals for reform of Wagner, by outlawing some union activities.[57]

e) Labour Response to Privy Council Order 1003

As a result, the reaction from both industrial classes was mixed. Labour welcomed many elements, especially the central tenet of compulsory collective bargaining. But provisions differing from Wagner, in the direction of Taft-Hartley, were condemned and amendments advocated. Major proposals included certification only for bona fide trade unions, certification on majority vote of participating workers and not of the whole workforce, provision for union security clauses and dues check-offs, and mandatory reinstatement for workers discharged unfairly, etc.[58] PC 1003 did not adequately protect trade

unions from employer efforts to promote company unions, undermine union security and avoid "good faith" collective bargaining.[59] PC 1003 was seen as a weak measure which was readily and frequently ignored by employers.[60] Unionists wanted stronger provisions requiring collective bargaining with union representatives, even suggesting that it be "compulsory that contracts be signed where unions had been certified by the Labour Relations Board".[61]

Also of concern was the government's continued restraint of wage increases, which had prevented the unions from using the favourable labour market to their advantage. With few exceptions[62], unions remained largely critical of continued state economic controls, particularly after wage restraint was extended past the end of the conflict and into the reconstruction period in 1945.[63] The practice of limiting wage increases if price rises would result was condemned as giving the employer the ability to avoid all wage claims, since employers were free to raise prices at any time. The failure to consult labour in the selection of labour "representatives" on the price control boards was also attacked.[64] Like good American voluntarists, the Canadian unionists "resent[ed] the denial by [government] Order of the right of Labour to use its age-old means of defence, the right to strike".[65] Laissez-faire rhetoric again was used to promote a retreat of state intervention: "the time has come whereby liberty of action be restored, giving the right to all law-abiding organizations, to collective bargaining between employer and employee".[66]

Despite these problems, labour feared the collapse of wages and rise in unemployment in the post war period, with the end of war time production and the return of servicemen. Unionists remembered the difficult conditions after World War I, when wages plummeted and union membership shrank. Government intervention was required to avoid a repeat of this experience.[67] Unions were also concerned about the temporary emergency nature of PC 1003, fearing a retreat to piecemeal inconsistent provincial legislation at the end of the conflict.[68] Hence, labour leaders began to advocate an extension of the provisions of

PC 1003 through amendments.[69] The ultimate aim was a permanent National Labour Code to cover all industries across the country, not just industries under federal jurisdiction: a labour "Magna Carta" on the Wagner model "granting the workers the protection and union security they deserve".[70]

f) Business Response to Privy Council Order 1003

Business also had a divided reaction to the wartime orders. Business spokesmen indicated support for provisions requiring majority vote of all unit members for certification.[71] But they sought changes to certification procedures. Concern over the influence of American unionists led to a demand that Canadian union leadership be a prerequisite for certification. Procedures for decertification should be invoked, on application of the employer, if the union was considered no longer representative of the employees. Similarly, employers should be given the power to call for secret ballot votes during a strike to ensure members still wished to follow their leaders. Provisions against improper picketing were also required, because of the aggressive tactics of the industrial unions. Liability of unions for any damages caused during strike action was also sought, sanctioned by fines and civil actions. [72] Unions should be required to register and report on their finances, to guard against mismanagement. Employers also supported clarification to ensure that the supervisory personnel should not have the rights to union organization.

Employers saw the usefulness of the wage control provisions and did not want them removed precipitously after the conflict; a carefully planned withdrawal of such measures was required to ensure orderly transition back to a free enterprise economy.[73] The cost of living bonus, a novel wartime measure, was criticized; business hoped to keep this element separate from the regular wage rate, to permit reduced wages after the conflict.[74] Manufacturers resisted labour calls for prohibition on bargaining in bad

faith, broadened scope of grievance procedures, the "majority of members voting rule", compulsory union security and dues check-off, or strengthened limitations on company unions.[75] The Canadian Chamber of Commerce opposed efforts to ban "independent" company unions, to broaden collective bargaining to cover more conditions of employment, and to compel union security provisions or closed shop and dues check-off. The Chamber was more willing to agree to certification with a majority of voting employees, if at least fifty per cent of the whole unit participated.[76]

The Canadian Manufacturers' Association also attacked the requirement that workers join the majority union as an intrusion on the rights of individuals.[77] But it also had an economic motivation for opposing the closed shop. Thus, a spokesman complained: "The closed shop tends to give the unions so dominant a voice in the management of a business that the balance between management and labour necessary for the effective and socially sound functioning of the enterprise is upset". He continued:

> [t]he closed shop tends to give the unions a monopoly control of labour which is undesirable and even dangerous both economically and socially. Thus a monopoly acquired by trade unions in the controlling of wages might, if it were exercised unwisely, have economic and social effects that would be disastrous. The community has a right to object to such far-reaching power being concentrated in the hands of any economic group.[78]

Union's control of worker loyalty, and their ability to dictate employee behaviour, would allow actions inconsistent with the interests of the employer. The power which the closed shop conferred was unprecedented among private associations; incorporation and supervision of the internal affairs of unions would clearly be a required concomitant of such a measure.[79] The Chamber also resisted a compulsory union shop: "Such provisions would place a very great and unwarranted power over the whole business economy of the country in the hands of a few trade union organizations. Such compulsion is the antithesis of collective bargaining and we again urge most strongly that

no such compulsion either upon employer or employees should be introduced into collective bargaining agreements".[80]

g) Evolution of Interest Group Attitudes

Thus both unions and management had clear ideas about acceptable and unacceptable state intervention in industrial relations. Throughout this period, unions sought increased guarantees of their right to compulsory collective bargaining and union security, and measures to eliminate rival forms of employee representation. They resisted regulation of their internal financial affairs, legal liability for strike or other damages, or state limitations on maximum wages. Employers favoured strong state regulation of picketing, supervisors' unions, decertification, strike ballots, and union liability. But they rejected state involvement in guaranteeing union security, compelling deductions of union dues, or broadening the scope of collective bargaining. Obviously, no consistent attitude was displayed toward the role of the state in industrial relations, even in any particular submission. Ideological convictions seemed to take a back seat to specific interests in these lobby efforts. The terminology of laissez-faire (voluntarism, and anti-compulsion) were used selectively by both parties to legitimate a particular attitude on a specific proposal; business and labour lobbyists were not concerned about the consistency of their position when advocating, often simultaneously, increased state presence in other aspects of industrial relations.

Notes

1. Provincial legislation of the late 1930s did move some distance in the direction of Wagner, by affirming the legality of unions, and of collective bargaining, and by outlawing employer intimidation aimed at preventing union membership. But compulsory collective bargaining was only required by Nova Scotia, Alberta and British Columbia, and guarantees for the proper selection of union representatives by majority vote were not included. See the critical survey by G.V.V. Nicholls, Legal Department, Canadian Manufacturers' Association, "The Legal Status of Canadian Trade Unions: A Study of

Recent Legislation" Industrial Canada Vol. XXXIX, No.3, (March, 1938), p. 41-47.

2. Daniel Coates, Organized Labour and Politics in Canada: The Development of a National Labour Code Ph.D. thesis, Cornell University, (1973), Chapter 3 surveys these reasons for inaction by the federal government.

3. H.A. Logan, State Intervention and Assistance in Collective Bargaining: The Canadian Experience, 1943-54 (Toronto, 1956), p. 9.

4. "Congress to Take up Question of Strike Pickets", Montreal Star, Sept 18, 1926; "Tiff Breaks Out Between Reds and Other Labourites", Ibid, Sept., 26, 1926. Injunctions periodically were the target of concerted labour criticism, albeit with differing tactics of resistance suggested by radicals and moderates.

5. Laurel Sefton-MacDowell, "The Formation of the Canadian Industrial Relations System During World War Two", Labour/Le Travailleur Vol.3, (1978), p. 175-196.

6. Sefton-MacDowell, 1978, p. 177.

7. Trades and Labour Congress of Canada, Memo to the Prime Minister on Cooperation in War Time Activities, Oct., 5, 1939, p. 2. Public Archives of Canada, Department of Labour Papers, RG 27 Vol. 3497, File 1-10T-100-1.

8. Memo re meeting, Oct. 6, 1939, of TLC president T. Moore and Representatives of International Unions with the Ministers of Labour, Finance and Defence Public Archives of Canada, Department of Labour Papers, RG 27 Vol. 3597, File 1-10T-100-1.

9. The TLC memo stated: "We are agreed that there should be no strike or lockout during the war but the extent to which this can be carried out depends on the degree to which labour is recognized as an equal partner in production activities". Cooperation would be facilitated by labour representation on any government boards set up to manage labour matters. Compulsory arbitration was rejected and wariness of provincial variations in disputes settlement procedures was expressed. Ibid, p. 2.

10. The TLC leadership made clear their aim of implementing the right to union organization, compulsory collective bargaining legalised union shop provisions, minimum fair wage standards, and extension of IDIA procedures to any industry where intractable disputes occurred. Trades and Labour Congress of Canada, Memo to the Prime Minister on Cooperation in War Time Activities, Oct., 5, 1939, p. 2. Public

Archives of Canada, Department of Labour Papers, RG 27 Vol. 3497, File 1-10T-100-1. This campaign was to continue in succeeding months. Winnipeg Free Press Aug. 22, 1940.

11. For a discussion of the various orders adopted in the early years of the war, see Logan, 1956, p. 11-13.

12. See for instance the Privy Council Order of June 19, 1941, as reprinted in the Canadian Congress Journal Vol. XIX, No. 7, July, 1940, p, 30-31.

13. Logan, 1956, p. 12.

14. Press release, Office of A.R. Mosher President, C.C.L., date unknown P.A.C. RG27 Vol. 168, File 613.05 A particularly ominous order, P.C. 5830, enabled the Minister of Defence to call out the militia in labour disputes without reference to the provincial or local authorities. While peaceful strikes were expressly excluded, the Canadian Congress of Labour "nevertheless feels that there are grave dangers in the delegation of almost unrestricted power to one Minister of the Crown to intervene in disputes and to set aside the conciliation machinery which has been established to deal with them". N.S. Dowd, Treasurer, Canadian Congress of Labour, to William Lyon Mackenzie King, Aug. 14, 1941. Public Archives of Canada, Department of Labour Papers, RG 27 Vol. 168, File 613.05.

15. Logan surveys the confusion and irritation caused to labour by the early wage control provision featuring ad hoc boards, ruling inconsistently. "The results were differing interpretations, long delays, minority reports, and much confusion. Organized labour, keenly aware of the loss of probable wage advances through collective bargaining at such a time, became incensed at the delays and the majority judgments of certain boards". Logan, 1956, p. 12.

16. The list of grievances was long. War-related industries were not forced by the King administration to act according to the purported government policy on union recognition and collective bargaining. While refusing to compel employers in this respect, or to impose limits on profit rates as a contribution to the war effort, the government enforced tight restrictions on wage increases, labour mobility, and compulsory military service and training, which contributed to labour distrust. Wage controls were condemned as inequitable as they failed to ensure the poorer-off segments of labour could keep pace with rapid wartime inflation; only enforcement of free collective bargaining could rectify this situation. Particular criticism was levelled at government measures which seemed to capriciously work against labour's interests; for instance the policy that required Canadian workers doing the exact

same jobs as Americans on the Alaska highway to work at lower pay for Canadian companies rather than join high wage American firms. Union leaders were also critical of the government for placing so much emphasis on coercive measures to control strike actions, rather than establishing a cooperative collective bargaining regime with labour. N.S. Dowd, Treasurer, Canadian Congress of Labour to Prime Minister King, Aug. 14, 1941, Public Archives of Canada, Dept. of Labour, Vol. 168, File 613.05.

17. A.R. Mosher, President of the Canadian Congress of Labour to the Minister of Labour, Norman MacLarty, Aug 13, 1941. He requested that P.C. 2685 make clear that rights of union organization and collective bargaining would be enforced on government operated projects as an example to private employers. Public Archives of Canada, Department of Labour Papers, RG 27 Vol. 168, File 613.05. Mosher was also critical of PC 3947, which exempted government projects from the Fair Wages and Hours Act of 1935, thereby raising "doubt regarding the sincerity of the Government's expressed desire to cooperate with organized Labour". A.R. Mosher, President of the Canadian Congress of Labour to the Minister of Labour, Norman MacLarty, Sept. 23, 1940. Ibid.

18. At the 1942 convention of the Trades and Labour Congress of Canada, resolutions declared: "The handling of a major dispute at Kirkland Lake ... was a glaring example of the inability of the government to deal effectively with a situation of labour relations during a crisis period". Cited in Logan, 1965, p. 13. For a thorough account of this strike and its implications, see, Laurel Sefton-MacDowell, Remember Kirkland Lake (Toronto, 1983).

19. The unsanctioned regimentation of labour was contrasted with concurrent policy of "Business and profits as usual"; Pat Conroy , Secretary Treasurer of the C.C.L. continued: "We see in this war no attempt at the complete mobilization of business and industry". A war waged for democracy should extend to economic as well as political spheres, via genuine cooperation with labour, reflected through the end of government and business opposition to genuine union organization and attainment of wage parity among workers in industry. "Conroy Sees Labour Discontent From Lack of Voice In Planning", Vancouver News Herald, May 28th, 1942; P.A.C. RG27 Vol. 168, File 613.05

20. The T.L.C. expressed it thus: "The Congress feels that the Government might properly set an example to private employers by recognizing the right to organize and bargain collectively in industries under its control, thus indicating that it accepts the organized Labour movement as an important factor in the war-effort [sic] and in the promotion of the

national welfare." A.R. Mosher, President, C.C.L., to N.A. McLarty, Minister of Labour, Aug., 13, 1941.

21. Trades and Labour Congress of Canada, Memo to the Prime Minister on Cooperation in War Time Activities, Oct., 5, 1939, p. 2. Public Archives of Canada, Department of Labour Papers, RG 27 Vol. 3497, File 1-10T-100-1.

22. A.R. Mosher, President, Canadian Congress of Labour, to Prime Minister William Lyon Mackenzie King, June 13, 1941, p. 2. Public Archives of Canada, Department of Labour Papers, Vol. 168, File 613.05. The Toronto Labour Council also adopted a resolution which "deplor[ed] the recent outbreak of strikes throughout the Dominion in non-unionized plants and call[ed] upon the government to encourage, by legislation, the organization of unions in all industries as a necessary prerequisite to effective use of government conciliation machinery and as a necessary guarantee of proper working conditions and uninterrupted production". Cited in Pat Conroy, letter to Humphrey Mitchell, Minister of Labour, July 17, 1942. Public Archives of Canada, Department of Labour Papers, RG 27 Vol. 168, File 613.05.

23. Ibid.

24. A.R. Mosher, President, C.C.L. to King, June 13, 1941, P.A.C. RG27 Vol. 168, File 613.05.

25. See, as one example, this resolution by the International Union of United Automobile, Aircraft, Agricultural Implement Workers of America, Mar., 1943.

26. Patrick Conroy, Secretary, A.C.C.L. to Humphrey Mitchell, Minister of Labour, July, 17, 1942, P.A.C. RG 27, Vol. 168, Dept. of Labour, File 613.05.

27. Memorandum Presented to the National War Labour Board by the Executive Council of the Trades and Labour Congress of Canada, May 4, 1943, P.A.C. MG 28 I 103, Canadian Labour Congress, Vol. 195, File 2, passim.

28. Canadian Congress of Labour Memorandum on Labour Relations and Wage-Conditions in Canada Submitted to the National War Labour Board, May 5, 1943.

29. This sentiment is expressed by A.R. Mosher, in a brief to the government. "If the workers have the same right to organize for the protection of their interests as employers freely enjoy, they may properly look to the government for protection in the exercise of that right and whatever legislation is necessary for this purpose should be adopted, either by order in council or by act of parliament." Cited in Prince Albert, Sask. Herald May 6, 1943.

30. Canadian Congress of Labour, Submission to the Chairman and Members of the National War Labour Board by Patrick Conroy, Secretary-Treasurer, Ottawa, June 8, 1943, p. 7.

31. At this juncture, manufacturers were particularly concerned about the possibility that unions could use independent collective bargaining to exploit wartime conditions and increase wages dramatically. Thus support for wage controls and opposition to collective bargaining and the closed shop were centrepieces of Canadian Manufacturers' Association policy. See "Oppose Closed Shop" Moose Jaw, Sask. Times Herald May 6, 1943.

32. See for instance the comments of businessmen from the Textile industry. Dominion Textile representatives declared: "The company will not permit any third party to interfere between the management and the employees or to take away from the employees their rights as individuals to deal with the company". A spokesman from Belding Corticelli Ltd. said men were free to join the union but "I don't think we would be prepared to consider dealing with organization .... Because we would very much prefer to deal with them as individuals .... Because there are always people who get in control of these things, or ... who have very radical ideas, imaginary ills or problems". Testimony before the Royal Commission on the Textile Industry, Report (Ottawa, 1938), p.184.

33. Thus Canadian manufacturers viewed tentative steps by the provinces to copy the American statute with suspicion. See "Significance of the So-called Wagner Act" Industrial Canada Vol.XXXVIII, No.1, (May, 1937), p. 43.

34. Coates, 1973, p. 66. It was an unnecessary duplication of guarantees already allowed by provincial legislation, and could be disruptive of existing harmonious arrangements for internal collective bargaining within individual firms.

35. Canadian Manufacturers' Association, Representations of the Canadian Manufacturers' Association to the National War Labour Board, Ottawa, May 6, 1943, p. 2 P.A.C., MG 28 I 103, Canadian Manufacturers' Association Vol. 195, File 2.

36. CMA Representations, May, 1943, p. 12.

37. The promise of higher wages regardless of the consequences for the national war effort, was being used by certain labour unions as a means of attracting new members and increasing their power, rather than as a way of compensating for previously poor wage levels. In fact, the number of jurisdictional disputes indicated the success of this tactic in drawing members away from responsible unions

supportive of the anti-inflation policy and towards radical unions, irresponsibly exploiting the war situation. The Association urged the enforcement of the penalty clauses of the IDIA, to prevent the use of strikes before conciliation proceedings were exhausted. CMA Representations, May, 1943, p. 8.

38. CMA Representations, May, 1943, p. 8.

39. Canadian Chamber of Commerce, The Record, No. 5, May, 1943, p. 3.

40. This division between the positions of the Canadian Manufacturers' Association, which opposed compulsory collective bargaining, and the Canadian Chamber of Commerce, which approved providing certain conditions were met, is highlighted in Vancouver Province, May 14, 1943. The CMA is reported as urging equal attention to the rights and obligations of employers and employees if collective bargaining were introduced.

41. Excerpts from the Canadian Chamber of Commerce brief to the government were reproduced in "Would Make Unions Legally Responsible" Financial Times (Montreal), May 14, 1943.

42. Canadian Chamber of Commerce, The Record No. 5 (May, 1943), p. 4.

43. The Canadian Manufacturers' Association expressed these concerns:" in the United States an attempt has been made to secure for the unions by statute, what the British trade unions have secured for themselves, because they were strong and well-disciplined, and showed themselves willing and able to carry out their agreements. For the State to provide the unions with a short-cut to power by passing compulsory union recognition and collective bargaining legislation is ... to give the unions greatly-increased power before they have developed the self-discipline and sense of responsibility which alone can ensure the proper use of power. ... It is submitted that a comparison of the British and United States experience in this field leaves no doubt whatever that the sound course is to give trade unions full and unequivocal status under the law as in Great Britain, and then let them "stand on their merits"." Canadian Manufacturers' Association Representations, May, 1943, p. 13.

44. The Canadian Chamber of Commerce was concerned that higher wages would affect the ability of Canadian exporters to sell in the United States, thereby harming Canada's capacity to import needed munitions from that country. Canadian Chamber of Commerce, The Record, No. 5, May, 1943, p. 2. The manufacturers were alarmed that threatened or actual strike action in defiance of the wages control order and the established conciliation procedures had succeeded in

circumventing the wage order, without government prosecutions of the offending union officers. Canadian Manufacturers' Association, Representations, May, 1943 p. 5.

45. The Canadian Chamber of Commerce called for prompt procedure for the identification and conciliation of public interest disputes, binding agreements, prohibition of strike action prior to consideration of disputes by national or regional boards, and enhanced national level consultation between unions, governments and business. Logan, 1956, p. 15. In particular it suggested that "machinery should be continuously available for dealing with grievances and preventing disputes. The National War Labour Board should have power ... to act on its own initiative to prevent as well as settle a dispute". Cited in "Would Make Unions Legally Responsible" Financial Times (Montreal), May 14, 1943.

46. Business Week, May 15, 1943.

47. Canadian Chamber of Commerce, The Record (May, 1943), p. 4.

48. Canadian Manufacturers' Association Representations May, 1943, p. 10.

49. The Record, (May, 1943) p. 3.

50. Eugene Forsey, "Mr. King and the Government's Labour Policy" Canadian Forum (November, 1941), p. 231-32. Forsey criticizes King for maintaining a policy "as thoroughly and consistently anti-union as it dares to be"; given King's long association with and intimate familiarity with labour matters, Forsey assumed this approach must be deliberate. The do-nothing approach of letting private industry deal with the problem was "completely in the Mackenzie King tradition: soft solder instead of justice and the application of the democratic principles he professes."

51. The Calgary Herald of May 6, 1943, reports on the demand from members of the Montreal Regional War Labour Board that the voluntary inducement to free organization and collective bargaining be made mandatory.

52. Sefton-MacDowell, 1978, p. 186.

53. Coates, 1973, p. 18, notes the importance of the steel strike in changing the government attitude. But he further suggests: "An analysis of the Prime Minister's and Cabinet's perceptions of the C.C.F. victories reveals that they were the single most important development in moving the federal government to seek adoption of a new national labour code."

54. Sefton-MacDowell, 1978, p. 190-94. Direct pressure was brought to bear on the federal government to implement these provisions on a national scale. Resolution, International Union of United Automobile, Aircraft and Agricultural Implement Workers of America, Mar. 1943. Public Archives of Canada, Department of Labour Papers, RG 27 Vol. 121, File 601.2.

55. Two conflicting reports emerged as a result of these hearings. The majority report favoured compulsory collective bargaining, prevention against union or employer abuses, criminal penalties for enforcement, impartial enforcement boards (national and regional) composed of experts, compulsory arbitration regarding grievances with and without a contract, and prohibition of work stoppages in all war related industries. The minority report, of labour representative J.L. Cohen, called for restrictions only on employer abuses, administrative remedies for violation, enforcement by boards composed of representatives of the parties, compulsory arbitration only where collective agreements were in force, and no compulsory ban on work stoppages, with a voluntary ban to be maintained by unions. Logan, 1956, p. 20.

56. Stuart Jameison, Industrial Relations in Canada (Toronto, 1973), p. 123. It also contained restrictions on employer rights to interfere with trade union or other bargaining representatives, and required bargaining in good faith; it also set up a Labour Relations Board to adjudicate questions of representation. See Canada Department of Labour, History of Dominion and Provincial Conciliation and Collective Bargaining Legislation, (Ottawa, 1946), p. 5.

57. This unique mixture was directly copied by most of the provinces in succeeding months. Eugene Forsey, "Provincial Collective Bargaining Legislation" Public Affairs Vol.11, No.1, (June, 1947), p. 35-40. Hence most Canadian workers became subject to the Wagner provisions and conciliation procedures modelled on IDIA; however, variations in specific arrangements and other provisions such as union dues checkoff, union security, and anti-discrimination clauses were evident.

58. Logan, 1956, p. 31.

59. Maritime Workers Federation, Resolution # 8, 1945 Annual Meeting, found in Public Archives of Canada, Department of Labour Papers, RG 27 Vol. 3540, File 3-26-51-2 pt.1.

60. District 50, United Mineworkers of America, Canadian Chemical Division, Conference of Local Unions, Toronto, Mar. 30, 1946. Resolution found in Public Archives of Canada, Department of Labour Papers, RG 27 Vol. 3540, File 3-26-51-2 pt.1.

61. Trades and Labour Congress of Canada Report of the Proceedings of the 60th (Diamond Jubilee Convention of the Trades and Labour Congress of Canada Toronto, Oct 23, 1944.

62. One union favouring retention of controls, to avoid inflation and prevent unpatriotic groups from exploiting workers, was the Teamsters Joint Council of Vancouver, in a letter to Humphrey Mitchell, Minister of Labour, Oct. 29, 1946. Public Archives of Canada, Department of Labour Papers, RG 27 Vol. 3529, File 3-26-24 pt.2.

63. Thus a notable number of unions pressed the government to abandon controls. See for instance the telegrams to the minister of labour, Humphrey Mitchell calling for the restoration of collective bargaining to determine wage levels and other benefits and working conditions. From the Sydney N.S. Brotherhood of Carpenters and Joiners June 26, 1946; United Wholesale and Department Store Employees, June 17, 1946; Canadian Brotherhood of Railway Employees, Div. 274, Regina, June 12, 1946; National Organization of Civic, Utility, and Electrical Workers, Nov. 28, 1945. Letters to the Prime Minister also abounded; as examples see United Automobile, Aircraft, Agricultural Implements Workers to William Lyon Mackenzie King, Jan. 22, 1946; Toronto and District Council, Carpenters and Millmen, to William Lyon Mackenzie King, Jan. 10, 1946. All this correspondence is found in Public Archives of Canada, Department of Labour Papers, RG 27 Vol. 3529, File 3-26-24 pt.2.

64. Memo of Comments by the Standard Railway Labour Organizations Respecting Order-in Council PC 9384 and Relevant Wartime Wages Control Order 1943 Jan. 27, 1944. Public Archives of Canada, Department of Labour Papers, RG 27 Vol. 3529, File 3-26-24 pt.2.

65. Ibid, p. 5.

66. A. Macnamara (Ministry of Labour) to D. Gordon, Chairman, Wartime Prices and Trade Board, Oct. 25, 1945 in Public Archives of Canada, Department of Labour Papers, RG 27 Vol. 3529, File 3-26-24 pt.2. He is quoting from an earlier letter by J. Bomber, Secretary of the Bricklayers' and Tilesetters' Local Union of Toronto to the Minister of Labour.

67. United Packinghouse Workers of America, Edmonton Local 333, letter to Prime Minister William Lyon Mackenzie King, n.d., 1945. Public Archives of Canada, Department of Labour Papers, RG 27 Vol. 3540, File 3-26-51-2 pt.1.

68. This concern was an important topic at the 60th annual convention of the Trades and Labour Congress of Canada, where a resolution was passed requesting "that all Provincial Governments be requested that the

federal measure be made permanent in the post war period and that uniformity of Labour legislation throughout the Dominion be secured". Trades and Labour Congress of Canada Report of the Proceedings of the 60th (Diamond Jubilee Convention of the Trades and Labour Congress of Canada Toronto, Oct 23, 1944.

69. Public Archives of Canada, Department of Labour Papers, RG 27 Vol. 3540, File 3-26-51-2 pt.1. This file contains many letters from various union organizations suggesting changes to PC 1003 in line with those suggested by the Canadian Congress of Labour and the Trades and Labour Congress of Canada.

70. District 50, United Mineworkers of America, Canadian Chemical Division, Conference of Local Unions, Toronto, Mar. 30, 1946. Resolution found in Public Archives of Canada, Department of Labour Papers, RG 27 Vol. 3540, File 3-26-51-2 pt.1.

71. An internal memo of the Canadian Manufacturers' Association indicated the favourable reaction of manufacturers to this provision. It was justified as essential since the representatives chosen by workers had the right to make agreements binding on all and should thus initially demonstrate clear worker support. Memo re Circular 1614, in Public Archives of Canada, Canadian Manufacturers' Association Papers, MG 28 I 230 Vol. 147 (Wartime Labour Relations Regulations).

72. Canadian Manufacturers' Association, Brief re PC 1003, to Humphrey Mitchell, Minister of Labour, Aug. 10, 1945, Public Archives of Canada, Canadian Manufacturers' Association Papers, MG 28 I 230 Vol. 117.

73. Controls were beneficial for industry seeking to keep wage costs down. But there was concern lest such intervention compromise laissez faire principles, the manufacturers argued: "Manufacturers are reasonable about economic controls. They want these removed as soon as possible after the war, but not too soon to prevent post-war inflation. Not too late, either, not so late as to discourage and retard the restoration of private enterprise. Industry does not want post-war competition from the government." Montreal Gazette April 16, 1943.

74. Canadian Manufacturers' Association President P.L. Lorne, letter to Minister of Labour, Nov., 24, 1943. Public Archives of Canada, Department of Labour Papers, RG 27 Vol. 121, File 601.2.

75. These views of the Canadian Manufacturers' Association, Canadian Chamber of Commerce and Canadian Construction Association are summarized by Bernard Wilson, The Amendment of P.C. 1003 (compiled for the Dept. of Labour) (Ottawa, n.d.)

76. Ibid, p. 3. For further details, see Canadian Chamber of Commerce, Brief re Amendments to the Wartime Labour Relations Regulations, P.C. 1003, submitted to the Hon. Humphrey Mitchell, Minister of Labour, Ottawa, Canada, on behalf of the Executive Committee of the Canadian Chamber of Commerce, Montreal, Aug.1, 1945. Public Archives of Canada, Department of Labour Papers, RG 27 Vol. 3541, File 3-26-58-1, pt. 1..

77. The Canadian Manufacturers' Association rhetoric regarding the closed shop was eminently liberal in emphasis. "It involves interference with individual liberty in denying a man the right to work unless he is prepared to join a particular union and submit to its discipline. The principle of freedom of association carries with it the principle of freedom not to associate." Not only would non-union workers lose the right to work, but opposition unions in any plant would be precluded, a violation of democratic principles. Canadian Manufacturers' Association Order-in Council P.C. 1003. The Wartime Labour Relations Regulations (internal memo), PAC, Canadian Manufacturers' Association Papers, MG 28 I230, Vol. 117 (no date).

78. Ibid, p.2.

79. Maintenance of membership provisions, whereby voluntary adherents to a union are required to remain loyal to it, were also condemned on the same grounds. Ibid.

80. Canadian Chamber of Commerce, Executive Sub-Committee on National Labour Policy, Brief to Hon. Humphrey Mitchell, Minister of Labour on Amendments to the Wartime Labour Relations Regulations, P.C. 1003, reprinted in The Record No. 20, Aug. 1945, p. 7.

## 16 Post-War Canadian Labour Policy

### a) Post-War Policy Debates

Despite the dramatic changes brought about through the adoption of P.C. 1003, Canada's industrial relations system emerged from World War II in an uncertain state. As the country returned to peacetime, the temporary federal orders were rescinded and new industrial relations legislation was debated. The situation was complicated further as groups sought to amend the hybrid P.C. 1003 in different directions, based on favourable or unfavourable assessment of the American laws. Basically, unions sought changes to bring Canada into line with the Wagner regime in the United States, by entrenching the gains of PC1003 into a permanent national labour code. Business favoured new American trends of restrictions on unions, which culminated in the Taft-Hartley legislation. These positions were reflected in the two-year debate over draft bills to replace the temporary wartime measures. Policymakers sought to preserve the PC 1003 compromises in the draft legislation of 1947-1948.[1]

### b) Labour Reaction to Bill 338

Labour reaction to draft bill 338 in 1947 differed between the two major congresses. The Canadian Congress of Labour was ambivalent about state involvement, demanding increased government authority over areas deemed advantageous to labour, but requesting restrictions where state authority could be used counter to union desires. The Congress recognized the advantages of equal representation for labour and employer on the Canada Labour Relations Board, certification of unions instead of individuals and clearer delineation of "confidential employee" to limit those excluded from the benefits of the Act.[2] However, this Congress complained about the weakened statement of federal jurisdiction in labour matters as compared to the IDIA of 1907, especially respecting the applicability of the act to all industries under the legislative authority of the government of Canada, to foreign companies, and in emergencies.[3]

The CCL insisted that recent court rulings upholding the power of the federal government to legislate for the "Peace Order and Good Government of Canada", allowed enactment of a more comprehensive national labour code.[4] These spokesmen also attacked the failure to prohibit dismissal of employees for union activity. This Congress sought stronger wording prohibiting employer-dominated unions, to include past influence (over their formation) as well as contemporary control or manipulation of their activities by employers. The Canada Labour Relations Board should be given power to disestablish company unions. Furthermore, no single employer veto should be allowed over industry wide union certification; government should be empowered to enforce industry wide negotiations if desired by most workers and employers.[5]

On the other hand, proposed augmentation of the Labour Board's power to revoke certification of unions was criticized since

> [i]t will operate as an invitation to unscrupulous employers to meet a certified union's notice to negotiate with a claim that since certification proceedings commenced, the union has lost its majority; or else to dilly-dally along with negotiations for some months and then claim that the union has lost its majority and that therefore its certification should be revoked.[6]

Even if the employer were proven wrong in his claim, investigations would take time and could help defeat the union's cause. It could be used to pressure union members to drop their allegiance; new unions would likely be the victims of such an effort. Furthermore, the Board should not be given discretion to allow new craft unions to supplant existing industrial unions. The CCL also felt conciliation procedures prior to a strike vote were too long; these "cooling off" procedures could take up to three months, after which the most opportune moment for a strike might be lost.[7] Thus, the CCL leadership sought limitations on Board discretion, to permit the private power of industrial unions in organization drives and strikes to remain effective.[8]

By contrast the Trades and Labour Congress of Canada

supported Bill 338, despite a desire for a broader labour code encompassing all Canadian industries.[9] The bill was welcomed as "a step in the right direction".[10] It was praised for establishing union organization rights and for prohibiting employer interference. In addition, it placed greater restrictions on company unions, provided special protection for craft organizations, permitted negotiation of closed shop agreements, and allowed certification votes based on majority of votes cast[11]. The actual impact of the bill remained in doubt, as much depended on how it was administered. Nonetheless, on balance, the TLC commended the government for introducing this measure, and recommended "that all provinces enact legislation of equal value".[12] The TLC resisted efforts by both business[13] and rival trade unions[14] to delay or derail Bill 338.

While the major national congresses expressed disappointment that a full fledged National Labour Code was not adopted, the principal Quebec union central, Le Confederation des Travailleurs Catholiques du Canada (CTCC) declared its approval for the King government's cautious concern for constitutional propriety. In a brief in March 1947, this organization noted the clamour for a

> 'National Labour Code' as a federal code intended to regulate the industrial relations in all fields of economic activity, without taking into consideration the jurisdiction of the provinces established by the Canadian Constitution. The CTCC objects to such a labour code. It favours the upholding of the jurisdiction of the provinces ... and admits the justification of a national labour code provided it will only govern the industries over which the Canadian Constitution recognizes federal jurisdiction.[15]

Substantively, the CTCC expressed approval of the bill's guarantees of union organization and collective bargaining, its establishment of grievance procedures, and its prohibition on employer discrimination. The CTCC also called for stronger legal guarantees of the right to strike and picket, and for the reduction of costly and protracted legal appeals against Board decisions. Aside from the constitutional position, which conformed to dominant thinking in Quebec, the CTCC's position seems similar in

many respects to that of other labour bodies. While the bill was considered to have weaknesses, it was hailed by this body as "without doubt the most progressive piece of industrial legislation yet presented".[16]

However, all unions joined to criticize the government's refusal to remove the wartime wage control order. Some advocated retention of both wage and price controls to ensure employers could not take advantage of unions as demobilization produced surplus labour supply[17] However, most unions wanted the immediate restoration of the right to bargain collectively and to strike if necessary. Wartime inflation caused workers' wages to lose purchasing power; assertive action, using all the tools at the unions' disposal, was essential. Thus, most union officials advocated prompt abolition of PC 9384, the wage control order; on this issue, voluntarist rhetoric was the order of the day. An Oshawa union leader, M.J. Fenwick, declared that "this obnoxious order should be abolished and employers and employees should be allowed to bargain on their own without government interference".[18] Resentment of government interference on this score was to be frequently expressed by the union movement in subsequent months.[19] While seeking increased government involvement in other areas, the unions remained resentful where their advantages in private markets were restricted by government action.

c) Business Reaction to Bill 338

Business views had evolved from the staunch conservatism of early wartime. As American business had previously, Canadian management "conceded that [union] recognition and [collective] bargaining were established, and consequently wished to 'balance' the increased power of organized labour by making labour more clearly responsible for the exercise of its power".[20] They now sought to ensure that the unions were required to recognize their obligations, and were denied sweeping ability to secure union security provisions in contracts.[21] "The employer's obligation to respect the right of employees to organize, and the obligation to bargain collectively were

acknowledged, and it was suggested that employees should recognize management's right to plan, direct and manage industry and admit the right to those workers who so desire to refrain from joining a union"[22]. The Canadian Manufacturers' Association acknowledged, for instance, that employers should "respect the right of employees to associate for all lawful purposes ... [and to] bargain collectively, in cases where representatives have been freely chosen by a majority of the employees affected, on wages, hours of work, and working conditions". But in turn, unions should be made to act responsibly, to respect managerial prerogatives and accept the right of individual employees to refrain from joining a union.[23]

While recognising that the draft bill only applied to industries under Dominion jurisdiction, employers remained concerned lest the provinces use the measure as a model and enact this unsatisfactory regime for all industries.[24] This motivated pressure on the federal government to adopt a code which would contain provisions desired by business.[25] The desire for a return to peacetime regulations may have reflected a belief among some businesses that fragmented provincial labour statutes were less likely to incorporate comprehensive guarantees of union organization rights; Quebec business also sought restoration of provincial jurisdiction on nationalist grounds.[26] But many companies sought a uniform legal framework for industrial relations tailored to their requirements.[27] In the words of the Board of Trade of the City of Toronto, "[n]ational uniformity in labour laws is important to national employers in applying nationally established employment policies".[28] The International Nickel Company of Canada expressed a preference for maintaining federal jurisdiction over its labour affairs after the war because the federal Department of Labour had a good understanding of that company's requirements. This firm even suggested that basic metal mining and coal mining industries be considered "undertakings for the general advantage of Canada and should be declared as such under the provisions" of the Act.[29]

This effort to secure a suitable national labour code was reflected in CMA proposals for post-war policies.[30] As Drennen suggested:

> the CMA proposals recognized the fact that union recognition and collective bargaining should be made compulsory in the postwar legislation as they had been since 1944 under the wartime regulations. Since this constituted an increase in union power, the CMA felt that steps should be taken to insure that labour unions exercised responsibility commensurate with their increased power.[31]

Thus the Association called for provisions to outlaw unfair union practices, such as slow-down, mass picketing, secondary boycott, and sympathy strikes.[32] Prohibition on unionization of foremen, supervisors and other "confidential" employees with access to company secrets was also sought.[33] Concern remained over the closed shop provisions; Canadian manufacturers sought to copy American changes and eliminate this vexatious device.[34] Registration and liability of unions for illegal actions[35], and revocation of certification procedures were sought[36] to restrict union power and control union activity.[37] Manufacturers also wanted to protect company unions from government restriction, protesting that these unions promoted harmonious relations between labour and management.[38] The CMA was disappointed with the Bill 338 in as much as it failed to meet these requirements.[39]

The Canadian Chamber of Commerce demonstrated the influence of American precedents in its brief of February 1947. Union privileges, conferred by the wartime regulations, should now be matched by recognition of union responsibilities, rights of individual workers, union unfair labour practices, and other proposals associated with American debates over the Taft-Hartley Act. The Chamber asserted the right of employees to refrain from joining a union, and of employers to communicate directly with individual workers; it asserted the right of employers to change conditions of employment at will where collective agreements were not in force; it called for prohibition of mass picketing, sympathy strikes and secondary boycotts. It also called for unions to be held responsible for any

damages occurring during labour action. Making unions legally liable for their actions and restricting their ability to use coercive strikes would help restore the "balance" between the partners in industry.[40]

The Chamber attacked the draft bill for its imbalance between the rights and responsibilities of unions and management.

> These provisions constitute an unwarranted interference with the necessary right of an employer to manage his own business. Just as we condemn any unwarranted interference by an employer with the formation or administration of a trade union among his employees, so also do we condemn any unwarranted interference by employees with the proper functions of management.[41]

The Chamber of Commerce also emphasized the undesirable power accruing to the quasi-judicial Canada Labour Relations Board.[42] Giving the Board powers not subject to court appeal would mean important quasi-judicial decisions would be reached without the normal legal safeguards expected in a democratic society.[43] Wording in the Bill permitting the Minister to "do such things as seem calculated to maintain or secure industrial peace" was feared as "broad enough to permit serious interference with the rights of an employer, employee or trade union".[44] The Chamber also objected to the clause requiring ministerial approval of any prosecution under the Act.[45] Clearly, more safeguards were seen as necessary to prevent an undesirable concentration of power in the hands of the administration.[46] This desire for greater legal safeguards[47] was expressed by other business leaders suspicious of a strong state presence.[48] But this purported fear of excess of state power was inconsistent with the simultaneous desire for strong state supervision of union activities and organization.

Business was not uniformly critical of the Act. The Board of Trade of the City of Toronto praised the bill since

> compulsion, both negative and affirmative, has been in the main limited to negotiating with a view to reaching a collective agreement and ... management and labour have been left such a large measure of freedom of agreement as to the terms and conditions of collective bargaining. Only

> legislation so conceived can be successfully integrated into our political, economic and social life with its tradition of individual freedom.[49]

The Board believed that "the Bill does not involve any material infringement of management functions". But it would ensure that unions acted more responsibly.[50] These characteristics of the Bill reflected the thinking of the government, whose spokesmen asserted that "responsibility for the content of a collective agreement with very few exceptions lay with the parties to the agreement. The government was seen as having the responsibility to guarantee that bargaining would take place, but details of the relationships between employer and employee were to be settled by industrial self-government".[51] Nonetheless, business opposition contributed to a delay in consideration of the bill, which led to its reintroduction in 1948.

d) Industrial Relations and Disputes Investigation Act

The content of the new Bill 195 of 1948 varied little from its predecessor; hence the lobbying position of the various labour and business organizations was similar to the above discussed debate. The TLC maintained its support but other union centrals exhibited more scepticism.[52] Business maintained its criticism, with only minor modification.[53] One notable change was the effort of the business community to persuade the government to follow the Taft-Hartley precedent and introduce a requirement that union leaders file affidavits disavowing past or current affiliation with any communist organization.[54] The Chamber suggested that "the privileges and protection of the Act should not be extended to any organization which in the opinion of the Board is led or dominated by communists, communist sympathizers, or members or supporters of any organization that believes in or teaches overthrow of government by force or unconstitutional means".[55] Canadian business leaders were obviously oblivious to any Canadian tradition of tolerance for ideological diversity in this instance.

The Industrial Relations and Disputes Investigation

Act of 1948 finally extended Wagner-style guarantees to all industries under federal jurisdiction. While its coverage was narrower than the emergency provisions of PC 1003, its content contained some improvements from a labour standpoint. One observer has gone so far as to suggest that the "majority of significant changes ... emanat[ed] from the requests of organized labour".[56] However, business complaints were also taken seriously. Drennan notes, for instance, the proscriptions on unfair union practices, guarantees of rights to individual workers and minority union members, wider exclusion of supervisory employees, decertification procedures and a requirement that the majority of union members be in good standing before the bargaining unit could be recognized.[57]

Certainly, labour thwarted some business demands for the more stringent restrictions of the Taft-Hartley law. Canadian law took a more hands-off attitude respecting the closed and union shop (left up to private negotiations), union dues, political contributions, communist affiliation, financial reports, jurisdictional and secondary strikes, and other matters strictly regulated in the U.S. The more extensive list of unfair labour practices and the readier access to court remedies under Taft-Hartley "constitut[ed] a correspondingly greater government encroachment into industrial relations".[58] In Drennan's assessment:

> The ease with which disputes may be carried into court under the Taft-Hartley Act makes such a course of procedure the easy way to avoid the responsibility of industrial self-government. Certainly, the possibility of litigating every dispute concerning the interpretation of a collective agreement stands to bring the government much more intimately into the collective bargaining process.[59]

The ministerial control of prosecutions in Canada would ensure that less litigation occurred to interfere with private labour negotiations. As in the Wagner period American lawmakers took a more interventionist approach than Canadian leaders in industrial relations.

e) <u>The Search for a National Labour Code</u>

Furthermore, the Canadian act extended to only a few

sectors under federal jurisdiction. The belief that the IRDI Act would lead to uniformity in labour law, by inspiring similar provincial legislation, proved exaggerated. Eugene Forsey demonstrated the "bewildering complications and variety with which employers and workers are confronted because ... each province goes its own sweet way".[60] The federal statute of 1948 did stimulate development of legislation supportive of basic collective bargaining rights in most provinces.[61] But considerable variation in provincial practice remained, with the IRDIA guarantees unevenly applied across the country.[62] This caused union agitation for a national code to end the capricious, unpredictable differences in the treatment of union rights in different provinces.[63] Both the TLC and CCL applied pressure on the federal government to secure the necessary constitutional authority to enact a comprehensive code. Only the Quebec unions demurred, with the CTCC asking for extension of the Act's benefits to those under federal jurisdiction who had been initially excluded, like federal civil servants, arsenal workers, and King's Printer employees.[64] No federal administration accepted the futile task of pursuing these constitutional amendments in part because of Quebec opposition.

Constitutional inertia continued to preclude development of a National Labour Code. However, unions continued to press the federal government for advancement in treatment of workers under its jurisdiction, to set a precedent for provincial legislative changes. Business resisted such federal initiatives, fearing they would disrupt established provincial practices. In 1964, the federal government introduced the Canada Labour Standards Code, specifying hours of work, paid vacations, holidays, overtime, and minimum wages for federally-regulated employees. This measure drew comment from all the major employer and labour groups. While disagreement over the desirability of the law was evident, a marked softening of rhetoric can be discerned. No longer was the issue of the legitimacy of government action at stake in the debate, since government's place was accepted. Instead, group

submissions to the minister emphasized particular concerns and complaints respecting the Act's impact.

Business still feared the potential impact on provincial legislation, and the psychological effect on collective bargaining, as unions sought to match federal standards for hours and minimum wages, holiday and overtime pay. The Act's inflexibility in delineating maximum daily and weekly hours was condemned by businesses who needed flexibility in shift lengths to successfully function.[65] While not directly challenging the state's right to regulate such matters (as had happened in the past), business demanded that any parties to a collective agreement be allowed to voluntarily set aside the government limits.[66]

Unions showed some willingness to cooperate with business concerns where a need for greater flexibility in scheduling hours was essential, as in transportation enterprises, (which could not, for instance, grant all the statutory holidays).[67] However, they remained suspicious of business motives in seeking to exclude any collective agreements from the protection of the federal standards.[68] Unions were divided respecting the efficacy of government regulations depending on their own gains or losses from the standard hours, vacations, or wages. The debate generally reflected the desire of business to limit government restrictions on possible collective agreements and of unions to secure the best possible arrangements for protecting the wages and conditions of their members; general notions of the appropriate government role did not enter into this debate.[69]

Also as a consequence of constitutional restrictions, the Canadian Government has not acted as comprehensively to regulate the internal affairs of unions in the manner of the American Landrum-Griffin Act. Thus, the Task Force on Labour Relations in the late 1960s reported few, but significant violations of worker rights by unions and recommended measures to rectify the problem.[70] It concluded that, due to constitutional limitations

> Attempts to promulgate federal legislation on trade unions per se would probably fail in whole

> or in part.... Parliament can enact permissive legislation, but it cannot require all unions to conform to standards it sets.[71]

This did not restrict federal power to enact legislation requiring certain standards in union constitutions, and in collective agreements for unions under federal jurisdiction, in those fields covered by past federal statutes; indeed some laws did require certain standards of union organization before rights were granted under federal law. But no comprehensive bill could be considered.

In practice, this field was left up to provincial regulation, since those unions where the greatest abuses were uncovered, notably construction trades and Teamsters, were largely under provincial jurisdiction. Significant investigations of union abuses were conducted, most notably the Cliche Commission in Quebec, after union rivalries spilled over into costly violence at major construction sites. Considerable concern focussed on infringements on the "exercise of freedom of association, which was [alleged] to be violated by acts of intimidation and threats".[72] The Commission usefully exposed the widespread abuses and intimidation; its report led to legislative measures designed to ensure "a return to normal union democracy as soon a possible."[73] Outlawed were featherbedding practices[74], union office for those convicted of abuses, and the use of "job-site stewards" to coerce employers or promote slowdowns; the Commission's recommendations also led to trusteeships for flagrantly abusive unions and closer supervision of union finances.[75] Other provinces adopted some provisions to deal with abuses in the construction trades unions.[76] Hence, there may be similarities between Canadian and American supervision of such union actions; a careful survey of provincial trade union laws would be required to make this determination.[77]

f) <u>The Evolution of Interest Group Attitudes</u>

The reaction of business and labour to industrial relations legislation seems to have been influenced more by transitory interest than by any ideological predisposition respecting state action. Debates over

legislation in Canada in the post-war years has featured a similar range of attitudes and proposals in the United States. In fact, the actors in Canadian business and labour groups frequently used American precedents as a blueprint for desired legislation in this country. Canadian debates were complicated by the delay in adopting legislation supportive of union organization and bargaining rights. This lag meant that legislation to this effect was discussed at a time when American debate had moved in a direction favouring increased restrictions on union activity. The result was that Canadian legislation emerged as a hybrid. Its principal thrust, based on an extension and solidification of wartime policy into permanent law, was the adoption of the Wagner principles, with some modifications based on wartime experience. But along the way, some of the Taft-Hartley provisions found there way into the act, albeit without the full cold-war ethos of American law. Subsequent Canadian federal action was limited by the constitutional assignment of authority over voluntary associations like unions to the provinces. However, certain provincial practices seemed to involve intrusive regulation of internal union affairs, as in the American case.

Pragmatic considerations as opposed to ideological notions certainly seemed to dominate interest group attitudes by the end of this period; their certainly seemed to be a reduction in laissez-faire rhetoric and criticism of the state role in industrial relations, as both parties accepted the inevitable place of government in their affairs. As in the United States, the parties more explicitly sought to influence legislation to their benefit, and dropped all pretext of eliminating all state regulation. They merely tried to maximize state involvement where private economic forces were disadvantageous, and to minimize state interference when they could secure a better deal through unregulated private bargaining.

## Notes

1. Stuart Jameison, Industrial Relations in Canada (Toronto, 1957), p. 110.

2. For a contrary view from the Foreman's Guild, see G.F. Auslan, Recording Secretary, Foreman's Guild to Hon. Humphrey Mitchell, Minister of Labour, Mar 10, 1947. Public Archives of Canada, Department of Labour Papers, RG 27, Vol. 3540 File 3-26-51-2 Part 2. On the other hand, numerous professional groups sought exclusion from the act's provisions. See the representations made by dentists, doctors, engineers and other professionals in Ibid Vol. 3541, File 3-26-58-1, Pt 1.

3. Canadian Congress of Labour, Memorandum on Bill 338, An Act to Provide for the Investigation, Conciliation and Settlement of Industrial Disputes to the House of Commons Committee on Industrial Relations, June 30, 1947, passim.

4. "The Government's Labour Bill", Canadian Unionist Vol.XXI, No.7, (July, 1947), p. 147. See also a joint letter from D.R. Montgomery, International Representative, United Steelworkers of America, Douglas Tyner, Business Agent United Electric, Radio and Machine Workers, and Percy Brown, Field Representative, United Mine Workers of America, to Col. T. Ashmore Kidd, M.P. (February 26, 1947); Public Archives of Canada, Department of Labour Papers, RG 27, Vol. 3540, File 3-26-51-2 Part 2. These spokesmen called for an amendment to the British North America Act, if necessary, to ensure Dominion responsibility for labour matters.

5. Canadian Congress of Labour, Memo, June 30, 1947.

6. Ibid, p. 5-6.

7. "The Government's Labour Bill", Canadian Unionist Vol.XXI, No.7, (July, 1947), p. 148.

8. Ibid, p. 147.

9. "Need for a National Labour Code", Trades and Labour Congress Journal Vol.XXV, No.11, (November, 1947).

10. Percy Bengough, President, Trades and Labour Congress of Canada, et. al., to Maurice Lalonde, M.P., Chairman, Committee on Industrial Relations, House of Commons, July 1, 1947, p. 2.

11. Executive Council, Trades and Labour Congress of Canada, (circular to members and affiliates), June 19, 1947, p. 1-2.

12. Ibid, p. 2.

13. See for instance the editorial in the Trades and Labour Congress Journal Vol.XXVI, No.7, (July, 1947), p. 5.

14. Among the opponents of the bill was the Labour-Progressive Party of Toronto. Stuart Smith, Labour-Progressive Party, Toronto and Yorks Committee, to Hon. Humphrey Mitchell, Minister of Labour, June 24, 1947; in Public Archives of Canada, Department of Labour Papers, RG 27, Vol. 3542, File 3-26-58-6 Part 1.

15. Brief submitted on behalf of the Confederation des Travailleurs Catholique du Canada (CTCC) to the Standing Committee on Industrial Relations in connection with Bill 338 (An Act to provide for the Investigation, Conciliation, and Settlement of Industrial Disputes). June 30, 1947, p 1-2. .

16. Ibid. The quote is from p. 3.

17. Teamsters Joint Council, Vancouver B.C., to Hon. Humphrey Mitchell, Minister of Labour, Telegram, (October, 29, 1946). Found in Public Archives of Canada, Department of Labour Papers, RG 27, Vol. 3529, File 3-26-24 Part 2.

18. M.J. Fenwick, Secretary-Treasurer, Oshawa and District Labour Council, to Hon. Humphrey Mitchell, Minister of Labour, (May, 22, 1946) In Ibid.

19. See the other representations from diverse labour organizations in Ibid.

20. Drennen, p. 252.

21. Strong opposition to any form of union security and dues was expressed by some Canadian businessmen. See for instance, J.S. Vanderploeg to Rodney Adamson, M.P. July 10, 1947. See also Statement by the Steel Company of Canada, Ltd. to the Parliamentary Committee on Industrial Relations August 5, 1946.

22. Drennan, p. 239.

23. Canadian Manufacturers' Association, "An Approach to Employee-Employer Relations" (Resolution adopted at the 1946 Annual General Meeting) reproduced as an appendix to Canadian Manufacturers' Association, Submission of the Canadian Manufacturers' Association to the Standing Committee on Industrial Relations of the House of Commons With Respect to Bill 195, "The Industrial Relations and Disputes Investigation Act". (April, 1948).

24. "What About the New Labour Bill", An Address by C.B.C. Scott, Chairman of the Industrial Relations Committee, C.M.A., Radio Program "Labour and Business Take Stock", CBC Trans-Canada network, Wednesday, July

16th, 1947. Found in Public Archives of Canada, Canadian Manufacturers's Association Papers, MG 28 I230, Vol. and File unknown. "It should be noted that manufacturers are not directly affected by the new labour bill. But railways, telegraphs and other services are affected, and any serious stoppage of work on the railways, for example, would have a serious affect on us. Perhaps our greatest concern with this bill is that it will probably be used by a number of Provinces as a pattern for their own labour legislation, and this would affect manufacturers directly".

25. H.R. Burgess, General Manager, International Malleable Iron Ore Company Limited, to R.W. Gladstone, M.P. (March, 13, 1947), p. 1.; found in Public Archives of Canada, Department of Labour Papers, RG 27 Vol. 3540, File 3-26-51-2 Part 2.

26. See the resolution of the Quebec Asbestos Producers Association, March 10, 1947 in Public Archives of Canada, Department of Labour Papers, RG 27, Vol. 3540, File 3-26-51-2 Part 2 (PC 1003 Wartime Labour Relations - Union Representations). See also E. Larochelle, Secretary, Western Quebec Mining Association, To Hon. Humphrey Mitchell, Minister of Labour, Jan. 28, 1947. Ibid.

27. See the survey conducted by the Industrial Relations Department of the Canadian Manufacturers's Association, which revealed the preference of most employers for a federal presence. Cited in G.A. McAllister, "Toward a National Labour Policy", Public Affairs Vol.IX, No.4, (September, 1946), p. 215.

28. Board of Trade of the City of Toronto, Brief to the House of Commons Industrial Relations Committee, re House of Commons Bill No. 338, "An Act to Provide for the Investigation, Conciliation and Settlement of Industrial Disputes", July 3, 1947, p. 1.

29. R.L. Beattie to Arthur MacNamara, (February, 1, 1947), (op. cit.), p. 1.

30. A comprehensive survey of the Canadian Manufacturers' Association position is contained in Canadian Manufacturers' Association, Circular #1891, (March 5, 1947), in Public Archives of Canada, Canadian Manufacturers' Association Papers, MG 28 I230, Vol.117.

31. Drennen, p. 250.

32. Submission of the Canadian Manufacturers' Association to the Standing Committee on Industrial Relations of the House of Commons, With Respect to Bill 338 - "The Industrial Relations and Disputes Investigation Act". (June-July?, 1947). p. 5.

33. This was the principal concern of the Railway Association of Canada, which was concerned that several categories of employees in confidential capacity employed on railways should not acquire the organizational and strike rights provided by this bill. See the Brief of the Railway Association of Canada to the Industrial Relations Committee of the House of Commons, (June 30, 1947). J.A. Brass, General Secretary, Railway Association of Canada, to P.E. Coté, M.P., Chairman, Standing Committee on Industrial Relations, (April 23, 1947).

34. See the vigorous expositions of J.S. Vanderploeg, General Manager, Anaconda American Brass, in letters to the Canadian Manufacturers' Association, February 3, 1947 and June 15, 1947. This writer suggested the elimination of any right to strike for union security, claiming union officials were interested in their own security, not that of the rank and file union members. Found in Public Archives of Canada, Canadian Manufacturers' Association Papers, MG 28 I230, Vol. 117.

35. See the Summary of the Report of the Labour Relations Committee, Canadian Manufacturers' Association, (February 26, 1947). Public Archives of Canada, Canadian Manufacturers' Association Papers, MG 28 I230, Vol. 117.

36. Not all companies were supportive of this device, which was viewed by some as disruptive of industrial harmony. In R.L. Beattie's words: "I cannot help feeling that any such provision for decertification on the application of the employer is not conducive to industrial peace." Any effort "to get rid of dead wood" would best be based on the union's efficacy in giving notice to bargain to employers within a specified time to ensure usefulness of the bargaining unit. R.L. Beattie, Vice President, International Nickel Company of Canada, Ltd., to Arthur MacNamara, Deputy Minister of Labour, (February, 1, 1947), p. 5. Found in Public Archives of Canada, Department of Labour Papers, RG 27, Vol. 3542, File 3-26-58-6 Part 1. He also felt that members should not necessarily have to be in good standing and have paid dues, etc. to be counted in a majority for purposes of certification or prevention of decertification.

37. Ibid, p 4-5,9.

38. There was considerable concern in the business community over labour efforts to have Wagner style restrictions placed on company unions. Thus W.R. Yendall argued "there must be no law against any form of employer-employee relations which is satisfactory to both parties". He rejected labour claims that any form of welfare program or representation scheme established by an employer for his employees was an infringement on worker rights. He considered such

programs to be another alternative for workers who did not desire standard union organizations, and praised them as means of creating goodwill in the organization. "It would be a decided mistake to have the law forbid measures of this kind ...". W.R. Yendall, President and Treasurer, Richard-Wilcox Canada Co. Ltd. to H. W. MacDonnell, Manager, Industrial Relations Department, Canadian Manufacturers' Association, July 4, 1947 Public Archives of Canada, Canadian Manufacturers' Association Papers, MG 128, I 230, Vol. 117.

39. See the summary of CMA reaction to the bill in C.B.C. Scott, "What About the Labour Bill" (op. cit.), p. 1.

40. Canadian Chamber of Commerce, The Record No. 30, (February, 1947), p. 1.

41. Ibid, p 2.

42. Drennan cites a Canadian Chamber of Commerce spokesman as suggesting: "The broad and unrestricted powers conferred by so many statutes upon individual ministers and upon administrative and quasi-judicial boards is rightly a matter of concern in Canada". It was argued that right of appeal to the courts should be preserved in every instance. Drennan, p. 250 Ff.

43. In the Chamber's opinion, "This Draft Bill would permit decisions of the greatest moment to the citizens of Canada being taken in violation of the fundamental principles of British justice." This reflected an inappropriate application of procedures developed in the wartime emergency to peacetime conditions. The Record (February, 1947), p. 4.

44. Canadian Chamber of Commerce, The Record (February, 1947), p. 3.

45. It was feared this would render the penalty clauses a virtual dead letter, as political pressures would usually dissuade the minister from permitting legal proceedings. Ibid.

46. H. Grenville Smith, Canadian Chamber of Commerce, to Humphrey Mitchell, Minister of Labour, (January, 15, 1947), p. 8-9.

47. The business community received support for this position from the Canadian Bar Association, which criticised restrictions on the right of individuals to counsel. R.G. Gowling, Vice President for Ontario, Canadian Bar Association to Maurice Lalonde, M.P. Chairman, Select Committee on Industrial Relations, House of Commons, June 27, 1947.

48. See for instance Recommendations of Ontario Mining Association in re Legislation on Labour-Management Relations (no date). Found in Public Archives of

Canada, Canadian Manufacturers's Association Papers MG 28 I230 Vol. 117., p. 4. The writer notes how such appeal would give the board a "judicial temperament" and would "give employers some assurance of a standing or position in labour disputes which is lacking under present practices".

49. Board of Trade of the City of Toronto, Brief, (op. cit.) July 3 1946, p. 1.

50. Ibid. Despite this praise, this business organization expressed some of the same reservations and desire for change in the draft bill as other business leaders. Thus the Board called for employer free speech, right not to join unions, majority vote of all unit members, requirement of membership in good standing before votes, limits on sympathy, secondary and slowdown strikes, restrictions on picketing, union registration and legal appeals from administrative decisions.

51. Drennen, p.259.

52. Trades and Labour Congress of Canada, Memorandum Presented to the Dominion Government, (March 4, 1948), p. 6.

53. Thus compare the Submissions of the Canadian Manufacturers' Association to the Standing Committee on Industrial Relations of the House of Commons on the Industrial Relations and Disputes Investigation Act of July 1, 1947 (re Bill 338) and April 1948 (re Bill 195). Only a few minor adjustments and deletions differentiate the two; the principal concerns about Bill 338 had obviously not been resolved to the satisfaction of this Association in the intervening year.

54. J.C. Stewart, Manager, Industrial Association of British Columbia to Hon. Humphrey Mitchell, Minister of Labour, (June 24, 1948). Public Archives of Canada, Department of Labour Papers, RG 27, Vol. 3541, File 3-36-58-6 Part 2.

55. Canadian Chamber of Commerce, Brief to the Standing Committee on Industrial Relations, House of Commons, Re Bill No. 195, An Act to provide for the Investigation, Conciliation and Settlement of Industrial Disputes. (April 12, 1947), p.2, 8.

56. Logan, 1956, p. 47.

57. Drennan, p. 272 ff.

58. Drennan, p. 273.

59. Drennan, p. 267.

60. Eugene Forsey, "Provincial Collective Bargaining Legislation", Public Affairs Vol. 11, No. 1, (June, 1947), p. 40. Both provincial and federal acts are summarized in an internal Labour Department memorandum on the History of Dominion and Provincial Conciliation and Collective Bargaining Legislation (Ottawa, 1946).

61. W.Craig Riddell,(Research Coordinator) Canadian Labour Relations (Research Study for the Royal Commission on the Economic Union and Development Prospects for Canada) (Toronto, 1986), p. 7-8.

62. For a summary of how the provisions of IRDIA affected subsequent provincial action, see Logan, 1956, p. 87 ff.

63. Logan, 1956, p. 105-106 cites some examples of the kinds of provincial practices disliked by unions, including decertification for communist involvement, illegal strikes, and refusal to work overtime.

64. These comments are summarized in Memorandum Concerning Requests made by Organized Labour and Other Bodies for Amendments to the Industrial Relations and Disputes Investigation Act (195?) Public Archives of Canada, Department of Labour Papers, RG 27, Vol. 3541, File 3-26-58-1 Part 1.

65. Among the submissions of this nature were those of the Greyhound Lines of Canada Ltd. and Eastern Canadian Greyhound Lines Ltd., Submission re Bill C-126 Canada Labour (Standards) Code, (no date); G.E. Manning, Director of Industrial Relations, Canadian Pacific Airlines to Gordon Cushing, Assistant Deputy Minister of Labour, (May 17, 1965); R.G. LeFrancois, President, Air Transport Association of Canada to MacEachen, (November 25, 1964); Gordon W.E. Brown, General Manager, British Columbia Aviation Council, to MacEachen, (December 21, 1964); G.R. MacGregor, President, Trans-Canada Air Lines/Air Canada to Hon. J.W. Pickersgill, Minister of Transport, (November 11, 1964); Saskatchewan Wheat Pool Resolution, 1964; G.S. Turner, General Manager, Manitoba Pool Elevators, to Cushing, (May 27, 1965);Cecil, Lamont, President, North-West Elevators Association, to Cushing, (May 21, 1965); D.K. Freisen, President, D.W. Freisen and Sons Ltd. to MacEachen, (January 21, 1965); K.L. Snodgrass, Executive Secretary, National Employment Association of Canada, to J.R. Nicholson, Minister of Labour, (January 17, 1967); P.C. Venne, Vice-President and General Counsel, Bell Telephone of Canada, to Hon. J.J. Connolly, (March 12, 1964). These were found in Public Archives of Canada, Department of Labour Papers, RG 27, Vol. Acc. 83-84/004, Box. 1.

66. In the words of the Canadian Manufacturers' Association, "it might have been wise to exempt the parties to a collective agreement from the provisions

pertaining to a standard work week and indeed from all standards contemplated in this Bill, if for no other reason than to offset the damaging influence of such legislation on collective bargaining". J.C. Whitelaw, Executive Vice-President Canadian Manufacturers' Association, Brief to Hon. Allan J. MacEachen, Minister of Labour, (October 13, 1964), p. 6.

67. See for instance the comments of the Teamsters, re the possibility of loss of overtime if the code provisions were implemented. Canada, Department of Labour, Memorandum to Cabinet Re: Canada Labour (Standards) Code Bill C-126 Ottawa, Dec. 2, 1964, p. 1. Public Archives of Canada, Department of Labour Papers, RG 27, Vol. 629, File 1.

68. See for instance, the letters from the Canadian Airline Pilots Association to the Department of Labour, (March 10, 1965); (May 18, 1965); (July 15, 1965), in Ibid.

69. A summary of positions of concerned business and labour groups is contained in Commission of Inquiry Concerning Proposed Changes in the Canada Labour Code Part III, To Provide for a Modified Work Week of Less than Five Days: Phase II: Amendment to the Code Report (Ottawa, 1972), especially the concluding summary.

70. Canadian Industrial Relations The Report of the Task Force on Labour Relations (Ottawa, 1968), p. 149-52.

71. Ibid, p. 212.

72. Gerard Hebert, Labour Relations in the Quebec Construction Industry. Part I The System of Labour Relations (Ottawa, Economic Council of Canada, 1977).

73. Ibid, p. 46.

74. Described in Ibid, p. 49 are the practices of extra gratuities for union officers, and demands for payments if material not made or assembled by the union local is used in construction.

75. Ibid, p. 45-51.

76. See the Financial Post article on Provinces and the Construction unions, 1970.

77. To this point, no evidence has been found suggesting the clear economic motivations which American lawmakers demonstrated in passing such restrictive legislation. That is, correction of abuses, not limitation of union economic power seemed the prime reason for the Canadian provincial actions in this area.

# IV ASSESSMENT AND CONCLUSIONS

## 17 Industrial Relations Assessment

### a) Summary of Policy Development

Industrial relations policy in both countries evolved considerably with alterations in economic and social conditions, with emergency exigencies, and with shifting political influence of various class interests. Initial policy did not vary significantly; both states intervened extensively in the last century in a fashion calculated to retard the expansion of unions and assist employers in preventing or suppressing strike action. The extent to which the state intervened and the devices employed did differ. American courts and legislatures acted more widely at first, reflecting the greater degree of industrialization and greater spread of labour organization (and greater perceived threat to managerial prerogatives); American courts also had recourse to that country's more advanced anti-trust provisions, which were turned into a device to thwart strike action as a "conspiracy in restraint of trade". However, Canadian lawmakers acted later than American judicial actors in recognizing the basic legality of unions. On the whole, both federal regimes pursued interventionist anti-labour policies which deviated significantly from professed laissez-faire precepts; workers were denied the right of freedom of association to protect the rights of contract and property prized by the entrepreneurial class.

After the turn of the century, both governments grappled with disruptive strikes affecting the public interest. American lawmakers moved tentatively, but steadily to establish machinery for resolution of disputes on the railways. Although initially restricted to voluntary conciliation or mediation measures, this legal framework eventually developed more compulsory elements, including strike delays in emergency disputes. Canada did move earlier to enforce such compulsory delay of strike or

lockout until after public investigation of disputes on railways and in other key utilities and mines; but there was no provision for enforcement of awards or compulsory arbitration. And this intervention can hardly be said to reflect socialistic influences on Canadian law; the IDIA may have assisted business by depriving labour of the ability to take rapid strike action to press its demands.

The American government adopted the first measures designed to assist the development of union organization and to enforce acceptance by business of collective bargaining. The Norris Laguardia Act prohibitions on injunctions, plus Railway Labour Act guarantees preventing discrimination against union members began the trend by the early 1930s. The NIRA and Wagner provisions cemented the federal government's recognition of the legitimacy of union organization and ushered in the modern era of systematic collective bargaining. Notwithstanding the alleged socialist elements in the political culture, the Canadian regime did not enact such measures until almost a decade later, despite considerable pressure from labour organizations. After the war, the American government undertook drastic steps to regulate the internal affairs of unions, a measure not emulated in Canadian federal law, although some elements of this nature were introduced at the provincial level.

b) Summary of Group Attitudes

Attitudes towards the role of the state in this field appear comparable in the two countries. Essentially, the major business and labour groups in each sought to utilise the state to promote their own ends. Laissez-faire or voluntarist rhetoric emerged in both countries only to legitimate opposition to undesired state initiatives. Farr observes:

> Thus we see both labour and management eagerly and vociferously professing disdain and distrust of the government at the very time they were seeking to use it to their own ends. Both groups, however, sought only particular kinds of legislation. The highest priority was accorded to laws which broadened their individual spheres of action; this meant laws to bestow positive

> advantages directly or to reduce the influence of "outsiders" on their activities, without at the same time exacting the price of direct government participation in their internal affairs.[1]

American labour voluntarism seemingly influenced union attitudes to a degree in the early period; but this philosophy was then consonant with the interests of a labour movement confident of its ability to secure gains on its own in private bargaining. When the union movement was clearly depleted in size and bargaining strength in the depression, it did not hesitate to support government action. Subsequently, the American labour movement "travelled a long way from classical Gompersian voluntarism", taking "the hard-headed view that political action is an essential concomitant of collective bargaining".[2]

Thus, a general pattern emerged, which saw management and labour in both countries favouring or opposing state action in accord with their own strength in the private economy. When worker organizations were embryonic and weak, state assistance with organizational rights and disputes settlement seemed attractive; when unions were stronger, government involvement seemed to constrain potential gains in private bargaining and was thus shunned. As the stronger party to industrial negotiations, business was generally more distrustful of state interference, preferring to use its natural strengths in industrial negotiations to secure gains through private channels. However, the state was urged by business in both countries to prevent the growth of "monopoly" union power; business desire for state regulation of union affairs was predicated upon the advantages of government restraint of the most militant and successful unions.

Shifting business and labour opinions were initially expressed towards state action in general, as political debate still focused on the nature of acceptable state action. Later, these business and labour views became increasingly focused on the particulars of state action as the presence of government in industrial relations became an irreversible reality.

c) Policy Differences and Ideological Traditions

If interest group attitudes and demands reflected a similar range of concerns and issues, the extent of state intervention in each country was not always the same. Many observers of Canada's industrial relations scene suggest that Canadian policy has been more interventionist than in the United States. Stuart Jamieson argues: "It is a safe generalization to state that the degree of government intervention in industrial disputes has been, and continues to be, much greater in Canada, than in the United States". This is especially so, he suggests, with respect to "compulsory delay and two-stage conciliation of `interest' disputes arising out of the negotiation of new or revised agreements" and "compulsory arbitration of unsettled `rights' disputes and prohibition of strikes while agreements are still in force".[3] Canadian practice has varied between provinces[4], but A.W.R. Carrothers notes that the PC 1003 model of compulsory arbitration and conciliation has been widely applied; American practice favours voluntary mediation on the request of both parties.[5] G.A. McAllister also suggests that Canada went far further than the United States, where only compulsory negotiation is required.

> In prohibiting strikes and lockouts prior to negotiations, in providing state assistance with a view to completion of an agreement, in requiring, without resort to strike or lockout, final determination of all disputes arising under an agreement, and in prescribing penalties for the non-performance of an agreement, Canada has been a continental pioneer in state systematization of labour relations. The Canadian `way' is established.[6]

Certainly, the pervasiveness of conciliation requirements for most forms of industrial dispute, and the arbitration of all grievances arising under an agreement - which appear in most provincial statutes - constitute forms of state intervention less prominent in the United States.

But American statutes also contain interventionist elements. Certainly the Wagner provisions were an earlier interference with the rights of business to hire and fire

at will, and to run their affairs without negotiating with labour representatives. In this respect, American law seemed more "socialistic" in promoting labour rights to collective organization. Later, American law retained a strong state presence in industrial relations, albeit in an anti-labour direction, especially respecting internal union affairs. While the state role in conciliation and mediation of disputes may be more pervasive in Canadian law, certain elements of the Canadian approach have also been used in American emergency provisions and on a more voluntary basis in other laws. Moreover, many progressive features of Canadian law favoured by unions were copied from the United States: Canadian adoption of Wagner style guarantees in World War II restricted "the previously unfettered authority of management" and improved the position of workers on the shop floor.[7]

Moreover, the gains to labour from the Canadian disputes resolution approach - arguably significant in the early years of weak unions - are not as evident in more recent times, when independent and strong unions have felt themselves constrained by the strong government role in resolution of industrial disputes. The author of Canada's early and influential IDIA, William Lyon Mackenzie King, harboured a corporatist vision of an organic society in which labour, although possessing legitimate interests, was to be subordinate to the requisites of management and capital; the "organic role of the working class is thus of a lower order than that of the directing principles of capital and management".[8] In disputes resolution, the need of the latter for stability and control of the industrial process should be paramount.[9] There can hardly be a socialistic inspiration behind a regime in industrial relations which constrains labour from using its natural strength (e.g. through strike action) to improve its position in negotiations. As Jamieson argues, Canadian legislation appears to have been "particularly favourable to employers as against unions in situations of industrial strife, to a degree exceeding even that in the United States".[10] The frequent use of government power to legislate

an end to strike action in that country also indicates the often unsympathetic character of state action for Canada's labour movement.

It has been the relative weakness of business and labour organizations which has impelled a greater Canadian reliance on state action. Morton and Copp note how a "scattered, feeble" Canadian labour movement looked more frequently to the state to provide supportive legislation in matters of hours, bargaining rights, safety and so forth. Unions did distrust the established parties of lawyers, doctors, farmers and merchants, inducing them to seek direct representation in government. Nonetheless, in periods of weakness, government was still viewed as an essential ally.[11] But as Jamieson notes, both parties to indstrial conflict have relied on state intervention in times of weakness (as the above cases illustrate). An inconsistency in ideology and policy has developed with both parties depending on government protection against the other in "free" collective bargaining. And much of the intervention has come at the expense of effective labour action. "Weaknesses in organization on both sides further contribute to excessive dependence upon legal prescriptions and procedures, particularly the frequent issuance of court injunctions against unions".[12] This is hardly evidence of a socialist influenced political culture.

In short, the complex content and shifting character of industrial relations legislation does not permit the ready classification of one country's experiments as more interventionist or socialistic than the other. But the two countries may have witnessed a different pattern of policy development based on a different response to crisis and its aftermath. In normal times, both systems seemed to share the aim of ensuring the containment of industrial conflict to ensure the maintenance of stability and production so desired by business leaders. In essence, the state in both countries seemed to be constrained by the need to maintain business confidence in designing an industrial relations policy geared to encourage responsible "business unionism" of the conservative craft variety, while limiting the

prospects for more radical labour activism.

At times, - particularly in crisis situations, when political instability or radicalism threatened this stable order - deviations from this approach have been evident, as the state reacted to the growing political strength of labour. This was evident in the IDIA period when public utility strikes threatened transportation and fuel supplies on the fragile Canadian frontier; from the late 1800s when transportation strikes threatened to disrupt American interstate commerce; in the first world war in both countries; in the American great depression when the Wagner policy temporarily assisted the expansion of the more militant industrial unions; and in World War II in Canada, when the fear of strikes and unrest, coupled with the growing strength of the socialistic third party, threatened the Canadian administration.

d) Political Institutions and Policy Development

If similar crises brought innovation, the two countries differed in their readjustment patterns after crises had subsided. This may reflect differences between the political structures of the two countries. In Canada, the IDIA regime, strengthened in wartime, remained the framework for industrial relations until the second great war, albeit weakened by judicial rulings. The United States adopted some guarantees in the railway labour field, but altered the policy several times with shifting coalitions in the legislative branch; Congress ultimately acted in anti-union fashion after the first world war. Canadian policy alterations were perhaps more subtle, with the IDIA provisions being enforced in varying fashion, and acting as a hindrance or reinforcement for union strength at different times. Canada acted later than the United States to respond to the depression crisis, but this reflected constitutional uncertainty more than ideology. In the United States, the end of depression and war brought a retrenchment, as a conservative congress increased state restriction on the powers of unions under Taft-Hartley. If Canada did not follow the Taft-Hartley reaction completely,

it was as much because of the continuing threat from the labour-backed third party, and the continued efforts by the Liberal administration of Prime Minister King to reincorporate labour voters in the party faithful, as to any ideological difference between Canadian and American decisionmakers. In general, due to the directive role of the Canadian administration in the development of policy, the Canadian system allowed less role for the opponents of existing policy to seek changes through the legislative branch. The United States acted more directly to regulate the internal affairs of unions; Canada did not follow nationally, since the errant unions in question were not under federal jurisdiction.

Thus many variations between the evolution of Canadian and American policy in this field seem more attributable to political institutions than to ideology or even the influence of interest groups. These institutional differences led to distinct policy traditions in each country which legitimated different state roles in industrial relations. Possibly, the interventionism of a King or the conservatism of congressional actors do represent different public ideologies resulting from different institutional possibilities and policy histories. But the extent of policy differences may have been overestimated in the past; the evidence on the attitudes of decisionmakers must thus be examined systematically, in light of institutional differences between the two countries. There is no evidence to suggest formal ideological traditions produced policy differences in this field.

## Notes

1. G.N. Farr A Study of the Origins of Section 7 (a) of the National Industrial Recovery Act, Ph.D. Thesis University of Chicago, (Chicago, 1955), p. 117.

2. Jack Barbash, "The Government and Politics of the AFL-CIO" in Gerald G. Somers (ed.) Labour, Management and Social Policy (Madison, Wisc., 1963), p. 81.

3. Stuart Jamieson, Times of Trouble (Ottawa, 1968),p. 125.

4. For a discussion of the various labour codes which emerged after World War II, see Eugene Forsey, "Provincial Collective Bargaining Legislation" Public Affairs Vol. 11, 1947, p. 35-40.

5. A.W.R. Carrothers, Labour Arbitration in Canada (Toronto, 1961).

6. G.A. McAllister, "Toward a National Labour Policy", Public Affairs Vol.IX, No.4 (September, 1946), p. 210.

7. Laurel Sefton-MacDowell, "The Formation of the Canadian Industrial Relations System During World War Two" Labour/Le Travailleur Vol.3 (1978), p. 175-96.

8. Reginald Whittaker, "The Liberal Corporatist Ideas of Mackenzie King" Labour/Le Travailleur Vol.2, (1977), p. 161.

9. Whittaker, 1977, p. 166.

10. Jamieson, 1968, p. 52.

11. Desmond Morton and Terry Copp, Working People (Ottawa, 1980), p. 60-67.

12. Jamieson, 1968, p. 141.

## 18 Income Security Assessment

### a) Summary of Group Attitudes

The income security case studies cast doubt on the stereotype that Canadians more quickly achieved a ideological consensus on income security policy than Americans.[1] Each of these major income security policy proposals provoked a similar range of debate in Canada and the United States, dividing business, professionals and labour in each country. While the views of individual groups at times diverged from this general pattern, basic similarities in group reactions to income security seem evident, based on class position.

American unions were initially hesitant to support state income security programmes. But this reflected the voluntarism so closely associated with Samuel Gompers; higher wages and stronger unions were the preferred means of promoting income security for workers. Union conventions indicated the support of the rank and file and local union affiliates for government action to assist the aged, sick and unemployed. Voluntarism among the leadership induced procrastination in effective lobbying; nonetheless, by the Great Depression, American labour support was assured. Although the earlier hesitancy may have contributed to the delay in enactment of an income security system in that country, unions eventually became a major force seeking liberalization of the programme. By contrast, Canadian union leaders were more consistently supportive of income security; and their advocacy, via sympathetic members of parliament in and the CCF\NDP, did help produce government action in pensions, unemployment insurance and health insurance. After adoption, their desire for increased benefits and liberalized qualification terms closely resembled the positions of American union leaders.

Business associations shared similar concerns in the two countries. Public income security was feared as a threat to thrift, as an economic burden, and as an unwarranted intrusion by government into an area of individual and family responsibility. The dynamic economies

of these two countries were held to allow any prudent, frugal individual to save sufficiently for all contingencies. Business in both countries pursued voluntary alternatives in all major income security fields, favouring company plans as rewards to loyal employees; the shortcomings of such plans were recognized but seen as preferable to the removal of freedom with government compulsion. As the inevitability of adoption loomed, progressive business leaders urged cautious design; contributory self-financing systems were usually preferred to those drawn from public revenues, which would contribute to high tax burdens. Corporate spokesmen sought to limit public programmes to the needy, keep benefit levels to a minimum and to protect private alternatives to retain employee good-will. After adoption, business leaders sought to restrain benefit increases, limit liberalization of qualifying terms, and preserve or improve the financial arrangements to prevent insolvency and fiscal drain.

Despite the stereotype of American rejection of state action in health insurance, the AMA actually proved sympathetic to the idea around World War I. But conservative elements soon induced a durable hostility to the proposal; even in depression, only limited policies of aid with the medical bills of the indigent was considered acceptable. After defeating the Truman administrations call for comprehensive, public health insurance, the AMA maintained opposition even to scaled down proposals for public insurance for the aged and poor; voluntary provision with some public subsidy of premiums, was preferred. Doctors maintained an individualist preference for autonomy from bureaucratic control, reinforced by a desire to maximize earnings in the medical market place, which dictated opposition to extensive government involvement.

Canadian doctors followed the early interest of their American colleagues, and likewise turned away from health insurance in the booming 1920s. The severity of the depression in this smaller country and its drastic impact on doctors incomes, ensured renewed support of a carefully designed insurance plan, which would provide benefits for

the indigent, while maintaining market relations for better off patients. This proposal was further adjusted to diminish state control by the 1940s. In the prosperous aftermath of war, doctors abandoned support for any public insurance programme, calling instead for public subsidy for the private insurance premiums of poor and aged patients. It has been argued that the "profession in Canada was prepared to play a much more positive and constructive role than its United States counterpart in developing ... health care plans". But the work stoppages of the last three decades reinforce the suggestion that the mood of organized medicine can perhaps be described as one of "wariness but essentially constructive cooperation despite heated disputes with government on specific issues".[2]

b) Summary of Policy Development

Hence the range of concerns and debates over income security policy was not dissimilar in the two countries. But, policy development was at times divergent, although not always in a manner confirming greater Canadian attachment to socialist influences or statist preferences.

Canadians were not initially more disposed to move into the field of old age pensions. Bryden has demonstrated how a market ethos in Canada delayed and later skewed Canada's old age pension system, as a concern for financial expediency overmatched concern for recipient welfare. Canada did act first in adopting old age pensions. But these non-contributory pensions were limited to residents of long-standing, over the age of seventy, and were quickly eclipsed by the hybrid American combination of social assistance for the needy and contributory social security, which surpassed the Canadian plan in scope of coverage. Canada only slowly moved to a similarly comprehensive programme. Moreover, both plans currently feature regressive financing, relying on payroll taxes. Rather than acting to redistribute income, the Canadian pensions exaggerate income differences. Benefit levels are comparable in the two countries although the American benefits are less sensitive to pre-retirement earnings.

In unemployment insurance, the Americans set the pace in 1935, and enacted a programme with a tax on payrolls of employers, and not employee contributions. Canada was among the last of the industrial nations to adopt such a programme, holding for a protracted time to the belief in individual responsibility. Canadian policy-makers relied on conservative traditional remedies for the duration of the depression, citing fiscal responsibility and avoidance of disincentives at the low paid end of the labour market as the principal reasons for stalling. Constitutional considerations were not the only source of delay. Once adopted, the Canadian policy imposed contributions even on low paid workers, thus surpassing the American plan in regressive financing. Both countries have since sought to find a balance between the political pressures for liberalization and the requirements of fiscal responsibility. Although they have varied depending on the state, American benefits generally are higher than those in Canada's national plan, while the number of workers covered is usually narrower and benefit periods often shorter.[3]

In the health insurance field, the American government gave consideration to the proposal years before the Canadians. The reluctance of Canadian decisionmakers to act, even in the post-war reconstruction phase was in striking contrast to the full-fledged support of the Truman administration; only the successful professional lobbying effort on the conservative caucus in Congress forestalled a comprehensive American programme at this stage. While proponents maintained a desire for a complete medical insurance plan, political expediency caused a retreat to a partial programme for the elderly and poor. In Canada, provincial action, and the minority position of the Liberal governments of the 1960s eventually forced introduction of a comprehensive plan, constituting the most significant policy deviation between the two countries. But the plan as devised was hardly detrimental to the profession, since it raised incomes considerably.

c) Policy and Ideology in Income Security

With the adoption of health insurance and the liberalization of other income security policies, Canada moved beyond the United States in the extent and generosity of its programmes. This does not represent any initial ideological preference, but a recent evolution in Canadian attitudes. Aucoin notes how the precedents set at the provincial level in Saskatchewan prompted increased "acceptance of the legitimacy and inevitability of social welfare reforms" in Canada.[4] Dennis Guest also charts an evolution from a belief in market and family responsibility to one of state social security. But he cautions: "[a]lthough there has been a shift there remains an undercurrent of belief that the private market should still provide the mechanisms for meeting adversity and the tension between the two views continues to affect the social policy process".[5] As A.W. Johnson expressed it: "most Canadians believe people should save for the contingencies of life, including retirement, not be guaranteed an income by others" Social security should guard against temporary contingencies, not provide for socialistic redistribution, which would undermine work incentives; there is still a belief that the deserving needy must be separated from the undeserving.[6]

Critical analysts would suggest similar motives in development of social policy in the two countries. Bound either through elite ties, or economic imperatives to the adoption of policies beneficial to the capitalist economy, each country devised income security measures to legitimate the existing order and stimulate economic activity. Canadian social policy has not gone further than American policy towards income redistribution[7]; indeed if the incidence of taxes is taken into account the overall impact of the Canadian welfare state could be viewed as regressive.[8] Preservation of inequality, is after all, essential to the successful operation of the incentive system of capitalism.[9] Canada has a similar individualist tradition which has impeded development of income security and redistributive programmes.[10] The recent conservative

trend towards reduction of the fiscal burden, through retrenchment of the welfare state has been evident in Canada as well as the United States.[11] Hence, Canada does not exhibit more altruistic motives in the creation of the welfare state; rather, pragmatic considerations appear dominant.

Any differences in policy do not appear to have an ideological element; there is no evidence that Canada has pursued a more socialistically oriented policy, aimed at income redistribution. Instead the income security policies of the two countries are only marginally different and eminently liberal in their content. Income security policy in both countries was designed to reinforce a capitalist economy, not to transform it.[12] As Manzer argues for Canada, despite changes in specific arrangements, tests, and criteria for eligibility: "at every stage liberal beliefs in individual responsibility, private property, income inequalities, and public charity for the deserving poor have determined particular policy responses".[13] In short, Canada's liberal reforms did not move beyond equality of opportunity to promote the socialist goal of equality of condition, as claimed in conventional comparisons of the two political cultures.

d) Political Institutions and Policy Development

But a strict instrumentalist or structuralist position cannot explain the variations in policy in the two countries. Why did Canada's welfare state eventually expand beyond American practice? There are many possible explanations. But, as in industrial relations, political structures seem of particular importance. Canada's parliamentary system, with its executive direction of policy, allowed governments to pursue new initiatives without hindrance from opposing lobbies in the legislative branch. In addition, the bureaucratic continuity of the Canadian civil service differs from the instability among America's bureaucratic mandarins with changing Presidents: this continuity may have been a key factor in the development of the unemployment insurance policy, as

bureaucratic policy development continued unabated under several different cabinets. Moreover, minority governments have been subjected to pressure from a social democratic third party, the CCF-NDP, which demanded social programmes in return for its parliamentary support. This factor seems important in old age pensions (1926 and 1965) and health insurance.

While federal-provincial conflicts, and judicial interpretation of the division of powers did slow some policy developments in income security, this factor was perhaps offset by the efficient decision-making of executive-dominated parliamentary government; Banting shows how federal provincial competition for jurisdiction has spurred both levels of government to assert their sovereignty over income security matters by adopting new programmes; executive summitry between federal and provincial leaders permitted resolution of disputes and steady growth of the Canadian welfare state after World War II.[14]

This situation contrasts with the American decision-making fragmentation, which frustrated reforms like health insurance. In the 1930s, a liberal Congress pushed the Roosevelt administration into action on unemployment insurance and social security. Indeed, despite the reforming reputation of that President, administration attitudes at that time may have served to restrain action to fairly limited, regressive programmes, gradually liberalized by Congress in latter years. The creation of the powerful Social Security Administration aided in this liberalization, by providing continuity of bureaucratic policy development and expertise. By the late 1940s, a conservative coalition holding the reins in Congress, may have acted a brake on the Truman administration's health insurance programme. Through the 1960s, the alliance of conservative Southern Democrats and Republicans managed to prevent development of a comprehensive health care plan. While other forces may be cited, political structure seems more useful than ideology as an explanation of variations in North American income security policy.

## Notes

1. As one example of this proposition, see Christopher Leman The Collapse of Welfare Reform: Political Institutions, Policy and the Poor in Canada and the United States (Cambridge, Mass., 1985).

2. R. Kohn and S. Radius, "Two Roads to Health Care: United States and Canada" Medical Care (March, 1974), p. 195, 200.

3. Robert T. Kurdle and Theodore Marmor, "The Development of Welfare States in North America" in Peter Flora and Arnold J. Heidenheimer (eds.) The Development of Welfare States in Europe and North America (New Brunswick, N.J., 1981), p. 95-98.

4. Peter Aucoin, "Public Policy Analysis and the Canadian Health Care System" Canadian Public Administration Vol.23, No.1, (Spring, 1980), p. 166-74.

5. Cited in James J. Rice, Review of D. Guest The Emergence of Social Security in Canada Canadian Public Administration Vol.23, No.,4 (Winter, 1980), p. 658.

6. Ronald Manzer Public Policies and Political Development in Canada (Toronto, 1985), p. 70-71.

7. Glenn Drover "Income Distribution" in Allan Muscovitch and Glenn Drover Inequality: essays on the political economy of social welfare (Toronto, 1981), p. 201.

8. A. Wei Djao, "Social Welfare in Canada: Ideology and Reality" Social Praxis Vol.6, No.1-2, 1979, p. 35-53.

9. Muscovitch and Drover, 1981, p. 19.

10. Patrick Kerans, "Philosophical Barriers to Equality" in Muscovitch and Drover 1981, p. 27-57.

11. Allan Muscovitch, "The Welfare State Since 1975" Journal of Canadian Studies Vol.21, No.2, (Summer, 1986), p. 77-94.

12. For an extended discussion of the role of American relief programs in maintaining order and preserving the low wage labour force, see Frances Fox Piven and Richard A. Cloward, Regulating the Poor: The Functions of Public Welfare (New York, 1971).

13. Manzer, 1985, p. 181-182.

14. Banting, 1982, p. 82.

## 19 Are Public Corporations an Exception?

### a) A "Public Enterprise Culture"?

Critics might suggest that the two policy fields selected are not fully representative of the range of possible transnational comparisons. Policy developments in other areas might reflect the predicted greater Canadian acceptance of state action. Of course, any study cannot survey all possible policy types; it would be wise to avoid overgeneralizing from the selected cases.

But one policy device merits brief consideration here. Public corporations are often cited as a prime example of Canadian-American policy differences. Canada has employed this device far more frequently than the United States, in sectors ranging from transportation and communications to steel and petroleum. By the standard account, the conservative elements in the Canadian political tradition made for acceptance of a strong state role in creation of enterprises. George Grant suggests this explains the role of Canada's Conservative Party in creating the Canadian National Railways, the Bank of Canada, the Canadian Broadcasting Corporation, and provincial electrical utilities.[1] Horowitz had also argued that the distinctive Canadian tradition was reflected in the "far greater willingness of English-Canadian political and business elites to use the power of the state for the purpose of developing and controlling the economy".[2] Herschel Hardin has portrayed Canada's "public enterprise culture" as its principal distinguishing feature in a North American context.[3]

### b) Pragmatic Basis of Canadian Public Corporations

Several recent studies of Canadian public corporations have challenged the view of Canada as ideologically more predisposed to adoption of this device. Rather, pragmatic considerations have necessitated development of government owned companies in certain economic sectors. In Gracey's estimate:

> In only a few cases can the development of public enterprises be attributed to any particular

> political philosophy. In the main, our significant reliance on public enterprise can be attributed to the Canadian situation: a vast country, rich in natural resources but small in population, bordering on the United States, the most dominant economic power in the world.

This has necessitated government action to create vital infrastructure and to keep key resource industries under Canadian control.[4] Allan Tupper concurs for the early period: "many major experiments with state ownership are attributable, not to powerful ideological concerns, but rather to the reluctance of private enterprise to extend, promptly and cheaply, vital transportation, communication and hydro services to remote and scattered centres".[5] He agrees with Innis that "government ownership in Canada is fundamentally a phenomenon peculiar to a new country".[6] There was a great fear that in some fields, such as electronic broadcasting and air transportation, American businesses would displace domestic entrepreneurs because of their technological superiority and cheaper costs from a larger domestic market.

c) Transportation in an Underpopulated Nation

Preliminary consideration of major Canadian public corporations confirms that there was no ideological consensus in favour of government enterprise. Although John Eagle claims the Borden government favoured development of the government-controlled Canadian National Railway system,[7] Canada only acted to acquire ownership of railways because of the financial difficulty faced by the many small private lines in this sparse market.[8] Criticism by private business of the government stock takeover was protracted and intense.[9] When C.D. Howe was presiding over the creation of Trans-Canada Airways (later Air Canada) in the late 1930s, he met resistance from private interests supporting either government subsidy (via mail carrier rights) to a Canadian firm[10] or opening of the market to private American investors.[11] While rejecting these overtures, government met its critics half-way by creating a company with partial stock ownership by the government-owned Canadian National Railways;[12] even this concession did

not please all the critics of government involvement.[13]

d) Public Broadcasting: "The State or the United States"

The Canadian Broadcasting Corporation has also been cited as an example of transnational variation. But it also seems to have been created for primarily pragmatic reasons. Certainly there was no consensus surrounding its birth[14]; some business lobbyists argued vigorously in favour of private alternatives, particularly manufacturers seeking an advertising vehicle[15], promoters of a private Canadian network, led by the Canadian Pacific Railroad,[16] and the Canadian Association of Broadcasters, representing private American radio interests.[17] Public broadcasting received the support of nationalists in the Canadian Radio League, admirers of the British model of the BBC[18], of unions[19], and of some Canadian business advertisers fearful that leaving the field to American stations and private Canadian affiliates could give American advertisers a major market advantage.[20] Ultimately nationalism, not socialism, motivated the government. "As in earlier Canadian enterprises, there was no commitment to public ownership in principle, but once convinced that the choice was between 'the state or the United States', most Canadians of the 'thirties had a ready answer".[21]

e) Hydro Power and Industrial Development

Kenneth Dewar has directly challenged the traditional interpretation by analyzing the creation of Ontario Hydro, the provincial electrical utility. He notes that the progressive businessmen who sponsored its creation were mostly concerned about promoting the economic development of the economy; it would both provide a cheap reliable source of energy for industry and broaden the consumer market for electric devices through a programme of province-wide electrification. The principal proponents of this public utility were business leaders who would benefit from cheap power, not politicians or consumers. The movement represented business interests, not ideology; "[f]ar from expressing a Tory conception of Canadian

society, the power movement strove to infuse state institutions with those values of economy, efficiency, and expertise that were the hallmarks of progressive commercial enterprise".[22] This thesis has been confirmed by Nelles, who argued that Ontario Hydro was designed by the business community to keep the cost of electricity down and ensure that major projects like Niagara were not entirely exported to the United States.[23]

In more recent years new motives have emerged to foster such government action: a desire to keep resource rents in Canada, and promote regional development, for instance. Thus, western governments have acted to assert control over resources, ensure local processing, develop essential infrastructure for industrialization, or promote economic diversification.[24] Quebec has used public companies to enhance the participation of francophones in the provincial economy and permit displacement of the anglophone business elite of the past.[25] In Atlantic Canada, public corporations have been used to support declining industries or to compensate for lack of new investment in this depressed, peripheral economy. [26]

f) American Public Enterprise

The United States also has witnessed many examples of government action to fill an essential economic void where private capital was unwilling or unable to act effectively. Musolf notes how states and local governments acted to provide railroads, roads, canals and other infrastructure in the frontier economy of the day. As private capital increased in availability, individual entrepreneurs took over such enterprises. Generally, the Jeffersonian vision of limited government prevailed over Hamilton's blueprint for assertive state action in economic affairs.[27] The emergencies of the twentieth century required government action, starting with the temporary takeover of the railways during World War I. During the Great Depression, public corporations such as the Tennessee Valley Authority were employed to stimulate economic activity in areas of the country where private enterprise did not see profitable

opportunity. World War II also gave birth to numerous new public companies, some of which outlived the conflict.[28] Finally, as the passenger railway ceased to be economically viable, faced with increased competition from automobile and aircraft, the federal government stepped in to create a public corporation, Amtrak, to ensure continuation of service.[29] As in Canada, the range of public corporations is quite wide, with emphasis on financial services, credit and insurance, electric power, transportation, and other areas "skewed toward supporting the economy rather than operating segments of it".[30]

The principal difference is to be found in Canada's more frequent use of public companies in manufacturing and resource sectors: steel, coal-mining, petroleum, atomic energy, and marketing boards. This reflects the weaker domestic economy, especially in depressed regions and a desire to prop up essential, or politically visible enterprises. The United States, with its buoyant manufacturing market, has had less reason to create public companies in such areas. However, it has acted in this fashion in the vital defence sectors.[31] It has also become so enmeshed in providing grants, loans or guaranteed sales to defence and high technology companies, that the lines between public enterprise and private capital have often become blurred. In Gailbraith's terms: "[f]or the large, specialised weapons firm the cloak of private enterprise is already perilously, indecently thin".[32] Robert Lively sums up the state-business partnership in the U.S. in these terms: [o]fficial vision and public resources have been associated so regularly with private skill and individual desire that the combination may be said to constitute a principal determinant of American economic growth".[33]

g) The Liberal Basis of Public Corporations

While the observations here are only preliminary, they do indicate that the differing degree of employment of this device does not reflect basic ideological differences; Canadian public corporations have been designed to supplement, not supplant, the private economy. Americans

have also been willing to supplement the market, where weak, with public companies or public subsidy; the less frequent use of such a device reflects "undercurrents of doubt about its appropriateness in a setting where private enterprise has been vigorous and assertive".[34] In Canada, where the economy has not always been so vigorous and potential markets not so attractive, a public alternative has been necessary to forestall foreign penetration. Hardin may be correct in suggesting that greater acceptance of public corporations developed in Canada after the success and popularity of the initial experiments. Nonetheless, the practice had its origins in pragmatic adjustment to economic conditions and international challenges and not in any traditional ideological predisposition. As Dewar concludes:

> The political debate over public ownership offers no evidence of a peculiar collectivist mentality... . The dominance of businessmen in the public ownership movement and of businesslike pragmatism in the case presented for state intervention suggests that state action has a social bases which has been downplayed in the general interpretations.[35]

Clearly, Canadian public corporations have been designed to support a liberal economy, not to introduce a socialized one. The recent government moves to privatize major public corporations, such as Air Canada, casts further doubt on any sacrosanct tradition of government ownership; clearly Canadian decisionmakers have been following international trends in this respect.

## Notes

1. George Grant, Lament for a Nation (Toronto, 1965); p. 71.

2. Gad Horowitz, Canadian Labour in Politics (Toronto, 1968), p. 10.

3. Hershel Hardin, A Nation Unaware: The Canadian Economic Culture (Vancouver, 1974).

4. Don Gracey, "Public Enterprise in Canada" in Andre Gelinas, Public Enterprise and the Public Interest (Toronto, 1978), p. 25. He elaborates: "To ensure that essential services are provided, governments have

undertaken the massive investments required to build and operate essential air, water and land transportation systems, a national radio and television broadcasting network and a telecommunications system. To ensure that our resources are developed and the benefits from development accrued to Canadians, governments, through public enterprise, have become deeply involved in mineral and oil and gas exploration, extraction, processing and sale."

5. Allan Tupper, "The State in Business" Canadian Public Administration Vol.22, No.1, (Spring, 1979), p. 129.

6. Harold Innis, cited in Tom Traves, Review of A. Tupper and G.B. Doern Public Corporations and Public Policy in Canada (Montreal, 1981) in Canadian Historical Review Vol.LXIV, No.1, (March, 1983), p. 89-90.

7. John A. Eagle, "Sir Robert Borden, Union Government and Railway Nationalization" Journal of Canadian Studies Vol.10, No.4, (November, 1975), p. 59. Most historians, by his own admission disagree with his view that Borden and his colleagues in the Union government favoured public ownership in principle.

8. Gracey, 1978, p. 26.

9. John A. Eagle, "Monopoly or Competition: the Nationalization of the Grand Trunk Railway" Canadian Historical Review Vol.LXII, No.1, (Winter, 1981) , p. 3-30; "Decision on Grand Trunk Shares Termed one of the Greatest Tragedies in History of Finance" Edmonton Bulletin (September 9, 1921); "Sir Alfred's Costly Mistake" Manitoba Free Press (September 9, 1921); "G.T. Shares Held Worthless By Arbitrator" Ottawa Citizen (September 8, 1921).

10. The principle contender was Canadian Airways Limited, backed by the Richardson family of Winnipeg; See Shirley L. Render, Canadian Airways Ltd. (MA Thesis, University of Manitoba) (Winnipeg, 1984); Phillip Smith, It Seems Like Only Yesterday: Air Canada the First Fifty Years (Toronto, 1986).

11. Robert Bothwell and William Kilbourn, C.D. Howe: A Biography (Toronto, 1979), p. 107 ff.

12. Debates (March 22, 1937).

13. Debates (March 25, 1937), p. 2205 ff.

14. The diversity of views is well represented in the submissions made to the House of Commons Special Committee on Radio Broadcasting in 1932. The submissions cited below were found in the Committee's files at the House of Commons, Ottawa. Particularly helpful were daily summaries of testimony to the Committee in March and April 1932.

15. See the correspondence between certain business firms (particularly advertisers and American manufacturing branch plants, like General Electric) and the Canadian Manufacturing Association in PAC RG28 I 280 Vol. 149 File Radio Broadcasting: 1929-1955.

16. See the Submission by President E.S. Beatty of the Canadian Pacific Railway to the Special Committee on Radio Broadcasting April 20, 1932.

17. Canadian Association of Broadcasters, Submission ... to the Special Committee of the House of Commons on Radio Broadcasting (n.d.). This association sought to preserve the dominant market position of American radio affiliates in the populous central provinces of Canada. It argued that public investment and changes in organization of radio in Canada "should be made solely with the object of improving, insofar as possible, the class of programme broadcast from stations located in the four Western Provinces and in the Maritime Provinces; it being felt that the class of programmes broadcast today in Ontario and Quebec is of very high order and requires no great expenditure of money to improve at this time". Ibid, p. 1.

18. Canadian Radio League, Proposals ... for the Organization of Broadcasting in Canada (Submitted to Special Parliamentary Committee on the Canadian Radio Commission, May 7, 1936.

19. All Canadian Congress of Labour, Memorandum on Radio Broadcasting in Canada (Submitted to the Parliamentary Committee on Radio Broadcasting March 15, 1932; All Canadian Congress of Labour, Memorandum Submitted to the Special Committee of the House of Commons on the Canadian Radio Broadcasting Commission ... May 13, 1936; "Public Control of Broadcasting" Canadian Labour (December, 1964), p. 25-28.

20. Association of Canadian Advertisers, Brief Presented ... to the Parliamentary Committee on Radio, May 13, 1936.

21. Margaret Prang, "The Origins of Public Broadcasting in Canada" Canadian Historical Review Vol.XLVI, No.1, (March, 1965), p. 31.

22. Kenneth Dewar "Toryism and Public Ownership in Canada: A Comment" Canadian Historical Review Vol.LXIV, No.3, (September, 1983), p. 414.

23. H.V. Nelles, The Politics of Development: Forests, Mines and Hydro-Electric Power in Ontario (Toronto, 1974).

24. Larry Pratt and John Richards, Prarie Capitalism: Power and Influence in the New West (Toronto, 1979).

25. Jean-Claude Lebel, "Les societés d"Etat du Québec: un outil indesponsable" Canadian Public Administration Vol.27, No.2, (Summer, 1984), p. 253-61.

26. See the essays in A.Tupper and G.B. Doern (eds.) Public Corporations and Public Policy in Canada (Montreal, 1981).

27. Lloyd D. Musolf, "Public Enterprise and Public Interest in the United States" in Andre Gelinas (ed.) Public Enterprise and the Public Interest (Toronto, 1978), p. 148-49.

28. Musolf, p. 149.

29. George W. Hilton, Amtrak: The National Railroad Passenger Corporation (Washington, 1980). He considers this a "new departure in public policy: never before had Congress directly intervened in the economy to save a service that was being replaced by alternatives".

30. Musolf, 1978, p. 140.

31. Musolf, 1978, p. 150.

32. Cited in Tupper, 1980, p. 134.

33. Cited in Dewar, 1983, p. 415.

34. Musolf, 1978, p. 149.

35. Dewar, 1983, p. 414.

## 20 Principal Findings

### a) Summary

This thesis traced the development of public policy in industrial relations and income security in Canada and the United States, to assess the conventional distinction between Canadian interventionist and American laissez-faire traditions as the source of contemporary policy differences. It did not seek to provide a comprehensive depiction of the evolution of programmes in each policy area. Research was focused on an assessment of interest group reactions, as indications of societal attitudes towards the appropriate role of the state in social and economic affairs. An overview of the ideological character of major policy developments was also provided. These findings will now be assessed.

### b) Divergent Ideological Traditions?

These cases cast doubt on the proposition that ideological traditions, rooted in the early development of these two nations, explain variations in these two policy areas. Despite some differences, the overall pattern of attitudes and the pattern of policy development both cast doubt on the stereotype of Canadian interventionism as a national consensus. The orthodox political culture model assumes national ideological consensus which was shown to be absent in most of the cases examined; in both countries, significant class-based differences in attitudes towards state activity were evident. As in all nations, groups reactions to those policies studied were based on short-term perceptions of self-interest, not on any enduring ideological tradition. Societal demands certainly did not conform to the stereotypes of national values.

Early Canadian policy in the selected cases also did not reflect a distinct tradition of interventionism. Rather, as Preece argued, a common Anglo-Saxon liberal tradition of limited government, individual self-help, and free enterprise appeared dominant in policy development. Both nations initially preserved individual responsibility

for social provision, and unfettered freedom for business to resist union development and demands. Hence both were slow to provide social welfare or to guarantee rights of unions to bargain collectively. This was not a purely laissez-faire approach, as state action often assisted considerably in aiding business resistance to union growth, both through coercive police actions, and through judicial strictures. But the motivations in both nations was similar; private enterprise should be unimpeded in its role as the principal engine of economic development. Where deviations from the limited state did occur, as in the repression of unions or expansion of public enterprise, the aim remained promotion of the private economy; public relief was a supplement to individual effort and private charity was similarly an expedient to preserve the social order required for economic growth.

There was no shortage of support for liberal ideology, limited state, and individualism in Canada at any period. Subsequently, both societies developed alternative popular ideologies seeking reform of the system through state intervention, regulation and social programmes. Ideological heterogeneity in the United States has been much more evident than Canadian observers acknowledge. Socialist and progressive movements developed prior to Canadian counterparts. While the mainstream labour unions in the US did initially resist state action, because of the Gomperist doctrine of voluntarism, they had moved closer to Canadian and European unionists in their demands by the time of the Great Depression. As the cases outlined show, American labour has since espoused reform policies similar to the social democratic measures promoted by unionists in Canada and Europe.

It is possible that the ideologies of principal politicians and bureaucrats in Canada were more tolerant of state action. The thesis did not provide direct evidence on this question. Nonetheless, indirect observations, based on policy developments, indicate that such "state friendly" attitudes have been a recent development, rooted not in initial traditions, but in subsequent policy precedents and

practices. Only in recent decades have such attitudes produced significant divergence in policy; and statist approaches have also made some impact on American policymaking at critical junctures. Further research on the presence or absence of "state friendly" attitudes among public sector actors would be necessary to disprove the conventional political culture perspective.

c) Public Ideology and Political Institutions

There is no doubt that recent Canadian policy has been interventionist. Canada has differed in its approach to industrial disputes resolution, health insurance, and public corporations. However, the presence of greater interventionism among Canadian decisionmakers does not necessarily confirm that traditional values are directly responsible for such contemporary policy variations. Instead, as Peter Hall has argued, institutional factors may significantly affect the parameters and content of culture.[1] While a definitive assessment of the relative importance of these factors cannot be made here, some possible influences of institutional variations on public ideology and policy may be suggested.

One key difference appears to be the nature of the two electoral systems and the possibility for development of third parties in each country. The American system is particularly stifling of third party efforts, given the need to win across an entire state or throughout the whole nation to gain executive power. In addition, dissidents could assume positions of influence in a political party via the primary system; this strategy weakened the ability of third parties to develop on an ongoing basis. The social democratic CCF-NDP in Canada has benefitted from an electoral system which, lacking the primary election, has forced dissidents, such as socialist labour and radical agrarian movements, to form new parties to promote their policy preferences. Creation of a distinct party organization induced increased credibility and support for social democratic values in Canada, via socialization of successive generations of party loyalists. Ultimately, this

third party exercised significant influence on policy development through provincial policy experimentation (especially in Saskatchewan); the party also made its presence felt through electoral pressure in the Depression and in World War II, which caused the Liberals to move to the left to secure increased support, by liberalizing Canadian industrial relations and income security policy.

This party's influence is linked also to the parliamentary system of government, which occasionally permits minority factions in the parliament to hold a balance of power. With the survival of the Cabinet resting on support from a majority of members, minority parties have been able to extract concessions from government in exchange for support, to influence policy through ministerial anticipation of minority party demands, or to induce major parties to compete for third party voters by stealing policies originated by the minor parties. In this fashion the CCF-NDP has influenced in particular the policy of Liberal governments on various occasions since the 1920s. While liberal Democrats and their labour allies in the United States have often favoured similar policies, their lower profile and influence in a larger party, and the barriers of Congressional politics (as discussed below) certainly lessened their influence.

The responsible government model also concentrates decision-making in the hands of the executive. Canadian cabinets, like British ones, have had the ability to secure enactment of their programmes more readily, without the interference of parliamentary opponents. This permitted cabinet proponents of policy innovation to secure action, rather than face the constant disheartening interference of Congressional committees and filibusters. No Canadian Prime Minister has had his legislative programme so harshly treated as Truman's health insurance proposal. The Canadian system also gives greater influence to the permanent bureaucracy in administrative departments. Unlike the American approach, in which many key decision-makers are displaced with the election of a new President, the Canadian administration, following British tradition,

theoretically rests on a non-partisan permanent civil service.

This Canadian system promotes continuity in administrative approaches to key social and industrial relations policy. The most notable intervention in Canadian industrial relations, the 1907 IDIA was initiated, and designed by Mackenzie King, as Deputy Minister of Labour. Subsequent developments in this programme also had bureaucratic origins. Pal has demonstrated the importance of this continuity for the emergence of the unemployment insurance plan, which was discussed and developed by departmental experts, following actuarial criteria, and a conservative concern with programme solvency. A perusal of the files of the Labour Department at the Public Archives of Canada reveals that the same experts continued preparations for this policy under Liberal and Conservative governments; this process continued from the late 1920s until adoption of the policy in 1940, with considerable continuity in the essentials of the programme through two changes in the party of government. The policy adopted by the Liberals under King in 1940 was not dissimilar in essentials from Bennett's proposals of 1935.

While some continuity was also evident in American policy making, especially by the Social Security Board with regard to social insurance, it would be interesting to study in further detail the implications in this differing model of the relations between civil servants and politicians. Changes in administrations brought significant alterations in policy preference - witness the abandonment of health insurance as a project by the Eisenhower administration in the 1950s. Continuity in demand for such policies comes from the longevity of key Congressional proponents, such as Claude Pepper and Edward Kennedy on health insurance.

The presence in the United States of an independent Congress, lacking the party discipline and executive leadership of the parliamentary system became an important constraint on policy development after the New Deal era. Congressional organization is ripe for blockage of policy

innovation, given the possibilities for stalling proposals in committees and the need to secure support in two independent and politically distinct chambers. As Robert Bendiner phrased it:

> A United States congressman has two principal functions: to make laws and to keep laws from being made. The first of these he and his colleagues perform only with sweat, patience and a remarkable skill in the handling of creaking machinery; but the second they perform daily with ease and infinite variety. Indeed, if that government is best that governs least, than Congress is one of the most perfect instruments of government.[2]

Herzberg has examined the many structural complexities of Congress, which make policy blockage so simple. She emphasizes the "status quo bias implied by such a cumbersome decision process. Blocking makes change more difficult ...".[3] In addition Congressional emphasis on seniority in committee assignments ensured overrepresentation in vital committee positions of those politicians with political longevity - often drawn from the most conservative (especially Southern) states - creating a powerful oligarchy resistant to change and able to use committees to stall legislation.[4]

In the deepest crisis of the Depression, the President and liberal Congressional leaders were able to innovate in labour and social security policy, moving American ahead of Canadian practice at the time. Once the immediate crisis had subsided, by the late 1930s, Congress reasserted its independence, and the election of a conservative Republican majority ensured restraint on further executive initiatives.[5] In the Truman administration, Republican dominance of Congress prevented fulfilment of the President's ambitions for a liberal labour policy and for expansion of social security to include health insurance.[6] Subsequent studies have demonstrated the strength of the cross-party conservative coalition in the American Congress[7] over the subsequent decades, as it influence was sustained and increased.[8] This coalition involved an alliance of Southern Democrats with conservative Republicans.[9] Conservative Southern Democrats' hesitancy to support

labour reform was subsequently matched by unrelenting hostility to further social security programmes.[10]

These decades of Congressional independence coincided with the period of policy innovation in Canada, as the welfare state expanded and labour policy did not follow the American conservative lead. This situation was slightly attenuated by the 1960s, allowing a period of more liberal social policy development in the United States, including adoption of medicare.[11] Nonetheless, American policy proponents often had to adjust to institttuional disincentives by limiting the scope of their ambitions, as with the partial medicare scheme.

d) The Significance of Tradition

Therefore, the most significant impact of traditions seems to be the Canadian rejection of republicanism, preservation of a parliamentary system of government, and resistance to populist reforms such as primary elections. Early public policy indicates that Canadian political and central elites shared the American's preference for a limited state, voluntaristic charity and liberal economy. But Canada's founders had less concern about the possible concentration of authority within government. Hence, the centralized executive model of Britain's constitutional monarchy and parliamentary system was adopted. While the scope of government activity was to be limited, the state was accorded greater freedom of action, through the fusion of powers and rejection of democratic devices like the primaries, recall, initiatives and so forth. The result was the flexible system described above. Therefore, by following British practice, the Canadian founders unwittingly set the stage for policies inimical to their own liberal policy preferences. The impact of tradition was thus indirect, and did not involve the rejection of liberalism. A procedural ideology favouring concentration of authority in the political executive, created the possibility for future substantive policy variations between the two nations.

It is necessary to reassess the relationship between

political structure and political culture. While distinctions in the founding traditions of these two societies were important in creating varying political institutions, the institutional arrangements themselves subsequently became influential in determining which interests and ideologies would actually be reflected in policy. As Peter Hall suggests, "some differences in behaviour that we might be tempted to ascribe to distinctive cultures may be more directly attributable to the ways in which a particular institutional setting conditions the perceptions and expectations of those within it, by affecting the contigent matrix of incentives they face".[12] Differences in political structures between Canada and the United States provided different institutional possibilities for the successful political expression of certain interest groups. Thus, while American popular groups found direct political involvement stifled by republican executive and electoral structures, Canadian groups attained greater success via third party efforts; and congressional complexity aided central groups to resist interventionist policies inimical to their interests. Over time, these differing institutional "routines and rationalities"[13] modified the demands, expectations and political activities of various societal interests. Despite the early prominence of liberal and laissez-faire exponents in Canadian political life, alternative interventionist and social democratic influences were facilitated by the parliamentary legislative and electoral systems.

Therefore, the impact of tradition may have been significant but in a more indirect fashion. Rather than concluding that Canadians share a different conception of the role of the state in society, analysts should acknowledge the ideological diversity and similarity in both countries, and examine more thoroughly the impact of institutions. An exploration of this linkage is crucial to an understanding of continental differences.

e) Continental Convergence or Ideological Divergence?

Many Canadian scholars suggest that the development

of substantial cross border economic, educational, cultural and personal interconnections has led to the demise of Canada's ideological distinctiveness. They point to such factors as continental media flows[14], business interactions, organizational linkages, educational interchanges[15], technological interdependence[16] and other factors as undermining the viability of distinctive Canadian political values. Westell exclaims:

> What is now happening in Canada is that U.S. attitudes are infusing political debate and changing the traditional relationship between the citizen and the state. Canadians, like Americans, are coming to see government not as friend and protector but as fool, knave and potential oppressor.[17]

Certainly, such continental pressures cannot be disregarded. American perspectives and policy approaches have been very influential over the years, acting as precedents for Canadian policy in many instances; American policy debates receive significant attention in Canada

However, the historical importance of this change should not be exaggerated. Transnational influences and policy similarities are not a recent phenomenon; the cases here show similar debates and transnational policy borrowing by Canada from the early twentieth century. At the same time, American and Canadian policy makers were well versed with social democratic and socialist experiments in Europe and the Commonwealth. And, as Mildred Schwartz argues, while transnational government contacts have been extensive, policy similarities reflect as much the similar challenges facing two large, evolving industrial democracies, not simple American domination of Canadian thought. In her words, "there are many situations where both countries face common problems, and given a relatively restricted range of alternatives, come up with similar solutions. What may appear to be influence then is the result of a common fate".[18] Therefore, the myth of Americanization of Canada's ideology must be called into question, as similar historical influences and changing social and class circumstances always moved policy in similar directions.

similar directions.

The flexibility of the parliamentary system may have induced some transformation in Canadian political values over time which took Canada further from, rather than closer to American substantive ideology. Thus, as the system permitted more interventions in social and economic affairs, popular and bureaucratic support for such measures increased, as more persons benefitted from extensions of government activity. Hence, an interventionist state ceased to be considered unacceptable, and tolerance among the population for intervention may have increased. In particular, support for high levels of spending in income security fields has been considered a recent feature of Canadian political life. At the same time, the continued presence of a visible, distinct social democratic party has enhanced support for such policies in contrast to the United States, where such advocates have been buried within the larger Democratic Party.

But the recent prominence of neo-conservative views in Canadian political life and public policy has reversed this trend. Moves to privatize government assets, to revamp the tax system in regressive directions, and to reduce government expenditures on social and educational or cultural programmes indicates that Canada has not become immune to the influence of liberal, limited state ideology.[19] Comparative opinion surveys of contemporary Canadian and American attitudes reveal few differences in the attachment to liberal laissez-faire among Canadian conservatives, with the Red Tory element not prominent. On the left, English Canadian and American attitudes revealed few significant differences; it was only the radicalism of the Quebec left by the 1970s which separated the two countries.[20]

f) State Constraint and Policy Similarities

Moreover, policy differences between the two countries do not indicate that the Canadian state has been more willing to go against central group pressures. Canada often followed American innovations in the case study fields up

to the 1960s, with a lag attributable to delayed development and lesser societal demand and labour political power.[21] In addition, Canadian deviations from liberal practice have been marginal, not approaching the social democratic model of Europe. If Canadian labour relations policy, particularly in the public sector, encouraged greater union militancy from the 1960s, the frequent use of back to work legislation reveals the state's determination to maintain the industrial stability required by business.[22] OECD statistics reveal only marginal differences in aggregate welfare spending by the two countries in percentage of GNP, with both ranking below European nations.[23]

These cases reveal a pattern of policy influence consistent with a neo-pluralist conception of the liberal-democratic state. The impact of both electoral calculus and economic constraints seems evident in the pattern of policy evolution. Thus, the capitalist system gives business interests greater influence over state policy in such economically sensitive fields as income security and industrial relations. The pressure to meet business needs to ensure successful economic performance - crucial to government for reasons of revenue and popularity - ensured attention to business views in all the cases. But the state did not exclusively act as the instrument of capitalists, as its policies were often sympathetic to labour concerns respecting income security, collective bargaining and organization rights. What do these cases indicate about the conditions likely to produce greater state independence from business desires and greater attention to popular interests?

One possibility involves a crisis situation, of international or domestic economic, military or political nature. Manley notes how the normal lethargy of Congressional policy-making, caused by structural complexity and lack of political discipline, can be overcome in major crises, only to revert quickly to a time-consuming, constraining process when crisis subsides.[24] Atleson notes the movement by American legislators to

liberalize the collective bargaining regime in directions desired by labour during World War I and the depression, when worker militancy and unrest was considered dangerous to domestic and international security.[25] Skocpol has similarly sensed the greater willingness to make concessions to labour in social policy when faced with a major crisis. To preserve their own positions, state managers respond to electoral challenge or violent unrest with policies which may be opposed by business.[26] Leman detects this sort of response to crisis in American social policy development, noting the advances in American social security programmes in the depression and amidst the civil strife of the 1960s.[27] However, as the industrial relations cases demonstrate, the passing of crisis often permits policy retrenchment, as in the Transportation Act moves to limit union bargaining power and the elimination of the Wagner Act provisions in Taft-Hartley; "normalcy" ensures renewed attentiveness to business requisites, to ensure the smooth operation of the capitalist economy.

Observers like Leman feel Canada deviates from this pattern, exhibiting a steadier, evolutionary development of welfare policies. This would be consistent with the political structure of this nation, featuring executive leadership and bureaucratic constancy. However, the cases here indicate that Canada was often also adopting a crisis management approach in deviating from the dictates of business. It also innovated significantly in times of domestic economic problems and international conflict, as in the adoption of the IDIA and PC 1003 in industrial relations. But the Canadian government faced a different type of crisis, caused by the parliamentary system's greater possibilities for third party development. Actual minority government situations (as with old age pensions in the 1920s, and health insurance and the Canada Pension Plan in the 1960s) or threatened increases in third party support (family allowances and PC 1003 in the 1940s) induced significant policy innovations in directions demanded by popular interests. Canadian governments have had to manage this type of political crisis by compromising

with the opposition parties or by borrowing their platforms, causing some instances of "contagion from the left". This forces government leaders to temporarily ignore business entreaties and meet popular pressures. This situation does not face the independently elected executive in the American presidential system. Thus, while neo-Marxists and neopluralists have usefully specified the common pressures facing the liberal-democratic state, consideration of institutional variations is crucial to explain "cross-national variations in policy".[28]

Some Americanization has occurred in recent years, involving procedural ideology. A number of American political institutions have gained support in Canada.[29] The 1982 Constitution Act introduced a Charter of Rights and Freedoms which for the first time protected fundamental freedoms and democratic rights; qualifications allowing for "reasonable limits" and parliamentary supremacy through a "notwithstanding clause" limited the constraints on the political executive and the scope for judicial review of legislation. Support is now growing for an elected Senate, with more powers, to replace the ineffectual appointed Chamber.[30] Such an innovation could reduce the flexibility of the system, by introducing a more complicated process of lawmaking; the possibility of American style "blocking" if two effective chambers competed for policy influence cannot be discounted.

How would such restructuring of the Canadian state affect state-society relations? Nordlinger notes the importance of state "resilience" - the capacity to counteract actual or potential opposition from societal actors.[31] For many analysts, decentralization of political authority and dispersion of power to numerous actors weakens state authority and results in greater vulnerability to societal pressures. If the neo-pluralist analysis is accepted, this would mean that states with low resilience would be more susceptible to business pressures. This analysis has illustrated how the institutional constipation of the American congressional system prevented executive agencies from following other liberal democracies

in extending the welfare state. The prospects for innovative interventionist policy in Canada, imposed against the desires of central interests, might be reduced by institutional restructuring. Political culture may not preserve a uniquely Canadian approach to public policy if constitutional evolution proceeds unfavourably. Liberal democracies face similar economic and electoral pressures, but institutional arrangements determine how societal demands are translated into public policies. Constitutions do matter.

g) Concluding Assessment

Analysis must avoid unicausal explanations when examining comparative public policy. To attribute policy developments to a single factor, such as traditional political cultures is to overlook important complexities of comparative analysis. The thesis suggests that founding traditions (preserved as formal ideology), are not irrelevant to contemporary policy; but their impact must be precisely specified, as in this case via institutional variations. Neo-pluralist methodology, when sensitive to institutional considerations, can help balance consideration of material, political and ideological forces. This approach indicates the complicated electoral and economic constraints facing the liberal-democratic state, while taking account of the complexities and variations in state structures. Analysis cannot generalize beyond the case studies, since each policy warrants empirical investigation. However, this thesis has shown the need to consider ideology, interests and institutions as explanations of policy differences.

Future research should extend our understanding of developments in other policies which delineate the boundaries between private and public responsibility - notably family allowances, blind and disabled benefits, combines and anti-trust laws, regional development programmes, interprovincial fiscal equalization, industrial subsidies and regulation of the workplace, of product quality and of the environment. Further exploration of the

governments, of intergovernmental[32] and international relations and influences, and regional and cultural variations within these nations is required to solidify the selected cases; in particular, the rapid transformation of Quebec in the 1960s from anti-statism to policy innovator must be contrasted with persistant Southern conservatism in the United States. A broader picture of the policy communities and the diverse interest groups and bureaucratic actors who influence policy decisions in a given area and at a specific time, is also needed[33]; as Hall suggests, social institutions, such the organization of capital and labour, and the balance of class forces must be considered integral to an adequate institutional analysis.[34] This thesis is merely a preliminary exercise in this enormous, but essential, task.

## Notes

1. Peter Hall, Governing the Economy (New York, 1986), p. 8-9.

2. Quoted in Roberta Herzberg, "Blocking Coalitions and Policy Change" in Gerald C. Wright et. al. (eds.) Congress and Policy Change (New York, 1986), p. 201.

3. Herzberg, 1986, p. 217.

4. Randall B. Ripley "Power in the Post World War II Senate" in Glenn R. Parker (ed.) Studies in Congress (Washington, 1985), p. 297-320.

5. David L. Porter, Congress and the Waning of the New Deal (Port Washington, N.Y., 1980).

6. Susan M. Hartmann Truman and the 80th Congress (Columbia, Mo., 1971); David B. Truman, The Congressional Party: A Case Study (New York, 1959); Robert A. Garson, The Democratic Party and the Politics of Sectionalism, 1941-1948 (Baton Rouge, La., 1974), Chapter 5; Richard E. Neustadt "Congress and the Fair Deal: A Legislative Balance Sheet" in Carl Friedrich and J. Kenneth Galbraith (eds.) Public Policy Vol. 5 (Cambridge, Mass, 1954), p. 351-81.

7. John F. Manley, "The Conservative Coalition in Congress" American Behaviourial Scientist Vol. 17 No. 2 (December, 1973), p. 223-247. The "Conservative Coalition, born in the 1930s" in response to the New Deal " has persisted as a relatively common and potent voting alliance for forty years". Ibid, p. 239.

8. Mack C. Shelley, The Permanent Majority: The Conservative Coalition in the U.S. Congress (University, Ala., 1983).

9. W. Wayne Shannon, "Revolt in Washington: The South in Congress" in William C. Havard (ed.) The Changing Politics of the South (Baton Rouge, La., 1972), p. 637-687. William C. Havard, "Intransigence to Transition: Thirty Years of Southern Politics" Virginia Review Quarterly Vol. 51, No. 4 (Autumn, 1975), p. 497-521. In recent years, Democratic party dominance has declined, with increased white southern support for the Republicans. Douglas S. Gaitlin, "Party Identification, Status and Race in the South: 1952-1972" Public Opinion Quarterly Vol. XXXIX No. 1 (Spring, 1975), p. 39-51.

10. Barbara Deckard Sinclair, "The Policy Consequences of Party Realignment - Social Welfare Legislation in the House of Representatives, 1933-1954" American Journal of Political Science Vol. 22 No. 1 (February, 1978), p. 95.

11. Ripley, 1985, p. 307 ff.

12. Hall, 1986, p. 9.

13. Hall, 1986, p. 9.

14. Dallas W. Smythe, Dependency Road: Communications, Capitalism, Consciousness and Canada (Norwood, N.J., 1981); S.M. Crean, Who's Afraid of Canadian Culture? (Toronto, 1976); Joseph Scanlon, "Canada Sees the World Through U.S. Eyes: One Case Study in Cultural Domination" Canadian Forum Vol. 54, No. 3 (September, 1974); "Canadian-U.S. News Flows: The Continuing Asymmetry" Canadian Journal of Communication Vol. 5 No. 1 (Summer, 1978).

15. See the articles in A. Rotstein and G. Lax (eds.) Getting it Back (Toronto, 1974); Andrew Axline et. al. (eds.) Continental Community? Independence and Integration in North America (Toronto, 1974).

16. Abraham Rotstein, "Binding Prometheus" in Ian Lumsden (ed.) Close the 49th. Parallel Etc.: The Americanization of Canada (Toronto, 1970), p. 210.

17. Anthony Westell, "Our Fading Political Culture" in Ronald Landes (ed.) Canadian Politics: A Comparative Reader (Scarborough, Ont., 1985), p. 247.

18. Mildred A. Schwartz, "American Influences on the Conduct of Canadian Politics" in R.A. Preston (ed.) American Influences on Canada , p. 102.

19. For an overview of recent policy developments see Isabella Bakker, "The Size and Scope of Government: Robin Hood Sent Packing?" in Michael S. Whittington

and Glen Williams (eds.) Canadian Politics in the 1990s (Scarborough, Ont., 1990), p. 423-47.

20. Roger Gibbins and Neil Nevitte, "Canadian Political Ideology: A Comparative Analysis" Canadian Journal of Political Science Vol. XVIII, No. 3 (September, 1985), p. 597. Their data "found no support for a distinctive English-Canadian right; in an ideological sense, English-Canadian respondents who located themselves to the right of centre on the ... scale were indistinguishable from their counterparts in the United States, just as the English Canadian Progressive COnservatives were indistinguishable in their scale location from American Republicans".

21. Leo Panitch, "The Role an Nature of the Canadian State" in Panitch (ed.) The Canadian State (Toronto, 1977, p. 20.

22. Christopher Huxley, David Kettler and James Struthers, "Is Canada's Experience 'Especially Instructive'?" in S.M. Lipset (ed.) Unions in Transition: Entering the Second Century (San Francisco, 1986), p. 113-132.

23. Organization for Economic Cooperation and Development, Social Expenditure 1960-1990: Problems of Growth and Control (Paris, 1985), p. 21-22. In 1960, Canada spent 12.1% of GDP on social expenditure, to 10.9% for the United States; in 1981 Canada spent 21.5% to the U.S. 20.8%. These differences are marginal as compared with the much higher expenditures of nations such as West Germany, Sweden, Italy and France.

24. Manley, 1973, p. 223.

25. James B. Atleson, Values and Assumptions in American Labor Law (New York, 1983).

26. Theda Skocpol, "Political Response to Capitalist Crisis: Neo-Marxist Theories of the State and the Case of the New Deal" Politics and Society Vol. 10, No.2 (1980), p. 155-201.

27. Christopher Leman, "Patterns of Policy Development: Social Security in the United States and Canada" Public Policy Vol. 25, No. 2 (Spring, 1977), p. 261.

28. Hall, 1986, p. 19.

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