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**“Class Conflict, Policy Development, and the State:
Explaining the Postwar Divergence of U.S. and Canadian Unions”**

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Introduction

An important sub-field within the larger debate of why the U.S. is alone among industrialized nations in its failure to develop a mass-based labor party is the examination of the relationship of U.S. unions to existing mass political parties. Given labor’s political trajectory since the New Deal, the bulk of the scholarship focusing on the 20th century has explored the complex relationship between labor and the Democratic Party. Scholars are sharply divided on both the character of this relationship, as well as the extent to which it has either helped or hindered labor’s fortunes over the past several decades. Generally speaking, those who take a more sanguine view of the alliance see it as more or less homologous to the relationship between unions and social democratic parties in European countries, a relationship which has allowed U.S. labor to make its voice heard more effectively in the political arena, both nationally and locally (Dark 1999; Greenstone 1969; Harrington 1972). Skeptics on the other hand have seen the labor/Democratic Party alliance as what Mike Davis described as a “barren marriage” that has offered the illusion of “a voice at the table” for labor while in reality contributing to its decline (Braverman 1959; Davis 1980; Lens 1959: 296-301; Moody 1988: 147-64; Moody 2007: 143-68).

The purpose of this paper is not to adjudicate between these two positions in general. Rather, what I hope to do is to examine how the developing alliance between labor and the Democratic Party played a key role in a specific and very consequential outcome: the precipitous decline in U.S. union density rates—the proportion of nonagricultural workers who are union members—over the past fifty years. I do this through a “most similar” case comparison between unionization rate trends in the U.S. and its neighbor to the north, Canada.

As Figure 1 shows, the comparison immediately brings into stark relief a central empirical puzzle: why, after tracking each other closely from the early 1900s through the 1960s, did Canadian and U.S. union density rates diverge so dramatically in the following decades? Indeed, Canadian density rates are now more than twice as high as in the U.S. The problem is even more puzzling when we consider that Canadian and U.S. workers share many of the same unions, and work for many of the same employers, which operate in very similar economic environments (Cox and Jamieson 1974; Flora and Heidenheimer 1981; Huxley, Kettler and Struthers 1986; Jamieson 1973; Kumar 1993; Lipset and Meltz 2004).

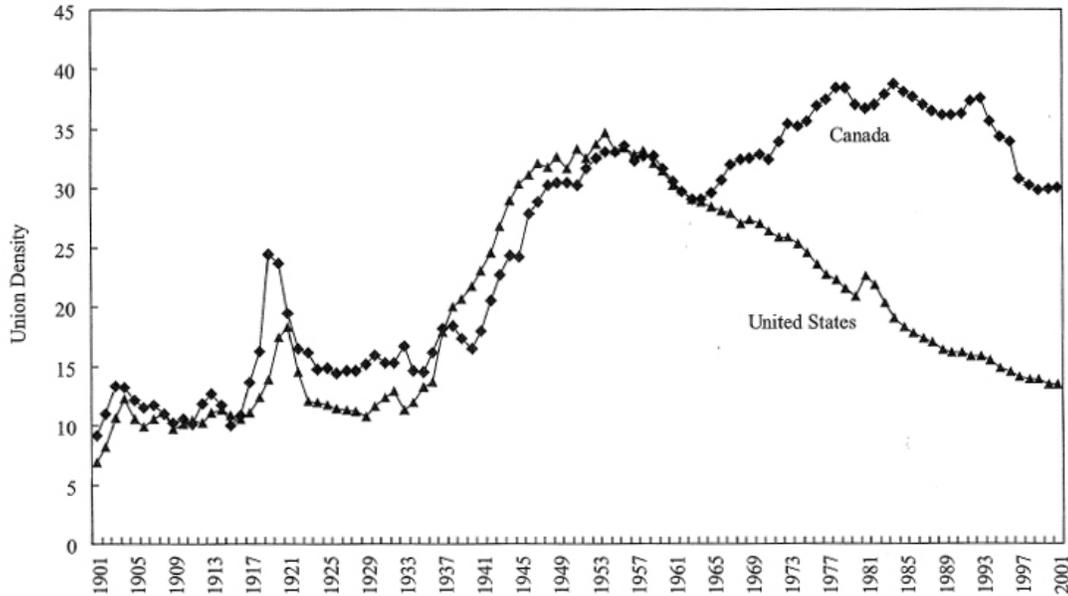


Figure 1: Union density in Canada and the United States, 1901-2001. (Reprinted from Lipset and Meltz 2004, p. 2)

This divergence in labor market structures in the U.S. and Canada both reflects and has shaped profound changes in the political and policy landscapes of both countries from the postwar period up until the present day. At the political level, the divergence coincides (not coincidentally, as I will argue) with a decisive shift towards party alliances in both countries. In the U.S., unions moved from a classically “voluntarist” (Rogin 1962) position of “rewarding your friends and punishing your enemies” to a closer identification with the Democratic Party (Davis 1980; Farhang and Katznelson 2005; Greenstone 1969: 39-80). In Canada, unions shifted from a voluntarist position more in line with their American counterparts to an alliance with an independent labor-agrarian party, the Cooperative Commonwealth Federation (CCF), later the New Democratic Party (NDP) (Abella 1973; McInnis 2002; Palmer 1983). At the policy level, the U.S./Canada divergence in unionization has had a profound effect on the development of social welfare policy regimes in the two countries. In the U.S., labor’s relative weakness and decline led to the creation of what Marie Gottschalk (2000) has called America’s

“shadow welfare state,” with health care and pension benefits negotiated privately with individual employers as opposed to provided universally through the state, as in Canada. Additionally, as many have argued, U.S. labor’s political weakness and its ceding of the shop floor to management in the postwar period left unions hard-pressed to mount a response to the employer onslaught of the 1970s (Fantasia and Voss 2004; Moody 1988; 2007), which in turn has contributed to stagnant wages and diverging income inequality and poverty rates in the two countries over the past three decades (Card 1998; Freeman 1994; Zuberi 2006).

Given the lasting consequences of this divergence for the shape of both countries’ political landscapes, welfare policies, and levels of inequality, it is important to deepen our understanding of the forces behind this critical process of working class organizational divergence. In so doing, we can unearth the origins of a prime example of what David Card and Richard Freeman (1994) call the “small differences that matter” between Canadian and U.S. policy frameworks.

For the purposes of this paper, I will be focusing on what I argue is one of the most decisive factors in explaining the U.S.-Canada density divergence, namely the structure of political conflict surrounding the design and implementation of labor relations policy in both countries. I examine the conditions surrounding the development of what would form the basis for modern labor relations policy in both countries in the 1930s and 40s, how these conditions affected policy trajectories in both countries over time, and how these trajectories in turn influenced union density rates. What is particularly interesting in this case comparison is that more favorable initial conditions for U.S. unions ultimately led to less favorable outcomes. To explain this, I aim to show

how U.S. labor's ability to pursue an "insider" strategy, securing protective legislation through alliances with ruling Democratic Party coalitions, ultimately led to weaker protections that were more difficult to defend than those won by their Canadian counterparts, who were excluded from direct political decisionmaking and yet were able to win and retain stronger protections.

The remainder of the paper proceeds as follows. First, I briefly examine competing explanations for the U.S./Canada unionization divergence. Second, I provide a concise historical overview of the development of modern labor relations policy in the two countries. Third, I examine the conditions surrounding the initial design and implementation of those policies. Fourth, I explain how those initial conditions affected policy trajectories in both countries, and how this led in turn to divergent union density rates. I then conclude with a summary of key findings.

Decoding the Density Divergence

The voluminous amount of research examining this process generally falls into one of three categories: econometric, cultural, and legal/political. As befits the name, the first group approaches the problem through analysis of the balance of "supply side" and "demand side" factors contributing to an individual worker's propensity to unionize, with the supply side constituting costs to workers of joining a union, and the demand side constituting the benefits that workers derive from union services. They use a variety of statistical methods to point to a multitude of potential causal factors. While a discussion of the econometric literature is well beyond the scope of this paper, the key finding that unites much of this literature is its rejection of a popular explanation for the decline of U.S. unions, namely demographic and/or structural transformation of the labor force

(Card and Freeman 1994: 208-9; Farber and Krueger 1993:107; Freeman 1988: 76; Riddell 1993: 127-33).¹

The second category itself breaks down into at least two subcategories. Some, following in Lipset's tradition (Horowitz 1968; Lipset 1950; 1986; 1989; 1995; Lipset and Meltz 2004), see the divergence as resulting from deep-seated differences in the political cultures of the two countries. Others see it as resulting from a more politically progressive, inclusive Canadian "social unionism" that proved more resilient than the more conservative, exclusive "economism" or "business unionism" that predominates in the U.S. (Kumar 1993; Robinson 1992; 1993). The third category sees the divergence as a function of a more anti-labor legal regime and more hostile employers in the U.S. (Fantasia and Voss 2004; Freeman 1988; Godard 2003; Huxley, Kettler and Struthers 1986; Riddell 1993; Weiler 1983; 1984).

All these explanations remain at best incomplete. Turning first to the econometric literature, its main problem is that, while it is very good at ruling out certain explanations, such as the abovementioned compositional effects, its reliance on statistical analysis prevents it from going beyond proximate causes to identify underlying dynamic social or political processes that could offer more comprehensive explanations of the divergence.

As such, these scholars can only remain tentative at best when it comes to proposing their

¹ A lonely but nevertheless important exception to this general consensus worth noting in brief is the work of Leo Troy (1992; Troy 2000). His general argument is that, although the Canadian economy may be lagging behind that of the U.S. by a decade or two, the two economies are converging around a similar model, with a shift towards service sector employment contributing to deunionization in both countries. Troy argues that, to the extent that Canada's unionization rate is higher than that of the U.S., it is merely a combined result of this time lag and a proportionally larger public sector, which hides the decline in Canadian private sector unionism. Although space does not permit me to elaborate my critique of Troy in detail, I side with the majority in not finding his arguments convincing. For a detailed and very able critique of Troy's work, see (Godard 2003).

own explanations. Characteristic of this approach is that of Farber and Krueger (1993), who are very precise in noting that “about 7 points of the 18.5 point gap in union density between the U.S. and Canada is attributable to differences in frustrated demand [i.e. greater or fewer numbers of workers who desire union services but cannot obtain them],” but can only speculate that this is “perhaps due to the differences in the legal environment between the countries” (p. 129).²

Turning next to cultural explanations, Lipset and co-author Noah Meltz argue that:

[H]igher union density in Canada, compared with the United States, is rooted in Canada’s statist, social democratic traditions, which are in turn attributable to its Tory and decidedly European conservative lineage. The United States has an individualistic, laissez-faire tradition that is generally not supportive of more collectivist approaches. Only in extraordinary circumstances, such as war or prolonged economic downturns, has the United States moved closer to the statist model (Lipset and Meltz 2004, p. 173).

True as these cultural distinctions may be, they cannot by themselves explain the Canada/U.S. divergence. Fundamentally, the problem is one of explaining a variable with a constant: appealing to durable, longstanding cultural differences cannot explain the kind of change over time observed in the case at hand, nor can it explain the pattern of similarity that existed beforehand.³ Additionally, such lines of argument do a poor job of

² I will only mention in passing a further critique of such supply/demand models of unionization, namely the deeply flawed assumption that it is possible to understand inherently collective processes of social action such as unionization simply as the aggregation of individual preferences and tastes.

³ Lipset of course seeks to avoid this problem by denying that Canadian and U.S. unionization rates were similar before the New Deal, and that the New Deal and World War II/postwar periods constituted an anomaly where the U.S. experienced a brief turn towards collectivism. However, a look at his own data shows that, although Canadian unionization rates may in fact have been a

specifying the link between cultural traditions, beliefs, and attitudes on the one hand, and particular institutional configurations and policy outcomes on the other. Ultimately, Lipset's is an explanation without mechanisms.

As for the legal environment and employer hostility explanations, these factors undoubtedly played a key role, but what remains unexplained here is how this situation came to be in the first place. This is all the more puzzling given that Canadian labor legislation was in many ways initially more anti-union than U.S. legislation (Logan 2002; Woods 1962), and some evidence indicates that Canadian employers may be more hostile than their U.S. counterparts (Lipset and Meltz 2004: 83-87), or at least in a stronger bargaining position (Cox and Jamieson 1974: 805-6; Jamieson 1973: 5-6). Finally, the neat dichotomy between a stronger Canadian "social unionism" and a weaker U.S. "business unionism" is far too simplistic, overlooking the extent to which more conservative bureaucratizing forces for "responsible unionism" gained control in the Canadian labor movement as well (Abella 1973; Camfield 2002; Fudge and Tucker 2001; McInnis 2002). Additionally, as with the legal environment and employer aggressiveness explanations, the business/social unionism dichotomy leaves unexplained the origins of that difference, to the extent that it exists. The problem calls for a deeper analysis.

Background: The Conditions of Regime Institutionalization

In order to explain the Canada/U.S. union divergence, I investigate the manner and degree to which the two countries' labor relations regimes were institutionalized during and after World War II, with a special focus on what I argue is a critical variation:

few percentage points higher than those in the U.S. between 1901 and 1938, the overall *trend lines* for the two are virtually identical. Starting in 1964 (again, according to Lipset and Meltz's own data), the trend lines decouple and diverge in opposite directions, with the U.S. continuing the secular decline began a decade earlier, and Canada "snapping out" of its downward trend and regaining a stable density level over the subsequent decades.

the structure of the political conflicts that led to the creation of the regimes. In other words, I propose that, although *what* labor rights were won certainly matters, it is also crucially important to understand *how* those labor rights were won. My argument in brief is that the modern U.S. labor relations regime emerged as the result of a legislative victory engineered by the ruling New Deal coalition, into which labor was incorporated. This coalition was able to unite to pass key legislation over the wishes of a hostile but weakened employer group. In contrast, the modern Canadian labor relations regime emerged as the result of a cabinet-level decree issued during wartime by a governing party caught between business allies to its right demanding labor discipline, and the combination of a rebellious labor movement and an insurgent political challenge to its left demanding labor rights. Subsequent labor rights expansions in both countries followed a similar pattern, with a U.S. labor movement striking bargains with its allies in government, and a Canadian labor movement wringing concessions from a reluctant state. I argue that the “insider bargains” won by the U.S. labor movement had the effect of creating a labor policy that was relatively more politically contested and relatively less institutionally grounded than “outsider settlements” won by its Canadian counterpart, and that this had important consequences for shaping the trajectories of both countries’ labor policy regimes and the protections they offered workers and their unions.

In order to elaborate my argument, I first provide below some historical background explaining the development of modern labor relations policy in both countries. I then examine how the political conditions surrounding policy development in both countries affected the long-term development of labor policy in greater detail.

Background: U.S. Labor Policy

The foundation of the U.S. labor relations regime was the National Labor Relations Act (NLRA), often referred to as the Wagner Act. It was passed in 1935, and after two years of legal disputes, was found to be constitutional by the Supreme Court in 1937. The Act's key provisions included guaranteeing workers 1) the right to join or organize a union without fear of employer discrimination or retaliation; 2) the right to engage in so-called "concerted activities for the purpose of collective bargaining or other mutual aid and protection" (NLRA Section 7(a)), such as strikes, boycotts, picketing, or other job actions; and 3) the right to engage in collective bargaining with employers, combined with a duty for employers to bargain with unions in good faith. The Act also prohibited employer interference with or domination of unions, and established the National Labor Relations Board (NLRB) as the agency to monitor and enforce the law.

Over the course of 1941 and 1942, two wartime administrative agencies, first the National Defense Mediation Board (NDMB), then the National War Labor Board (NWLB), forged a compromise between labor and capital that provided labor with a crucial measure of institutional and financial stability, but at a high cost. In exchange for giving up the right to strike and enforcing government wage restraint and production quotas for the duration of the war, unions were granted what is known as "union security" provisions in their collective bargaining agreements. Chief among these were 1) the "maintenance of membership" clause, which stipulated that all union members in a given workplace were required to remain union members for the duration of their union contract; and 2) "dues checkoff," which required employers to deduct union members' dues directly from their paychecks and remit the money to the union (Lichtenstein 1982: 67-81).

In 1947, the U.S. Congress passed the Labor-Management Relations Act (LMRA), commonly referred to as the Taft-Hartley Act, over President Truman's veto. The Act amended the NLRA in a decidedly anti-union direction; it outlawed a variety of types of union collective activity, severely restricted so-called "union shops" (companies which require union membership as a condition of employment), allowed states to pass "right to work" laws (which require unions to represent all workers in a given workplace, regardless of whether or not they are dues-paying members), granted the federal government the power to enjoin strikes if they were perceived to pose a threat to "the national interest," prohibited union leaders to hold membership in the Communist Party or any other radical organization, required them to file affidavits with the Department of Labor swearing that they did not hold any such memberships, prohibited low-level supervisors and foremen from joining unions, and granted employers greater freedom to voice their opposition to unions in the workplace.

In 1959, Congress passed the Labor Management Reporting and Disclosure Act (LMRDA), or Landrum-Griffin Act, which further restricted certain types of picketing and boycotting activities, imposed a variety of financial reporting requirements on unions, and granted the Department of Labor extensive rights to regulate the internal affairs of unions.

While the above-mentioned laws have formed the basic framework of U.S. labor policy over the past seventy years, of equal or greater importance is the way those laws have been interpreted and enforced over the years. Starting as early as the 1940s, the NLRB has developed narrow interpretations of the existing labor law that have served to constrain union activity even further (Gross 1995; Klare 1978; Rogers 1990).

Background: Canadian Labor Policy

The foundation of the modern Canadian labor relations regime was Order-in-Council PC 1003, a wartime cabinet (Privy Council) decree issued in 1944, which was loosely based on the Wagner Act. While that order expired at the end of the war, the federal government agreed with the ten provinces in 1946 to coordinate postwar labor policy based on many of its key provisions. The culmination of this negotiation process between the federal government and the provinces was the Industrial Relations and Disputes Investigation Act (IRDIA), which passed Parliament and received royal assent in 1948. The IRDIA then became the model legislation for provincial labor legislation, which is what actually covers most Canadian workers. Its key provisions⁴ are:

1. employee freedom of association and union recognition;
2. compulsory bargaining rights for certified trade unions
3. postponement of the right to strike until after government intervention through conciliation;
4. prohibition of unfair labour practices by both employers and trade unions to protect individual rights and the collective bargaining process;
5. establishment of legal status and enforceability to the collective agreement;
6. provision for resolving disputes arising out of the collective bargaining agreement without resorting to strike; and
7. establishment of regulatory bodies with investigation and control powers in the form of boards of industrial relations.

In 1947, the same year that the Taft-Hartley Act was passed in the U.S., Canadian unions won union security protections similar to those U.S. unions had won earlier in the decade. The Canadian bargain was struck as part of the settlement of the landmark 1946-47 strike against Ford in Windsor, Ontario, which laid the groundwork for organizing the

⁴ These provisions are quoted directly from (Adams and Andrew 1999, p. 1-14)

entire company in Canada. The company and the union agreed to submit their unresolved claims to an arbitrator, who in this case was Supreme Court Justice Ivan Rand. In his decision, Justice Rand granted the union (the United Auto Workers in this case) recognition (the right to act as the workers' collective bargaining representative with the company), dues checkoff, and maintenance of membership language. In exchange, he imposed two restrictions on unions: 1) the requirement that any industrial action be ratified by a secret strike ballot; and 2) fulfillment of all duties to the employer, which included policing wildcat (non-leadership authorized) strikes, which had become endemic in the 1946 postwar strike wave. This tradeoff, which became known as the "Rand Formula," quickly gained wide acceptance throughout the country, and was soon incorporated into virtually all collective bargaining agreements in Canada (Fudge and Tucker 2001: 284-93).

While the IRDIA and Rand Formula have undergone certain amendments and updates in subsequent years, and provincial legislation varies in certain important respects, their fundamental tenets and protections as outlined above have largely remained intact up through today. Indeed, with a few notable exceptions, such as Ontario's conservative government reforms in the mid-1990s, the trend has generally been to expand labor rights over time, to the point where the Canadian Supreme Court ruled in June 2007 that collective bargaining protections constituted a fundamental human right guaranteed by the freedom of association protections outlined in the Canadian Charter of Rights and Freedoms, a document analogous to the U.S. Bill of Rights.⁵

⁵ See *Health Services and Support - Facilities Subsector Bargaining Assn. v. British Columbia*, 2007 SCC 27, [2007] 2 S.C.R. 391: "the protection of collective bargaining under s. 2(d)

Structures of Political Conflict and the Institutionalization of Labor Policy

In the U.S., the Wagner Act was enacted with political support from the famously heterogeneous and unstable New Deal coalition, made up of a cross-class mix of urban machines, racial, ethnic, and religious minorities, sections of farmers, intellectuals, and labor, with racist “Bourbon” Southern Democrats acting as a key swing constituency (Farhang and Katznelson 2005: 2; Greenstone 1969: 36-38). Although Roosevelt himself was somewhat less than an ardent supporter of labor’s agenda, he recognized their importance as a constituency, especially as business interests abandoned him after 1935. He also would consult as necessary with labor leaders, primarily from the nascent CIO, such as Mineworkers President John L. Lewis and Amalgamated Clothing Workers President Sidney Hillman (Edelman 1961: 178-85; Greenstone 1969: 48-9). Additionally, Robert F. Wagner, chief sponsor and proponent of the NLRA, developed the legislation in consultation with labor, and was widely viewed as labor’s champion in the political realm.⁶ But labor was always merely one component of Roosevelt’s multi-faceted coalition, which had to balance the demands and preferences of a variety of groups. The key point is that labor was incorporated *within* the political coalition that developed and enacted the foundations of modern U.S. labor policy.

In contrast, PC 1003 in Canada was enacted by decree by the war cabinet of Liberal Party Prime Minister William Lyon Mackenzie King. Unlike FDR’s broad New

[freedom of association] is consistent with and supportive of the values underlying the Charter and the purposes of the Charter as a whole. Recognizing that workers have the right to bargain collectively as part of their freedom to associate reaffirms the values of dignity, personal autonomy, equality and democracy that are inherent in the Charter” (p. 4).

⁶ As already noted above, Roosevelt himself was quite lukewarm towards labor rights legislation in general, as he was towards the NLRA in particular. However, when he saw that it did in fact have enough political support to pass, he eventually did come to support it (Wallace, Rubin and Smith 1988, pp. 7, 24-25).

Deal coalition, Mackenzie King's war cabinet was made up of prominent industrialists such as C. D. Howe, who was made head of the powerful Department of Munitions and Supply (DMS). They surrounded themselves with so-called "dollar a year men," business executives on loan from their companies to help the government reorganize the wartime economy. While Mackenzie King, who held a Ph.D. from Harvard in industrial relations and had served as Canada's first minister of labor, preferred a more conciliatory approach to labor-capital relations,⁷ the industrialists around him were virulently anti-labor (Fudge and Tucker 2001: 230-45).

Predictably, the cabinet's initial efforts at crafting labor policy in response to growing wartime labor militancy consisted of ever-tighter restrictions on workers' abilities to strike or engage in any other collective action that could impinge on war production. It was only in the face of 1) the dismal failure of these restrictive measures to secure labor peace and uninterrupted production; and 2) the rising electoral threat from the left posed by the social-democratic Cooperative Commonwealth Federation (CCF), that the war cabinet moved to grant more Wagner Act-style labor rights, although PC 1003 retained stricter limits on the right to strike and created somewhat more onerous procedures for gaining union representation (Camfield 2002; Fudge and Tucker 2001; Logan 2002; McInnis 2002). The key difference with the U.S. case here is that, whereas U.S. labor policy emerged out of an initiative from *within* the governing coalition, Canadian labor policy emerged in response to political and economic challenges from

⁷ As part of his commitment to conciliation, Mackenzie King was particularly partial to labor-management cooperation schemes, including company unions. Indeed, when John D. Rockefeller, Jr. was under fire for fostering a corrosive labor relations climate at his company, Colorado Fuel & Iron Company, in the wake of the notorious 1915 Ludlow Massacre, he hired none other than Mackenzie King to design a company union scheme, which became known as the "Rockefeller Plan," in order to burnish his image (Kaufman 2000, p. 22).

without.

Thus we have two very different structures of political conflict. They differ both at the level of the dynamics of conflict as well as the arena of conflict. In the U.S. case, the dynamic surrounding the development and implementation of the NLRA involved a two-way struggle between an unstable governing coalition, which included labor, and a unified opposition coalition of business interests, whose influence had been temporarily weakened by the Great Depression. The arena of conflict, as Alan Draper (1989: 19) usefully points out, shifted in this time period from the courts to Congress and the NLRB. Since the courts tended to favor a “hands-off” approach that allowed the relative balance of economic power between workers and employers to determine the outcome, placing the regulation of labor conflict under congressional jurisdiction had the effect of making the process of labor policy formation and development much more susceptible to political pressures. Furthermore, as Draper explains, turning interpretation and implementation of the textually ambiguous Wagner Act over to the NLRB meant that “it would be left to the NLRB which would reflect the prolabor or promanagement sympathies of the incumbent administration to interpret and administer the law” (ibid.: 19). These key changes in the arena of conflict reinforced the existing dynamics of conflict, making continued support for a pro-labor U.S. labor policy dependent on the continued cohesion of the unstable New Deal coalition. This in turn dramatically increased labor’s dependence on that coalition, thus tightening the labor-Democratic Party alliance.

As for the Canadian case, the dynamic surrounding the development and implementation of P.C. 1003 was a three-way conflict, with a governing war cabinet being pressured from the right by their friends and allies in the business community

demanding labor discipline, and pressured from the left by restive workers demanding labor rights and the emerging political threat of the CCF. As such, it was placed in a position not of formulating and advocating a policy against a unified opposition, but rather of brokering a policy compromise between mutually hostile parties. In terms of the arena of conflict, it is important to note that the initial Canadian policy emerged not out of a process of legislative bargaining, but was issued by executive decree. Subsequent reforms, such as P.C. 1003's postwar codification into law as the IRDIA, was the result of negotiations between members of the federal executive and their provincial counterparts. Additionally, key union security policies were determined not by labor bargaining with its allies within the state bureaucracy, as in the U.S. case, but rather were the result of an arbitration decision made by an appointed Supreme Court Justice to settle a bitter labor dispute. As such, Canadian labor policy emerged on a more stable footing relative to the U.S. case, developing as a combination of a careful balancing act by the governing party weighing competing external political forces on the one hand, as well as legal rulings by neutrally-perceived arbitrators on the other. Crucial for the purposes of this paper, unlike in the U.S., continued support for pro-labor labor policy in Canada was not dependent on the resilience of a cross-class coalition with a major governing party. Rather, labor would continue to maintain and expand its protections through continued economic pressure combined with a deepening alliance with the social-democratic CCF to exert political pressure from the left.

Structures of Political Conflict, Policy Development, and the Density Divergence

How then did these processes surrounding labor relations regime institutionalization affect the trajectories of the two labor movements over time?

Addressing the U.S. case first, as established above, shifts in the dynamic and arena of political conflict meant that labor was dependent on the maintenance of the New Deal coalition for protection and expansion of labor rights. However, that fragile alliance was unable to hold in the postwar period. Concerned about the expansion of federal authority growing labor militancy, and the potential implications of that militancy for the stability of the racial order in the South, Southern Democrats defected from the coalition. They allied with a Republican congressional delegation that had expanded in the 1946 elections to provide a supermajority that was able to pass the Taft-Hartley Act over President Truman's veto in 1947 (Farhang and Katznelson 2005: 16; Gross 1995: 7-13). Taft-Hartley's efforts to "level the playing field" by providing employers with greater leverage to intervene in unionization drives, all the while limiting traditionally effective tactics unions had previously used to organize members, provided the institutional framework necessary for employers to put teeth into the aggressive anti-unionism that Freeman (1988) and others identified as a critical factor explaining the U.S./Canada density divergence. This framework was strengthened throughout the 1950s by the Eisenhower-appointed NLRB, which issued interpretations of the labor law that, combined with the 1959 LMRDA amendments, "shifted emphasis from the encouragement of collective bargaining through unionization to the sanction of employer resistance to unionization, the employees' right to reject unionization and collective bargaining, and the protection of employers from 'unfair' union economic weapons" (Gross 1995: 143-4).

Canada experienced a very similar explosion of postwar labor unrest to that in the U.S., and yet in 1947, the very same year that Taft-Hartley was passed south of the border, Canadian unions won the basic security provisions contained in the Rand

Formula. Why this difference? It clearly wasn't the result of lack of interest on the part of Canadian employers (in the form of the Canadian Chamber of Commerce), who eagerly sought to imitate their American counterparts. However, the Chamber ran into resistance when it proposed a Canadian version of Taft-Hartley to government officials. They held that an employer free speech provision as contained in the U.S. version of Taft-Hartley "was unnecessary because, unlike U.S. labour policy, Canadian law had 'not gone to extremes.... The pendulum has not swung so far in either direction.'"⁸ Thus, the three-way dynamic of conflict in Canada, with the state brokering a compromise policy between mutually hostile parties, led to a policy equilibrium that was difficult for opponents to upset.

In keeping with Canadian policymakers' focus on ensuring industrial peace by striking a balance between labor and capital's interests, the Rand Formula in fact embodied just such a compromise. In exchange for financial security in the form of dues check-off, Canadian unions agreed to police their members and do everything in their power to prevent illegal strikes. The Formula also provided a means for employers to punish unions who failed to honor their obligations and engaged in illegal strike activity (Fudge and Tucker 2001: 285-6). Rather than the politicized "pendulum swings" that characterized U.S. labor policy, Canadian labor policy sought to impose a balance of benefits and restrictions on both parties (Logan 2002: 130).

The effect of these differences in policy frameworks was initially difficult to discern, as the economic growth in the decades of the postwar expansion allowed unions in both countries to continue to grow. This is likely due to the fact that, as shown in Figure 2, total U.S. union membership continued to rise through the mid-1970s, even

⁸ (Logan 2002: 137), quoting Canadian Deputy Minister of Labour W. Elliot Wilson.

though density (membership as a proportion of total non-agricultural employment) had already begun to decline in the mid-1950s. (As for Canada, Figure 2 shows that total membership has not declined in Canada.⁹) However, by the time of the economic crises of the 1970s, it was clear that a serious pattern of decline was at hand in the U.S. It was at this time that cash-strapped employers embarked on an aggressive anti-union offensive (Fantasia and Voss 2004: 63-77; Moody 2007: 11-36), as indicated by the dramatic spike

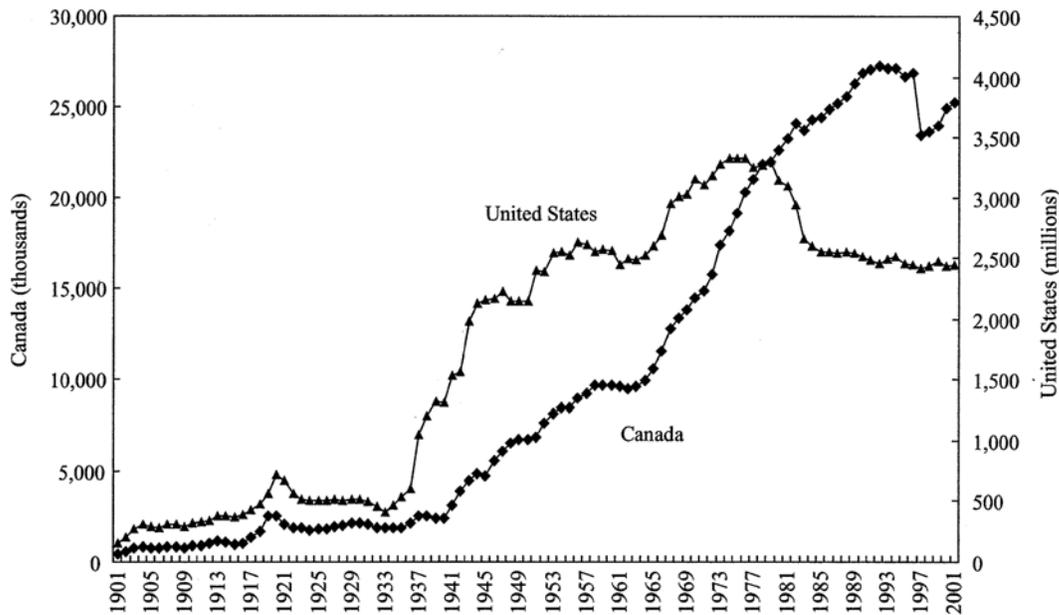


Figure 2: Total union membership in Canada and the United States, 1901-2001 (in thousands). Reprinted from Lipset and Meltz 2004, p. 31. The scale for the U.S. is approximately ten times that for Canada to reflect the fact that the population of the United States is roughly ten times that of Canada; in 1998 the populations were 270 million and 30 million, respectively.

in unfair labor practice charges leveled against employers (Goldfield 1989: 196).

Companies combined in anti-union trade associations such as the Business Roundtable, hired “union busting” consultants, and engaged in wholesale strikebreaking, sometimes permanently replacing striking workers. At the same time, the rise of “union avoidance”

⁹ The seemingly precipitous drop in 1997 is simply the result of a shift from the Corporations and Labor Unions Returns Act (CALURA) survey method to the new Labor Force Survey (LFS) method.

consultants made it easier for non-unionized employers to manipulate the NLRB representation election process in their favor, making it much more difficult for workers to join a union (Goldfield 1989: 180-217). Disoriented by the new rules of the emerging new economy, and faced with increased organizing costs and diminishing odds of success, embattled unions reacted by retreating, virtually ceasing new organizing campaigns, which made it impossible for them to replenish their ranks (Farber and Western 2002: 388; Moody 2007: 98-120).

All this has been well documented previously. What I have attempted to do in the foregoing analysis is to provide an explanation for *why* U.S. employers had an institutional framework available to them that provided the means with which to embark on their anti-union offensive in the 1970s. The initial reliance on an “insider” coalition to implement labor policy led to a regime that was vulnerable to shifts in the political and economic balance of power. The postwar unraveling of the New Deal coalition that implemented the initial labor policy allowed for the passage of the Taft-Hartley Act and the administrative retrenchment of the NLRB, which in turn left labor vulnerable to attack when the economic crisis of the 1970s provoked a management anti-union offensive.

The importance of the pre-existing institutional structure becomes clearer when we introduce the Canadian comparison. Canadian employers encountered a similarly deteriorating economic climate in the 1970s. However, they remained more constrained in their ability to respond to this crisis by mounting an assault on their labor force. As John Logan (2002) has perceptively noted, the laws which placed greater restrictions on Canadian unions’ ability to engage in strikes and other economically disruptive activity

compared to their American counterparts also placed greater restrictions on American employers' ability to replace striking workers. Similarly, he points out that, although Canadian processes for certifying new unions was more demanding than the U.S. process, it also had the key benefit of severely curtailing employers' ability to interfere in the certification process. As such, Canadian employers were deprived of two key legal/institutional mechanisms that American employers used to attack unions.

As I hope to have shown, this was no accident. The brokered nature of the initial Canadian labor relations policy, with a governing party caught between business interests on the right and a labor/CCF coalition on the left, as well as the focus on maintaining industrial peace, ensured that it would impose a balance of restrictions and rewards on both parties. Furthermore, its implementation by a combination of executive and legislative decree left the policy less susceptible to shifts in the balance of political and economic forces than U.S. policy. While this may have initially restricted Canadian labor's ability to extract concessions from employers during the postwar economic expansion, it also offered greater protection in the face of economic downturns.

Conclusion

This paper has sought to examine the consequences of the labor/Democratic Party alliance for labor's strength over time, as measured by union density rates. In order to identify decisive factors, I have used a "most similar" comparison with the case of union density rates in neighboring Canada. While unionization rate trends in both countries remained virtually identical from 1901 through 1964, the trends diverged sharply in subsequent years, with the U.S. continuing a secular pattern of decline, and Canada recovering from a decline to stabilize at an aggregate union density rate nearly twice as

high as that in the U.S. Existing research seeking to explain this divergence has either poorly specified the mechanisms leading to the observed outcome, as in the case of cultural explanations, or it has identified proximate causes for divergence without delving deeper into the political processes underlying them, as in the case of explanations emphasizing differences in labor laws and employer opposition.

In an effort to uncover these deeper political processes underlying the divergence of U.S. and Canadian unions, I have focused in this paper on an examination of differences in the structure of political conflict surrounding the development and institutionalization of modern labor relations policy in both countries. To reiterate, I found that U.S. labor's pursuit of an "insider" strategy of allying with the New Deal coalition to implement labor policy against the wishes of a unified but weakened employer group had the effect of creating a policy that was more susceptible to fluctuations in the political and economic balance of power between labor and capital. The fragmentation of the New Deal coalition in the postwar period, particularly the defection of Southern Democrats, combined with a resurgent employer class led to a "pendulum swing" in labor policy back in the employers' favor in the form of Taft-Hartley and later the Landrum-Griffin Act. Additionally, labor policy language left deliberately vague as the result of legislative bargaining left policy interpretation and enforcement up to the political appointees of the NLRB, who succeeded in reorienting labor policy away from enforcement of workers' rights during the Eisenhower years. The result was a legal/institutional framework that favored employers and provided important tools with which to attack labor as part of an anti-union offensive begun in response to the economic crises of the 1970s.

In contrast, Canadian labor's extraction of labor rights concessions from a reluctant government caught between their business allies on the right and an insurgent challenge from labor and the CCF on the left led to a labor policy that balanced rights and restrictions for both labor and capital. The result was a more stable policy that was less susceptible to variations in the political balance of power, and which continued to offer important protections to Canadian workers when exposed to the economic crises of the 1970s.

What implications do these findings have for our understanding of policy formation more generally? The chief one would be to emphasize the long-term implications of the *context* of policy formation, meaning that *how, where and under what conditions* policy is developed can affect the development of that policy over time.

Finally, what implications do these findings have for our understanding of the labor/Democratic Party alliance? The foregoing analysis would seem to offer additional support for those who have criticized the alliance as a contributing rather than a mitigating factor in explaining U.S. labor's weakness.

In closing, it is important to note that a major omitted factor in this analysis is the role of the public sector in both countries. Further analysis of the public vs. private differences in both countries would allow for a more refined analysis of the divergence.

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