

**REPRODUCING CANADA**

REPRODUCING CANADA:  
A FEMINIST ANALYSIS OF  
FAMILY-STATE DYNAMICS

By

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## ABSTRACT

This study explores the relationship between the family and the state in Canada in order to explain the persistence and dynamic of patriarchy in contemporary capitalist societies. We specify the connection between capitalism and patriarchy through an analysis of the relationship between production and reproduction as it is revealed in the intersection of family, labour, and welfare law. The selection of a legislative focus for the analysis of patriarchy is the outgrowth of a theoretical perspective that identifies the state as the critical mediator in the coordination of productive and reproductive relations.

We undertake a study of eighty-four years (1884-1968) of legislation in three jurisdictions; Ontario, Manitoba, and the federal government. We present a content analysis of family, labour, and welfare law as they inform state mediation of the flow of labour and income resources between the productive and reproductive sphere. We also present an analysis of the policy processes which precede legislation and the bureaucratic structures which enforce legislation to reveal the central role of the state in the changing dynamic of patriarchy. We identify the increasing significance of state intervention within the reproductive sphere as evidence of a transition in the structure and operation of patriarchy from a decentralized family based system to a centralized state based system of authority and support.

This centralization of authority and support for reproduction within the state is identified as a transition from familial to social patriarchy. This process specifies the material basis of the increasing dependence of the family on the state. As we see the state evolve, in its relation to women and children as provider and patriarch, we better understand why it has become the focal point of struggle over reproductive and family issues today.

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## PART I

### INTRODUCTION

This study presents an analysis of the relationship between the family and the state in Canada which seeks to understand the persistence and dynamic of patriarchy in contemporary capitalist societies. In order to analyze the connection between capitalism and patriarchy we explore the relationship between production and reproduction as it is revealed in the intersection of family, labour and welfare law. The selection of a legislative focus for the analysis of patriarchy is the outgrowth of a theoretical perspective which identifies the state as the critical mediator in the co-ordination of productive and reproductive relations in contemporary industrial society.

Our interest in these dynamics is motivated by the growing reliance of the family on state support and the growing conflict between women and the state around the issues of work and family life. Recent political developments indicate that the state, its legal system and its bureaucracy have become the critical terrain on which the conflicts in and between work and family life are being contested. Whether the issues are pay equity, access to abortion or the provision of day care, it is the state that is the focus of the debate and it is women who articulate the demand.

Our exploration of patriarchy through an analysis of family-state relations is informed by a feminist perspective which seeks a more dynamic

conception of reproduction and family life. Dissatisfaction with existing theoretical perspectives results from the glaring disjuncture between theories<sup>1</sup> which posit the family as a passive, reactive institution and the dramatic political events of the past two decades in which reproductive/family issues have led to a mass social change movement--feminism, and passionate countermovements--fundamentalism, Real Women and Alliance For Life. The struggles around reproduction, family life, women's role within it and its fit with workplace demands, suggests the necessity of a much more dynamic vision of the relationship between the family and the state in Canada.

Our inquiry into the nature of contemporary patriarchal relations and our pursuit of a more dynamic vision of family-state relations leads us to undertake two tasks which structure this study in two sections. Our first task is theoretical and has as its goal an alternative theorizing of reproduction and patriarchy upon which we build a more dynamic analysis of productive-reproductive relations and identify the increasingly central role of the state in mediating these dynamics. Our second task is empirical and consists of research on the changing dynamics of production, reproduction, and patriarchy in Canada through an analysis of state mediation as revealed in legislation.

Our theoretical starting point was arrived at from a review of the feminist literature which identifies three themes as essential to the development of a theory of reproduction.<sup>2</sup> First, there is the necessity to resurrect the relations of reproduction from the obscurity of biological or economic determinism, making it a central issue of analysis. Secondly, there is the problem of accounting for the universal presence



of sexual divisions of labour. Finally, there is the importance of explaining the variation and change in these divisions cross-culturally and over time. The theoretical models traditionally available to feminists have not been able to address all three issues; centrality, continuity, and change, although different models have provided insight on one and occasionally two of these themes.

In attempting to address these three critical dimensions of reproduction and patriarchy, our interest in the present draws us into an exploration of the past. Analyses of the distant past, a subject of anthropological theory, provide us with the most dynamic conceptualizations of reproduction and gender relations--speaking most directly to the concerns of centrality and continuity in our theory-making exercise. Analyses of the recent past, the period and process of industrialization, have produced the most dynamic and critical theories of production providing a method, historical materialism, which speaks most directly to our theoretical interest in specificity and change.

Drawing together the diverse theoretical threads of anthropology, Marxist theories of production and the state, radical feminist critiques and socialist feminist alternatives, we set out in the first section of this study to develop a dynamic theory of reproduction. This includes a theory of the modes of reproduction which parallel the modes of production and an alternative conceptualization of the relations between production and reproduction, the family and the state.

Our theoretical section consists of three chapters, roughly organized according to Eisenstein's conception of: "Marxist theory as thesis, radical feminism as antithesis, and socialist feminism as

synthesis", (Eisenstein 1979:6). Chapter one presents a brief review of Marxist theories of production, class, and the state and their application to analyses of the family and family-state relations. We identify the concepts and methods of Marxists which have been most useful in the building of feminist theory, as well as the serious limitations which result from the absence of reproduction as a real focus or force within Marxist theory.

Chapter two presents a selective review<sup>3</sup> of feminist literature on the state, reproduction, and the relation between production and reproduction. We explore various theoretical strategies to refute or rewrite Marxist historical materialism. These strategies tend to fall within one of three major schools of thought: radical feminist analysis which asserts the primacy of reproduction; marxist-feminist analysis which asserts the primacy of production; and dual systems analysis which asserts that production and reproduction are equally fundamental, co-determinative relations which constitute the base or infrastructure of all societies. We assess the merits of each school of thought in terms of its ability to address the issues of centrality, continuity and change, which we argue, are essential to a feminist theoretical perspective.

Situating our work within the dual systems model, in chapter three, we undertake to elaborate on and specify the nature of productive-reproductive relations. In pursuit of this analysis, we rely heavily on anthropological and historical literature which permits us to see reproductive dynamics in a period before they were so completely subordinated to production. We identify the family in all its various historical formations as the relations of reproduction, and we define

reproduction quite specifically as the production of human life which involves three processes; procreation, socialization, and daily maintenance. We define patriarchy in all its various historical formations as the hierarchical structuring of reproductive relations, operative in most known societies as the means of controlling reproduction. It is achieved through a variety of systems of interpersonal and institutional divisions, foremost of which is the sexual division of labour, all of which have the effect of excluding women from the control of their bodies and their labour.

We begin with the premise that production and reproduction constitute the base or infrastructure of society, both essential to its ongoing operation. We maintain that each sphere has its own dynamic and that the relation between the two spheres is co-determinative. Building on the work of feminists and socialist theorists, we outline the distinct character of reproductive relations and propose a theory of different modes of reproduction outlined in a description of communal, familial, and social patriarchy. We maintain that just as class captures the fundamental character of productive relations, so patriarchy captures the fundamental character of reproductive relations.

Given the identification of distinct systems of production and reproduction with distinct dynamics the possibility of conflict or disjuncture between the two systems arises. Diverging from the traditions of socialist and feminist theory we argue that the fundamental contradiction in class societies lies in the contradiction between the modes of production and the modes of reproduction. Specifically, in this study, we maintain that the organization of production around the wage

labour system comes into direct conflict with the organization of reproduction around the patriarchal system. Hence, we locate the pattern of family-state relations within the context of a dynamic and contradictory struggle between these two fundamental processes in our social system. The role of the state, we argue, is to intervene to attempt to achieve some balance between these two essential spheres which are mutually contradictory in structure. Further, we maintain that state mediation is contained within the parameters of a dual commitment to the wage labour system and patriarchy, thus the process of intervention is best understood as a reformation of the wage labour system and the transformation of the patriarchal system.

#### Methodology

Our theoretical perspective directs us to a historical materialist methodology. Because we locate the key to understanding family-state relations in the dynamic and contradictory relations between production and reproduction we must select a span of history broad enough to encompass processes of transition within the two spheres. Transitions provide valuable evidence because the often obscured nature of family-state relations becomes more observable when disruptions and realignments provoke escalated and more explicit patterns of state intervention. In the interests of making this study broad enough to address the issues of centrality, continuity, and change and capture the process of transition, but manageable as a project, we have selected in favour of a broad time frame with a narrower legislative and jurisdictional focus.

As a result we have chosen an analysis of legislation from 1884 to 1968 which permits us to trace the restructuring of production through the ascendancy of the wage labour system and the restructuring of reproduction through the development of social patriarchy. We examine the role of the state in mediating these processes through an analysis of statutes, regulations, and state expenditures. Specifically, we examine state activity around the introduction of family, welfare and labour law from the introduction of the Factory Acts in 1884 to the enactment of the last federal, universal social welfare program, Medicare, in 1968. This particular time frame covers a cycle of escalating state intervention associated with the restructuring of production and reproduction. The Factory Acts mark the first stage of this cycle, which begins moderately at the provincial level and escalates over time to a massive scale of multijurisdictional interventions which reaches its peak expression in medicare. These two acts provide clear legislative benchmarks for the opening and conclusion of our study.

The selection of family, labour, and welfare legislation was based on the following observations: First, these statutes are particularly revealing of state efforts to mediate production and reproduction because they seek to regulate the flows of labour and resources within and between the two spheres. Second, these three fields of legislation undergo continuous development and revision during this period and, as such, are sensitive indicators of the subtleties and nuances in the realignment of production and reproduction. Finally, these statutes fall within the jurisdictional purview of both the federal and provincial governments.

Given that there are thirteen jurisdictions (10 provinces, 2 territories, and the federal government) involved in the enactment of family, labour, and welfare legislation we had to be selective in order to make this project feasible. We selected Ontario, Manitoba, and the federal government as the jurisdictions we would cover in our legislative review. This provides us with sufficient variation in following the macro dynamics of family-state relations in a more developed province, Ontario, a less developed province, Manitoba, and within the nation state as a whole.

While legislation is not the only source of evidence for exploring family-state relations,<sup>4</sup> it has a number of features to recommend it as the focal point. As the formal activity of the state, legislation is well-documented and the documents are readily accessible in provincial and federal archives. In addition, the state is consistently active in the fields of family, labour, and welfare law throughout the period under review, providing an unbroken chronicle of the critical events of the time. While legislation is our primary or focal evidence it is certainly not the only source of evidence used in the research section. Data on birth rates, marriage rates, family structures, and family economies form a critical base of information used to explain the particular pattern of legislation being implemented.

In addition to directing the focus of our study, our theoretical perspective also informs our treatment of the data. Our perspective suggests that while the problem of balancing production and reproduction is inherent in the incompatibility of their structures, and hence ongoing, changing material conditions produce different manifestations of the

problem. This fluid and dynamic misfit of production and reproduction necessitates differing strategies of intervention on the part of the state. To reflect the different manifestations of contradiction between the two spheres and consequent differences in state mediation patterns we have divided our review into three periods: Period I, 1884-1913; Period II, 1914-1939; and Period III, 1940-1968.

Periodization has been the subject of much feminist criticism because of the predominant tendency for history to be ordered by male-oriented events, rendering women, their work and their environment invisible, (Bridenthal, Koonz & Stuard 1987; Tilly and Scott 1978). In this study, however, a period is identified by a pattern within the productive-reproductive dynamic which is revealed in birth rates, household economies, women's labour patterns in interaction with more traditional indicators, such as productivity, class struggle, war, and reconstruction. Our periodization structures our review and analysis of the legislation, as well as the format of the second section of this study.

Our first empirical chapter, chapter 4, predates the first period and provides a historical backdrop to the events of 1884. We examine the evidence of a growing disjuncture between production and reproduction associated with the spread of the wage labour system and the early stages of industrialization in a number of countries. We examine the process whereby the structural contradictions between the two spheres became manifest in the disruption of reproductive relations. Combining familiar secondary sources with primary research into provincial departmental reports we document disruptions in reproductive relations associated with

industrialization and urbanization in Canada. Further, we examine the role played by the social reform movement in articulating these pressures and problems and creating a broad social consensus on policies necessary to "save the family". We identify all of these structural and social processes as the backdrop to and impetus for state intervention in the first period. Each subsequent chapter takes a period as the focus for analysis.<sup>5</sup>

We proceed with our analysis of each period in the following way: We begin by setting the historical backdrop, situating our discussion within the better known features of the period. In this process we rely most heavily on secondary sources.<sup>6</sup> From this we proceed to gather the various indicators of the developments and dynamics within and between production and reproduction with the purpose of identifying the manifest contradiction of that period. At this stage we weave together a variety of secondary and primary sources to draw out of an old and familiar historical period a new understanding of or perspective on the relations between production and reproduction--the family and the state. A broad range of primary sources are utilized at this stage, from labour publications and daily presses, to provincial and federal annual reports, to the private papers of members of the legislative assemblies and parliament. In this section we focus on identifying the structural contradiction creating tensions between production and reproduction and the social articulation of those tensions as the political, economic, and social antecedents to state intervention.

Our analysis of state activity mirrors the usual process by which the state becomes involved in intervention. We begin with an analysis of



commissions and inquiries which serve to translate public articulations of problems and pressures into specific, feasible social policies. We follow our analysis of the policy process with a content analysis of legislation implemented during the period. To assess the effect, as well as the pattern of state mediation, we review the establishment of bureaucracies resulting from the legislation and the manner in which the members of the bureaucracy undertake their duties. The final measure of state activity we consider, is the documentation of the costs of the intervention. This is contained in the budgets of the bureaucracies enforcing the legislation, as well as the welfare expenditures of the three jurisdictions. In addition to the discussion and documentation of these aspects of state intervention in each chapter, we have compiled appendices with further detail on the formation, enactment, and enforcement of the legislation under review.

To summarize, the purpose of this study is to contribute to feminist analyses of family-state relations through an elaboration of the dual systems theory and its application to the study of labour, welfare, and family law in Canada. The guiding thread of this study is the conceptualization of reproduction as base and our analysis of its co-determinative and contradictory relation to production. We identify this contradiction as the key to understanding family-state dynamics and we define the state's role in terms of mediating the contradiction between the two spheres. Mediation of this complex and contradictory set of social relations results in state intervention always being temporary in nature, with contradictory consequences and diverse and often unpredictable impacts. Given the diversity of impacts and the ever

changing pattern of intervention we have introduced periodization as a means of capturing the complexity of the process while staying focused on the larger dynamic--state mediation of the restructuring of production and reproduction.

It would be helpful to clarify what this study is not. It is not a detailed history of the Canadian family or the Canadian state in all its aspects and jurisdictions. Because this study does not attempt to be a comprehensive history its primary focus is not on the many variations and diverse effects of state intervention on particular groups, for example, urban or rural, middle class, or working class families. We acknowledge that the impacts of state interventions are diverse and sometimes contradictory between groups and over time. We recognize that these variations and diverse effects are an inevitable concomitant in the unfolding of the larger social process. While this is not the major focus of our study we will identify some examples of this diversity in each period.<sup>7</sup>

Our object, however, is to identify and analyze the unfolding of the larger social process, to attend to the emergence of an identifiable pattern to state mediation out of the diversity and variation which characterizes the process. Therefore, our unit of analysis is the structure of production, reproduction, and the state rather than the particular categories of people and interests within these entities.

Our focus on the macro dynamic reveals a consistent pattern of displacement of the costs of reproduction away from production on to the family, then the municipality, then the province, and finally the nation state. The state's ability to absorb these costs and redistribute income

over the life cycle and/or across class is predicated on its ability to tax that income. Thus the necessary concomitant of the expansion of the welfare system is the expansion of taxation, particularly income tax. It is this centralization of fiscal responsibility and legislative authority over the family within the state that we identify as the determinative feature of family-state relations, the construction of social patriarchy. We have chosen this focus in the belief that an understanding of the larger structural dynamics and constraints which shape work and family life will contribute to an informed strategy for approaching the state and pursuing a feminist political agenda.

#### FOOTNOTES

1. For a discussion of the conception of the family as a passive, reactive institution in both functionalist and Marxist literature see: Kuhn, A. "Structures of Patriarchy and Capital in the Family" in Kuhn, A. & Wolpe, A. Feminism and Materialism, Routledge and Kegan Paul London, 1978 and M. Barrett and M. McIntosh, The Anti-Social Family Verso Press, London 1982.
2. These three themes appear in the following works: Kuhn, A. & Wolpe, A. Feminism and Materialism 1978, Eisenstein, Z., Capitalist Patriarchy and the Case for Socialist Feminism, Monthly Review Press, New York 1979; Armstrong, P., Armstrong, H., Connelly, P. & Miles, A. Feminist Marxism or Marxist Feminism, Garamond Press, Toronto 1985; as well as numerous articles addressing the issue of feminist theory.
3. In the last decade there has been a dramatic increase in feminist debate concerning the nature of the relationship between production and reproduction and a more recent increase in feminist analyses of the state. Our review seeks to present the major perspectives within this growing literature; it cannot do justice to the richness and breadth of recent research. For a more comprehensive review of feminist theory see: Clare Burton Subordination: Feminism and Social Theory, George Allen and Unwin, London 1988.

4. Two studies: MacKinnon, C. Towards a Feminist Theory of the State, Harvard University Press, Cambridge, 1989 and Eisenstein, Z. The Female Body and the Law, University of California Press, Berkely 1988, use case law to examine similar issues. We have not chosen case law because it is less reflective of the whole process of state intervention is legislative formation. Case law represents the more idiosyncratic aspects of law, those precedent setting cases which produce change but do not involve the whole process of state mediation.
5. The exception to the chapter-per-period pattern occurs in Chapter 8 and 9 covering the third period. The conditions pertaining throughout the Second World War were sufficiently different to merit a separation of the war and post-war years into separate chapters, although they form a single coherent period.
6. There are a number of authors upon which we particularly rely to present the historical backdrop in each period: Morton, D. & T. Copp, Working People, Deneau Publishers, Ottawa 1980 and Pentland C. Labour and Capital in Canada Lorimer Press Toronto 1981 and Robin, M. Radical Politics and Canadian Labour 1880-1930, Queen's University Press Kingston 1971. These sources are among the few Canadian studies which cover the same time-frame as our study and focus on one part of the macro-dynamic--the restructuring of production with which we are concerned.
7. One example of our attention to variation within the larger process is our discussion in chapter 5 of the removal of the Dower Act from Western Canadian statutes (Manitoba, Saskatchewan, Alberta, and British Columbia) at a time when all the rest of Canada was reinforcing and elaborating on the Act.

## CHAPTER 1

### FEMINIST QUESTIONS - MARXIST ANSWERS

"Marxist analysis is directed to the study of power. We can use its tools to understand any particular expression of power."

(Eisenstein:1979:42)

#### Introduction

For feminists working within a historical materialist methodology<sup>1</sup> the Marxist literature is a traditional starting point. It is recognized as important to feminist theory not only for its theory of class, production, and the state but especially as a method of analysis which is historically specific and materially grounded. The success of Marxist theory in developing a dynamic, materialist analysis of production makes it an attractive model for feminists concerned with the development of a similar analysis of reproduction.

We situate our study within a Marxist theoretical tradition because we derive from it our working definitions of class and state, as well as our methodological orientation. Our work is based on the premise that Marxist theory is a necessary but not sufficient analytic tool for feminist theory/research. We begin with a brief review of Marxist theories of the state and examine their application to questions of family-state dynamics. These works are of interest to us because they deal with the same period of transition (industrialization) that this

study addresses. This review will also provide a basis for considering the differences in analysis which result from a production-centered as opposed to a reproduction-centered analysis. We suggest that the 'primacy of production', a principle of orthodox Marxist analysis, overrides and obscures the issues of centrality and continuity in addressing reproduction. Marxist theory, we maintain, addresses feminist questions but does not provide feminist answers. However, given that our task is to weave together the diverse theoretical threads of anthropology, Marxist theory, and feminist theory, we begin with Marx, the author of a method, historical materialism, which is necessary to the requirements of this project and is increasingly used in feminist studies of the law and the state.<sup>2</sup>

#### Marxist Concepts of Class, State and Power

Marxist historical materialism exists both as a social theory and as a methodological directive.<sup>3</sup> It is 'materialist' because it explains the social world in terms of the interaction of human beings and inanimate nature in the process of producing goods essential to human survival. Since these are the most fundamental and universal requirements for all human beings, the manner in which people organize themselves to meet those requirements is seen to condition (determine) all other social relations. Thus materialism directs researchers to first examine the way in which a social system is organized to meet primary human needs, in order to understand other social relations which respond to secondary or higher order needs. From this premise came Marx's emphasis on the labour process and production, his development of the labour theory of value and the

notion of distinct classes emerging in the economic process. For Marxists, production is primary and the mode of production conditions the social, political, and intellectual features of a social system.

Marxist theory is historical because it understands productive processes and productive relations to be dynamic and ever changing. In the process of working on and with nature to meet their basic needs people create new needs and ways to satisfy them. "They develop new sciences, technologies, and organizational techniques, or what are together called the forces of production." (Armstrong and Armstrong 1984:151) Marx introduced the concept of mode of production to explain the distinguishing features of a particular productive system (its forces and relations of production), as well as to capture the fact that productive systems change and evolve over time. Thus a Marxist method directs researchers to be historically specific and materially grounded in their analysis of any/all social relations.

Within the Marxist literature the key social relation in an analysis of a mode of production is class. The Marxist theory of class is a theory of struggle over control of the process of production and struggle over the wealth generated in production. Class is understood in relational terms and classes are defined as "common positions within the social relations of production, where production is analyzed above all as a system of exploitation." (Wright 1979:17)

When class is understood in terms of relations of exploitation two themes emerge in the Marxist literature which distinguish it from other conflict theories. First, Marx's theory of the mode of production is a theory of the social mechanisms by which surplus labour is appropriated.

"Modes of production are differentiated fundamentally in terms of the central mechanism through which dominant classes appropriate the surplus labour of subordinate classes." (Wright 1979:15) Thus class supercedes technology, war, or exploration as the major factor defining the central features of a particular economic system and class struggle is understood as the source, not the symptom, of the transition from one system to another.

Secondly, the Marxist concept of contradiction implies that there is an intrinsic antagonism between classes determined by their relation to production. When class relations which define class structure are intrinsically contradictory "then class struggle itself becomes an intrinsic rather than contingent consequence of the structure of class relations" (Wright 1979:22). Thus class in the Marxist model becomes in a very real sense the motor force of history.

The Marxist theory of class is a theory of power. However, the literature which most directly addresses the operation of power in Marxist theory is the literature on the state. Within this literature, two basic perspectives, instrumentalism and structuralism, have developed to explain the operation of the state in capitalist societies. The instrumentalist approach, associated with Miliband (1969), focuses primarily on the dominant class and the manner in which they control and manipulate the state to preserve their interests. Within this perspective the state is the instrument of the dominant class, its role is coercive and even its most benevolent face, the welfare state, is understood in terms of dominance and control.



Instrumentalist theorists interpret social policy as being primarily geared to system maintenance rather than social reform. Adherents of this perspective take strong issue with pluralist theorists concerning the redistributive effects of social welfare programs. Finkel (1979) and Myles (1980) in Canada and Mandell (1975) in the United States work within this perspective. All three theorists posit a fundamental conflict of interest between the owning class and the working class and locate the evolution of welfarism in that conflict. Myles and Finkel emphasize the manner in which social welfare was shaped to meet the accumulation needs of capital while Mandell concentrates on the administration of welfare as a means of social control.

In contrast to instrumentalism, structural analysis articulated by Poulantzas (1969) identified the role of the state as one of mediation rather than manipulation.<sup>4</sup> Poulantzas introduced the concept of "relative autonomy" to express the particular role of the state in mediating the interests of two fundamentally antagonistic classes while remaining committed to maintaining the very system in which these antagonisms are rooted. O'Connor (1973) further advanced this concept with his analysis of the dual and contradictory character of the capitalist state.

"Our first premise is that the capitalist state must try to fulfill two basic and often mutually contradictory functions - accumulation and legitimization. This means that the state must try to maintain or create the conditions in which profitable capital accumulation is possible. However, the state also must try to maintain or create the conditions for social harmony." (O'Connor 1973:6)

The structuralist approach to the welfare state interprets the development of social policy as an attempt by the state to mediate the conflicting demands generated by the contradictory interests of the

capitalist class on the one hand and the working class on the other. O'Connor (1973) in the United States, Wolfe (1977) in Canada, and Gough (1979) in England all represent and have contributed much to the development of this model.

Utilizing O'Connor's concept of the dual and contradictory character of the capitalist state, Wolfe presents an analysis of the dynamic relation between class and state in Canada. His analysis identifies both the 'temporary' nature of state resolutions of class conflict and the dual nature--supportive and coercive--of state intervention. He argues that the state in its role as mediator instituted welfare programs to try to resolve some of the most problematic areas of class conflict; but, because of its contradictory functions (accumulation and legitimation) these "solutions" served only to relocate not eliminate the conflict. "Class conflict over the surplus of the production process is no longer fought out in the universalistic terms of economic liberalism (fair returns to factors of production), but is now fought out in the political terms of the division of the national income between wages and profits." (Wolfe 1977:255)

Wolfe attributes this relocation of class conflict to the development of comprehensive welfare schemes which function as a social wage through socializing the costs of certain services and resources such as medicare, and unemployment insurance. Structural theorists argue that the social wage reveals the dual concerns of the state because at one and the same time it ensures certain minimum standards for the working class (legitimation) while reducing the labour costs for the capitalists (accumulation). Thus all wage earners contribute through taxes

(disproportionately relative to capitalists)<sup>5</sup> to welfare schemes which modify the costs and insecurities of survival in a capitalist system. The design of such schemes, however, maintains lower wages, protects profit margins and serves to legitimate a system which exploits the working class. Wolfe argues that as the social wage becomes an increasingly important aspect of the wage-profit struggle, the welfare state increasingly becomes the focus for class struggle.

O'Connor and Wolfe have done much to introduce a dialectical analysis into the welfare state literature. However, the traditional political-economic focus of their work has left the issue of reproduction largely untouched. Ian Gough was among the first to address the issue of reproduction as central to an analysis of the welfare state. In fact, Gough defines the welfare state as "the use of state power to modify the reproduction of labour power and to maintain the non-working population in capitalist societies" (Gough 1979:44).<sup>6</sup>

Gough argues that the wage labour system characteristic of capitalist societies alienated production from reproduction to the point that the family could no longer provide adequately for its reproductive needs; thus the welfare state evolved to fill the gap. Gough identifies two basic activities of the welfare state: first, to support and control the reproduction of labour power daily and generationally; and secondly, to develop mechanisms for transferring part of the social product from the direct producers to the non-working sectors of the population.

To summarize then, the welfare state denotes state intervention in the process of reproducing labour power and maintaining the non-working population. It represents a new relationship between the state and the family in this process. The dynamic of capital accumulation continually alters both the requirements of capital, particularly with regard to the

first, and the capacity of the family to meet these requirements (Gough 1979:49).

Gough is the first Marxist theorist to integrate the issues of reproduction into a general analysis of the welfare state. But more importantly, his model of the dual functions of the state (accumulation and reproduction), and his analysis of state intervention in the family reveals the contradictory effect: the state is both supportive and coercive. His model of the welfare state, therefore, not only permits but also requires a dialectical analysis of the relationship between production and reproduction, the family and the state.

Despite the undertheorization of reproduction within this model it identifies a connection between the state and reproduction which constitutes a good starting point for feminist analysis. The dynamic process captured in the concept of the state mediating contradictory interests while maintaining the very conditions in which the contradictions are rooted provides a critical insight for the analysis of state relations to reproduction, as well as production. It is the structuralist definition of the state, and more particularly, Gough's articulation of that definition which is utilized in this study.

#### Marxist Studies on Family, Class and the State

While the first part of our review identifies what feminists have found and used in Marxist theories of class, production, and the state, this section identifies what feminists have had to respond to, add to, or reject in Marxist analyses of the family. The inadequacy of Marxist answers to feminist questions becomes apparent in the Marxist literature on the family. The concept of the 'primacy of production' has tended to

subsume reproduction within production reducing the family to a 'reproductive moment' of a mode of production. Subsumed in this way, the relations of reproduction become frustratingly obscure and continually escape analysis. While much less helpful, this literature has been no less influential in shaping the development of feminist theory over the past two decades. In many ways the Marxist literature on the family defines what feminists have had to transcend in order to incorporate women and reproduction in social analysis. In the next chapter we will explore the various strategies feminists pursued to overcome these limits. However, to conclude our review of the Marxist literature we examine how far Marxist theorists could get, within their framework, to understanding the relation between production and reproduction, the family and the state.

For the most part Marxist theorists have ignored the family. However, those who have addressed the issue tend to fall within two schools of thought; those who identify the family as the victim of capitalism, (Engels 1968; Lasch 1979; and Donzelot 1979), and those who identify the family as an instrument of capitalism, (Reich 1970; Althusser 1971). In the former analysis Engels focused on capital's rapacious consumption of labour, particularly female and child labour, in the 'satanic mills' of Victorian England, to argue that the working class family was being obliterated by the rise of capital. After this dire prognosis Marxist theorists had little to say about the family until it became painfully evident in the 1930's and 1940's that the proletarian family had not withered away, that it was, in fact, an increasingly vital part of the capitalist social system.

The work of Wilhelm Reich and a number of theorists associated with the Frankfurt School revived interest in analysis of the family. Reich accounted for the survival of the family in its patriarchal and authoritarian structure because of its effect in inhibiting progressive consciousness. For Reich the family was best understood as a tool of capitalist ideological hegemony (Reich 1970). This perspective is reiterated in the more recent Althusserian concept of the family as an "ideological apparatus" of the state (Althusser 1971).

Regardless of whether the family is seen as the victim or tool of capitalism the common feature in Marxist analyses of the family is the puzzle presented by its continued existence, an existence not easily accounted for within the primacy of production perspective. The puzzle is to understand the basis for the survival of the family given that its integrity as a production unit was destroyed with industrialization and given that its current fit and function within capitalism is tenuous and obscure at best. A number of Marxist historians have studied the family during the process of industrialization in Britain in an attempt to respond to these questions. Their work merits a brief review for two reasons: first, it provides a parallel analysis to our study of a similar period in a different country; second, their work illustrates both the strength and insight of an historically specific study of the family, as well as the limitations of a perspective which cannot address the issues of centrality and continuity in its analysis of the family.

The historical explanations put forth to account for the family's survival after industrialization tend to fall into three categories: first, those who argue that the family retained an important material

basis in spite of the erosion of its productive functions; second, those who explain the tenacity of family ties in terms of the subjective aspects of the relationship; and finally, those who emphasize the political significance of the family in the working class struggle for 'a family wage'.

The work of Michael Anderson (1971) and John Foster (1974) falls into the first category. They suggest that although the family lost all significance as a productive unit, its functions as a survival unit became increasingly important in the crisis-ridden times of early capitalism. They argue that the family remained strong because traditional family relations were the most reliable relations to which people could turn to deal with the insecurities of the life cycle and the business cycle. Thus family based co-operative arrangements were developed for coping with the extremes of impoverishment. The formation of combined households with relatives was a common response.<sup>7</sup> Although the severe degree of overcrowding undoubtedly took its toll in matters of interpersonal relations and hygiene, it did significantly reduce living expenses. Such an arrangement also facilitated the support of dependent adult relations (the elderly or infirm) who in turn cared for the infants and dependent children. In a period in which charity was unreliable and frequently punitive (work houses), the family retained a critical material base in its existence as the only acceptable security system.

The second approach has been most fully articulated by Zaretsky (1974) in his work Capitalism, the Family and Personal Life. He attributes the survival of the family during this period of profound structural disorganization to the unique subjective functions of the

family. He argues that because the family was the only institution which served the subjective needs of men, women, and children, people clung to these relationships in spite of the hardships involved. His emphasis upon the subjective adds an important, and often overlooked, dimension to an analysis of the family. However, his work is frequently criticised for its lack of consideration of the 'objective forces' underlying the tenacity of family relations.

Without identifying these objective forces, it is impossible to adequately explain why the family was able to stay together, why and to what extent it was the two-generation family as opposed to other forms of the family or other institutions which developed as the basic institution in which subjective needs were met, and why the social relations of the working class family remained patriarchal. (Lazonick 1978:7)

The final approach is clearly the approach most sensitive to the issues of production, reproduction, and the state. The best presentation of this position is found in the works of Humphries (1977) and Lazonick (1978) which argue that the family became a critical political issue in the class struggle of the nineteenth century. They maintain that the most historically significant example of working class defense of the family was the struggle centering around the demand for a "family wage", that is, a salary for the wage earner sufficient to support a spouse and their offspring.

Marx believed that the standard of living was tied to the reproduction cost of the proletarian family, which was the maximum that a family with the average number of wage earners could continuously obtain. ... Thus the proletarianization of incremental family members could not in the long run raise the total family wage above the historically given subsistence level. Instead, the intensified competition in the labor market and the lowering of rates of wages would simply spread that family wage over more workers. In this way, the degree of exploitation would be increased. (Humphries 1977:33)



The struggle for a family wage became the major strategy for labour in reversing the process which cheapened the value of labour power. According to Humphries, this struggle reveals an important material basis of proletarian support of the family--"its role in the limitation of the supply of workers and thus in the determination of the value of labour power". (Humphries 1977:25) The retreat of women and children from the labour force in conjunction with demands for higher wages and shorter hours did, in fact, raise the standard of living of the working class and retard the process of immiseration foreseen by Marx.

Lazonick, in particular, considers the importance of patriarchy in the process of this struggle. Sounding much like Engels, he points out that the introduction of the factory system could be seen as a serious challenge to patriarchal ideology as women and children increasingly became independent wage labourers. However, Lazonick argues there is much evidence to indicate that the factory owners went to great lengths to preserve a patriarchal structure in the work place because it served as an efficient means of maintaining labour discipline as well as justifying wage inequities. Thus, he concludes, the capitalist class became clearly wedded (by material interest) to the preservation of a patriarchal ideology.

Lazonick points out that the contradictions in employers adherence to patriarchy became evident when the working class were able to manipulate the same ideology to serve their own interests. Labour organizers were well aware of the dangers of provoking reactionary responses--for example, prohibiting unions--to their requests for protective legislation for "free labour". Thus they invoked the

assumptions of patriarchal ideology to counter the tenet of laissez-faire political ideology. "... the textile workers sought to reduce their 13-15 hour working days, not by arguing that all labour should be regulated, but rather by arguing that the labour of women and children was 'unfree' labour, and hence in need of protection". (Lazonick 1978:10) Ironically, Lazonick concludes, "patriarchal ideology legitimized the first effective state regulation of the capitalist mode of production".

In their analysis, Humphries and Lazonick incorporate the family as an active part of class struggle illustrating that the contradictions of the class structure are not limited to the factory floor. However, while they go a long way from the simple economism of earlier Marxist work, their analysis of the family is still largely confined to the economic sphere. Humphries, as well as Zaretsky, Anderson, and Foster, portray the working class family as a source of resistance to capitalist encroachment which assumes a degree of unity in the family that excludes any serious consideration of patriarchy. Lazonick, on the other hand, sees patriarchy as an ideological tool used sometimes by capitalists to extract cheap labour and, at other times, by labour to protect their interests. However, patriarchy remains at the ideological level in his work and he does not attempt to address the real material divisions between men and women which result from such a system. The concept of class struggle has been enlarged significantly by their analysis; however, their lack of theory of reproduction and/or patriarchy once again subordinates the study of the family to the study of the productive process.

The Family and the State

The renewed interest in the family, as illustrated by the above theorists, provoked a discussion of family-state relations among a few Marxist theorists. The works of Lasch (1979) in the United States, and Donzelot (1979) in France, focus on the impact of the welfare state on the family. Lasch and Donzelot work from a crisis conception of the contemporary family and appear to be responding to the soothing pluralist notions of the benevolent relationship between the family and the state.

In Haven in a Heartless World, Lasch attempts to wed a Marxist class analysis with a Freudian psychoanalysis<sup>e</sup> in order to understand the contemporary crises of the family. Starting with class analysis he argues a parallel between the capitalists' proletarianization of workers and their emasculation by Taylorism and scientific management with the proletarianization of parents and their emasculation by the welfare state and the helping professions. Lasch expends a great deal of energy debunking the myth of the privatized family, arguing that the incursion of the public sphere into private relations is the source of the crises of the family. He has a highly instrumentalist view of the state and he maintains that the welfare state has played a major role in the violation of the authority and autonomy of the family. "Historians of the family have paid too little attention to the way in which public policy, sometimes conceived quite deliberately not as a defense of the family at all but as an invasion of it, contributed to the deterioration of domestic life." (Lasch 1979:13)

The state is seen as an insidious and destructive handmaiden to the incursion of the marketplace into family life. The goal, presumably, is

the complete absorption of family relations by market relations; the advantage, presumably, the creation of economic man, the ever-producing, ever-consuming individual in harmony with a system in which all relations are calculated on a cost benefit basis. "The socialization of reproduction 'the expropriation of childrearing' has reduced conflict between society and the family to a minimum". (Lasch 1979:xxiv)

In The Policing of Families, Donzelot presents a similar analysis. Like Lasch, the state is presented as part of the problem not the solution and Donzelot also stresses the issue of class domination as the motivating force behind the increasing intervention of the state in family life. While Lasch remains somewhat vague and impressionistic about the process whereby the state came to exercise such control<sup>9</sup> both he and Donzelot agree that the state's function in relation to the family is primarily one of coercion and control.

Donzelot is more explicit than Lasch about the critical political and economic gains to be achieved from control of an institution which both produces and socializes actual and potential labour power. Quoting a speech by the French Minister of Health in 1934, Donzelot reveals the state's concern with reproduction and its contribution to the smooth functioning of the industrial system:

Social hygiene is an economic science that has human capital or material as its object, the latter's production or reproduction (eugenics and puericulture), its conservation (Hygiene, medicine and preventive assistance), its utilization (physical and vocational education), and its output (scientific organization of labor). Social hygiene is a normative sociology: let us think of man as an industrial material, or more precisely, as an animal machine. (Donzelot 1979:186)

Quality control and regulation of reproduction was, however, only one facet of the state's concern. Donzelot argues that the second factor was one of legitimation, that is, sidestepping or defusing the ever present threat of class struggle.

"... the family became at the same time the point where criticism of the established order stopped and the point of support for demands for more social quality: all this is sufficient invitation to regard the family and its transformations as a positive form of solution to the problems posed by a liberal definition of the state rather than as a negative element of resistance ..." (Donzelot 1979:53)

Thus the problem was to ensure maximum regulation of reproduction while detaching such intervention from any directly political role. In the 19th century, Donzelot argues, philanthropy successfully fulfilled those dual requirements. He states that philanthropy "must be considered as a deliberately depoliticizing strategy for establishing public services and facilities at a sensitive point midway between private initiative and the state" (Donzelot 1979:55). However, in the case of most industrialized countries, philanthropy soon outlives its value and in the 20th century the demands for more comprehensive and rationally administered services calls for direct state intervention.

Donzelot, like Lasch, chronicles the growth of the state apparatus, social workers, juvenile court, and children's aid, for example, as "the double network of social guardians and technicians", whose function is pacification and colonization of the family. The success of such pacification, Donzelot reminds us, is dependent upon its appearance as liberation. "A paradoxical result of the liberation of the family, of the emergence of children's rights, of a rebalancing of the man-woman relationship: the more these rights are proclaimed, the more the

stranglehold of a tutelary authority tightens around the poor family" (Donzelot 1979:103).

Donzelot and Lasch's account of manipulations of the family and its vulnerability are moving and insightful. However, their account of the process of state incursion is disappointingly unidimensional. This is more understandable in Lasch's case because his account of the process is limited to attributing all kinds of nasty intentions to the middle class reformers (doctors and feminists are singled out for particular scorn) whom, he argues, were the architects of the contemporary welfare state.

Donzelot, however, began with a promising account of the threat of class conflict, and the pressures of legitimation as important factors in motivating state intervention. He then considers those factors from a singular myopic perspective: the wit of the pacifiers and the guile of the state, rather than the dynamic of struggle between the classes, between production and reproduction, between family and state. Thus for Donzelot, as well as Lasch, all social policy is coercive, all reform cooptation, every social worker a wolf in sheep's clothing.

Does the family find itself cooperating with state incursion because that is the price of state support (essential support, welfare, family allowances, medicare) or does the family cooperate as Donzelot and Lasch suggest because they have been successfully colonized? Their concept of the pacified family permits no room for a structural analysis of conflict and contradiction within the family or between the family and the state. The patriarchal family is dead we are told (Lasch 1979:xiv, Donzelot 1979:103), utilitarian individualism reigns supreme. Feminists who would suggest that there is something more than economic domination at issue in

the home, are according to Lasch, at best flailing at windmills, at worst complicit in the destruction of the family.

"Feminists have mindlessly denounced every argument as an expression of blind prejudice; but in its own heedless disregard of the family of the needs of future generations, the feminist movement, like the cultural radicalism of the sixties that gave rise to it, merely echoes the culture it claims to criticize". (Lasch 1979:xvii)

Lasch and Donzelot began their work with the important assertion that the relationship between the family and the state is a critical social-political relation long overdue for analysis. Yet given their unidimensional analysis of the state and the family the issue of reproductive relations again escapes analysis. The economy and the state are presented as the source of all social political dynamics and hence the legitimate focus of analysis. The family is left as a set of reflex relations controlled by dynamics exterior to itself and patriarchy is dismissed as the mere ruins of a former era.

#### Summary

The value of the Marxist model to our project lies in the well developed theories of class and the state and the promise of a historical materialist methodology. However, the conceptual confusion over reproduction remains as a serious impediment to Marxist theorists who are attempting a dialectical analysis of the family. The works of Marxists which attempt to situate the family centrally in their analysis of class struggle and state mediation illustrate well the limitations of the existing Marxist concepts of the family.

We are presented with restatements of old tendencies: Lasch and Donzelot sound remarkably like Engels in proclaiming the capitalist

destruction of the family. The historians (Anderson 1971; Foster 1974) in attempting to overcome the legacy of Engels or Reich have presented a view of the working class family which exaggerates its unity, overstates the success of the "family wage" struggle, all at the cost of understating the patriarchal structuring of reproductive relations.

These diverse views of the family may well reflect fragmented truths about the dynamics of family, class, and the state in capitalist societies. However, without a clear, comprehensive theory of the relations of reproduction and patriarchy, these fragments cannot be assembled to present a more complete picture of this critical dynamic.

#### FOOTNOTES

1. This would be the case for most work done within a socialist-feminist perspective. For example, see Eisenstein, Z. - Capitalist Patriarchy and the Case for Socialist Feminism, Monthly Review Press, New York 1979; Kuhn, A. and Wolpe, A. Feminism and Materialism, Routledge and Kegan, Paul, London 1979. Delphy, C. Close to Home: A Materialist Analysis of Women's Oppression, University of Massachusetts Press, Amherst 1984; Armstrong, P., Armstrong, H., Connelly P., and Miles A. Feminist Marxism or Marxist Feminism, Garamond Press, Toronto 1985.
2. For example, the works of Varda Burstyn (1985), Mary McIntosh (1978), Michelle Barrett (1980), Zillah Eisenstein (1980, 1984, 1989), and Jane Jenson (1986, 1989) all utilize a Marxian conception of the state.
3. For a more thorough discussion of historical materialism see David McLellan, The Thought of Karl Marx, MacMillan Press, London, 1971.
4. For a detailed analysis of the structuralist-instrumentalist debate, see D. Gold, C. Lo, and E. Wright, "Recent Development in Marxist Theories of the Capitalist State", Monthly Review, Vol. 27, Oct. 1975.
5. For an analysis of who foots the bill for the welfare state see:  
  
In Canada - Irwin Gillespie, "On the Redistribution of Income in Canada", pp. 22-53, in Structural Inequality in Canada edited by J. Harp and J. Hofley, Toronto, Prentice Hall, 1980.



In the U.S.A. - M. Reynolds and E. Smolensky, "Public Budgets and the U.S. Distribution of Income: 1950, 1961, and 1970", pp. 100-109 in American Society Incorporated, 2nd ed., edited by Maurice Zeitlin, Chicago: Rand McNally, 1977.

In England - J. Westergaard and H. Resler, Class in a Capitalist Society, London, Heinemann, 1975.

6. In his discussion of reproduction, Gough cites E. Wilson, Women and the Welfare State, as an important influence in situating the issue of reproduction firmly within a Marxist analysis of the welfare state. For a discussion of Wilson's comments on Gough's work see: Elizabeth Wilson, "Marxism and the Welfare State," New Left Review #122, July-August 1980, pp. 79-89.
7. Foster estimates that in the 1840's, one-third of the families in Northampton, one-half in Oldham and two-thirds in South Shields utilized this economizing measure.
8. We will not discuss Lasch's integration of psychoanalysis as it is not directly relevant to the topic at hand.
9. Although vague about the process of state incursion in the private sphere, Lasch is specific in laying the blame upon the meddling helping professions; doctors and feminists are singled out as the major villains in this historical development.



## CHAPTER 2

### RECENT FEMINIST THEORIZING ON REPRODUCTION AND THE STATE

#### Introduction

The political events of the past two decades which provoked our interest in the family and the state has generated a similar interest among other feminist authors resulting in an expanding literature on women and the state. Much of this literature utilizes a Marxian concept of the state, either implicitly or explicitly.<sup>1</sup> Common features in this literature are a concept of the state which approximates a Marxist structuralist concept, and an emphasis on the mixed and contradictory impact of state policies on women and the family. Also, there is a strong emphasis on historically specific studies with a concentration of attention on the transition period associated with industrialization and its impact on legislation and social policy. While the concept of the state, and the method of analysis are similar to the studies reviewed in the previous chapter, the feminist studies differ in one important regard --they consciously construct a reproduction centered analysis.

In this chapter we will examine what difference it makes to have a reproduction-centered analysis and whether it is enough to address all three issues, (centrality, continuity and change), essential to a feminist analysis of reproduction and patriarchy. We argue that feminist studies of the state mark a significant advance over the work of Lasch (1979) and

Donzelot (1979) in their ability to locate and identify the operation of patriarchy; that they reject the more simplistic notions of the family as victim or tool of capitalism; and that their use of a historical method captures a more complex and contradictory history of family-state dynamics. However, we also argue that reproduction-centered analysis, in the absence of a more thorough theorizing of reproduction and patriarchy, limits the observer's ability to address the three issues, centrality, continuity, and change, essential to a feminist analysis. As a result, this chapter will review two streams of feminist analysis, feminist studies of the state and patriarchy and feminist strategies for theorizing reproduction.

#### Feminist Research on the State

The developing feminist literature on the state mirrors the contradictory relationship that exists between feminists and the state. While women simultaneously fight against and lobby for state intervention (no abortion law in the former case, maintenance enforcement legislation in the latter), the literature on women and the state reflects this dynamic tension. Feminist studies of the state variously focus on the oppressive aspects of state intervention (Wilson 1977, McIntosh 1978, Strong Boag 1981), the mixed and diverse effects of state intervention (Jenson 1986, 1989; Lewis 1986), as well as the state's dual and contradictory tendencies to structure women's collective subordination while championing individual rights to equality (Sassoon 1987, Eisenstein 1980, Dahlerup 1987). The former tendencies in feminist analysis are more characteristic of historical studies and the latter tendency is more

characteristic of studies of the contemporary state. The common linkage within this literature is its women-centered or reproduction-centered approach to the state. The common linkage between this literature and Marxist theory is the conceptualization of the family and the sexual division of labour as a problem to be explained.

Laslett and Brenner (1989) present one of the most comprehensive reviews of feminist historical research. They argue that feminist thinking "... treats as problematic: the gendered division of labor, the shifting boundaries through which social reproduction has been defined as a private or a public responsibility, the commodification (and decommodification) of the work that it involves ..." (Laslett & Brenner 1989:385). Within this larger historical project certain writers have focused on the role the state has played in these processes. One of the earliest works to do so was Elizabeth Wilson's analysis of the relationship between patriarchy and the state in Women and the Welfare State (1977)

Wilson locates the origin of state intervention in the family in the political and social upheavals of the 19th century. The unmitigated exploitation of the British working class was creating problems for everyone including the employers. The threat of internal class conflict, the concerns for external imperial expansion, the steadily declining birth rate, all served to focus attention on the quantity and quality of the British population. Between 1834 and 1849, there were nearly one hundred Royal Commissions on the conditions of the working class (Wilson 1977:29). The Victorian reform movement, wedded to the cult of motherhood, held out

the promise of social harmony through the support of strong and healthy British families.

From the early Factory Acts to the more recent Family Allowance legislation, Wilson maintains the primary concern of the welfare state was the support and regulation of reproduction. This overriding concern explains the particular attitude towards women reflected in welfare policy: "Woman is above all Mother" (Wilson 1977:7). Linking the pattern of state policy to sexual discrimination in the legal or economic system Wilson argues: "Welfare provision on the other hand operates in a more subtle and in some ways a more coercive fashion to keep women to their primary task as adults. This is the task of reproducing the work force" (Wilson 1977:8). Thus the welfare state becomes a staunch defender of patriarchy rather than its exterminator, as Lasch (1979) and Donzelot (1979) had maintained.

Wilson's analysis is not unidimensional. Although she emphasizes the oppressive effect of state policies rooted in patriarchal assumptions about women and motherhood, she also identifies the support that the welfare state provided, particularly to women, children, and the elderly. While her analysis can account for and accommodate the dual impact of state intervention, support and regulation, she has much more difficulty in accounting for the relationship between patriarchy and production. She asserts that social policy in Britain has consistently sought to support both the economic system and the institution of the family. However, she questions whether these two goals are mutually compatible. "All modern British administrators have made conscious efforts to preserve the family; yet, at times of crises it may have to be destroyed in the interest of the

preservation of capitalism." (Wilson 1977:125) While Wilson identifies a potential, fundamental contradiction between production and reproduction she does not specify the nature of the contradiction or indicate its impact on the state. Thus, while her work provides an important insight into the dual nature of state mediation--its supportive and regulatory character--she leaves us with a number of questions about the contradiction between production and reproduction and its impact upon the state's commitment to patriarchy.

Wilson's work was among the first of a growing number of feminist analysis of the state in the late nineteenth and early twentieth century. While there is diversity in the countries and legislation studied, most analysis of this period focused on the emergence, institutionalization and reorganization of "separate spheres" or the male breadwinner-female homemaker ideal of family life. State activity during this period is understood to have encoded and reinforced gender differences and most crucially, women's dependence (Laslett & Brenner 1989). McIntosh maintains that state oppression of women occurs "... through its support for a specific form of household: the family household dependent largely upon a male wage and upon female domestic servicing." (McIntosh 1978:255)

Different authors have documented this process of institutionalizing gender differentiation and women's subordination through analyses of various laws and policies. Studies of criminal law focusing on legislation concerning birth control and abortion, demonstrate the state's commitment to controlling reproduction through the control of women's bodies (McLaren 1985, Seccombe 1989, Gordon 1982). Studies of labour law identify the introduction of protective legislation as a means of

restricting women's employment and reinforcing the sexual division of labour (Lewis 1984, Strong Boag 1981, and Jenson 1989). Studies of family law reform at the turn of the century identify the state's support for and enforcement of the male breadwinner, female homemaker family structure (Glendon 1981, Diamond 1983, Ursel 1986). Finally, studies of welfare legislation and policy indicate that turn of the century income maintenance programs were structured by the assumption that men were or should be breadwinners while women were non-earning mothers (Sapiro 1986, Lewis 1984, Zaretsky 1982). Even the most benevolent of programs for ensuring child welfare served to increase state surveillance and regulation of the lives of working class women (Abramowitz 1988, Vanderpol 1982, Lewis 1986).

While the above studies reveal a similarity of response on the part of most western nation states to the impact of industrialization on family life, Jenson (1986, 1989) identifies some interesting differences in France and the United States. Both countries had strong pro-natalist interests; however, Jenson argues that the French societal paradigm of 'citizen as producer' resulted in policies which sought to accommodate women's employment with their maternal function.<sup>2</sup> In contrast, Jenson suggests that the societal paradigm of "specialized citizenship" which prevailed in the United States viewed women's employment as antithetical to maternity resulting in more exclusionary labour policies.

"In France, the process of gendering involved an assumption that women worked. In addition to paid maternity leaves, reformers agitated for nursing rooms in factories, as well as creches and organized instructional programmes in factories during the daytime and in neighbourhoods during the evenings. In the U.S., however, assumptions about gender made working mothers invisible and encouraged state policies that separated



the channels shaping women and men's social roles." (Jenson 1989:245)

As Jenson takes up the challenge of accounting for diversity between states, studies of the contemporary state confront the challenge of accounting for diverse and contradictory policies within a state. Feminist research on the contemporary state is both more theoretical and more strategic than the historical studies. This is, of course, a function of the dilemma the contemporary state poses to feminists. Turn of the century and pre-World War II policies and legislation were not particularly confusing on the issue of women; the pattern was one of reinforcing the male breadwinner, female homemaker family structure. Within this context the patriarchal content of the state was not difficult to identify and the state's relation to women and the family was fairly consistent. However, the events of the post-war period, the absorption of women in the labour force, the enactment of equal pay and equal rights legislation present a pattern of state intervention which is much more complex and confusing. Feminist analysis of the contemporary state struggles to account for the state's dual and contradictory tendencies to structure women's collective subordination while championing individual rights to equality.

For some theorists this dilemma brings them back to the questions Wilson (1977) left us with--what is the relation between production and reproduction and how does it influence state mediation patterns? (Eisenstein 1980, Dahlerup 1987, Sassoon 1987) Other analyses lead to new definitions of patriarchy and the state and the development of alternate methodologies (MacKinnon 1989). Strategies for analyzing the

contemporary state parallel strategies for analyzing the relationship between production and reproduction within the more general feminist literature. Although there is great variety in the focus of contemporary feminist theory there is a tendency for explanations to fall within one of three major schools of feminist thought: radical feminist analysis which asserts the primacy of reproduction; marxist-feminist analysis which asserts the primacy of production; and dual systems analysis which asserts that reproduction and production are equally fundamental, co-determinative relations which constitute the base or infrastructure of all societies. Therefore, we will review feminist analyses of the contemporary state within the context of the larger debate concerning the theorizing of reproduction. We will examine these divergent theoretical strategies to assess the extent to which they can address the three concerns of feminist theory--centrality, continuity, and change.

#### Radical Feminist Theory

Radical feminism developed as a radical alternative to Marx. MacKinnon states: "Feminism stands in relation to marxism as marxism does to classical political economy: its final conclusion and ultimate critique. ...In a dual motion, feminism turns marxism inside out and on its head." (MacKinnon 1982:544) Radical feminists reject Marxist theory on the grounds that the emphasis on production presents an oversimplification of political reality--a one-dimensional view of power politics which could never address the dynamics of sexual divisions other than as a derivative of economic divisions.

Radical feminists assert the primacy of patriarchy as the alternative to the Marxian concept of the primacy of production. Patriarchy is variously understood as biologically based (Firestone 1972 & Morgan 1970); as a historical construct (Rich 1977, Daly 1978) or a sex-based power relation (MacKinnon 1989). While these divergent strains within radical feminism fluctuate between material and ideological explanations of patriarchy they all agree on its primacy in conditioning all other social relations.

The early theorists (Morgan 1970, Firestone 1972) located the origin of women's oppression in biology. They set out to develop a "materialist view of history based on sex itself." (Firestone 1972:iii) Firestone, for example, outlines a series of contingencies associated with human reproduction which she argues inevitably leads to women's dependence and hence oppression.<sup>3</sup> Although Firestone recognizes that there have been many variations in the biological family none, she argues, have altered the fundamental biological conditions which lead to women's dependence. "... though it is true that throughout history there have been many variations on this biological family, the contingencies I have described existed in all of them ..." (Firestone 1972:9) While Firestone locates women's oppression in her biology she distinguishes her analysis from that of biological determinists with the statement that "what is natural is not necessarily human". She calls for a human transcendence over nature; the liberation of women is located in their liberation from their reproductive capacity. It is suggested that this will be achieved through an advance in the technology of extra uterine conception and gestation.

However, the implications of early radical feminist theory-- that motherhood was inherently oppressive, that liberation lay in the development of reproductive technologies--became, over time, untenable to the theorists themselves.

"They said we were 'anti-motherhood' - and in the growing pains of certain periods some of us were ... Patriarchy commanded the women to be mothers (the thesis), we had to rebel with our own polarity and declare motherhood a reactionary cabal (the antithesis). Today a new synthesis has emerged; the concept of mother-right the affirmation of childbearing and/or rearing when it is a woman's choice.

(Morgan 1977:8)

By the late 1970's a second wave of radical feminism had emerged. It identified the oppressiveness of motherhood as being based in patriarchal institutions which structure and control motherhood, rather than in the biological process or in maternal relations themselves (Rich 1977, Daly 1978). This released radical feminists from a negative treatment of motherhood itself while retaining patriarchy as the primary relation of oppression embedded in the institutional structuring of motherhood. Biological motherhood becomes transformed from the source of our weakness and oppression to the source of our strength, our connection with nature and the basis upon which we (all women) resist the anti-life, anti-nature institutions constructed by men to control birth, life, and nature.<sup>4</sup> While this literature has been most successful in fostering a feminist reclamation of motherhood it left a lot of theoretical and strategic questions unanswered (Maroney 1986). As a result, more recently radical feminists have directed their attention to the operation of patriarchy in the public sphere examining, in particular, the rule of law and the nature of the state. Perhaps the best example of this more recent

trend in radical feminist literature is the work of Catherine MacKinnon (1982, 1983, 1989).

The importance of Marxist theory as a frame of reference for radical feminism is evident in MacKinnon's definition of the feminist perspective. "Sexuality is to feminism what work is to marxism: that which is most one's own, yet most taken away." (MacKinnon 1982:515) Substituting sex for work as the primary social relation MacKinnon goes on to use certain concepts of historical materialism from Marx to explain the dynamic of power embedded in sex. "As work is to marxism, sexuality to feminism is socially constructed yet constructing, universal as activity yet historically specific, jointly comprised of matter and mind." (MacKinnon 1982:516) Consequently, the process of women's oppression is explained as a process parallel to class oppression. "As the organized expropriation of the work of some for the benefit of others defines a class--workers--the organized expropriation of the sexuality of some for the use of others defines the sex, women." (MacKinnon 1982:516) Despite a heavy reliance upon parallel theoretical constructs MacKinnon rejects Marxism and all attempts to synthesize Marxism and feminism, asserting the absolute necessity of the primacy of sex (patriarchy) to feminist theory.

MacKinnon's theory, both the product of and the framework for her research and social activism around the issues of rape, incest, pornography, and wife abuse, states that sex is eroticized dominance, law is the medium for making male dominance both invisible and legitimate and the state is patriarchal. The state, she maintains is the regime of male dominance, she allows for no autonomy of the state from patriarchy. MacKinnon asserts that Marxist theory and method cannot address these

feminist realities. Further, she takes issue with the Marxist concept of a distinction between ideas and material reality. "Gender", she states, "is lived as ontology, not as epistemology. (MacKinnon 1989:237) She argues that historical materialism creates a false dichotomy between ideas and material reality, objectivity, MacKinnon maintains, is merely the male point of view unchallenged. "Objectivist epistemology is the law of law." (MacKinnon 1983:645)

Rejecting a method based on distinctions between subject and object, ideas, and material things, MacKinnon rejects historical materialism. While the radical feminist alternative to Marxist theory is the primacy of sex over work, the antithesis to Marxist method is consciousness-raising over historical materialism. MacKinnon maintains that this method of inquiry challenges traditional notions of authority and objectivity and opens a dialectical questioning of existing power structures, of women's experience, of theory itself. (MacKinnon 1982:515)

In addressing the question of how her theory and method translate into practice MacKinnon states: "Consciousness raising shifts the episteme in a similar way, exposing the political behind the personal, the dominance behind the submission, participating in altering the balance of power subtly but totally." (MacKinnon 1989:240) MacKinnon asks, "What can extend this method to the level of the state for women?" (MacKinnon 1989:240) The answer is the law. "The law of equality, statutory and constitutional, therefore, provides a peculiar jurisprudential opportunity, a crack in the wall between law and society." (MacKinnon 1989:244)

While her theory overwhelms one with the pervasive, arguably, monolithic nature of patriarchy within the state, law, and society, her prescription for practice seems to put inordinate faith in a "crack between law and society", the existence of equality legislation. Questions arise concerning the use of a patriarchal tool to overcome patriarchy, the invocation of a patriarchal state to enact and enforce "feminist" legislation. What forces will come into play, what interests can be invoked to create alliances powerful enough to replace the laws of male dominance with the laws of equality? Where out of this seemingly monolithic legal culture of subordination did the laws of equality come from in the first place? Would this theory be applicable if other legislation had been the focus of analysis? Finally, does women's consciousness always lead to concurrence on what is a feminist law? The current bitter dissention within feminist ranks over the issue of pornography raises the question of whose consciousness is feminist?

While MacKinnon's work may seem to raise more questions than it answers, it is an important application of radical feminist theory to the question of the state. While remaining true to the radical feminist principle of the primacy of patriarchy/sex, MacKinnon presents both in her theory and her practice some insightful guidelines on feminist praxis within the law. As such it marks an important contribution to the field of feminist literature on the state.

Radical feminist theory has been a major force within feminist scholarship to focus attention on the centrality of women's oppression. The fundamental principle of radical feminist theory, the "primacy of patriarchy", ensures such a focus. The various waves of radical feminist

theory have also been consistent in their emphasis on the continuity of women's oppression over time. From Firestone (1972) to Rich (1977) to MacKinnon (1989), their theories have insisted that the comprehension of women's oppression could not be contained within an analysis of a particular historical period or a particular set of economic relations. "Feminists do not argue that it means the same to women to be on the bottom in a feudal regime, a capitalist regime, and a socialist regime; the commonality argued is that despite real changes, bottom is bottom." (MacKinnon 1982:523) While their theory does not deny historical specificity, their attention is directed to the consistency of effect of patriarchy. Their focus on effect pulls them away from process. Thus while their works may acknowledge history, typically they do not use it. The clearest expression of this tendency is MacKinnon's rejection of historical materialism as male-stream method. Their emphasis on effect rather than process, in history, limits their insight into issues of change despite their strength on the issues of continuity and centrality.

While radical feminism broke with the content of Marxist theory, they ironically, replicated the form. Their alternative is plagued with the same problems they rejected in Marxism, a unidimensional concept of determination. Radical feminists have recreated the "primary contradiction syndrome" by substituting reproduction for production, sex for work. It is not simply that radical feminism is missing one component, historical specificity, but rather that the absence of that component leads to a nondialectical, ahistoric conception of reproduction, patriarchy, and the state.



The primary contradiction syndrome, whether Marxist or radical feminist is conceptually inadequate for a dialectical analysis of the interaction between production and reproduction because of its attempt to define the relation in causal and subsequently dichotomized terms. The connections and relationships between the sex-gender system and the economic class system remain undefined in both perspectives. Power is dealt with in terms of half the dichotomy. When power is understood to be fundamentally sexually based, class is reduced from an analytic concept to a descriptive category; when it is understood to be class based, patriarchy is similarly reduced to a descriptive category.

From this dichotomized view of social reality, socialist feminism has emerged. It is an analysis which views production and reproduction as critical concepts in social theory yet is skeptical of the explanatory powers attributed to each in isolation of the other. The socialist feminist perspective is an attempt to breach the gap between the two opposing theories of power and synthesize the insights of Marxism and radical feminism.

#### Socialist Feminist Theory: Strategies for Synthesis

Socialist feminism seeks to refocus rather than refute Marxist theory. They maintain that the Marxian model is important to the feminist problematic not only for its theory of production but especially as a method of analysis which is historical and dialectical. The radical feminist perspective, although rejected as an alternative theory, is incorporated as an essential critique. As one author states: "My discussion uses Marxist class analyses as the thesis, radical feminist

patriarchal analysis as the antithesis, and from the two evolves the synthesis of socialist feminism." (Eisenstein 1979:6) Thus, while Marxist concepts predominate, they undergo a significant reformulation by socialist feminists in the attempt to construct a historical, dialectical theory of reproduction.

A number of feminists<sup>5</sup> have suggested that the location of reproduction in the superstructure and the mechanistic interpretation of base-superstructure dynamics is the source of traditional Marxists' inadequate analysis of reproductive relations. This has led to a lively debate among socialist feminists about the conceptualization of reproduction and its interaction with production. Theoretically, the debate has revolved around the concept of base and superstructure and the problem of determination.

According to the materialistic conception, the determining factor in history is, in the last resort, the production and reproduction of immediate life. But this itself is of a two-fold character. On the one hand, the production of the means of subsistence, of food, clothing and shelter, and the tools requisite therefore; on the other, the production of human beings themselves, the propagation of the species.

(Engels 1968:71)

The growing feminist conviction that the "two-fold character" of materialist analysis has been forgotten has led to a serious attempt to develop an analysis of reproduction to correct the imbalance. In an attempt to resurrect reproductive relations from the obscurity of economic determinism, socialist feminists have explored three possible reformulations of the base superstructure categories and the concept of determination. These Marxist concepts are tools of analysis reshaped, with varying degrees of success, by the feminist problematic in an attempt

to construct a theory of reproduction. All three alternatives share the following orientation: a common focus on the centrality of reproductive relations; and a common acceptance of the theoretical utility of the concepts of base, superstructure and determination. However, the alternatives differ radically in three important ways: their reinterpretation of the components of the base-superstructure categories; their understanding of the dynamic of determination; and their ability to incorporate the themes we have identified as critical to the development of a theory of reproduction--centrality, continuity, and change.

Considering the reformulation of the Marxist concepts one can easily identify the distinctions in the three alternatives. The first option accepts reproduction's location in the superstructure and attributes the problem of economism to the mechanistic interpretation of determination. The alternative is sought in a more dialectical interpretation of determination which permits a more dynamic concept of superstructural elements. Theorists of this persuasion argue that reproduction, as part of this conceptually revitalized superstructure, will come into focus and will no longer be obscured by economism.

The second option marks a more radical departure from tradition by arguing that reproduction is base. However, reproduction is extracted from the superstructure at the cost of being interpreted simply as the "reproductive moment of production". Within this perspective the treatment of the concept of determination is traditional.

The third option, which we have adopted, argues that reproduction is base, not by virtue of being grafted on to production, but by the fundamental material reality that humans must reproduce as well as produce

in order to sustain society. Thus production and reproduction are distinct but interdependent imperatives, constituting the base of society, which gives rise to distinct but interdependent modes of organization. This concept implies that we diverge from tradition not only in the location of reproduction but also in our understanding of determination. We reject the unilinear model of production determining reproduction in favour of a model of co-determination.

The third option flows from the same theoretical concerns which gave rise to the above options; however, it is the least developed of the three. It exists today as a suggested alternative, partially applied in the work of a number of feminist writings<sup>6</sup> but not fully developed. It is our purpose in this chapter to illustrate the shortcomings of the first two options which make it imperative to pursue the third option in a more systematic way, this latter task will be pursued in the subsequent chapter.

In evaluating the ability of each alternative to contribute to a theory of reproduction we must not only assess the sophistication of their reformulation of Marxist concepts but also their ability to incorporate the three themes associated with reproduction. In fact, we will argue that the different reformulations of the concepts outlined above are a reflection of the thematic focus of each alternative.

Because all three options share a common focus on the centrality of reproduction they all contain important insights and analysis of issues previously neglected or understated. However, we will argue that only the third option succeeds in addressing all three concerns--centrality, continuity, and change. In the following selective review of studies

which represent the first and second options we will attempt to show that their shortcomings are due, at least in part, to their thematic focus. The conceptual tools which they have refashioned can be seen to reflect their different definitions of the central problem which socialist feminist theory must address. In the case of the first option continuity is the core concern which shapes their analysis while option two is characterized by its emphasis upon historical specificity.

### Reproduction as Superstructure

The first option introduced by Mitchell (1975) and pursued by Hamilton (1978), and Barrett (1980) locates reproduction within the superstructure and maintains that the pitfalls of economism can be avoided through a dialectical rather than mechanical understanding of determination. This approach represents one strategy for dealing with two theoretical questions which have shaped Marxist-feminist debates over the last decade: "1. The degree to which women's oppression is constructed independently of the general operation of capitalist production. 2. The degree to which the oppression of women is located at the level of ideology." (Brenner and Ramas 1984:33)

Mitchell approaches this debate with a specific interest in accounting for the continuity of women's oppression.

The longevity of the oppression of women must be based on something more than conspiracy, something more complicated than biological handicap and more durable than economic exploitation "although in differing degrees all these may feature".

(Mitchell 1975:362)

Her concern with the consistency of the effect of patriarchy leads her, like the radical feminists to search for a consistent cause. Her search, however, is complicated by her rejection of the "biological imperative" and her insistence that patriarchy is a political system, both in its origin and current dynamic.<sup>7</sup> Given that patriarchy is conceived of as a social creation operating in the realm of the superstructure, the problem for Mitchell is one of accounting for its continuity despite tremendous cross cultural and historical variability in the structure of reproductive relations.

A traditional approach to the concept of determination would suggest that patriarchy, if ideological, should be transformed in the process of transition from one economic mode to another and if one can identify a contradiction between patriarchy and a particular mode of production one would expect its elimination. The continuity of patriarchal relations of reproduction appears to defy the traditional concept of determination when it is at one and the same time located within the superstructure and shown to be in contradiction with the mode of production. The possibilities for reformulation are two-fold: either to reconsider the location of reproduction from superstructure to base, or to redefine the dynamics of determination. Mitchell opts for the latter.

Locating the relations of reproduction clearly within the ideological realm, Mitchell confronts the anomaly presented by these relations which on occasion appear to be neither predictable from nor symmetrical with the economic base. This leads her to the assertion of a "certain autonomy" of the ideological sphere and the strength of her analysis of patriarchy becomes dependent upon the viability of this

concept of autonomy. From this point her critique of traditional Marxist analysis and her alternative analysis flow. Her criticism focuses on the Marxist tendency to subordinate the ideological to the economic. Her alternative is to separate the material and the ideological for the purposes of analysis, in this case, of the contradictions and dynamics of patriarchy.

"To put the matter schematically, in analyzing contemporary Western society we are (as elsewhere) dealing with two autonomous areas: the economic mode of capitalism and the ideological mode of patriarchy. But if we analyze the economic and the ideological situation only at the point of the interpenetration, we shall never see the means of their transformation."

(Mitchell 1975:412)

Thus she advises that a more complete understanding of the "ideological mode of reproduction" lies in an analysis of its dynamics separate from the economic sphere with a synthesis of the two put off until a more adequate theory of patriarchy has been achieved.

This approach is explicitly followed in Psychoanalysis and Feminism, a study of the "psychological acquisition of patriarchal laws", which emphasizes the cross-cultural and historical continuity of women's subordination. Her emphasis upon the internalization of these "laws" at the psychic level, which is so fundamental and so resilient to change for individuals, suggests that Mitchell sees psychoanalysis as a key to understanding the persistence of patriarchy. At the psychoanalytic level her approach seems to serve her well and is most convincing in illustrating the power of ideas in shaping human behavior. However, in attempting to translate the psychoanalytic insights into a structural analysis of the persistence of patriarchy difficulties arise. Mitchell

particularly runs into problems when she addresses the issue of contradictions between patriarchal ideology and the mode of production, the very concern which gave rise to the concept of autonomy.

The concept of contradiction first surfaces when she addresses the dynamic of patriarchy in capitalist societies. "Under capitalism, just as the economic mode of production contains its own contradiction, so too does the ideological mode of reproduction." (Mitchell 1975:412). But here the contradiction appears much less inherent in the mode of reproduction and much more a product of the dynamic of production. The concept of autonomy becomes questionable when Mitchell is only able to locate the contradiction of patriarchy in terms of its lack of fit with the capitalist industrial system. "The capitalist economy implies that for the masses demands of exogamy and the social taboo on incest are irrelevant; but nevertheless it must preserve both these and the patriarchy structure they imply." (Mitchell 1975:409)

The redundancy of the patriarchal structure can presumably be explained in terms of the incompatibility of kinship as a mode of social organization within the capitalist mode of production. "Of greater importance still is the contradiction between patriarchal law and the social organization of work--a contradiction held in check by the nuclear family." (Mitchell 1975:413) However, the identification of the imperative to capitalism to perpetuate such a system is vague. Is it merely the tyranny of the unconscious that keeps an inconvenient ideology intact? "The ban on incest and the demand for exogamy howl so loudly in the contemporary Oedipus complex because they are reinforced precisely when they are no longer needed." (Mitchell 1975:410) Mitchell's



strategy for analysis leaves some fundamental problems unresolved. Her concept of autonomy in conjunction with the above quote creates ambiguity over the issues of contradiction. Are contradictions inherent in the mode of reproduction itself or are they only a product of disjunctures between productive and reproductive relations? Her concept of autonomy would suggest the former; her actual analysis implies the latter. For her attempt to separate the ideological and material flounders on the issue of contradiction. She has to abandon her own directives by locating the contradiction of patriarchy in the interpenetration of the economic and ideological. "Patriarchy describes the universal culture--however, each specific economic mode of production must express this in different ideological forms." (Mitchell 1975:409) This seems to imply an unwitting reversal to the concept of economic determination.

The question of why the patriarchal family is preserved when, as she argues, it is not only redundant, but an impediment to the social organization of work, remains the most puzzling of all. The implication is that the "certain autonomy" of ideology accounts for this particular phenomenon. "The overthrow of the capitalist economy and the political challenge that effects this, do not in themselves mean a transformation of patriarchal ideology. This is the implication of the fact that the ideological sphere has a certain autonomy." (Mitchell 1975:414)

Mitchell's strategy of separating the ideological and the material for the purposes of analyzing patriarchy seems to obscure rather than reveal structures and dynamics of reproductive relations. Her inability to account for motion or change within reproduction results in her locating dynamics and contradiction externally--within the productive

sphere. Patriarchy becomes reduced to one primary feature, a bullish, seemingly inexplicable persistence. This persistence and resiliency, however, amounts to little more than inertia, given the inability of her analysis to account for contradiction and dynamics within reproductive relations. Her acceptance of the superstructural location of reproduction, leaves her with just one option in accounting for the continuity of patriarchy--the concept of autonomy. However, while autonomy may explain why patriarchy can exist in the face of contradictions with production it does not address why it persists and in whose interests. The very question she sets out to address remains unanswered.

While Mitchell's analysis focuses on the subjective dimensions of patriarchy Hamilton (1978) applies the superstructural option to an analysis of the transformation of patriarchy in 17th century Europe. Focusing on the changing status of women and the family in the transition from feudalism to capitalism, Hamilton divides her work into separate sections, one addressing the political economy of the transition, the other the transformation in patriarchal ideology.

From her separate descriptions of the historically contiguous rise of Protestant pro-family, pro-natalist ideology and the political economic erosion of the material base of the proletarian family she concludes: "The evidence supports the feminist assertion that changes in Protestant ideology are not merely reflections of the mode of production. For the new Protestant perspective was not fashioned because of its peculiar appropriateness to capitalism." (Hamilton 1978:94)

However, this conclusion is qualified by her fluctuation between a materialist and an ideological account of the transition. On the one hand, in her ideological analysis the modern family appears as the materialization of Protestant patriarchal ideology. On the other hand, in her political economic analysis, Hamilton suggests the family is just another capitalist institution.

"The nuclear family, as we still know it, emerged with capitalism. The nuclear family is one of the institutional developments of capitalism just as much as the corporation, the bank or the educational system. If there are some points of friction between the requirements of the family and the requirements of the market, these are contradictions inherent to capitalism."

(Hamilton 1978:92)

The separation of the material and the ideological result in their uneasy coexistence as alternative explanations rather than interrelated aspects of a dynamic process. While Hamilton understates the contradiction between patriarchy and capitalism in comparison to Mitchell, she comes to a similar conclusion, that the contradictions are inherent in capitalism. As a result both Hamilton and Mitchell explain the changing forms of the relation of reproduction as a result of processes external to it, rather than a product of dynamic tensions within the system itself. Thus despite their shared attention to centrality, Mitchell's concern with continuity and Hamilton's focus on change, their analytic strategy results in the presentation of an oddly passive set of relations whose dynamic or change can only be explained in terms of processes outside itself.

Like Mitchell and Hamilton, Barrett (1980) approaches the question of patriarchy from the perspective of ideology, however, unlike them she

rejects the strategy of separate analysis of the material and the ideological. She identifies her task as one of recognizing the importance of the ideological without severing it from its moorings in material relations. Barrett locates the oppression of women in capitalist societies within the "family-household system", that is, the structuring of male-breadwinner, female-homemaker divisions of labour, which not only defines family structure but also determines divisions within the labour market. She maintains that the family-household system was not an inevitable concomitant of capitalism but rather it emerged through a historical process in which the ideology of women's natural connection with domesticity was incorporated into capitalist relations of production.

In examining the development of the family-household system associated with the development of industrial capitalism, Barrett identifies the roots of the system as ideological, a bourgeois construction that fitted with bourgeois family relations. In explaining the transition of this ideology from a class/institution specific application to a pervasive patterning of both productive and reproductive relations she turns to the dynamics of class struggle in the 19th century. Barrett maintains that within the process of class struggle bourgeois family ideology was adopted by the working class as a means of protecting their short term economic interests--eliminating competition from cheap female and child labour and legitimizing the demand for higher wages in terms of a call for a 'family wage'. However, Barrett also maintains that because the family-household system divides the working class and is a fundamentally conservative social force it was also in the long-term political interests of the bourgeoisie.

Thus, Barrett accounts for the development of the family-household system and the persistence of patriarchy by means of a transformation of an ideological construct into a material imperative. She maintains that while women's oppression did not have any material basis in the period when the family-household system was forming it "has acquired a material basis in the relations of production and reproduction of capitalism today." (Barrett 1980:249)

"A model of women's dependence has become entrenched in the relations of production of capitalism, in the divisions of labour in wage work and between wage labour and domestic labour. As such, an oppression of women that is not in any essentialist sense pre-given by the logic of capitalist development has become necessary for the ongoing reproduction of the mode of production in its present form."

(Barrett 1980:249)

Barrett identifies the role of the state as central to this process of transition. The state, she argues, mediated a central contradiction within the process. While the political dynamics of class struggle pushed to entrench the family-household system, the economic dynamics, the commodification of labour, eroded the material base of such a structure. Hence the critical function of the state was to "prop up" the family household system through protective labour laws and welfare legislation. She identifies the patriarchal content of the state in its key role encoding sexual division of labour through legislation and subsidizing the family-household system with welfare, all in the face of countervailing, 'sex-blind' economic pressures. A process, which she maintains is still very much in force today.

The use of Barrett's concept of the family-household system, however, presents a number of problems in approaching the contemporary

state. Her perspective sees only state policies which reinforce women's dependence and remains blind to the contradictory trends within the contemporary state, for example: reductions in the state's commitment to subsidizing the family-household structure, most evident in current cuts in welfare programs and expenditures, and the abandonment of legislative reinforcement of sexual divisions of labour to the point of introducing equity legislation. We suggest, that her dependence upon the concept of the family-household system as the location of women's oppression restricts the usefulness of her analysis to a particular period, pre World War II. Since then the state's position with regard to the family has changed, the family-household system itself has changed and the male-breadwinner female-homemaker is a structure no longer affordable to the majority of families. Brenner & Ramas (1984) argue that the limits to Barrett's analysis result from her reliance on ideology as the explanatory concept in approaching reproduction. The problems of Barrett's analysis they maintain: "can be traced to one major lacuna in her analysis--the absence of a material basis for the historical development and reproduction of the family-household system, the sexual division of labour and women's oppression in capitalism." (Brenner & Ramas 1984:47)

Once again the superstructural strategy seems to result in an identification of all dynamics as lying outside the system of reproduction. In Barrett's case it is class struggle, bourgeois ideology and the state that explains the evolution and persistence of a particular family formation. Reproduction/patriarchy appear infinitely plastic, invoked by workers to protect their interests, used equally, by the ruling class to maintain their advantage, shaped always by exterior forces,

remarkable only for its persistence. One of the consequences of this derivative concept of reproduction is the tendency for the state's relation to reproduction to be perceived in a very instrumentalist fashion. As a result, Barrett's analysis of the state appears one dimensional, with all of the emphasis upon state enforcement of women's dependency and little acknowledgement of the complex and contradictory patterns of contemporary state mediation.

In summary, the reproduction as superstructure analysis, exemplified in the works of Mitchell, Hamilton, and Barrett has provided valuable insights into very different aspects of patriarchal family structures. However, we maintain that their analysis speaks more effectively to issues of centrality and continuity than to change. While all three theorists struggle with the issue of change, particularly Hamilton and Barrett, we suggest that the superstructural location of reproduction militates against a dynamic or dialectical appreciation of reproduction. Because of their adherence to historical materialism, all three theorists situate motion, dynamic and contradiction within the material realm. As a result the superstructural location of reproduction leads to the identification of all dynamics in processes outside of reproduction itself. Consequently changes in reproduction become derivative of changes in production, mediated by patriarchal ideology. Production, the source of dynamics and change becomes the reference point for the analysis of patriarchy. How does it fit with production? How does it respond to the needs of capitalism? Why does it persist in the face of sex-blind economic dynamics? Reproduction is understood only in terms of the puzzling

persistence of patriarchal ideology and not as a material reality which constructs as well as responds to patriarchy.

The most obvious alternative to the location of reproduction in the superstructure is the conceptualization of reproduction as base, the second option within the socialist feminist perspective. Within this option the concept of the 'primacy of production' is retained defining the theorist's task as one of identifying the specific material link between production and reproduction.

#### Reproduction as Base: The Primacy of Production Perspective

This option departs from Marxist tradition by locating reproduction in the base as a specific form of production, that is, the production of human beings. The approach was first articulated by Dalla Costa (1972), whose assertions that domestic labour was productive labour resulted in a debate among leftists and feminists identified as the domestic labour debate (Fox 1980). Concurrent with and following from that debate there has been a variety of attempts to locate the material intersection of production and reproduction within a perspective which relies on the analytic primacy of production. Because there is enormous variation in the focus and approach of studies within this perspective, one way to approach this literature is in terms of a continuum of Marxist orthodoxy; from the very economistic "domestic labour debate", to the less orthodox explorations of reproduction which still begin with production but are less rigid and deterministic in their analysis. Along this continuum we consider the works of Dalla Costa (1972), the domestic labour debate (Fox 1980), Quick (1977), Armstrong and Armstrong (1985), as well as McIntosh



(1978) and Jenson (1986) who have applied this perspective to the analysis of the state.

dalla Costa distinguished her work from earlier theorists with her unequivocal rejection of the location of reproduction within the superstructure.

If we fail to grasp completely that precisely this family is the very pillar of the capitalist organization of work, if we make the mistake of regarding it only as a superstructure, dependent for change only on the stages of the struggle in the factories, then we will be moving in a limping revolution that will always perpetuate and aggravate a basic contradiction in the class struggle, and a contradiction which is functional to capitalist development.

(dalla Costa 1972:10)

By interpreting reproduction as a specific form of production the family becomes the "social factory" where housewives produce the commodity labour power. Her analysis revolves around the assertion that housewives are directly productive workers for capital. This assertion became the source of a lively debate within the left literature over whether domestic labour is productive (in the technical sense of producing surplus value), unproductive or best characterized as petty commodity production. Its expression within the feminist literature is known as the domestic labour debate.<sup>8</sup>

While the domestic labour debate did include a variety of perspectives there was a shared assumption among the theorists that the key to understanding women's oppression lay within a definitive analysis of domestic labour. This approach reflected a very orthodox Marxist interpretation of 'production as primary' and tended to result in the application of economic concepts of work, labour, and value to an

analysis of the household as the means to unravel the mystery of women's oppression under capitalism. Fox's edited collection of articles in Hidden in the Household (1980) provides a good sampling of the debate and the method within this perspective. The book presents six original articles on domestic labour in which all contributors sought, "... to clarify the particular nature of domestic labour and thus women's oppression under capitalism." (Fox 1980:11) While this perspective has fallen into disfavor in more recent years Miles (1985), Hamilton (1986), it represents some of the most theoretically sophisticated attempts to analyze women's oppression at the very most orthodox end of a Marxist continuum of social analysis. As one of the contributors to Fox's book comments it retrospect: "The domestic labour debate was, in its essentials, an attempt to generate Marxist answers to feminist questions." (Secombe 1986:191)

In terms of a continuum of Marxist analysis from the more orthodox to the less, the work of Quick (1977) represents a more middle range application of the concept of the primacy of production. Her work is more attuned to the complexity of reproductive relations, however, we maintain that it is ultimately limited by the tendency within this perspective to subsume reproduction under productive relations.

Quick locates the oppression of women "in their role as producers of children who constitute the exploitable producers in a society..." and maintains that reproductive relations must be understood as part of the economic base of society. "The relations between women and men for the 'production of human beings' thus constitute part of the relations of production, the economic structure of society" (Quick 1977:43)

Quick begins her analysis with Marx's summary of what he referred to as the "guiding thread for my studies." "In the social production of their life, men enter into definite relations that are indispensable and independent of their will, relations of production that correspond to a definite stage of development of their material productive forces." (Marx [1859], 1968:182) She extends this "guiding thread" to an analysis of the sexual division of labour stating that we must recognize that the relations into which women and men enter are "indispensable and independent of our will." Quick maintains that this historically specific yet universal imperative reflects: "The Nature - imposes condition for the continuation of human existence is not only the production of use-values...but also the production of human beings." (Quick 1977:45)

Having located reproduction as a fundamental material necessity she reminds us that involuntary relations entered into in the social production of life are not in and of themselves oppressive. Oppression in class societies lies in the extraction of surplus labour. She maintains that the extraction of surplus labour accounts not only for class oppression but also for women's oppression. For what is oppressive about women's reproductive role is not reproduction per se but how women are provided for during their child bearing years. How they are provided for is determined by the constraints of extraction of surplus labour. Thus, Quick concludes in capitalist societies women are provided for by the male breadwinner, hence they are dependent, hence they are oppressed.

By conceptualizing reproduction as a moment of production Quick's analysis of the social relations that men and women enter into are understood to be completely derived from the "mode of production". This

presents a number of theoretical problems. For example, she locates the material basis of women's oppression (patriarchy) in the way women are provided for during child bearing. The concrete manifestation of which is women's economic dependence upon the male breadwinner. Yet this concept of patriarchy is of almost no analytic utility according to her own assessment. "Thus the oppression of women, while having its root in the economic base of society, should not be equated with the difference in money income of women and men" (Quick 1977:51). What this implies, in short, is that locating women's oppression in economic relations seems convincing at the abstract level of extraction of surplus labour; however, it becomes much less so at the concrete level of women's economic dependence on men. Thus, the contradiction between women and men which is the focus of her analysis acquires an ephemeral quality.

Further, her attention to the issue of reproduction repeatedly brings her to the brink of critical insights which do not become realized in a coherent analysis because of her concept of determination. Her remarkable interpretation of Marx's "Law of Population" - "it should be seen in terms of the contradiction between the immediate extraction of surplus value and the long-run reproduction of the conditions for this extraction" (Quick 1977:52)--seems to promise an analysis of the contradictory dynamic between production and reproduction which could incorporate both the continuity and specificity of this struggle. In fact, it merely prefaces an uninspired description of the high costs of child-rearing in advanced capitalist countries.

Quick's conclusions, perhaps most clearly reveal the limitations of her conceptual framework. Her analysis leads to a restatement of the old

"red herring", the two phase revolution, "the contradictions between women and men is subordinate to the contradiction between the working class and the capitalist class." An analysis sweetened with the traditional reassurance that "under socialism, therefore, the interests of women coincide with the actual interests of society as a whole" (Quick 1974:48).

In the last decade, in particular, socialist feminists have taken issue with the assumption made by Quick and many other Marxist feminists that class struggle will resolve the 'woman question'. The work's of Kuhn and Wolpe (1978), Hartman (1979), Delphy (1984), Armstrong and Armstrong (1985), Connelly (1985), and Burstyn (1985), are among the many contributions to a debate about the limits of orthodox Marxism. While this debate occurs within the Marxist problematic it represents a substantial push away from orthodoxy and a more serious attempt to integrate Marxist and feminist perspectives. Returning to the question posed by Elizabeth Wilson (1977), the debate revolves around the nature of the link between production and reproduction, with a much greater resolve not to reduce reproduction to a 'productive moment'. Much of this literature deals with the shortcomings of Marxist orthodoxy and calls for new theoretical and research approaches which incorporate the dual realities of sex and class oppression. Within this debate there is a variety of opinions about what is missing and how to incorporate it, many of which are summarized in Fox's article, "Conceptualizing Patriarchy" (1988).

Given a commitment to move beyond Marxist orthodoxy there is a considerable range among theorists concerning how far one should move. This results in a dynamic exchange within the debate between those who

appear to move in the direction of a dual system analysis, for example, Hartman, Delphy, and Burstyn, (Fox 1988:167) and those who retain the analytic primacy of the mode of production, for example, Armstrong & Armstrong and Barrett (Connelly 1985:59). Both tendencies amount to a call for new theorizing, rather than an alternative theory and therefore remain open-ended. Nevertheless, they do represent differences in the degree to which the author's are willing to depart from or rewrite Marxist analysis. Because the works of Hartman, Delphy, and Burstyn points in the direction of dual systems analysis it will be dealt with in that section, the latter tendency fits more appropriately within this section.

Armstrong and Armstrong (1985) provide a clear presentation of the latter tendency in their article "Beyond Sexless Class and Classless Sex: Towards Feminist Marxism". Distinguishing themselves from Barrett's analysis which presents the relation between capitalist production and patriarchal reproduction as problematic, the Armstrongs assert a unity between capitalism and patriarchy. "Patriarchy and capitalism are not autonomous, nor even interconnected systems, but the same system." (Armstrong & Armstrong 1985:23) The basis of this unit and the material link between production and reproduction lies within the fact that capitalism is premised on 'free labour'. Labour can only be produced freely outside of the realm of commodity production, in the home, by unpaid labour. Thus the Armstrong's conclude that the sexual division of labour is crucial to capitalism.

"A capitalist society, with its concomitant free wage labourer, seems to imply a separation, in some form, between the reproduction of workers and the production of goods and services. The separation seems also to imply a segregation, and denigration, of women." (Armstrong & Armstrong 1985:22)

As Connelly (1985) points out: "The implication of this argument seems to be that if the inequality of women had not already existed, capitalism would have had to create it." (Connelly 1985:56) Concerns voiced by the other tendency, dual systems theory, suggest that in the absence of any distinction or autonomy between patriarchy and capitalism reproduction will once again become subsumed within an analysis of production. Cognizant of this line of criticism the Armstrongs maintain that such reduction can be avoided by bringing reproduction, sexuality, and procreation into Marxist analysis. "To theorize production and reproduction at the highest level of abstraction involves a recognition of the differences in female and male reproductive capacities. Any other approach fails to comprehend the nature of production and reproduction." (Armstrong & Armstrong 1985:26)

Assessing the success of this perspective in addressing feminist concerns with centrality, continuity, and change is difficult as long as it exists as a call for future research with only some specification of what directions that research should take. However, a number of feminist analyses of the state which retain the analytic primacy of production and share the Armstrongs' position on the symmetry and fit between capitalism and patriarchy give some indication of the strengths and weaknesses of this approach.

McIntosh's (1978) and Jenson's (1986) articles are cited as examples of this perspective in Randall's (1988) review of feminist literature on the state. Both theorists identify two systems in which women are oppressed, capitalism, and patriarchy. However, Randall expresses concern that the analytic primacy accorded to production within their work results

in an analysis of patriarchy limited to how it serves capital. Randall quotes McIntosh's observations on the function of state policy to reveal her "production centered" approach to patriarchy. "On the one hand, for the reproduction of labour power the state sustains a family household system... . On the other hand, for the reproduction of relations of production (specifically the nature of labour power as a commodity), the state has played an important part in establishing married women as a latent reserve army of labour..." (McIntosh 1978:264) Randall argues that McIntosh's perspective on the state assumes, "the state has retained masculine privilege and control only in relation to the needs of capital." (Randall 1988:11)

Along similar lines, Jane Jenson, in her article "Babies and the State" maintains that "once the logic of the capitalist state's situation in any conjuncture has been identified, a detailed understanding of that state's contribution to the oppression of women follows from analysis of that social formation." (Jenson 1986:41) However, Jenson's emphasis upon capital as the critical explanatory variable is countered by Randall's observation: "there are central and essential dimensions of women's oppression which unambiguously defy explanation in terms of the needs of the capital accumulation process." (Randall 1988:12) She cites state action or inaction on the issues of rape, pornography, wife abuse, and abortion as central features of women's oppression to which the accumulation needs of capital provide no insight.

The debate, identified by Randall, centres around the issue of whether the analytic primacy of production is inevitably reductionist in its approach to patriarchy. Randall's position is unambiguous: "...the



tendency on the part of some Marxist feminists to view the state's role in women's subordination as an outgrowth of the state's quintessentially capitalist character is extremely problematic and reductionist." (Randall 1988:12) On the other hand, the Armstrongs' article would suggest that one begins but does not end with the analysis of production. They state that a Marxist analysis must include the analysis of women's particular reproductive capacities in order to fully comprehend both production and reproduction. However, it is not clear from their work whether they would draw the line at a dual system analysis. Jenson, however, is most explicit in her rejection of a dual systems approach: "The dual system approach must be rejected here, as it has been by many Marxist feminists, because the notion of an autonomous patriarchal system which reproduces itself along side capitalism is impossible to sustain." (Jenson 1986:23) Jenson appears to see historical specificity as an adequate antidote to reductionism.

While the evidence on the insightfulness of this perspective is far from conclusive, at this stage, this debate does give us an indication of the emphasis within this approach. The move away from Marxist orthodoxy, the emphasis upon the dual nature of women's oppression--class and patriarchy--indicates that this perspective addresses the feminist concern with the centrality of women's oppression. The call for and pursuit of historically specific studies indicates a strong response to feminist concerns with the specificity and change within women's oppression over time. The unresolved questions revolve around the ability of this perspective to address the issues of continuity as well as the issue of disjuncture between capitalism and patriarchy. This tendency within

socialist feminism seems less able to address the pervasive, suprahistorical character of women's oppression than, for example, Mitchell (1975) or the radical feminist perspective. The discomfort among theorists within this tendency to accord the same analytic weight to patriarchy as to production suggests a bias in the direction of specificity and change at the expense of continuity. Finally, the emphasis upon the symmetry and fit between capitalism and patriarchy, within this perspective, blocks the idea of a dynamic and a function within reproduction which can be seen as distinct from production and could therefore account for the possibility of disjuncture between capitalism and patriarchy. While the debate continues a number of feminists in search of an analysis of the 'patriarchal' as well as the 'capitalist' nature of the state have pursued a third option within the socialist feminist framework--the dual systems analysis.

#### Dual Systems Analysis

This option represents a further step away from Marxist orthodoxy, and some might argue a complete departure from it (Jenson 1986). Dual systems analysis has evolved over time, as a result of feminists who wish to retain all of the insights and richness of the radical feminist perspective, particularly its emphasis upon the continuity of women's oppression, while at the same time incorporating the strengths of Marxist historical materialism. Proponents of this perspective back away from choosing whether it is class first or sex first which explains the dynamics of domination in our society. Their solution to dealing with both issues as equally critical and fully intertwined is to posit two

systems (Delphy 1984, Hartman 1979), or a dual base (O'Brien 1981, 1986, Ursel 1986) as a means of writing women and reproduction into historical and class analysis.

This perspective has a longer history of discussion and suggestion as a means of proceeding than it does in actual application to research. As a result, the boundaries of who fits into and outside of this perspective are somewhat fuzzy. However, for the purposes of this study we have chosen to include those theorists who have identified patriarchy as a system and who subscribe to a materialist notion of determination.

Early proponents of this perspective, identified in Fox's review of theories of patriarchy (1988), are Delphy (1984) in France, Hartman (1979) in the United States, and Burstyn (1985) in Canada. These theorists all locate the core relationship of patriarchy in men's appropriation of women's labour; childrearing according to Delphy, all domestic labour according to Burstyn and all labour, domestic and productive, according to Hartman (Fox 1988:168). While these early proponents all offer a concept of patriarchy which holds out the promise of a distinct or separate system, Fox observes that "as a system patriarchy is underspecified" within their arguments. Nevertheless, these theorists have pointed in a direction which has been further developed and elaborated upon by O'Brien (1981, 1986), and Eisenstein (1979, 1980, 1984, and 1988).

In presenting a critique of this perspective Fox outlines what seem to be the missing pieces in conceptualizing patriarchy as a system or reproduction as a mode, in a manner similar to the mode of production. Her summary of the weaknesses in the early conceptual formulations

provides a good outline of the issues to be addressed in the process of dual systems theory building.

"The concept of a mode of production has traditionally referred to the manner in which--the social relations with which, the social forces by which--subsistence and other things are produced. That is, it involves a goal directed activity and the social relations by which that activity occurs. ...Unlike the conceptualization of capitalism, this understanding of patriarchy does not involve a clear specification of its origins, its structure and dynamics, and its direction."

(Fox 1988:170)

The works of O'Brien and Eisenstein represent the most rigorous attempts to come to terms with the issues of origins, structure, dynamics, and direction of patriarchy. In addition, this study is designed to extend those efforts theoretically and to explore the usefulness of this model empirically. To begin, we will consider the points at which dual systems theory and Marxism converge as well as the points of contention.

As materialists, dual systems theorists are in agreement with a number of central theoretical and methodological premises within Marxism; specifically, they agree that the starting point of a materialist analysis is the processes and relations humans enter into to provide for their survival; they agree that these processes and relations are critical because they mediate between humans and nature, define the social character of humans and condition the character of all other social and political relations; they agree that these critical relations and processes constitute the infrastructure or base of society; and finally, they agree that these basic processes and relations are historical, that in the process of working on and with nature to meet their basic needs

people create new needs and ways of satisfying them and new processes and relations of survival.

However, unlike Marxists, dual systems theorists take issue with the notion of a single base or infrastructure. They question a theory which asserts the primacy of hunger over birth. While not denying the essential nature or infrastructural location of production, they insist that birth and reproduction are equally stern necessities of survival. They assert that just as production mediates between humans and nature, defines the social character of humans and conditions the character of all other social and political relations, so also does reproduction. They reject the concept of infrastructure in which, to paraphrase O'Brien, "...hunger is epistemologically more important than sexuality", (O'Brien 1986:261) O'Brien maintains: "History has two infrastructures, one concerned with the daily reproduction of individuals (economic activity) and the other concerned with the reproduction of the species (the birth and sustenance of the new generation)." (O'Brien 1986:264)

From this perspective O'Brien identifies the task of feminist analysis as specifying the forms of contradiction emergent from three sources:

"The first of these is the economic substructure, in which contradiction emerges concretely as class struggle. The second is the reproductive substructure, in which contradiction emerges concretely as gender struggle. The third is the contradiction between these substructures, the contradiction between individual survival and genetic continuity, or the number of mouths to feed and the resources to feed them."

(O'Brien 1986:264)

Dual systems theorists accept Marxist analysis as sufficient to the first concern, O'Brien's (1981) work deals primarily with the second concern, that is identifying the origins, dynamics, and contradictions within the mode of reproduction. Eisenstein and this study wrestle with the issues identified as the third concern, that is, the nature of intermodal dynamics and contradiction.

O'Brien's greatest contribution to dual systems theory is her demonstration that, when reproduction is located within the base, when it ceases to be seen as derived from production, theorizing of its dynamic, contradictions and direction becomes a real, achievable project. A project, not without differences and debate, as every theory building project requires, but nevertheless conceivable in a manner previously blocked by the conceptual restraints of biological determinism or economic reductionism. In liberating reproduction from these conceptual confinements feminists liberate their theoretical potential. O'Brien proceeds to blaze a brilliant and provocative trail in her book The Politics of Reproduction (1981).

At the centre of O'Brien's analysis is a claim that "genderically differentiated processes of human reproduction itself" give rise to gender differences in consciousness and the divisions of labour and power they invoke. She relocates Marx's production-centered concept of alienation to identify the nature of gender differences in consciousness and locate the dynamic and direction of reproductive relations. O'Brien identifies sexual differences in reproduction as material, mediated by consciousness and labour and further conditioned by historical development in productive and reproductive relations. She maintains that for both men and women,

reproduction contains a moment of alienation to be overcome. However, the nature of the alienation and the strategies for overcoming it differ substantially for women and men.

"The separation of all people from the natural world is mediated in the process of productive labour, but the relation of women to the biological world of species continuity is mediated by reproductive labour. This is not, of course, the case with men: the process of reproduction entails a separation of men from nature in the necessary alienation of the male seed in copulation."

(O'Brien 1986:429)

O'Brien locates the origin of patriarchy in men's struggle to resist this alienation. Their strategy, she states, is the familiar one of appropriation. "These efforts generally take the forms of collusion with other men, the appropriation of children, and thus of women's reproductive labour, and the building of a hegemonic system to justify these procedures and to engineer consent to their interpretations of gender and knowledge."

(O'Brien 1986:263)

In The Politics of Reproduction, O'Brien identifies the dynamic of patriarchy as the fight for the control of reproductive power, on the one hand the resistance of men to their alienation from reproduction, on the other hand the struggle over the involuntary nature of reproductive labour. In response to Fox's challenge that a theory of patriarchy must identify goals, structures, and dynamics within the system, O'Brien's work provides: the goal, control of reproduction; the structure, the institution of marriage and paternal 'rights' to children; the dynamic, male resistance to their alienation from reproduction and women's struggle around the involuntary nature of reproductive labour; The contradiction, the struggle over the dual potentialities of reproductive technology which

could further enslave or liberate women from the involuntary nature of reproductive labour.

"It is precisely because the involuntary component of reproductive labour is now challenged by technology (currently about as sophisticated as the water wheel) that the dialectics of reproduction emerge in a new social form, which challenge patriarchal praxis as a denial of actual female reproductive experience and a willful transformation of female reproductive consciousness."

(O'Brien 1986:263)

While it is incorrect to assume that all dual systems theorists subscribe to O'Brien's particular accounting of the origins and dynamic of the patriarchal system, (in the next chapter we will be suggesting a somewhat different sequence of events), nevertheless, her work marks a turning point for feminist theory. In The Politics of Reproduction, O'Brien moves this particular school of thought from the position of talking about to actually implementing a dual systems analysis.

Eisenstein begins with the same premise as O'Brien, that patriarchy is at one and the same time universal and historically specific. Also like O'Brien her definition of patriarchy, her explication of its goal and direction is based in the struggle to control reproduction. "Patriarchy then, is largely the sexual and economic struggle (because these are never separated in practice) to control women's options in such a way as to keep primary her role as childbearer and rearer." (Eisenstein 1980:48)

In her early work (1980) Eisenstein introduces the distinction between familial and social patriarchy in order to clarify the different forms but continuous effects of patriarchy within recent history (the transition to a capitalist economic system). She defines familial patriarchy as the "hierarchical sexual organization for the reproduction



of sex-gender as it exists in the family" and social patriarchy as "the organization of sex-gender as it exists throughout the society understood as a totality." (Eisenstein 1980:44) The object of her analysis is to demonstrate that "as some of the patriarchal relations of the family have been undermined by changes in women's consciousness and position in the economy, the state through the system of social patriarchy is trying to reinforce familial patriarchy." (1980:44)

Identifying the state as both capitalist and patriarchal, conceived as separate but interdependent systems of domination, she undertakes an analysis of the state which focuses on the dynamic tension between these two systems. Specifically, she undertakes to explain the state's dual and contradictory tendencies to structure women's collective subordination while championing individual rights to equality. The key to this contradiction, according to Eisenstein, lies in the state's dual commitment to capitalism and patriarchy, systems whose expressions and dynamics are not always in harmony.

"Within capitalist patriarchy the conflict exists between the ideology of liberal individualism which is reproduced in the economic relations of the society and the male privilege structures and protected through the family. ...between the patriarchal values of society which define women's responsibility and place in the home as mother v.s. the growing needs of the capitalist economy for women to enter the labour force."

(Eisenstein 1980:53-54)

Eisenstein maintains that the state functions to mediate these conflicting demands in order to perpetuate the system as a whole. As a result the contradictory pattern of contemporary state intervention is explained in terms of the rise and fall of liberal economic

interests/ideology on the one hand and traditional patriarchal interests/ideology on the other. The state represents class and patriarchal interests, "but because they often are in conflict with one another today, it must stand apart from the whole, while it sorts through how to promote the totality." (Eisenstein 1980:60) As such, state mediation both contains and expresses a fundamental division within contemporary capitalist societies.

This conception of the state implies that it is "relatively autonomous" although interconnected with both systems.

"To say that the state is only relatively autonomous from its capitalist and patriarchal class structure is to argue that the state makes choices within these class constraints. State policy reflects the conflicts that exist, given the constraints of the existing political discourse; it is not completely determined or entirely autonomous."

(Eisenstein 1984:331)

In her more recent work, The Female Body and the Law (1988), Eisenstein explores how the state makes choices, as well as the impact of these choices in an analysis of the law. She maintains that the law is not merely an instrument of patriarchy, it is patriarchal. However, the law like the state contains and expresses the divisions between capitalism and patriarchy. This contradiction is revealed in its clearest form, according to Eisenstein in the assumption of equality within the law. She asserts that the legal notion of equality is:

"...progressive to the degree that it assumes men and women to be the same, and reactionary to the extent that its notion of what is "the same" derives from the phallos. It is progressive to the degree that it recognizes sex difference(s) as potentially creative and productive, and reactionary to the extent that it differentiates women according to their gender."

(Eisenstein 1988:43)

Much like MacKinnon (1989), Eisenstein identifies the feminist political agenda within the state, as a process of elaborating on the progressive elements within the law, pushing it to the point of making their coexistence with the regressive elements untenable.

Eisenstein's work has been particularly influential in the development of feminist theory of the welfare state. She argues that "The social welfare state has uncovered the state's particular interest in affirming specific family forms and function. Although the state has always been active in defining the family realm the social welfare state has made this involvement explicit." (Eisenstein 1984:334) Her analysis of the role of the state in relation to capitalism and patriarchy has provided a useful framework for analyses of the welfare state. Her model simultaneously comprehends and makes sense out of the centralization of patriarchal power in the state and the contradictory policies which coexist within the contemporary welfare state. The concept of social patriarchy as the defining feature of the modern welfare state and the emphasis upon the dynamic and contradictory pressures from capitalism and patriarchy within that state, have become central features of contemporary feminist analysis of the state.

Dual systems theory represents a feminist strategy to develop a theory which is equally responsive to the issues of centrality, continuity, and change in the analysis of women's oppression. It attempts a synthesis of production-centered analysis, which tends to be more historically specific, and reproduction-centered analysis which more frequently addresses the suprahistorical features of women's oppression.

In assessing the potential of this model we will first consider the comments of its critics.

We have earlier suggested that O'Brien's work contains many of the features identified by Fox (1988) as lacking in the early formulations of dual systems theory, that is, the ability to identify a goal, direction and dynamic in the system called patriarchy. Similarly, we would maintain that Eisenstein's analysis identifies the same goals and directions and presents a sophisticated analysis of the presence and interconnection between capitalist and patriarchal interests at the state level. However, both theorists, committed to the method of historical materialism, are most vulnerable to critics who question the material basis of their analysis.

Fox observes that in O'Brien's attempt to apply the Marxist model of productive relations to reproductive relations she borrowed the form rather than the content of the model.

"She looked at relations, but the relations are between humans on the one hand and sperm and egg on the other. She referred to the labour involved in giving birth, but analyzed its existential nature rather than its social organization. ...More broadly, she argued that consciousness follows from the mechanics of the movement of sperm and egg."

(Fox 1988:166)

One of the consequences of this particular perspective is an idealist notion of the origin of patriarchy. Patriarchy is seen to be the result of male desire, the desire to overcome their alienation from reproduction through the appropriation of children and women's labour. We are left with the assumption that it is not because there is a material benefit in

controlling reproduction, perhaps a material necessity to do so, but rather a male desire to do so.

In a similar vein Randall (1988) questions the materialism in Eisenstein's analysis, particularly her failure to identify the different material basis of the relations of production and patriarchy.

"...she does not tell us which relations are essentially patriarchal and/or capitalist or what the different material bases of these relations are. ...Insofar as her analysis begs the question of the foundations of these separate yet interdependent realms, then, her explication of their operation both in society and the state remains essentially ambiguous."

(Randall 1988:12)

These criticisms are important and raise some critical issues for a model which intends a historical materialist analysis. While some (Jenson 1986) might cite these criticisms as sufficient cause for dismissing dual systems analysis, we choose to treat these criticisms as constructive, identifying the necessity of a good material grounding in future dual systems analysis. We do not see the problems of the past theorizing as inherent in the perspective itself. In fact, we maintain that it is only by according equal primacy to production and reproduction that feminist analysis can avoid the obvious traps of biological determinism or economic reductionism which have so frequently obscured the history of women and reproduction in society.

### Summary

The goal of this chapter was to provide a review of the rich and growing feminist literature on reproduction and the state, which has served to frame the questions and direct the focus of this particular

study. In the process of review we have also undertaken an assessment of the various theoretical and research strategies in terms of their ability to incorporate and explicate the issues of centrality, continuity and change, essential to a full understanding of the role of women and reproduction in society. While we identified the advances made by all feminist analysis in treating women's oppression as a central feature in social analysis, we have argued that a reproduction-centered analysis alone is not sufficient to the task. We, therefore, explored a number of different feminist theoretical strategies for retheorizing reproduction and the state which fall roughly into three different schools of thought: radical feminist analysis which asserts the primacy of reproduction, Marxist-feminist analysis which asserts the primacy of production and dual systems analysis which asserts the equal significance and co-determinative nature of production and reproduction.

From our review, we have concluded that the model with the greatest potential to address all three issues of concern, centrality, continuity, and change, is the dual systems model. In doing so, however, we acknowledge the serious and important nature of criticisms directed to the model, particularly the failure of dual systems theorists to specify the material base for patriarchy as a system. In the next chapter we will address this issue suggesting an alternative, materialist model for conceptualizing patriarchy. We will undertake to specify the material base for patriarchy as a system through the identification of discrete modes of reproduction and their pattern of interaction with concurrent modes of production.

Unlike O'Brien we put greater emphasis upon the co-determinative character of the two modes and suggest that the dialectic is best understood as inter-modal rather than a set of parallel, separate dynamics within each mode. While we acknowledge that both production and reproduction have a dynamic of their own as each organizes different aspects of human labour, we argue that the existence of contradiction and the dialectic of any given social system lies precisely in the interaction of the two modes. This strategy not only requires a detailed theorizing of reproduction but also a serious reconsideration of the dynamics of production which, within Marxist orthodoxy, is seen as self-contained.

Finally, we refer to the direction being taken in feminist works on the contemporary state, their call for a clearer conceptualization of patriarchy, their attempts to develop a reproduction centred analysis, as indications that the focus of the dual systems model is increasingly relevant to feminist state theory. Showstack Sassoon's (1987) review of feminist analyses of the state which includes the works of writers throughout Europe and North America is a good example of the convergence of theoretical interest on the operation of patriarchy within the state.

These articles cover a large number of states, for example Hernes and Dahlerup on Norway, Balbo and Turnaturi on Italy, Borchorst and Siim on Denmark, Showstack Sassoon on Britain, and Smith on the United States. Amidst this amazing variety, however, it is possible to identify some consistent and shared themes which, we suggest, point in the direction of a dual systems approach. These articles all accord a central role to patriarchy, in many cases<sup>9</sup> equal to production, as a means of comprehending the patterns of modern state intervention. They identify

the necessity of further theorizing of patriarchy as a precondition to specifying the dynamic between capitalism and patriarchy. Similarly, they all emphasize the necessity of undertaking historically specific analyses in order to specify the precise nature of the intersection of and ongoing dynamic between capital and patriarchy. Their concerns reiterate our three themes, centrality, continuity, and change, issues which, we maintain, the dual systems analysis with its balanced focus on production and reproduction is particularly well designed to address.

In keeping with the direction provided by dual systems theory and the call for further research in Showstack Sassoon's anthology, we undertake an analysis of the dynamic between production and reproduction and the resulting relation between the family and the state in Canada. We will proceed, first, by outlining our alternative conception of the operation and intersection of the dual systems, production and reproduction, and then by applying our model to an analysis of family-state relations in Canada from 1884 to 1968.

#### FOOTNOTES

1. Marxist theory of the state is a theory of the operation of class power. Feminist interest in the state is in terms of its relation to the operation of patriarchal power. As a result, we find within the feminist literature an adaptation of various concepts of state activity in relation to class power, applied to the analysis of the state in relation to patriarchy. Even theorists who renounce Marxist theory and methodology, for example, MacKinnon (1989) rely heavily on Marxian concepts to develop their alternative theory.
2. It is interesting to note that Jenson fails to identify the fact that France's policy of accommodation (of motherhood and employment) resulted in the lowest birth rates of all industrializing countries in the late 19th and early 20th century. (see table 4.2 Chapter 4).



3. "The biological family--the basic reproductive unit of male/female/infant, in whatever form of social organization--is characterized by these fundamental, if not immutable, facts:
- 1) That women throughout history before the advent of birth control were at the continual mercy of their biology--menstruation, menopause, and "female ills", constant painful childbirth, wetnursing and care of infants, all of which made them dependent on males (whether brother, father, husband, lover, or clan, government, community-at-large) for physical survival.
  - 2) That human infants take an ever longer time to grow up than animals, and thus are helpless and, for some short period at least, dependent on adults for physical survival.
  - 3) That a basic mother/child interdependency has existed in some form in every society, past or present, and thus has shaped the psychology of every mature female and every infant.
  - 4) That the natural reproductive difference between the sexes led directly to the first division of labor at the origins of class, as well as furnishing the paradigm of caste (discrimination based on biological characteristics)."

From, Firestone, S. The Dialectics of Sex, Bantam Books, Toronto 1972, page 9.

4. For an excellent account of the feminist theoretical reclamation of motherhood see H.J. Maroney, "Embracing Motherhood: New Feminist Theory" in The Politics of Diversity, edited by R. Hamilton and M. Barrett, Book Centre Inc. Montreal, Quebec 1987.
5. Three anthologies stand out as being particularly good references on these issues: Eisenstein, A., Capitalist Patriarchy and the Case for Socialist Feminism, (1979), Kuhn, A., & Wolpe A., Feminism and Materialism, (1978), Reiter, R., Toward an Anthropology of Women, (1975).
6. See Eisenstein (1979, 1980, 1984), O'Brien (1981, 1986), Delphy (1984), and Hartman (1979).
7. Mitchell's arguments for the social/political origins of patriarchy are largely based upon the research and theory of Levi-Strauss which will be discussed in greater detail in the following chapter.
8. Other theorists who articulated the importance of analyzing domestic labour are Margaret Benston, "The Political Economy of Women's Liberation", reprinted in Voices from Women's Liberation, ed. Leslie Tanner, New York 1971; also Peggy Morton, "Women's Work is Never Done" reprinted in Women Unite!, ed. Canadian Women's Educational Press, Toronto, 1972.

9. The articles by Showstack Sassoon, H. Hernes & B. Siim, in Women and the State, ed. Anne Showstack Sassoon, Hutchinson, London 1987, emphasize the centrality of patriarchy in comprehending the contemporary welfare state.

## CHAPTER 3

### TOWARDS A THEORY OF REPRODUCTION

The obscurity of reproduction in modern theory is undoubtedly a reflection of the preeminence of productive relations in industrial societies. Therefore, we are beginning our analysis of reproduction with a look at social systems which predate class, as well as capitalism. We are turning to the anthropological accounts of early social organization to begin to reconstruct our understanding of the intersection of production and reproduction. Because this literature focuses on societies in which the dominant system of social organization is rules of kinship, which are rules of reproduction, it is the richest source of observations within which to discover the dynamics of reproduction. Also, because this literature includes a great range and diversity of systems for organizing reproduction, documenting a remarkable consistency in the presence if not the form of sexual divisions of labour, it speaks directly to our requirements of addressing the issues of continuity and change within these dynamics. This literature provides essential conceptual tools to proceed with our analysis of reproduction and develop our concept of distinct modes of reproduction.

The work of feminist anthropologists have called our attention once more to the obvious fact that all societies must both produce and reproduce in order to sustain themselves. Although the existence of those

requirements is obvious, the process whereby societies attempt to balance the requirements and necessities of production and reproduction is anything but obvious. The process of balance and coordination becomes increasingly obscure the more complex the society becomes and the more divided the two spheres become.

In attempting to rediscover the significance of reproduction theoretical anthropologists such as Muller, (1977), Harris (1980), Meillassoux (1981), and Rubin (1975) have begun with the simple direct relationship between production and reproduction characteristic of pre-state societies and traced the increasing domination of productive relations over reproductive relations characteristic of state/class societies. The point is not to argue that reproductive relations cease to be a significant societal determinant under such domination (as is the tradition) but to illustrate how the significance of reproductive relations becomes obscured through that process of domination. These studies have introduced some important innovations in conceptualizing reproduction, and the relationship between production and reproduction which provide the ground work for the development of a theory of reproduction.

#### Reproduction as Base

As a first step Harris provides a succinct and persuasive rationale for the treatment of reproduction as base, which complements O'Brien's arguments, previously cited. Using the term "infrastructure" rather than "base" he sets out to define what characteristics distinguish infrastructure as a specific theoretical category. "Infrastructure, in

other words, is the principal interface between culture and nature, the boundary across which the ecological, chemical, and physical restraints to which human action is subject interact with the principal sociocultural practices aimed at overcoming or modifying those restraints" (Harris, 1980:57).

Reproductive relations clearly reflect a principal interface between culture and nature and as such according to Harris & O'Brien (1986) properly fall within the infrastructural category.

"Like all bioforms, human beings must expend energy to obtain energy (and other life-sustaining products). And like all bioforms, our ability to produce children is greater than our ability to obtain energy for them. The strategic priority of the infrastructure rests upon the fact that human beings can never change these laws. We can only seek to strike a balance between reproduction and the production and consumption of energy."

(Harris, 1980:56)

In the above statement Harris not only situates reproduction in the infrastructure but he also outlines the materialist premises on which one can argue for the co-determinative relation between production and reproduction and consequently the importance of balance between the two. He concludes his argument with the following statement:

"Unlike ideas, patterns of production and reproduction cannot be made to appear and disappear by a mere act of will. Since they are grounded in nature they can only be changed by altering the balance between culture and nature..."

(Harris, 1980:58)

According to Harris the key to analysis of fundamental social change, "altering the balance between culture and nature," lies in the dynamic relation between production and reproduction, the base of all social systems.

The relevance of his analysis to our project is revealed in the way in which his conceptualization of reproduction can address the three issues critical to feminist theorizing; centrality, continuity, and change. The concept of reproductive relations reflecting the interface between culture and nature rescues reproduction from a purely biological framework in addition to locating it as an irreducible and inevitable component of all social systems. This meets the requirements of establishing reproductive relations as a central focus of social/political theorizing, as well as providing a basis for understanding the continuity of certain patterns within these relations. However, the idea of co-determination between production and reproduction builds into the issue of continuity a concept of process and change. Co-determination asserts that balance between the two spheres, while being essential to the stability of a social system, is not inherent in the operations of the two dynamics.

Implicit in this analysis is the assumption of the existence of a self-generating dynamic within each system; therefore, the possibility of disjuncture and/or contradiction between them is both evident and explicable, a phenomenon previous theories had great difficulty addressing. Although Harris does not specifically analyze the dynamics of reproductive relations his work prepares the way for such an analysis.

#### Locating the Dynamics of Reproduction

Having located reproduction in the base the next step in the development of a theory of reproduction is the abstraction of these relations from other social relations for the purpose of analysis. Rubin

provides this step in her article, "The Traffic in Women: Notes on the 'Political Economy' of Sex." Combining a feminist analysis of anthropological studies of kinship and marriage with a feminist critique of psychoanalytic studies of kinship and gender Rubin proposes the concept of a sex-gender system. She states that, "every society has a sex-gender system--a set of arrangements by which the biological raw material of human sex and procreation is shaped by human, social intervention and satisfied in a conventional manner" (Rubin 1975:165).

Rubin argues that just as all societies must have some organized system of production to ensure survival so all societies must have an organized system of reproduction. However, she insists that the sex-gender system is not a mere reflex reaction to the productive forces. "A sex-gender system is not simply the reproductive moment of a 'mode of production'. The formation of gender identity is an example of production in the realm of the sexual system. And a sex-gender system involves more than the 'relations of procreation', reproduction in the biological sense" (Rubin 1975:167). The sex-gender system involves the social structuring of gender identity, sexual desire, fantasy, concepts of childhood, in addition to the regulation of procreation.

Rubin's purpose in analyzing the sex-gender system is two-fold. First, while the object of organization of the sex-gender system--the biological raw material of human sex--is clearly distinguishable from the object of organization of the mode of production--human labour--the components of the system and its distinctive dynamic must be identified in order to transcend an economistic framework. Secondly, in asserting that all societies must have a sex-gender system she does not mean to

imply that the organization of reproductive relations presupposes gender stratification. Thus, she attempts to distinguish the fundamental characteristics of a sex-gender system in the abstract from the specific characteristics of a gender stratified system.

She maintains that kinship systems are "observable and empirical forms of the sex-gender system" and bases her analysis on studies of preclass kin-based societies. She begins with Levi-Strauss because within his work "kinship is explicitly conceived of as an imposition of cultural organization upon the facts of biological procreation" (Rubin 1975:176). His most insightful observations on gender, according to Rubin, are to be found in his essay "The Family", in which he explores the preconditions necessary for marriage systems to operate.

To this end, Levi-Strauss (1971) focuses on the puzzle presented by the sexual division of labour which is universally present yet unpredictably variegated in practice. From a study of the variation he concludes that the division of labour by sex is not a biological specialization. Its purpose, he argues, is to ensure the union of men and women by making the smallest viable economic unit contain at least one man and one woman. "The sexual division of labour is nothing else than a device to institute a reciprocal state of dependency between the sexes" (Levi-Strauss 1971:348).

"The division of labour by sex can therefore be seen as a 'taboo' a taboo against the sameness of men and women, a taboo dividing the sexes into two mutually exclusive categories, a taboo which exacerbates the biological differences between the sexes and therefore creates gender. The division of labour can also be seen as a taboo against sexual arrangements other than those containing at least one man and one woman, thereby enjoining heterosexual marriage.

(Rubin 1975:178)



The importance of Levi-Strauss' deductions are two-fold. First, he reverses the usual understanding of the causal relationship between the sexual division of labour and gender. This has radical implications for the analysis of gender in all societies but in particular for societies in which there is no identifiable link between gender role proscriptions and the existing division of labour. The failure to identify a necessary link between gender and the sexual division of labour, which is particularly problematic in industrialized societies, may well be a result of the fallacy of the accepted direction of causality. The traditional question--how has gender led to a particular division of labour?--has been rephrased by Levi-Strauss--how has the division of labour led to particular gender roles? If the division of labour is understood as a mechanism of creating or preserving gender divisions, then its continued existence in any society should be explored in terms of the necessity of maintaining gender distinctions within the society as a whole and not in terms of its necessity for the organization of labour.

The advantage of this explanatory model in terms of our problem is obvious. Through reversing the direction of causality he explains the variegated forms of sexual divisions of labour in terms of the continuity of concern for a regulated system of reproduction. His interpretation of the relation between gender and divisions of labour is, therefore, suprahistorical in dimension and can account for continuity without neglecting historical specificity. The only other alternative to the traditional approach (which is biologically determinist in origin), has evolved as an attempt to explain the dilemma of the sexual division of labour in industrialized societies. It accounts for the maintenance of

the sexual division of labour as a prerequisite not of the organization of labour but of the extraction of surplus (Connelly 1978; Armstrong and Armstrong 1978). The problem with this popularly accepted alternative is that it brings us back to explaining reproductive relations in terms of economic dynamics and precludes the possibility that reproductive relations have any dynamic of their own. Levi-Strauss' approach can explain variation within continuity, does not reduce reproductive dynamics to productive dynamics and does not resort to biological determinism.

Secondly, according to Levi-Strauss, individuals are engendered in order that marriage be guaranteed. This implies a radical questioning of all human sexual arrangements, in which no aspect of sexuality is taken for granted as "natural." Unfortunately, Levi-Strauss does not pursue the logic of his own deduction. Rubin, however, sees his analysis as providing a critical insight into the dynamic of the sex-gender system. She pushes the implications of his observations to conclude that heterosexuality is an instituted process. "If biological and hormonal imperatives were as overwhelming as popular mythology would have them, it would hardly be necessary to ensure heterosexual unions by means of economic interdependency" (Rubin 1975:180).

Based on Levi-Strauss' deductions and Rubin's interpretations one could suggest that at the most general level the social organization of sex rests upon the sexual division of labour which creates gender and provides a structural enforcement/re-enforcement of heterosexuality.<sup>1</sup> "Gender is not only an identification with one sex; it also entails that sexual desire be directed toward the other sex. The sexual division of labour is implicated in both aspects of gender--male and female it creates

them, and it creates them heterosexual" (Rubin 1975:180). The sex-gender system provides, at this level, the minimal requirements for an organized system of reproduction. It "transforms males and females into 'men' and 'women', each an incomplete half which can only find wholeness when united with the other" (Rubin 1975:179). In short the basic components of the sex-gender system in pre-stratified societies are the sexual division of labour, gender and heterosexuality.

The second feature, the dynamic of the sex-gender system, is the process by which it maintains a functional balance between production and reproduction. In pre-gender stratified societies it seems reasonable to assume that the decision making process would be consistent with decision making patterns characteristic of egalitarian societies, discussion and negotiation.<sup>2</sup> At the most general level the sex-gender system, its components and dynamics, implies the repressing of some of the personality characteristics and interests of both men and women but does not necessitate the particular oppression of women. Thus such a system may be sexually egalitarian, at least in theory.

The combined insights and contributions of the above theorists have provided the basic conceptual tools to construct a theory of reproduction. All of the above theorists call our attention to the fact that the organization of reproduction is societal in scope and cannot be fully comprehended by considering the family in isolation. This emphasis is particularly important to the analysis of patriarchy which has often been understood only in terms of its familial form. To further emphasize this point Eisenstein (1980) articulated the distinction between familial patriarchy and social patriarchy. This distinction in conjunction with

the above concepts impress upon us the fact that the rules of patriarchy have never been exclusively confined to the family. Because patriarchy is a particular mode of organizing a fundamental dynamic of society (reproduction), its rules permeate all other institutions and policies of society. They are as ubiquitous as the rules of class (O'Brien 1986; MacKinnon 1989).

Furthermore, the concept of a sex-gender system provides us, for the first time, with a means of identifying the components of the relations of reproduction in a social and processual, rather than a biological and static, form. This not only permits the identification of the dynamics of reproductive relations, but more importantly locates the dynamic within the reproductive relations themselves. This development finally enables us to break with the old problematic which viewed these relations, as the mere transmitter or repository of social forces external to it.

This dynamic concept of reproductive relations invites a reconsideration of existing anthropological and historical research in the interests of revealing the obscured interaction between production and reproduction. To this end, we propose a concept of the modes of reproduction in which we will identify three distinctive modes of organizing reproduction which both respond to and exert pressure on three distinct and corresponding modes of production. These are: communal patriarchy, which corresponds with pre-class, kin-based social systems; familial patriarchy, which corresponds with class structured social systems characterized by decentralized processes of production; and social patriarchy which corresponds to advanced wage labour social systems. Although our own research deals exclusively with the transition from

familial patriarchy to social patriarchy it is worthwhile to briefly outline all three systems in order to explicate the nature of the productive-reproductive dynamic.

### Communal Patriarchy

In the case of pre-class, gender stratified societies, the introduction of female subordination alters both the components and dynamic of the sex-gender system, as previously outlined by Rubin. Male dominance necessitates that the social structuring of female subordination now becomes a fundamental component of the system, in addition to the sexual division of labour, gender and compulsory heterosexuality. This changes the dynamic of the sex-gender system itself, as well as the process of balancing production and reproduction. The essence of the change is, of course, the elimination of women from the negotiation/decision making procedure.

This particular form of the sex-gender system will be referred to as "communal patriarchy", a system described (in part) by Levi-Strauss in Elementary Structures of Kinship, as the "exchange of women." We have opted for the term communal patriarchy over Levi-Strauss' concept because the exchange of women was designed specifically to explain particular marriage patterns, only one facet of the sex-gender system, while the term communal patriarchy is broader in application. Nevertheless, Rubin's interpretation of Levi-Strauss' concept captures the critical characteristics of communal patriarchy.

" 'Exchange of women' is a short hand for expressing that the social relations of kinship system specify that men have certain rights in their female kin, and that women do not have the same rights either to themselves or to their male kin. In this sense, the exchange of women is a profound perception

of a system in which women do not have full rights to themselves."  
(Rubin,1975:177)

Such a system co-exists with communal divisions of goods and property, does not necessarily imply overt oppression but is clearly predicated upon female subordination. The very communal nature of communal patriarchy suggests that women's position is not necessarily characterized by a slavish subordination to or dependence on a particular spouse, for authority does not lie within a male spouse/father per se, but within the larger male dominated kinship network. Because authority relations between men and women are not atomized at the household level, because women's subordination is to the larger male kin network (including uncles, fathers, brothers, as well as, husbands), this would tend to direct male dominance to the determination of the parameters of productive and reproductive work. Communal patriarchy could, at least in theory, allow women some degree of autonomy and maneuverability within the male determined framework.

Thus the sex-gender system under communal patriarchy requires a generalized subordination of women but does not necessitate a particularized oppression of women by husbands/fathers. To have said this does not imply that such oppression will not occur, for example the Mundagamour (Harris 1975) or the Mundurucu (Murphy 1959), only that it is not essential to the operation of the sex-gender system in this form, for example the Arapesh and the Tchambuli (Mead 1935).

The transition from simple male-female interdependency to hierarchical interdependency (female subordination) is the subject of Meillassoux's work Maidens, Meal and Money (1981). He undertakes a study

of pre-class societies, using the term domestic societies, to explore the material basis of and the social structuring necessary for female subordination. His project provides a materialist alternative to O'Brien's accounting of the origins of women's oppression. Meillassoux accords equal weight to the pressures and dynamics of production and reproduction in his analysis.<sup>3</sup> "The social organization of the domestic agricultural community is built (simultaneously and indissolubly) both upon the relations of production. ...and upon the relations of reproduction necessary to perpetuate the productive cell." (Meillassoux 1981:38) While he asserts the equal importance of production and reproduction to the survival of the community he must also address the obvious predominance of rules of reproduction within these societies. "It is evident that reproduction is the dominant preoccupation of these societies. ...the reproduction of individuals and the places they occupy from birth throughout their lives are the object of careful social control which dominates social relations as a whole." (Meillassoux 1981:38)

Meillassoux begins with the premise that production and reproduction must be balanced to secure the ongoing survival of a community. This balance, he states, consists of two processes separated in time and space. On the one hand, immediate survival is secured through the balancing of productive and nonproductive members of a community. Under normal circumstances this balance is determined by age distribution, the number of productive adults in relation to the number of dependent children and/or elderly. On the other hand, Meillassoux observes that this age-based ratio is predicated on a sex-based ratio, the number of reproductive-nonreproductive members of the community.

Meillassoux explains the predominance of reproductive concerns in domestic societies in terms of the dependence of the productive-nonproductive balance upon the reproductive-nonreproductive balance, in short, the dependence of productive continuity upon reproductive continuity. Yet, Meillassoux observes that these early communities were demographically vulnerable, by virtue of size, to accidents of morbidity, sterility, or premature deaths. Thus, while the size of the communities was well adapted to balance their productive capacities with their productive requirements it put communities at risk demographically. "Neither the band nor the agricultural community is demographically self-sufficient. Therefore, to ensure that structural reproduction takes place, mobility of individuals between productive cells is necessary." (Meillassoux 1981:13)

However, the mobility of men and women is not equally responsive to the concerns of reproductive continuity because the reproductive capacities of a community are determined by the number of women, not men, that it contains.

"If the woman's offspring are the stake, it is evident that whenever one type of mobility is operative it tends to exclude the other, since the simultaneous mobility of both sexes allows no organized distribution of women and therefore of the benefit of their procreative capacities. Either all women are kept, or they are all exchanged for others."

(Meillassoux 1981:25)

Thus Meillassoux argues that because it was the demography of domestic societies which was most vulnerable and it was the supply of women, not men, which could overcome that vulnerability, communities organized themselves in relation to others to secure women. Thus mobility



was sex-specific and the predominance of the rules of kinship and their focus on the distribution of women and their progeny became the means of balancing production and reproduction.<sup>4</sup> Meillassoux's attention to both the dynamics of production and reproduction provides an opportunity to locate the purpose and function of patriarchy within the intersection of the two spheres. The material basis for the exchange of women is located in the demographic requirements for reproductive continuity of small productive units. Thus the location of a material basis for women's oppression is not inevitably reducible to human biology. The critical factor in the process Meillassoux described was that it was the social organization of production--not human biology per se--which made these communities demographically vulnerable. Thus it was a particular intersection between the two spheres, a misfit between the social structuring of production and the requirement of reproduction which provided both the motive for and the means to introduce patriarchy.

These early attempts to balance production and reproduction through female subordination could also be interpreted as a first step in the alienation of reproduction from production. As the persons primarily responsible for reproductive work are systematically cut off from decision making within that sphere, as well as within production, the potential arises for male work related interests in the sphere of production to predominate over reproductive interests. The dichotomized sexual division of labour which gave rise to distinctive spheres of authority for men and women in addition to creating interdependency may well have created conflicts of interest. By eliminating women from the decision making process over issues either of production, reproduction or their balance

men could by-pass the necessity of taking women's interests into account. This would have the advantage of instituting immediate and dramatic alterations in reproduction patterns which women previously might have effectively resisted. Male control of female bodies and their issue would effectively neutralize any resistance to some of the more primitive and distressing forms of modifying reproduction. Rapid reductions in population size could be effected by infanticide, abortion and restrictive taboos on female sexuality. Or conversely, rapid increases could be instituted by the imposition of frequent pregnancies unmediated by natural forms of regulation, for example, long term breast feeding. Enforcement of these decisions would also be enhanced by the unequal power relationship between men and women.

While this first form of alienation has a profound impact upon women, their bodies and their work it does not result in a complete dichotomy between production and reproduction. At this stage (pre-class, gender stratified), male decision making occurs within a kin based system which, while potentially less sensitive to the interests of women, is still confined to a structure (kinship) which links together production and reproduction. One could argue, however, that this first form of alienation facilitated the further separation of production and reproduction characteristic of class stratified societies.

#### Reproduction and Class Formation

The processes of alienation and centralization first identified as dynamics of the sex-gender system under communal patriarchy are greatly augmented by the imposition of class stratification upon gender

stratification. Muller, (1977) in her work, "The Formation of the State and the Oppression of Women" outlines the process of increasing centralization associated with class/state formation. She argues that the necessary pre-condition for the development of class stratification was the destruction of the unity of production and reproduction characteristic of kin based societies. We will first outline her account of changing productive-reproductive dynamics during the transition to a class system and then assess the impact of class formation upon the sex-gender system.

Muller maintains that as long as the relations of production were circumscribed by the relations of reproduction, production was geared almost exclusively to consumption. This was a reflection of the egalitarian nature of the distribution of goods and property in which the fundamental stimulus for production was need. Thus, in order for production to be geared to accumulation and exchange (a necessity for the development of a class society), its alienation from reproductive (kin) relations was essential.

Studying the transition period in two very different cultures, Wales and the Ganda Kingdom in Central Africa, she identifies the erosion of the political power of kinship as the critical determinant of class/state evolution. She offers her analysis as an alternative to Engel's quantitative economic emphasis on surplus. "Whether or not a surplus is produced is not the vital question. Rather, we must know who produces what and for whom" (Muller, 1977:12). She points out that state formation has its roots in exploitation. However, kinship structures stood in the way of this process because they were organized on an egalitarian basis which, in times of surplus, exerted pressure for more or less equal

distribution and clearly inhibited the process of accumulation. Shifting the focus from quantity of production to the character of social organization she states: "Our task is to find the social relations the forms with changing content which mark the transition from one kind of society to another" (Muller, 1977:12). This shift in focus brings the significance of reproductive relations during the transition into broad relief.

The process of transition was gradual, it did not occur immediately through taking the productive functions away from the kin groups but rather was initiated by separating individuals from the productive-reproductive kin group.

"The first separation of productive functions from the reproduction of the kin group occurs in capturing members of other social groups, divorcing these people from their kin groups, i.e., it occurs through alienating members of the group for production outside the group..." Another form of exploitation is labour service, that is, alienation of labour power from the group - as distinct from the whole person. - Later, in the state formation process it occurs by alienating the means of production from the kin group (e.g., land)."

(Muller, 1977:13)

Interestingly enough, she explains the erosion of the kin group in exclusively economic terms. "The state was created through changes in the relations of production...The most important means was the destruction of joint families of the tribal peoples by the alienation of their resource base" (Muller, 1977:15). Because she works within a traditional Marxist framework her conclusion confounds her analysis. Clearly, her argument could and should have equally concluded that the state was created through changes in the relations of reproduction. After all, it is the change in

these relations which she sets out as the critical determinant for the development of accumulation, class and the state.

Her attention to productive-reproductive relations in the process of state formation not only implies the co-determinative role of reproduction but also has implications for understanding family-state relations in class societies in general. It is in this process of transformation, characterized by the increasing alienation of production from reproduction, that one can most clearly locate the evolving role of the state as mediator between the two spheres.

In pre-state societies reproduction was regulated and guaranteed by its unity with production, and family relations were structured and stabilized by their unity with the community. This direct relationship was destroyed with the development of state societies. The state was called upon to mediate this relationship regulating reproduction through a series of laws and edicts in the interests of production. State societies reverse the logic of the relationship between production and reproduction: in pre-state societies people produced to meet the needs of the reproductive kin-based group, whereas, in state societies the state regulates reproduction to meet the needs of production. Thus in pre-state societies it was in the direct material interest of the individual and the kin group to reproduce. In state societies the material advantage of reproduction, that is, the productive potential of the labour power produced, accrues increasingly to those who control production rather than those who produce and reproduce.

Another consequence of the separation between production and reproduction was the distinction between the social (economic and

political sphere) and the familial (reproductive sphere) and a resulting separation in the mechanisms of their organization. It is at this point that Eisenstein's distinction between familial and social patriarchy becomes relevant. In pre-state patriarchal or communal patriarchal societies this distinction does not apply because the family, kin system is the social system. Thus, what is a social mechanism of organization is also a familial mechanism; social and familial patriarchy are one and the same thing because of the unity of production and reproduction. Within the class societies, however, the distinction between social and familial patriarchy becomes much more relevant as the separation between the public/social and private/familial spheres begin to emerge. In fact, this distinction becomes the major criterion for distinguishing the two modes of reproduction operative in class societies.

#### Familial Patriarchy

The development of class/state societies predicated upon the destruction of the political power of the kinship system and the alienation of production from reproduction served to dismantle the existing mechanisms of maintaining balance between the two spheres. The former system of male monopoly of decision making (communal patriarchy) is replaced by a more centralized system in which the dominant class has the monopoly on critical decision making and communal male social authority is reduced to individual male household authority. Thus communal patriarchy gives way to "familial patriarchy" a system characterized by the decentralization of male dominance which is subject to and reinforced by centralized political and economic authority of the

dominant class. Patriarchy is maintained as the mechanism of organizing reproduction but transformed by the separation of the productive and reproductive spheres and the dominance of the former over the latter. The necessity of controlling reproduction within these divisions and making it responsive to class interests results in a division of patriarchy's operation into two spheres, the social and the familial. Social patriarchy is manifest in the laws of marriage, property and inheritance which preserve male dominance within a class system. Social patriarchy in this system is clearly essential, but also clearly secondary in that the locus of power of patriarchy within this mode is the family. Hence the identification of this mode as familial patriarchy. Eisenstein (1980) uses the term 'feudal patriarchy' to refer to the same system.

Familial patriarchy presupposes a decentralized process of production because male control of essential resources is the material basis of his authority/power. Women's subordination, therefore, becomes particularized. The destruction of communal distribution of goods now makes women dependent upon their husbands/fathers whose control of resources while limited by their class location, is greater than women's due to patriarchal property and inheritance laws.

While it is clear from a focus on production why communal male authority had to be usurped in order to make way for a class system, it is not as clear why male authority had to be maintained in its revised form. In order to understand the tenacity of patriarchy and why it took the particular form that it did in class societies we must focus upon reproduction and its relation to production.

The destruction of the old kinship form of social organization called for a restructuring of the social system to provide order and ensure the interests and privileges of the dominant class. This was achieved through the formation of the state, the legal system, and the military, which structured and enforced the parameters within which production could occur. If reproduction were a mere function of production, the rules controlling production should be sufficient to control and manipulate reproduction. The control of productive capacity and the distribution of surplus indirectly controls reproduction, for the quantity of goods available for consumption has an important if indirect impact upon reproduction. Such a dynamic is, however, a very rough mechanism of balance which usually tends only to become operative in crises of imbalance, (e.g., population declines due to starvation). Thus the state and/or religion is called upon to forestall such crises by instituting laws which directly effect reproductive relations through the codification of marriage, divorce and inheritance systems which conform to the particular mode of production of a period. Such rules and restrictions operate to maintain a balance between production and reproduction which will provide for adequate replacements of labour but restrict population density in order to preserve desirable levels of surplus extraction.

Although state mediation provides a much more finely tuned mechanism for providing balance between the two spheres it is limited in the realm of enforcement. While it is possible to legislate sanctions against deviations from the patriarchal norm, for example, adultery or illegitimacy, it is much more difficult to legislate procreation or



enforce marriage (although authorities have on occasion attempted to do so through the imposition of punitive taxes on eligible unmarried males) (Homans; 1941:188). The structure of familial patriarchy, however, provides much more effective incentives for marriage and procreation.

Control of production translates into control of reproduction through the operation of familial patriarchy. This is effected through the pattern of subordination and dependency familial patriarchy creates and its fit within the class hierarchy. Through this system a woman is dependent upon a man, husband/father, for access to crucial survival (productive) resources, ensuring male control over her body and her labour. The man, however, is dependent upon the dominant class or its representatives for access to these basic productive resources. Failure to comply with policies on production or reproduction at any level in the authority hierarchy carries the threat of loss of access to basic resources required for one's livelihood. In this way major social policy decisions can be translated into compelling structural imperatives at the individual household level.

In a class society in which the family operated as the productive unit legislation controlling reproduction is barely distinguishable from legislation controlling production. Thus it appears that the control of production is the only system operative. For example Homan's (1941) study of the shift in inheritance laws from partible inheritance to impartible-joint-family inheritance, to primogeniture are discussed primarily as laws controlling production. They are understood to reflect an interest in controlling population density to prevent the reduction of arable land to tiny plots sufficient only to sustain peasants. Such laws have been

analyzed in terms of their effect, which is obviously to enhance the productive interests of the dominant class. However, an analysis of the cause reveals the uneasy balance in existence between production and reproduction, and the necessity of continually monitoring that balance. The changes in inheritance laws were introduced specifically to restore a balance between production and reproduction, a balance upset by the dynamics of reproductive relations.

The characteristic feature of familial patriarchy is its pronatalist dynamic. This results from the nature of the interaction between class and patriarchy which creates a logical relation between productivity and procreation at the household level. The dynamic of familial patriarchy operates in the following way: the family is the productive unit and the patriarch is the head of this unit. The family has a vested interest in increasing its productivity because this will improve its life style. However, the class system ensures that the head of household has limited control over resources necessary to increase production. Control over resources (land) is out of the hands of the patriarch; it is determined by the dominant class. Technological innovation in peasant societies is limited and also usually out of the control of the head of household. The only resource the patriarch can control which can enhance productivity is labour power. In labour intensive peasant societies more children may well translate into greater productivity. Because this is the only resource men can control there develops a logical relation between productivity and procreation at the household level. Thus in societies in which the family is the productive unit the dynamic of familial patriarchy is towards the maximization of procreation.

Over time this dynamic clearly leads to problems of population density. The third world is a current example. However, these problems do not interrupt the pro-natalist dynamic either at the household level or at the societal level. At the household level the patriarch will still have a sufficient vested interest in procreation even under a system of diminishing returns. First, because it is the only possible resource he can control, even when the strategy is a "long shot" it is better than no strategy at all. Secondly, even when the costs equal or out balance the pay off, in terms of production, the patriarch's interest in procreation is not upset because the patriarchal family structure ensures that the costs associated with the failing strategy are borne not by the patriarch but by the women and children. Patriarchal laws of marriage, inheritance and property ensure that the holdings will not be diminished to the point of mere subsistence and when population density does pose a potential threat to surplus extraction the surplus population can simply be discarded, that is, pushed off the land. Thus the privileges of class and sex are preserved by laws (the operation of social patriarchy) which guarantee that any immediate negative consequences from an imbalance in production and reproduction do not fall upon male land holders or the dominant class.

Familial patriarchy is ideally suited to the needs of class societies in which the production process is decentralized and labour intensive. It is a system that can accomplish the one thing neither the state nor the dominant class can and that is to guarantee a constant and predictable rate of reproduction. The problems which result from the pro-natalist character of familial patriarchy can be much more easily

controlled by legislation than can the initial problem of promoting procreation. A study of the evolution of marriage and inheritance laws in feudal society provide evidence of the effectiveness of legislation in modifying or containing the dynamic of familial patriarchy when population density does become an issue.

Homan's (1941) classic study of everyday life in feudal England indicates clearly how changes in property laws over time were a response to the need to balance productive-reproductive capacities in the interests of the dominant class. Partible inheritance is associated with the period of expansion in which increasing population could be put to use to cultivate expanding land holdings. In this phase there was no need to curb the pro-natalist dynamic of familial patriarchy. The next phase, in which expansion of property was limited, was characterized by impartible, joint family inheritance. This served to keep land holding intact but permitted an increasing density of population on the land. The final phase, in which population density became a potential threat to surplus extraction was marked by the rule of primogeniture which insured that only one productive-procreative unit could stay on the land. This effectively handled the problem of population density in two ways. First, and most commonly the surplus population, the disinherited children, were forced off the land, into armies, monasteries, nascent towns and commercial centers, providing a variety of cheap labour functions at no obligation to the feudal lord. Secondly, custom and law permitted the disinherited offspring to stay on the land by renouncing their right to a family.

"In the East of England, the customals and court rolls speak of a class of people called anilepigymen and anilepioymen. An anilepiman had no permanent stake in a village. He might be allowed to keep a few cattle or sheep on its pastures, but he held no land. Anilepi is an early form of the word only. Anilepiman means single man, unmarried man, but an anilepiman was also a landless man."

(Homans, 1941:136)

The interaction between class interests and patriarchal interests which made marriage (in most cases) contingent upon access to land provides an effective mechanism for containing the pro-natalist dynamic of familial patriarchy. Arensberg and Kimball's study, Family and Community in Ireland, provides dramatic evidence of how effective this strategy is. In Ireland, as late as the beginning of this century, this practice resulted in a high incidence of bachelorhood, later marriage and a resulting dramatic decline in population.

"In Country Clare 88 per cent of the males between 25 and 30 in rural districts were unmarried. This percentage is not abnormally high for Ireland, as Sligo, Galway, Mayo and Leitrim, areas of small holdings, have 90 per cent and Roscommon 91 per cent. In Clare 90 per cent of women between 20 and 25 were unmarried, yet six western counties have higher percentages than Clare's.

(Arensberg and Kimball, 1968:101)

These customs, laws of marriage, property and inheritance have typically been analyzed as examples of how rules of production control if not determine reproductive dynamics, and this of course is correct when one concentrates upon effects. However, the question ignored is cause, the cause of the problem of population density develops from the dynamic of patriarchy, an entrenched pro-natalist dynamic which can only be effectively curbed by threat of, or removal of access to basic productive resources (land). By broadening our analytic focus and clarifying the

actual process of familial patriarchy it becomes evident that reproductive relations do have an active rather than just reactive dynamic and that this dynamic influences rules of production and property as much as it is effected by those rules.

In summary, the balance between production and reproduction in the familial mode of reproduction was achieved through a finely co-ordinated system of centralized and decentralized authority. While control of production necessitated the centralization of authority over land in the hands of the dominant class, the control of reproduction required a decentralized system of authority over women in the hands of the household patriarch. These dual levels of authority were structurally complementary because of the amenability of the resource (land) to centralization in conjunction with the decentralized nature of the productive process. The authority and interest of the patriarch did not compete with those of the dominant class precisely because the material conditions of this household authority (access to land), were based upon his submission to class authority. This symbiotic relationship between class and patriarchy was possible as long as the productive process was decentralized and the family operated as a productive unit.

#### The Wage Labour System and Familial Patriarchy

Familial patriarchy remained a viable system throughout the transition from the feudal mode of production to the early commercial stages of capitalism. This was a result of the decentralized nature of production which maintained the family's function as a productive unit for the bulk of the population. Although a class of propertyless wage

labourers evolved during this period the definitive dissociation of family formation from control of productive resources did not emerge until the massive proletarianization of the population was effected by the rise of industrial capitalism.

Industrial capitalism, characterized by the centralization of the process of production led to the predominance of the wage labour system. Wages now replaced productive property as the economic basis of the family. The family no longer had productive resources other than the labour power embodied in each member. This seriously undercut the material basis of the patriarchal family, for the control of productive resources was the basis of the patriarch's authority. The husband/father's ability to control the labour power of his family is lost to those who now controlled access to productive resources, that is, employers. Furthermore, the husband/father's ability to reap reward from the control of his family's labour power was lost because the gain from their productivity was largely skimmed off by the employers who left them with a wage seldom sufficient to cover their own maintenance costs. Lastly, the husband/father's interest in controlling that labour power could and often did come into conflict with employers who were interested in unfettered access to the cheapest labour possible. Thus the male worker not only could not reap sufficient benefit from his wife and children's labour but he confronted women and children in the work place as direct competition and a serious threat to his own wages and job security.

In short the dynamic of industrial capitalism, the centralization of production, upset the delicate balance between centralized and

decentralized authority which had permitted the complementary co-existence between class and patriarchy. Class interests were now structurally incompatible with patriarchal interests.

While destructive of patriarchal authority, the wage labour system did not in any way liberate women and children from the yoke of male authority, it simply centralized it in the hands of the employers. However, the wage labour system did definitively destroy the pro-natalist dynamic of patriarchy, although this effect took some time to manifest itself. For it was decreasingly in the interests of the male wage earner to encourage procreation when he was no longer in a position to control or benefit from the labour power of his children and when he was increasingly forced to bear the costs of the dependency period of those children. This effect was operative even in the period of minimal dependency due to the extensive use of child labour. Foster's (1974) study of wage earners in nineteenth century England indicates a direct correlation between the presence and number of children in the home and the impoverishment of the family.

One of the early effects of a more widespread dissociation of family formation from control of productive resources was the deregulation of reproductive relations. "The importance of economic foundations for a marriage continued but when wages replaced inherited property couples became more independent of familial constraint." (Tilly and Scott, 1978:96). Thus the availability of wage labour for both men and women when combined with favourable sex ratios<sup>5</sup> led to increasing marriage rates and often declining age at marriage. Throughout the period 1750-1850 most of Europe manifested higher marriage rates, higher birth rates and higher



illegitimacy rates. Although this burst of fertility seems to contradict our claim that the wage labour system discourages high birth rates, it is important to note: first, this effect was relatively short lived and tended to be limited to the early phase of the expansion of wage labour; second, it resulted more from the breakdown of the old system of controlling family formation than from any structural encouragement for procreation; lastly, the incompatibility of the wage labour system with high birth rates was evidenced in the growing problems of neglected and abandoned children, infanticide and abortion.

Evidence of the extent of the practices of abortion, infanticide, abandonment and neglect is difficult to obtain for a number of reasons. First, until recently historians have largely ignored the social history of reproduction. Second, in spite of the recent growth of interest in this area these issues remain largely undocumented because of the private nature of the acts and the severe social/legal sanctions they carried. Those cases which have entered official documents via court records or other government documents are viewed by historians as the tip of the iceberg. Thus although there are some areas in which estimates are fairly reliable it is necessary to rely on secondary evidence and informed estimates.

In France estimates of child abandonment are fairly accurate because of the government controlled foundling homes built to accommodate the growing problem. Shorter (1977) reports that although there was only one such home in Paris in the late eighteenth century the nineteenth century saw the proliferation of foundling homes throughout France. Langer (1969) refers to a French study in mid century which reported that 127,507

children were taken into foundling homes in one year, 1833.<sup>6</sup> England, Canada and the United States experienced a dramatic increase in orphanages and industrial homes during this period as well. England supplemented the work of such institutions in absorbing unwanted children, by shipping them to colonies. Between 1833 and 1888 fifty different agencies were operating to send children abroad; 77,000 were sent to Canada alone (Sutherland 1976:29).

Evidence of abortion and infanticide appear in court records; however, these represent the small number of cases which came to trial. Indications of how widespread these practices were come from medical reports, newspaper ads and stories and are clearly "guesstimates." McLaren's (1978) research on birth control and abortion in Canada and England at the turn of the nineteenth century indicates that the demand for and the practice of abortion was publicly acknowledged as wide spread in spite of its illegal nature. Legalities did not inhibit advertisements for abortifacients which were plentiful in England and North America. Newspaper ads read like the following: "Portuguese Female Pills, not to be used during pregnancy for they will cause miscarriage" (Gordon, 1977:53) McLaren's (1978, 1985) study of England found that newspapers of the period were filled with such ads. A court case of one London agency advertising abortifacients revealed a record of ten thousand customers in their two years of operation. In 1881 the Michigan Board of Health estimated one hundred thousand abortions per year in the United States (Gordon, 1977:53).

Infanticide, believed to be widely practised at the time, is much more difficult to estimate because of the problem of distinguishing it

from still births. Dr. Lankester, a British biologist, was reputed to have estimated the incidence of infanticide in London alone to have been between ten and twenty thousand cases annually (Shorter, 1977:89). In the United States in the 1860's doctors speculated that the huge amounts of laudanum being sold were used not just to quiet crying children but also to kill infants painlessly (Gordon, 1977:51). On this issue a European historian concluded: "Certain it is that infanticide was widely practised everywhere and that the abandonment of newborn children in doorways and on the streets had reached alarming proportions." (Langer, 1963:196)

The association of the above social problems with the increasing fertility rate led social observers to express serious concern about the behaviour of working class families. "The high birth rates of industrial cities led contemporaries to recall Malthus' fear that wage earners were 'improvident', and that their large families impoverished them further." (Tilly and Scott, 1978:99) The declining control of family or community over family formation in combination with the precariousness of wage labour led to concern over the apparently unregulated nature of reproduction. In England between 1834 and 1849 there were nearly one hundred Royal Commissions on the Poor Law<sup>7</sup> and a whole new bureaucracy of inspectorates developed to report on the conditions of the working class. Donzelot (1979) documents a similar pattern of response in France during this period.

By the mid to late nineteenth century, however, most industrialized countries were experiencing a steady decline in birth rates and the Malthusian specter of overpopulation was replaced by a more fearful possibility, "race suicide." The increasing demand for and evidence of

the practice of birth control and abortion<sup>8</sup> in addition to the growing problem of abandoned children were all cited as evidence of race suicide, a term coined by social reformers to express their concern with the declining quantity and quality of the population. Although the population was not declining, as a result of the declining mortality rate, evidence that women were rejecting their sacred calling, motherhood, added fuel to the growing concern that the family was in serious disarray.

The growing evidence of the structural incompatibilities of class and patriarchy gave rise to a remarkable consensus among diverse social groups over the need to save the family. This historically unprecedented consensus, which encompassed feminists, church groups, labour, women's organizations, farmers organizations, and some far-sighted industrialists attests to how fundamental patriarchy was to the ideology and organization of the social system.<sup>9</sup> Beneath the moralizing Victorian rhetoric on the sanctity of motherhood, the home and the innocence of children, an understanding began to emerge that the wage labour system in its unmediated, unregulated form was destructive of the family as they knew it (familial patriarchy).

State response to the growing evidence of family disorganization and pressure from reform minded groups was remarkably similar in most industrialized countries. The prohibition of child labour and the selective protection of female labour served as a first step in modifying the dynamic of productive relations which were most devastating to family life (Lewis 1986; Strong-Boag 1981). These reforms provided a legal recognition of the significance of children as the future labour force and prevented the wholesale exploitation of child labour which used up much

of their potential contribution as mature labourers and reproducers. It also forced a legal recognition of the value of women's reproductive role and protected women as active or potential reproducers from being completely consumed in the productive process. Such legislation provided minimal structural protection/support for the reproductive process by holding back the dynamic of production which led to the indiscriminate consumption of all labour power.<sup>10</sup> These reforms were consciously fought for and justified in terms of the indispensability of the patriarchal family (Wilson 1977; Seccombe 1986).

In addition to the above attempts to regulate production there was also a concerted effort to regulate reproduction through the introduction of a series of repressive laws designed to reinforce the relation between sexuality and procreation. Abortion laws, largely a nineteenth century phenomenon<sup>11</sup>, in England, Canada and the United States, were strengthened and made more punitive at the turn of the century (McLaren 1985; Gordon 1977). Laws requiring, under penalty of criminal prosecution, the presence of an attendant at all births and the registering of all births, including still born, were aimed at reducing the incidence of infanticide.<sup>12</sup> And finally, the recommendation, advertising or selling of birth control devices or information became a criminal offence. These laws provided important legislative weight to the pro-family, pro-natalist sentiments of the crusading reform movement.

While the state has always played a role in regulating reproduction, through marriage laws, inheritance laws, etc., this early legislation indicated a new level of involvement on the part of the state in support of the patriarchal family. The question of course arises as to why the

state became implicated in the preservation of patriarchy. The answer lies in the role of the state as the guardian of the overall integrity of the social system. The introduction of the wage labour system and the destruction of the family as the productive unit brought to the fore a nascent contradiction within all class systems--the contradiction between the short term interests of the dominant class in the extraction of surplus and the long term interests of the dominant class and society as a whole in the reproduction of the conditions for this extraction, that is, the reproduction of labour. The heightening of this contradiction demanded a more active role on the part of the state in mediating the demands of production with the necessity of reproduction. Thus this early legislation not only marked the beginning of a new era of state intervention (in productive and reproductive relations), but was also the first step in the reorganization of the patriarchal system.

#### Social Patriarchy

As a result of the destruction of the decentralized base of patriarchal authority (household production), and the subsequent deregulation of reproductive relations, the state was pressured to assume many of the supportive and regulative functions previously confined to the family. Consequently, there was a shift in the locus of power from familial to social patriarchy. Unlike previous transitions in which one form of patriarchy replaced another, familial patriarchy remained an essential component, however, with the material basis of power centralized in the state, hence the identification of this mode as social patriarchy. As some of the patriarchal relations of the family are undermined by

social and economic developments, the state, through the system of social patriarchy, attempts to reinforce familial patriarchy. This is demonstrated by the peculiar paradox of our time: the liberalization of family law, the emergence of women and children's rights, while appearing to be the end of patriarchy, are, in fact, a manifestation of the growth of social patriarchy. The process which led to the ascendancy of social patriarchy and the dependency of familial patriarchy is rooted in the incompatibility of the current mode of production, specifically the wage labour system, with the reproductive system and the role of the state in mediating/balancing the two spheres.

The modification of employment practices which were most destructive to family life established a precedent of state intervention on behalf of reproduction without in any way altering the tenuous economic basis of the family, the wage. The working class struggle for a "living wage", understood in terms of maintaining the independence and viability of their families, confronted and was defeated by the fundamental logic of the wage labour system. The wage labour system is individual and contractual responding only to the market value of the labour power embodied in a particular individual disregarding all consideration of reproductive needs, such as, size of family, or number of dependents. Therein lies the flexibility, economy, efficiency of the wage labour system over previous productive relations. It is precisely the characteristics which make the system so unresponsive to the reproductive needs of the population that make it so effective as a system of extracting surplus. The operation of this system is, therefore, non-negotiable in terms of the interests of the dominant class.

Confronting the unwavering resistance of employers to absorb the costs of reproduction the labour and reform movements over time directed their demands to the state. The struggle for a family wage has given way in the twentieth century to the struggle for the "social wage," the social wage being nothing other than a state organized system for socializing the costs of reproduction, commonly referred to as the welfare state. The welfare role of the state arises directly from the necessity to compensate for the erosion of the material base of the family. Thus the socialization of reproduction became a corollary of the socialization of production.

The material basis of patriarchy has always been male control of resources essential to the maintenance of the family. What distinguishes social from familial patriarchy is the increasing centralization of that control--access to essential resources is now controlled by the employer on the one hand and the state on the other. Thus the individual patriarch is no longer the central force in the maintenance of control over reproduction. The employer's interest in the maintenance of patriarchy is a distant second to their interest in the extraction of surplus, when the two conflict it is a foregone conclusion that the interests of surplus extraction predominate. As a result the state stands alone as the only entity which has both an interest in preserving patriarchy and the material resources to do so.

It is important to note that social patriarchy is not confined to the state, its legislation or welfare services. It is broadly manifest in institutions quite removed from state control, for example, media, the arts, and religion. While the ideological support of patriarchy is



critical in these institutions and should not be underestimated, we must distinguish between the operations of social patriarchy which reinforce and those which provide concrete material restrictions to women's options and concrete material support for the patriarchal family. It is in this sense that the operations of social patriarchy within the state are singled out for particular analysis.

The political economic thrust of social patriarchy is twofold: first, it functions to maintain the patriarchal family structure by compensating for the male head's loss of control over resources, that is, socializing the costs of reproduction, the social wage; second, it serves to maintain women's generally subordinate status, controlling her options to mothering and motherhood through the institutionalization of her political-economic dependence. The former function reflects the supportive or benevolent face of the welfare state; the later function reveals its coercive or repressive side.

While it is true that the state is uniquely characterized by having both an interest in preserving patriarchy and the material resources to do so, its support of the patriarchal family is not nearly as unambiguous as such a statement might imply. The interaction between social and familial patriarchy mirrors the more fundamental contradiction between production and reproduction. Thus social patriarchy which operates as a support system for familial patriarchy can and often does undercut the authority of familial patriarchy.

The harmony that characterized the interaction between familial and social patriarchy in the previous mode was based upon the balance between centralized and decentralized authority. With the destruction of that

balance and the increasing move toward centralization, the interaction between social and familial patriarchy becomes much more problematic. Social patriarchy is by definition directly shaped by both class concerns and patriarchal concerns, interests which are contradictory within the wage labour system. Social patriarchy as manifest in the state moves inexorably toward centralization of control, while familial patriarchy is based upon the decentralized authority of the individual head of household. Thus the dynamic of social patriarchy is at odds with the institution it is designed to support. This has raised the question among some theorists as to whether social patriarchy is the alternative to rather than the corollary of familial patriarchy.

#### Social Patriarchy, Corollary or Alternative?

Lasch (1979) and Donzelot (1979) have argued that social patriarchy is now the only mechanism of reproductive control operative and that its predominance was, in fact, based upon the deliberate destruction of familial patriarchy. Their assessment is based upon the following observations: First, the growing social and legal independence of women and children from the control of the male "head" of household. Second, incidences in which rules of social patriarchy conflict with or undermine the operation of familial patriarchy. While we would not dispute the accuracy of their observations we would dispute the conclusions they draw from them.

First, in attributing the decline in male control of the household to the intervention of the state and not to the dynamic of the wage labour system, they seem to be confusing cause and consequence. History suggests

that the wage labour system caused significant deregulation of reproductive relations long before the state intervened and that such intervention was a consequence rather than a cause of the instability of the patriarchal family. Second, evidence that rules of social patriarchy conflict with rules of familial patriarchy can as easily lead to the conclusion the two systems are caught in a contradictory relationship as to the conclusion that the two systems are mutually exclusive. The former analysis is more consistent with the understanding of patriarchy as a power relationship which is societal in scope and which encompasses both "public" and "private" spheres; the latter analysis suggests that the operation of patriarchy can become compartmentalized within a particular sphere. More importantly however, the analysis of Donzelot and Lasch presumes that familial patriarchy is dispensable, that the operations of social patriarchy are sufficient to ensure the control of reproduction. This is really the crux of our differences. Our understanding of the development of the social patriarchal mode of reproduction is based on the assumption that familial patriarchy is a critical component of patriarchal societies. It is not expendable. Our explanation for the extension of the operations of social patriarchy lies in an understanding of state intervention as an attempt to underwrite and enforce the patriarchal family. We maintain that when one locates the contradiction between family and state authority at the more fundamental level of production and reproduction, and understands state intervention as an attempt to reconcile the irreconcilable it becomes not only plausible but apparent that these attempts will result in a contradictory pattern of support.

In attempting to assess how critical familial patriarchy is to the social patriarchal mode of reproduction we found it helpful to reconsider the three processes of reproduction--procreation, socialization and daily maintenance--to distinguish the areas in which the state can effectively control in a direct way and those areas dependent upon the mediation of familial patriarchy. In the case of daily maintenance the welfare activities of the state have clearly supplanted a number of traditional familial responsibilities with regard to support of the non-productive members, for example, pensions, unemployment insurance and welfare to name a few. In the area of socialization the institution of compulsory education is a direct takeover of important familial functions. However, there are areas in which the state is unable to supplant family functions and must settle for indirect forms of intervention, forms which rely upon the mediation of familial patriarchy.

Procreation, the primary process of reproduction, can be encouraged through pro-natalist legislation, can be supplemented by immigration, but it cannot, it appears, be legislated. The recent history of declining birth rates in the face of repressive reproductive laws, birth control, and abortion, suggest there are some levels of control that the state cannot penetrate. A fundamental reproductive problem in wage labour societies is to ensure adequate levels of procreation, because it is a system in which the reproducers bear most of the material costs (as well as social and psychological costs) but receive little if any material benefit from producing the new generation of labour. The intense emotional and ideological motivation to reproduce in the face of such obvious material disincentives seems to be best generated within the

intense emotional environment of the patriarchal family. Similarly, there does not appear to be a viable substitute for the patriarchal family which creates the critical milieu in which the sex-gender system reproduces itself as an apparently natural and inevitable process.<sup>13</sup> The location of the psycho-sexual socialization of each new generation within the biological-procreative unit obscures the process of learning/repression involved in the reproduction of gender, sexual divisions of labour and heterosexuality and presents it as a biologically determined maturation process.

Because there does not seem to be a viable alternative to the patriarchal family for the fulfillment of the above functions critical to the maintenance of the sex-gender system it is maintained through state support and regulation. The family has become an essential albatross of the state, indispensable but grossly expensive and decreasingly effective.

Evidence of the staggering expense to the state of socializing the costs of reproduction is appearing in all industrialized nations. The 1985 report of the Organization for Economic Co-operation and Development (OECD) indicates that the pattern of escalating social expenditures is a characteristic feature of all of its twenty participating nations. "Social expenditure has been the fastest growing component of total public expenditure, its share in the OECD area increasing from 47 1/2 per cent in 1960 to over 58 1/2 per cent by 1981." (OECD Report on Social Expenditure 1985:18) Further, the report indicated that in 1981 five countries (Germany, Belgium, Denmark, the Netherlands, and Sweden) spent over 30 per cent of their Gross Domestic Product (GDP) on social programmes. In the United Kingdom, Canada, and the United States the

proportion of GDP expended on social programs was 24%, 22%, and 21% respectively. In dollar terms, in Canada in 1976 this amounted to 24 billion, 883 million dollars expended by all levels of government on social security expenditures alone (this does not include education expenditures) (Urquhart and Buckley 1980: Series C599).

At the same time that expenditures are mounting, evidence of the declining ability of the family to perform the patriarchal functions it is uniquely designed to perform is equally abundant, although perhaps less systematically documented. An examination of the patriarchal family's ability to deliver the goods, that is, reproduce the sex-gender system as an apparently natural process and ensure steady and adequate levels of procreation reveals an institution clearly on the defensive. The centralization of the productive process, which dissociates family formation from control of productive resources, separates marriage and heterosexual bonding from economic survival. Although patriarchal custom and laws struggle to minimize this fact through the perpetuation of a generalized subordination of women, the existence of employment for women and individual access to welfare creates real alternatives to marriage as a form of survival. At the very minimum, the existence of alternatives puts real constraints upon the patriarch's exercise of power.

The increasing integration of women into the labour force brings into sharp relief the contradiction between the ideology and reality of the family. Paternalism, the ideology of the patriarchal family, holds out the promise of security for the price of freedom. Utilitarian individualism, the ideology of the market place, holds out the promise of freedom at the expense of security. Women's experience of the

contradictions of both systems increasingly reveal the bankruptcy of the systems' claims. As a wage worker, in a patriarchal society women are not free from sexual discrimination; as a home maker in a class society women are not guaranteed economic security. The contradiction between market ideology and patriarchal ideology and their necessary but uneasy coexistence severely undermines the family's ability to ideologically reproduce the sex-gender system, for every patriarchal adage, its promise or its threat, coexists with its negation in the market place.

The dissociation between marriage and economic survival erodes male-female economic interdependency, eroding one of the most fundamental mechanisms of the sex-gender system--the material imperative to heterosexuality. The strength and persistence of patriarchy has been ensured by structuring its operation into the very processes of survival. The equation of marriage, and heterosexuality, with economic survival has always been the best guarantor of the observance of patriarchal rules. It ensured that the pursuit of whatever options might be conceivable, non marriage, or homosexuality, would relegate the person to a perpetually marginal position in society. It ensured that the price of non-traditional choice would be high and that the exercise of choice in sexual-reproductive behaviour could appear only as deviance.

The removal of the material imperative to heterosexuality serves to materially normalize the exercise of choice in these areas, that is, to make it possible to stay within the mainstream of the economy regardless of such choices. Intense ideological reinforcement of heterosexuality attempts to reverse this trend, attempts to restrict employment options on the basis of sexual preference, attempts to ghettoize, in order to

reassert the homosexual's marginality, their easy identification as deviant. However, the dissociation of these measures from any material imperative makes their motives transparent, their legitimacy questionable, such tactics are more readily identifiable as repression. Homophobia emerges as a peculiarly modern phenomenon, an hysteria grown out of the absence of the material necessity of heterosexuality. The removal of the material imperative has already evidenced the growth of a strong gay liberation movement, and for the first time sexual preference has become a major political issue. The virulence of the traditionalist's response may well be a good measure of their lack of confidence in the system's ability to ensure/enforce heterosexuality.

The above observations suggest that the ability of familial patriarchy to reproduce the sex-gender system is complicated by the increase in countervailing pressures in society today. However, the decreasing effectiveness of the system does not logically lead to its dispensibility, especially in the absence of a viable alternative. We suggest that increasing state intervention and regulation is an attempt to mitigate some of these countervailing pressures and thus is, in intent if not always in effect, a program to support familial patriarchy rather than replace it.

Last, if we are to argue that the patriarchal family is indispensable as a mechanism for organizing and controlling reproduction then we must address the apparent anomaly of societal indifference to consistently declining birth rates in advanced industrialized nations. While declining birth rates were the source of great alarm in the early twentieth century resulting in pro-natalist legislation and restrictions



on women's employment, the continuance of this pattern no longer seems to provoke much concern.

It is easier to argue that the patriarchal family is indispensable, that production and reproduction are co-determinative when there is some concrete evidence of the reproductive imperative exerting pressure upon the productive process. The turn of the century provides such evidence. Popular sentiment, social policy and legislation explicitly acknowledged the existence of an imbalance between production and reproduction manifest as a labour supply problem and linked directly to the declining birth rate. Today the anti-natalist dynamic of the wage labour system is, if anything, more pronounced and pervasive yet there is no similar evidence of pro-natalist sentiments or policies. One might reasonably argue, in fact, that much of current sentiment and policy exacerbates the existing anti-natalist dynamic. What has happened to the reproductive imperative, the necessity of balancing production and reproduction?

In order to answer the above question and our original question concerning the indispensability of familial patriarchy we must take a brief digression into the political economy of reproduction. By doing so we hope to clarify both the current condition of familial patriarchy and the nature of its relation to social patriarchy.

#### The Political Economy of Reproduction

While it is clear that modern industrialized societies are not without their problems, reproductive concerns--declining birth rates, labour supply--do not appear to be among them.<sup>14</sup> In the face of current economic problems, unemployment, inflation, the fiscal crisis of the

state, the focus is on production and the significance of the reproductive imperative, the necessity of balancing production and reproduction, fades. However, in spite of appearances we suggest that reproductive issues are central to the current problems of industrialized nations. We further suggest that while state intervention and the global organization of production has altered the manifest effect of imbalance between production and reproduction, it has not and cannot alter the fundamental necessity of balancing the two spheres. Many of the "economic" problems afflicting the modern welfare state are a direct, if obscured, result of the growing separation between production and reproduction and the consequent imbalance this creates.

An imbalance between production and reproduction resulting from declining birth rates provokes concern when it is manifest as a labour supply problem precisely because its impact upon production is so immediate. Labour shortages are experienced as a concrete threat to productive interests, forcing a temporary conciliation between the short term interests in the extraction of surplus and the long term interests in reproducing the conditions for that extraction. Concessions to long term interests (reproduction) are most likely to occur when reproductive patterns pose a direct threat to short term interests, extraction of surplus. Today reproductive patterns in industrialized countries do not pose such a threat, the answer to why this is the case lies in an examination of the changing relation between capital, labour and the state.

The class struggle between capital and labour expresses the fundamental contradiction between production and reproduction: the

contradiction between the short term interests of the dominant class in the extraction of surplus and the long term interests of the dominant class and society as a whole in the reproduction of the conditions for this extraction, the reproduction of labour. In the interests of short term extraction of surplus capital moves towards complete dissociation from the costs and concerns of reproducing its labour supply, that is, the commodification of labour. Labour, on the other hand, resists in any way they can this commodification process which is a direct threat to their standard of living. Unionization and political pressure for progressive labour legislation and the social wage have been their most effective tactics in counteracting the commodification process.

The welfare state developed as a means of mediating, temporarily resolving this fundamental contradiction. The welfare state is an attempt to meet demands for better living conditions in a manner which leaves capital relatively unfettered by such costs and concerns. This has been achieved largely by taxing the private wage (Russel; 1984) to create a social wage thereby socializing the costs of reproduction. The long term effect, however, was to raise the costs of labour as the standards of reproduction and maintenance rose with increasing state support. Although the state has always shown reluctance to visit these costs upon capital, eventually capital experiences them indirectly through taxation or more commonly through increased wage demands. Because revenue for socializing reproductive costs is generated from production sooner or later the owners of production would feel the costs of an increased standard of living of its population.

The high cost of labour in industrialized countries has a negative effect upon profit margins and eventually drives capital to seek alternatives. Thus the problem of labour for capital becomes one of cost not supply. The issue of supply is easily resolved by the mobility of capital and the mobility of labour. The pursuit of cheap labour has taken the form (in various countries) of immigration, guest workers and/or flight of capital. In advanced industrialized countries that have access to these options, indigenous birth rates are irrelevant to labour supply. For industrialized countries that do not have access to these alternative labour supplies, for example, Eastern European countries, declining birth rates are experienced as labour shortages and have provoked a variety of pro-natalist social policies. In these countries the problem of balancing production and reproduction is immediate, evident and contained within particular national boundaries.

For capitalist countries, however, characterized by multinational corporations and their global organization of production, employers have solved their problems of labour supply. The preferred option now appears to be flight of capital to the most abundant and cheapest sources of labour. This leads to a kind of global division of reproductive labour. First world women produce low quantity-high cost, highly skilled, educated labour and third world women operating within a familial patriarchal mode of reproduction produce high quantity-low cost, unskilled, uneducated labour.

In addition to pursuing external sources of cheap labour capital also has a variety of strategies for undercutting indigenous labour costs: capital intensification, maximal use of less expensive indigenous labour

(for example, women), use of part-time labour, and union busting. All of these strategies designed to reduce the wages of labour reveal the relentless dynamic of capital towards the commodification of labour. The essence of this process is the dissociation of the short term interests in extraction of surplus (production) from the long term interests of reproducing the conditions for this extraction, reproduction of labour. While this dynamic is not new, nor are the demographic consequences, declining birth rates, the political economic consequences today are quite different than they were at the turn of the century.

At the turn of the century the imbalance between production and reproduction, manifest as a labour shortage, had a direct impact upon production, hence the conciliation between short and long term interests realized through the development of the welfare state. Today the very existence of the welfare state in conjunction with the global organization of capital serves to insulate capital from the consequences of the imbalance between production and reproduction. Capital's mobility permits it to pursue labour wherever it is cheap and convenient, while the welfare apparatus assumes responsibility for underwriting the ongoing reproduction and maintenance of the population at home. Thus capital is structurally freer from the costs and considerations of the long term requirements of the system (reproduction) than it has ever been before. While the consequences of this process of dissociation are of little or no immediate concern to capital they are problematic for the society.

The increasing separation between production and reproduction is the source of some fundamental economic and demographic problems for welfare state nations. First, the continued anti-natalist dynamic of the wage

labour system is producing a seriously skewed population structure in these nations. Increased longevity in the presence of declining birth rates results eventually in problematic dependency ratios, an increasing proportion of the population which is not productive. Second, capital's pursuit of cheap external labour serves to slough off expensive indigenous labour transforming productive members of the population into dependents through unemployment. Furthermore, the very strategies that capital pursues to avoid or cut labour costs serves to erode the economic base upon which the state can generate revenue to support this growing burden of dependents.

Resources for financing the welfare state are inevitably generated from production. The dominant form of revenue generation is through personal income tax. Thus employer strategies which serve to erode the wage serve ultimately to erode the revenue base of the welfare state. In addition increasing unemployment is experienced not only as an added dependency burden but also as a loss of revenue (loss of taxable income). Finally, flight of capital in pursuit of cheap labour means not only loss of jobs but also loss of productive capacity as it is exported to other nations. It is a direct erosion of the productive base upon which the state is dependent for financing its welfare costs. Under these conditions the growth of dependency expenditures becomes overwhelming.

Capital's voracious, short sighted pursuit of surplus extraction inevitably erodes the economic base for reproduction, first on a familial scale now on a national scale. The problem is not simply demographic, although it takes that form nor is it simply fiscal, although it is experienced that way as well. The problem is the separation of production

from reproduction carried to its logical conclusion in modern industrial societies. As the guarantor of the overall integrity of the social system the state has been forced over time to assume increasing responsibility for the long term interests of society, that is, the reproduction and maintenance of the population, at the same time that it actively supports the strategies of capital which undermine those interests. It is this contradictory location of the state mediating the fundamentally incompatible interests of production and reproduction that explains its complex relation to the patriarchal family.

The purpose of controlling reproduction in class societies is to ensure that reproduction operates in the interests of production. While there are numerous historical examples where manipulation involves programs of increasing the birth rate there are also examples where the best interests of production are served by curtailing reproduction. Our current situation is a case in point. Channeling women's labour into production in preference to reproduction best meets the interests of capital in advanced industrialized societies. The fact that this process occurs without the apparent active intervention of the state does not imply that manipulation or control, that is, patriarchy, is expendable.

Because of the anti-natalist dynamic of the wage labour system the increasing allotment of female labour to production over reproduction will occur without obvious intervention on the part of the state. The visibility of state intervention seems to be related to attempts to modify the existing reproductive dynamic. State intervention, in the familial patriarchal mode, only becomes obvious when there is need to curtail its pro-natalist dynamic. Within the social patriarchal mode state

intervention only becomes apparent when the state must modify the anti-natalist dynamic. In both cases the periods of apparent nonintervention presume the active functioning of the particular patriarchal mode.

In advanced industrial nations the clear predominance of short term interests over long term interests operates to funnel women's labour into the productive sphere minimizing the social significance of reproduction. Because this takes the form of the increasing proletarianization of women, patriarchy appears to be significant only as a system in service of immediate surplus extraction, women as cheap labour. This interpretation characteristic of traditional Marxist analysis, focuses exclusively upon the immediate and most apparent economic implication of patriarchy. However, by missing the significance of reproductive factors (which are admittedly obscure at this time), they have great difficulty explaining the contradictory relation between patriarchy and production.

The interests of the dominant class are as dependent upon patriarchy for preserving its long term interests (reproduction of labour), as they are on the mechanisms of class for enforcing their immediate interests (surplus extraction). Patriarchy operates in the service of production by providing a system for the maximal manipulation of fifty per cent of the population, the critical fifty per cent who service production's short term (wage labour) and long term (reproductive labour) needs. The global division of reproductive labour masks the fact that production is still dependent upon pro-natalist patriarchal operations. The first world-third world dichotomy separates in time and place the dual potential of patriarchy, the manipulation of women's labour in production and/or reproduction. In the third world patriarchy primarily serves production



through meeting its long term labour supply needs. In the first world patriarchy's most evident service to production takes the form of meeting immediate surplus extraction needs, women as cheap labour.

Although patriarchal operations in the first world appear primarily in the service of short term economic interests these operations do not express the whole nor even the most important aspects of patriarchy. Patriarchy's fundamental function in class societies, ensuring the continued organization of reproduction in the interests of production, links it inextricably to the long term needs of the system which are in contradiction to the short term (surplus extraction) needs. It is in this context that patriarchy comes into conflict with production and it is also in this context that patriarchy is most fundamentally indispensable to the social system as a whole.

### Familial and Social Patriarchy

#### The Essential Components of Modern Reproductive Relations

An exclusive focus on the consequences (economic advantage) of women's historically subordinate status obscures the historic process and costs involved in maintaining that subordination. Taking women's subordination as problematic (requiring continued social engineering) rather than biologically or historically given permits us to understand the current contradiction between patriarchy and production. The very conditions, subordination and dependence, which enables women to be used as a particularly exploitable sector of the labour force has been secured by a history of state support/maintenance of familial patriarchy. Whether this is or is not a necessary structural prerequisite for women's

subordination, as we argue, is not nearly as important as the fact that it has been treated as such. The patriarchal family is the established institutional base for the physical and ideological reproduction of the sex-gender system, critical to women's subordination-exploitability not to mention the generation-regeneration of labour. The family is an institution which continually generates demands for long term reproduction and maintenance resources (an anathema to the commodification of labour).

Our recent history suggests a link between the control of reproduction, the subordination of women and the patriarchal family. Since we have all three factors operative today it seems premature to be announcing the death of the patriarchal family as Lasch and Donzelot have done. The transition of the locus of power from the patriarch to the patriarchal state can be understood as an adaptation for the preservation of familial patriarchy rather than proof of its demise. In the face of the centralizing dynamic of production and its erosion of the material basis of the family the economic support of the welfare state becomes critical to sustaining a decentralized process of reproduction. While we have shown that the decentralized character of familial patriarchy often comes into conflict with the organization and interests of production it also services production through the privatization of the costs of reproduction in addition to the perpetuation of the sex-gender systems.

Ironically, it is precisely through the selective socialization of some of the costs of reproduction that the state sustains the institution (family) which serves to privatize much of the costs of reproduction. Even the most generous estimates of a welfare state's expenditures on reproduction suggest that individual families absorb the bulk of the

costs. Gough (1979) estimates that the British welfare state absorbs thirty per cent of the reproductive costs of its population.

The economic advantages to the state and the dominant class of privatized child rearing becomes evident when we compare the costs of child rearing with the costs of caring for the elderly. It is instructive to note that within government documents the elderly dependant category is always calculated as two and half times more expensive to the state than the youthful dependent category.<sup>15</sup> While we don't question these calculations as a real reflection of social costs, it is important to ask why the elderly are socially more expensive. If we do not make a distinction between social and familial costs we doubt that the care of totally dependent infants and young children would be any less than the costs of care for the elderly. The difference is that patriarchy provides the free labour services of women in the care of children and the family provides the structure within which this occurs. Familial patriarchy legitimates the fact that the primary costs of generationally reproducing the labour force should lie within the family. Although the state has been pressed to provide more support for young families within the last thirty years the per capita costs of supporting the young is far below the per capita costs of supporting the old, as revealed in the government's own calculations. In identifying the fact that the cost of the care of the elderly is more socialized than the cost of the care of the young, we hasten to add this does not imply that the state absorbs all or most of the costs of the elderly. The family and women's unpaid labour remains a critical resource in the provision of care for its senior members, or for that matter its disabled members as well. The amount of women's

unpaid labour necessary to support seniors and the disabled is well documented in Finch and Groves' work, A Labour of Love: Women Work and Caring, (1983). At the same time that the patriarchal family is a cost to the state, as part and parcel of the state's growing responsibility for maintaining the population as a whole, it also operates to privately absorb a large share of the costs of reproduction.

If we concede that industrial societies, like all other societies, are not exempt from the concerns of balancing production and reproduction, then we must acknowledge that the control of reproduction continues to be essential to the maintenance of social stability. The patriarchal family, as unstable as it is, keeps the costs of generational reproduction largely private, has historically maintained women as a particularly exploitable category of labour in the home and in the labour force, and still serves as the primary institution for the physical and ideological reproduction of the sex-gender system. In the light of such operations we suggest that familial patriarchy remains a critical mechanism for controlling reproduction and hence an essential institution in advanced industrialized societies. Having argued for the continuing significance of familial patriarchy, however, we hasten to add that its increasing structural dependency upon the state implies that a complete analysis of the dynamic of patriarchy in industrial societies is dependent upon an analysis of the interaction between its social and familial forms and how they reflect the interaction between production and reproduction.

The ascendance of a generalized system of subordination, social patriarchy, over a particularized system, familial patriarchy serves to forestall the contradiction between production and reproduction through

political (welfare state), and geographic (flight of capital), displacement of long term reproductive interests. However, the contradictions remain and reappear, although perhaps in altered form, testifying to the fact that reproduction cannot be endlessly manipulated in the interests of production without creating serious consequences, consequences that ultimately impede the productive process itself. Thus in spite of the apparent effective subordination of reproduction to production the fundamental co-determinative nature of their interaction is reflected in the continued necessity of engineering this subordination and the obvious imperfection, incompleteness and inconsistency of this process. The problems involved in this process of engineering are evident in the ever changing pattern of social policies and their frequently undesirable consequences, the most problematic at this time being the fiscal crisis of the state and the impending demographic imbalance.

#### Summary

In this chapter we have attempted to theorize the relations of reproduction in a manner that avoids the pitfalls of previous analysis, biological or economic determinism, on the one hand, and idealism on the other. We have developed a model of the modes of reproduction in order to rediscover reproduction in history, its dynamic and its interaction with production. We have done so in an attempt to address with equal thoroughness the three theoretical themes identified as central to a feminist theory of reproduction: the centrality of reproduction to social and political theory; the historic and cross-cultural continuity of sexual

divisions of labour and women's subordination; and the necessity of a historically specific analysis of reproductive relations.

Our perspective permits us to reanalyze old rules and customs previously understood exclusively as rules of production (for example, rules of inheritance and property, certain labour and welfare laws) and discover within them the impact of the reproductive as well as the productive imperative. Our model emphasizes the inextricable connection between production and reproduction at the same time that it calls attention to the distinctiveness of their dynamics. These dynamics, because of their distinctiveness, do not automatically guarantee balance between the two spheres, hence the continuous necessity for socially engineering this balance, a necessity requiring ever more intervention as the two spheres become structurally more alienated.

In the subsequent chapters we will explore our model empirically focusing on the period of growing separation between production and reproduction in Canada. Beginning with the first dramatic state intervention on behalf of reproductive interests, the Factory Acts in 1884, and ending with the maturation of the welfare state in 1968, we will attempt to make more explicit the role of the state in engineering the increasingly tenuous balance between production and reproduction. We will examine the processes of state intervention through an analysis of changing patterns of legislation in areas which reflect the intersection of production and reproduction (labour, family, and welfare legislation). We will examine whether our account of the transition from familial to social patriarchy is, in fact, an accurate representation of the intent and effect of the changing patterns of legislation in these areas.

FOOTNOTES

1. Rubin points out that the enforcement/reinforcement of heterosexuality does not imply a complete suppression of homosexuality. History has shown that the positive social sanctioning of homosexuality often occurs in societies in which the dominant social-sexual norm is heterosexuality. This successful coexistence is usually achieved by the institutionalization of particular forms/expressions of homosexuality which contain it as a highly circumscribed pattern of behaviour; e.g. "The institutionalized 'transvesticism' of the Mohave." G. Rubin, "The Traffic in Women: Notes on the 'Political Economy' of Sex," in Toward an Anthropology of Women ed. Rayna Reiter, Monthly Review Press, New York, 1975:181.
  
2. Leacock maintains that within pre-stratified societies decision making within the separate realms of men's and women's work was autonomous. Decision-making cutting across the two realm was characterized by discussion, negotiation and consensus. E. Leacock, "Women's Status in Egalitarian Societies: Implications for Social Evolution" Current Anthropology, Vol. 19 #2 June 1978.  
  
Similarly, Judith Brown's study indicates that decisions which cut across the separate realms of men's and women's authority, e.g. decisions concerning leadership, battle, religion, etc. adult men and women had an equal voice and decisions were based upon negotiation and consensus. J. Brown, "Iroquois Women: An Ethnohistoric Note" in R. Reiter, Toward, an Anthropology of Women, Monthly Review Press, 1975 New York.
  
3. Meillassoux's balanced consideration of the forces and pressures of production and reproduction appear to be a function of his subject matter rather than his theoretical perspective. As a Marxist he remains committed to the 'primacy of production' as revealed in this fairly typical quote: "This control over social reproduction depends in turn on the built-in political capacities of the society, in other words on the strengthening of civil power which, in the last analysis, is based on the relations of production it seeks to maintain." C. Meillassoux, Maidens, Meal and Money, Cambridge University Press, Cambridge, 1981:23.
  
4. Meillassoux's analysis of the development of the exchange of women as a mechanism for balancing production and reproduction is specific to patrilineal societies. Unfortunately, he does not undertake a similar analysis of matrilineal societies.

5. High birth rates in the industrial cities reflected the composition of the population. Cities which attracted large numbers of young women because of employment opportunities, (usually textile industries) tended to have higher birth rates. L. Tilly and J. Scott, Women, Work and Family, Holt, Rinehart and Winston, New York 1978 p.100.
6. Alphonse Esquiros: "Les Enfants Trouvés", Revue des Deux Mondes, XIII, 1846 p. 211-242, 1007-1044.
7. W. Lazonick "The Subjection of Labour to Capital: The Rise of the Capitalist System" The Review of Radical Political Economics, Vol. 10 #1 p. 12.
8. A. McLaren, Birth Control in Nineteenth Century England, Groom Helm, London 1978, L. Gordon, Woman's Body. Woman's Right: Birth Control in American, Penguin Books, New York, 1977 and P. Fryer, The Birth Controllers, Stein and Day, New York, 1965.
9. For a discussion of the social reform movement and its composition in Canada see; L. Kealey, A Not Unreasonable Claim: Women and Reform in Canada, 1880-1920, Women's Press: Toronto, 1979; W. Mitchinson, "Aspects of Reform: Four Women's Organizations in Nineteenth Century Canada." Ph.D. dissertation York University, 1977 and R. Allen, The Social Passion: Religion and Social Reform in Canada, University of Toronto Press, Toronto, 1971.
10. Interestingly enough the recent defeat of the E.R.A. in the United States was fought for with a strong pro-family rhetoric that proclaimed that equal employment opportunities for women were destructive to their familial and maternal role.
11. The first legislation banning abortion altogether did not originate in Catholic canon law, as is widely believed, but in the secular law of England in 1803. The Catholic Church only legislated similarly in 1869, and in the United States most states had outlawed all abortions during the Civil War period. (L. Gordon, Woman's Body. Woman's Right, Penguin Books, New York, 1977).
12. A. McLaren, "Birth Control and Abortion in Canada", Canadian Historical Review, Vol. LIX, No. 3, 1978 and L. Gordon, Woman's Body. Woman's Right, Penguin Books, New York, 1977.
13. For an excellent discussion of the psychological impact of current familial structures see, Nancy Chodorow, The Reproduction of Mothering, New York 1978.



14. While this is generally the case there are some notable exceptions. In Eastern European nations, France and Quebec, there is public concern about public policy designed to deal with the declining birth rate. What all of these states have in common is an inability to rely upon immigration to provide labour. For political, language, or cultural reasons immigration either does not occur or is too disruptive to the host state. Thus they must fall back upon their indigenous population to maintain their labour supplies and this in turn focuses public concern and political attention to the issue of birth rates.
15. A. Foot, Population in Canada, Ottawa, Queens Printer, 1981. 1446A



## PART II

### INTRODUCTION

The application of a dual systems analysis to the study of family-state relations directs our research to the underlying productive-reproductive dynamic which we have argued provoked greater state involvement. The necessity for increased state intervention is explained in terms of the inherent contradiction between the wage labour system and patriarchy which is managed/contained through state mediation.

Our concern with the role of the state in trying to engineer a balance between production and reproduction centres our attention on the macro dynamics of this process. We begin with the assertion that state mediation is contained within the parameters of a dual commitment to wage labour and patriarchy. The process of intervention, therefore, is best understood as a reformation of the wage labour system and a transformation of the patriarchal system. As a result our research focuses on the following three processes. First is the reformation of the wage labour system which involves state intervention to ameliorate the commodification process inherent in a wage system. These reforms entail legislative protections, recognition of workers' rights and the development of the "social wage" which subsidizes the earned wage without disrupting the wage determination process. Second is the transformation of patriarchy. This involves a process of dismantling familial patriarchy and constructing

social patriarchy. This process is three-fold and entails the erosion of the patriarch's legal authority over women and children, the assumption of that authority by the state and the provision of resources (socialization of the costs of reproduction) to subsidize the familial unit. Third is the resulting restructuring of the state, its centralization and the growth and development of its bureaucracies. These changes are necessary structural prerequisites for increasing intervention.

In addition to focusing our attention on the macro dynamics of production, reproduction, and the state, our theoretical perspective requires that our analysis of these dynamics: 1) treat reproduction as a central force and focus of study; 2) address the continuity of women's subordination despite the changing face of patriarchy, and; 3) account for changes within that pattern of subordination. In short, our research must inform the concerns of centrality, continuity, and change which we have argued are essential to feminist theory.

### Methodology

To undertake an analysis of the macro dynamics of production, reproduction, and the state which address the issues of centrality, continuity, and change our research project requires breadth and specificity. We have, therefore, selected a historical materialist methodology, with a time frame broad enough to capture continuity and change in patriarchal structures and state mediation patterns and a focus specific enough to ensure that reproduction remains as central to our analysis as production and the state.

To meet the first requirements of our study we have selected a span of history broad enough to encompass processes of transition between production and reproduction. As identified in the introduction to this study, we have chosen an eighty-four year time frame which permits us to trace the restructuring of production through the ascendancy of the wage labour system and the restructuring of reproduction through the development of social patriarchy. Specifically, we examine state activity around the introduction of family, welfare, and labour law from the introduction of the Factory Acts in 1884 to the enactment of the last federal, universal welfare program, Medicare in 1968.

Also in the interests of breadth, but informed by the requirements of feasibility, we have chosen to pursue our analysis of state intervention in three jurisdictions, Ontario, Manitoba, and the federal government. This selection provides us with sufficient variation to follow the macro dynamics of family-state relations in a more developed province, Ontario, a less developed province, Manitoba, and within the nation state as a whole. Through an analysis of the statutes in the three jurisdictions we can examine the diffusion of legislation within the process of combined and uneven development.

In further pursuit of breadth we selected legislation as the focal evidence for studying state mediation. As the formal activity of the state, legislation is well documented and the documents are readily accessible in provincial and federal archives. More importantly, however, analysis of legislation which includes all stages of its formation, enactment, and enforcement provides a more comprehensive picture of the pattern of state mediation than simply the study of outcome, as for

example, in case law. Therefore, our analysis of legislation mirrors the usual process by which the state becomes involved in intervention. We begin with an analysis of commissions and inquiries which serve to translate public articulations of problems and pressures into specific, feasible social policies. We follow our analysis of the policy process with a content analysis of the legislation enacted. Then, to assess the effect, as well as the pattern of state mediation we review the establishment of bureaucracies resulting from the legislation and the manner in which the members of the bureaucracy undertake their duties. The final measure of state activity we consider is the documentation of the costs of the legislative intervention. Thus our research design, includes a broad time frame, a multijurisdictional focus and a review process which covers all stages of statute formation and enforcement, in order to address the issues of continuity and change central to our theoretical perspective.

The other requirement of our project is to ensure the centrality of reproduction in our research. This translates into a specificity of focus in the development of our research design; selecting legislative fields which reflect the reproductive dynamic as well as the productive dynamic which together shape and are shaped by state mediation. To meet these requirements we selected labour, welfare, and family law. In general all three fields are revealing of state efforts to mediate production and reproduction because they seek to regulate the flows of labour and resources within and between the two spheres. Specifically, labour legislation was selected because of its key role in the processes of the reformation of the wage labour system and the transformation of

patriarchy. While the productive interests are the most obvious in labour legislation we suggest that such interests on their own cannot sufficiently explain the particular direction of the legislative reforms. By identifying the latent reproductive interests reflected within this legislation we propose a more comprehensive explanation of the options chosen. We examine the pattern of labour legislation particularly as it applies to women and children to explore the nature of the link between the state, reproduction, and labour law. The legislation suggests two things. The first is that the state sets parameters for access to production for women and children. It does so irrespective of the particular interests of the patriarch and/or employer in order to guarantee the generalized interest in reproduction. The second is that such intervention has the effect of creating a legislative distinction between male and female labour, reducing the competitiveness of female labour and relegating women to low-paying job ghettos. As a result labour legislation serves to support the patriarchal family structure by maintaining women's economic dependence and subordinate status.

Welfare legislation was also chosen because of its critical role in both processes, the transformation of patriarchy and the reformation of the wage system. In this legislation, however, the reproductive interests are more apparent and the productive interests are much less explicit. Welfare legislation is characterized by a two-fold operation; in its regulatory (or coercive) capacity it defines and enforces familial obligations and in its supportive or benevolent capacity it is the legislative mechanism for socializing the costs of reproduction.

Examining the reproductive issues first, we suggest that the progress of welfare legislation in Canada reveals the process of transition to social patriarchy in the two following ways. First, it represents the erosion of the particular interest/authority of the family (Patria Potestas) through the extension of state authority (Parens Patria) in the generalized interests of reproduction. We explore evidence of this process in the extension of state and quasi-state agencies which assume direct authority over the regulation of family and/or children, for example, custody and adoption legislation, and the proliferation of rules and conditions for child apprehension. Second, it reveals growing state commitment to the support of the family unit as evidenced by a growing fiscal commitment to subsidizing reproductive costs. In addition the patriarchal assumptions upon which this support is based is revealed in the application of welfare programs.

We also identify the increasing fiscal commitment of the state to socializing the costs of reproduction as a critical component of the reformation of the wage labour system which reveals the less obvious productive interests that have shaped the course of its development. The social wage is a necessary concomitant of the dynamic of production which increasingly separates the short term (surplus extraction) interests from the long term (reproduction) interests of society. State subsidization of the costs of reproduction facilitates this separation enhancing the employer's ability to extract surplus by deflecting labour costs and demands on to the state. This not only represents a considerable modification in the wage determination process. It also represents an expanding role for the state in the economy as well as, in the family.



The state's ability to redistribute income over the life cycle or across class is predicated on its ability to tax that income. Thus the necessary concomitant of the expansion of state support for the family is the expansion of taxation, a process which impacts upon the economy in a multiplicity of ways.

While welfare, (taxes) and labour law consist of rules for balancing labour and income resources between production and reproduction, our third area of legislation, family law, consists of the rules for distributing rights and resources within the reproductive unit. Family legislation determines the parameters within which reproductive relations are conducted and, as such, reveal changes in patriarchal relations. We explore the extent to which changes in this area of legislation reveal an erosion of the patriarch's traditional authority over women and children and we look for evidence of this process in the legislation dealing with the disposition of property, wages, and children. We also examine the extent to which this process is marked by a shift in the legislation from father/husband's rights to father/husband's responsibilities.

Just as the requirements of maintaining a balanced focus on reproduction and production directed our choice of legislation, it also informs our selection of key indicators of the interaction within and between the two spheres. The following indicators are our evidence of the source and severity of imbalance between production and reproduction and, we argue, serve as the structural triggers to state intervention. They include: the state of the economy, labour supply as determined by birth rates and immigration rates, the gap between wages and reproductive costs, social and demographic factors affecting reproductive costs, and the

degree to which productive relations interrupt or are perceived to interrupt family reproductive patterns as indicated by women's employment rate. A second set of indicators are the conditions and directions of social struggle, specifically class struggle and women's struggle. We examine these political forces as the outcome of the above structural pressures and identify them as the political triggers to state intervention. Finally, we identify the degree of rationalization and centralization of the state as an important indicator of mediation potential, recognizing that the state capacity to intervene is determined by the structural capacities of the state system itself. We examine these capacities as an outcome of the above structural and political pressures and identify them as the organizational determinants of mediation strategies.

We selected the particular legislative fields and particular political, economic and social indicators, identified above, to ensure a balanced focus on reproduction and production in our analysis of state mediation. By combining both breadth and specificity we try to capture the key processes of mediation and to reveal the shifting productive-reproductive dynamic. This strategy for studying the development of family-state relations is designed to meet the requirements of dual systems analysis which asserts the fundamental significance of reproduction and requires that the analysis of the dynamic of production and reproduction incorporate the concerns of centrality, continuity, and change.

In response to these structural determinants social unrest rises and falls and changes direction according to changing pressure points between the two spheres. In exploring this pattern of unrest we assess class and women's struggles in terms of their focus and their intensity. In the case of class struggle a focus on employers results in demands for higher wages and job security, the intensity of which is measured in terms of strikes and unionization. A focus on the state results in demands for social security and social legislation. The intensity of these demands would be measured by the growth of workers and/or protest parties or labour's success in pressuring parties in power to introduce legislation to meet their demands.

In the case of women's struggles the focus of their demands is always the state. However, the focus of their concerns has varied over time from family-centred to women-centred issues. In the former case demands focus on sex specific protective legislation which is directed to women's reproductive capacities and roles. The intensity of these struggles is measured in the growth of social reform movements, the introduction of protective legislation and the development of welfare programs. In the latter case demands focus on dismantling sex specific protective legislation, the introduction of equity legislation and the extension of supportive welfare programs.

Our final indicator is the state, its jurisdictional and organizational capacity, level of expenditure, philosophy and focus of intervention. We suggest that when we consider the changes within and between all of these indicators the tensions between production and

Periodization

Our theory suggests that while the problem of balancing production and reproduction is inherent in their incompatible structures and hence ongoing, changing material conditions produce different manifestations of conflict necessitating different strategies of intervention. In order to better understand the reasons for certain interventions and to assess their effect we have periodized our historical review to reflect the changing and dynamic lack of fit between production and reproduction. Periodization is also important in revealing the nature of state intervention as a dynamic process rather than simply a reactive process. For example, the structures created by state intervention in one period become part and parcel of the material determinants which shape the pattern of state intervention in the subsequent period. Our eighty-four year review is, as we identified in the introduction, divided in the following way: Period I 1884-1913, Period II 1914-1939 and Period III 1940-1968.

We use our key indicators of the interaction and imbalance between production and reproduction to determine the periods. Our first category of indicators, the material determinants of the flow of resources within and between production and reproduction change in dramatic ways over the eighty-four year review. The productivity of the economy, the supply and demand for labour, the structure of the family, birth rates and marriage rates, and shifting demographic patterns all combine to change the pressures and tensions between the two spheres at different points in time.

reproduction and the requirements of mediation are substantially different in the three periods we have outlined.

On the basis of our analysis of the shifting determinants of balance between production and reproduction we suggest that each period opens with a different manifest problem and that state activity within the period is designed to alleviate the particular problem. The first period opens with growing evidence of a structural disorganization of reproduction and mounting public concern about the future of the family. The crisis focuses on the use of women and children in the labour force and the consequent disruptions of family dynamics. In the face of this crisis state mediation concentrates on the protection of adequate labour resources for the reproductive sphere (labour law), equitable division of resources within the family (family law), and some preliminary steps to provide for the desperately destitute (welfare law). During this period state intervention is primarily regulatory and the support services which are provided exist at the local level largely through private charity and municipal support.

The success of the state's intervention strategy in the first period led to a different manifest problem in the second period. That is, the successful enactment of legislation which modifies the use of labour in production and protects the family as the reproductive unit, without altering the fundamental dynamic of the wage labour system, leads to an income crisis for the family. By virtue of protecting the family's reproductive functions the state has limited the access of certain members (women and children) to employment. The number of employed and paid members of the family shrinks as the number of dependent members grows.

In response to the income crisis of the second period state intervention moves to develop more systematic systems for the support of the family (welfare law), while extending the limitations on female and child labour (labour law), and elaborating on legislation to ensure equitable distribution of family resources (family law). Intervention during this period is more equally balanced between statutes of regulation and statutes of support, with the locus of activity at the provincial level.

The crisis of imbalance of the third period encompasses both income and labour issues. As a consequence of earlier state interventions and evolving productive-reproductive dynamics the most pressing issue in the third period is the allocation of income and labour between the two spheres which creates a labour rich-income poor reproductive unit and an income rich-labour poor productive unit. The mediating strategy of the state during this period involves the realignment of labour and income allocations between the two spheres resulting in the growth of the modern welfare state (welfare law) and the absorption of women in the labour force (labour law). Intervention during this period is primarily supportive and the locus of activity occurs at the national level.

Our periodization is designed to reveal the various forms of imbalance between production and reproduction that occurred over time and the diverse strategies of the state undertaken to ameliorate the social/political costs of these disjunctures. Out of the diverse process of intervention we suggest that an identifiable pattern of state mediation emerges. It is a pattern of consistent displacement of the costs of reproduction away from production on to the larger community, first, the

municipality (period I), then the province (period II), and finally, the nation state as a whole (period III).

While our periodization serves to highlight the major steps in the restructuring of production, reproduction, and the state, it also explores the degree of legislative diffusion between the three jurisdictions within the confines of each period. Given the different timing and intensity of development in each province and the different administrative capacities of each jurisdiction our multijurisdictional review explores the extent to which the characteristic "crisis-intervention" sequence of each period is replicated and resolved in each jurisdiction.

#### Availability of Data

We must acknowledge that while historical analysis is the most appropriate method for addressing the issues raised in our theoretical perspective, historical research contains certain limitations as well as strengths. The most obvious limitation is the fact that we are dependent upon the evidence left to us, and as alluded to in the introduction of this study 'evidence' historically has tended to be collected by men and men of a particular class. While these limitations are a reality in all research, and certainly not just limited to historical data, the constraints they impose vary according to the focus of the study. If one studies the history of powerful men from the perspective of traditional male priorities and experiences the constraints of history would be minimal. However, to study issues focusing on women and the family presents special research challenges, as feminist historians have observed.

Traditional sources of data for broad historical studies, such as census materials, frequently disappoint the researcher when a study focuses on details of households rather than the formal economy or public institutions. Particularly in the early census years the data is characterized by large gaps and considerable inconsistencies. For example, there is no record of the sex of the gainfully employed until 1891 and no record of their marital status until 1921. Further, there is no information on the number of women-headed households during the first period, and no data on desertion at a time when divorce was for all practical purposes unattainable. In addition to missing information, census data is characterized by shifting categories in age groupings and by changes in the activities included in the formal economy. These differences frustrate attempts to make estimates, for example, it is hard to estimate the approximate percentage of married women employed, prior to 1921. As a result of these problems, the research that examines shifting household patterns or changes in the lives of women over time has focused on specific communities and/or narrow time frames, in these cases, church records and local information can overcome the limits of census data. The number of these studies are increasing everyday and we may over time be able to construct from these specific studies a larger portrait of the impact of broad social change upon the lived experience of household and wage work for women and their families.

In our own work, we maintain that the constraints of historical research, including the use of census data, have been less severe because we are studying reproduction in its structural form and public manifestation. While it is unlikely that the public documents we relied



on for evidence of reproduction would record the private or subjective aspects of this process, they are clearly concerned with and consistently document the social impact of reproduction. For example, they show marriage rates, birth rates, abortion, abandonment, and infant mortality. Further, because we have chosen to examine the operation of reproductive dynamics through the focus of legislation, we have the advantage of the reliable chronicling of public state activity. Finally, our research has benefited greatly from the feminist and labour history that preceded it, providing us with documents and data less easily retrievable from traditional public and archival sources. Therefore, despite the inherent limitations of historical research and the occasional gap in information, the pursuit of a historical materialist analysis remains the best method for our project.

#### The Social Dimension of Structural Change

While our units of analysis are the macro structures of production, reproduction, and the state and not the specific experiences of work place, household or house of parliament, it is, nevertheless, important not to see these units as disembodied structures. Thus we will preface our analysis of the macro dynamics with some highlights of the changing patterns of women's activities between 1884 to 1968. This will ensure that the drama of our time period, which focuses on the restructuring of the state, production and reproduction, is also understood in terms of the major restructuring of women's lives.

When we consider women at different stages of the life cycle with regard to employment, marriage, and childrearing, we witness a major

transition in the combination of these three activities over time. In the late nineteenth and early twentieth century women's wage work was rarely combined with marriage or childrearing. However, by the mid-twentieth century employment, marriage, and childrearing were becoming increasingly combined responsibilities of women. The drama of this transition lies less in the accumulation of activities, in and of themselves, more in the manner in which these cumulative increases change the meaning of women's lives. The transition implies a fundamental challenge to, perhaps reversal of the old assumption in which marriage and family were understood as the continuity and wage work the contingency in the unfolding of an adult woman's life.<sup>1</sup>

In the first period a small proportion of Canadian women were employed. Census data indicates that 11% of women 10 years of age and over were employed in 1891, 12% in 1901 and 14.3% in 1911 (Fifth Census of Canada 1911, Vol. VI, p. XV). In general the age distribution of employed women suggests that married women typically were not employed. Table I indicates the proportion of employed persons, 10 years of age and over, by age categories and sex in Canada in 1911. The table demonstrates that while the rate of employment of women is consistently lower than that of men in all age categories the difference is most dramatic in the age category 25-64 (peak marriage and reproductive years) in which 96% of men are employed in comparison to 12% of women. Among women, the largest proportion of employed is seen in the category 15-24 years of age.

Table I  
Persons Occupied in Gainful Occupations Classified  
by Age Periods, For All Canada, 1911

Age periods	Males 10 Years of Age and Over			Females 10 Years of Age and Over		
	Total Number	Engaged in gainful occupations		Total Number	Engaged in gainful occupations	
		Number	Per cent of total		Number	Per cent of total
<b>Total 10 years and over</b>	<b>2,965,615</b>	<b>2,358,813</b>	<b>79.54</b>	<b>2,548,743</b>	<b>361,821</b>	<b>14.31</b>
10 to 14 years.....	353,876	17,376	4.91	344,500	7,777	2.26
15 to 24 years.....	735,071	620,972	84.48	647,874	179,992	27.78
25 to 64 years.....	1,682,522	1,619,885	96.28	1,384,228	168,034	12.14
65 years and over.....	194,176	100,580	51.80	172,141	9,018	5.24

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Source: Census of Canada 1911, Vol. VI, Table 19, p. XV.

The employment rates of women in the first period appear to belie the identification of the crisis of this period as a labour allocation problem. The number and proportion of women employed was very small by today's standards. However, a number of factors provide some explanation of why the paid employment of women was of such concern during this period. One factor was the degree to which women's work changed as a result of the processes of urbanization and industrialization. The demanding productive labour of women in agricultural communities was integrated in function and location with her reproductive work. Under these circumstances, hard work, in and of itself, was not a cause for alarm. However, with industrialization and the growth of towns, productive work became physically separated from reproductive work. During the first period Ontario's urban population almost doubled, from 27% of the total provincial population in 1881 to 50% in 1911 (Burke 1990:35). As women's employment increasingly meant women's absence from the home public concern increased. Throughout this period of rapid urbanization there was the pervasive and deeply held belief that women's proper role was childrearing and homemaking, which would make any evidence of women's employment troublesome.<sup>2</sup> This belief may explain why there was no record of employment by sex until 1891.

A second factor which may explain the discrepancy between the actual numbers of women employed and the magnitude of concern about them is the variation in women's employment patterns by location. The uneven distribution of employed women throughout the country reflected the uneven availability of wage work for women. In communities where there were very few "female jobs" women's employment rate was lower than the national

average and conversely, where there were a significant number of "female jobs", the proportion of employed women was much above the national average.

Joy Parr's (1990) work, The Gender of Breadwinners, provides striking evidence of the variation in women's employment rates by location. She presents a comparison of women's employment patterns in Paris, a town in which the majority of jobs were in knitting mills and Hanover, a town in which the majority of jobs were in furniture manufacturing. In Paris in 1883 one quarter of all residents of the town worked in the mills and 59% of those employees were women (Parr 1990:15). While women's employment rates in Paris were atypical, their age of employment was more consistent with the Canadian pattern. Parr reports that the majority of working women were young and unmarried, "...these young women went to work in the mill to help support their needy families. One in four lived with a widowed mother; half were the daughters of fathers who were out of work or employed in unskilled occupations" (Parr 1990:16). Parr's findings along with the Census data suggest that within the first period children played a far more significant role as secondary breadwinners than did wives. In contrast to the situation in Paris, work in the Hanover furniture manufacturing industry was clearly defined as "men's work" and women's employment in that community was well below the national average (Parr 1990:166).

In those Canadian cities in which there was a concentration of garment industries, as well as shops and offices that tended to employ women, the proportion of employed women was far higher than the national average. For example, in 1871, women and children made up 42% of the

industrial work force in Montreal (Ames, 1972), and 34% in Toronto (Kealey, 1981). This concentration of women's wage work in urban centres made the employment of women more visible and gave rise to great concern among social reformers about the future of the family.

While the incidence of employment among married women was lower than that of the unmarried, the rapidity of social change and the precariousness of life in the first period, thrust a number of married women with children into the breadwinner role. Death, desertion, divorce, and disability of the male breadwinner would often leave women with no option but wage work. While no systematic data is available on the frequency of these events we do know that women were widowed at twice the rate of men<sup>3</sup> (Kubat and Thornton 1974:99), the absence of health and safety regulations led to a significant incidence of disability, and although divorce was below the .05% mark the records of charitable institutions suggest that desertion left many families without any resources. Under such circumstances, if no support was forthcoming from relatives, married women worked. A study of unemployment in Ontario in 1914 gives us an indication of the convergence of economic pressures and employment opportunities more characteristic of urban centres.<sup>4</sup> The report includes an analysis of applications for positions to the Toronto Women's Patriotic League, a women's employment agency and charitable service. The League reported that of the 1,963 applications they processed in 1914, 34% of the women were married, 16% widowed, and 3% deserted. Overall, 31% of all applicants reported that they were supporting dependents (Report of the Ontario Commission on Unemployment, 1916:196).

The data available on the first period indicates that wage work occupied a minority of Canadian women for a limited period of time while marriage and childrearing accounted for the majority of their labour time. For the census years 1881, 1891, and 1911 the percent of ever married women at ages 45 to 49 was 88.7%, 90.6%, and 88.0% respectively (Gee 1988:190). Further, 87% of these married women bore children, averaging 4.8 children per ever married woman during this period (Romaniuc 1984:31). The prevalence of large families is revealed in the fact that over 40% of married women born prior to 1876 had six children or more (Gee 1988:194). These figures translate into a substantial proportion of adult women's lives spent in procreation and childrearing, "...for female cohorts born between 1831 and 1840, ninety percent of the years lived after marriage were spent rearing dependent children; the comparable figure for the cohorts of 1951-60 is forty percent" (Gee 1988:198).

In the second period census data indicate a modest but steady increase in women's participation in the labour force. During this period information on the marital status of the gainfully employed becomes available for the first time. Table II indicates the increase in women's participation rate in the labour force as well as the small increase in the percentage of employed women who were married. No clear pattern emerges with regard to the percentage of employed women who were widowed or divorced.

Table II

The Proportion of Women Gainfully Employed,  
10 Years of Age and Over by Marital Status for  
Census Years 1921, 1931, and 1941

Labour Force	1921	1931	1941*
% Women Employed	17.6	19.6	20.6
% Single	82.19	80.7	79.9
% Married	7.1	10.0	10.2
% Widowed/Divorced	10.6	9.2	9.7

\* For the 1941 census year the recorded age of employed changes to 14 years and over

Source: Census of Canada 1931, Vol. VII, Table 27, p. 38.  
Census of Canada 1941, Vol. VII, Table 18, p. 525.

Despite modest increases in women's labour force participation rate in the second period, their employment patterns remained very similar to those of the first period. The majority of employed women in both periods were young and single. Table III identifies the labour force participation rate by age and sex for the census year 1921. The table indicates that the highest participation rates for women were in the age category 14 to 24, which accounts for 67.8% of all employed women. In contrast, men experienced their highest participation rates in the 25 to 64 age categories when women's participation was lowest. Many of the working women in the 65+ age group will have been widows who were supporting themselves.



Table III

Labour Force Participation Rates  
by Age Group and Sex, 1921

	<u>14 - 19</u>	<u>20 - 24</u>	<u>25 - 34</u>	<u>35 - 64</u>	<u>65+</u>	<u>Total</u>
Women	29.5%	38.3%	19.9%	11.8%	19.0%	20.5%
Men	65.4%	92.3%	96.2%	94.3%	71.0%	88.3%

Source: M.C. Urquart and K.H.A. Buckley (eds.) 1965 Historical Statistics of Canada. Toronto: Macmillan of Canada, page 62.

During the depression the Manitoba Economic Survey Board commissioned a detailed analysis of 1931 census data to acquire more information on women's employment and wage earning patterns of Canadian families (Oddson 1939). The report indicated that although 10% of all employed women were married only 3% of married women entered the labour market when their husbands had jobs (Oddson 1939 Appendix C, Table 24). Despite the small proportion of wives in the work force Canadian families were dependent upon secondary wage earners during the depression. The report indicated that 53.8% of children 15 years of age and over were secondary wage earners in father-headed households, the proportion rose to 61.45% in mother-headed households (Oddson 1939 Appendix C, Table 24). The number of mother-headed, wage earning families was relatively small, amounting to 45,403 families in all of Canada in 1931 (Oddson 1939 Appendix C, Table 24). However, during the second period there came into being another category of mother-headed households, those receiving Mothers' Allowances. The number of these families tripled from 7,933 in

1926, when national data first became available, to 23,409 in 1939 (Leacy, Historical Statistics 1983: C508-520).

In spite of the income crisis experienced by the majority of families during this period, the traditional separation of employment from marriage and childrearing remained intact. However, the more dramatic changes in fertility and family size, characteristic of this period, suggests that reducing the number of dependents was a frequent household response to the income crisis. At the beginning of this period, the average number of children born to ever married women was 4.3, by the end of this period the average number had dropped to 3.3 (Romaniuc 1984:31). There was also a dramatic decrease in the number of families that had six children or more indicating a growing trend to smaller families. Among ever married women in the first period 42.3% had six children or more, in contrast to only 26% in the second period (Gee 1988:190). Further, among women reaching prime childbearing age during the depression 15.5% remained childless in comparison to an average of 13% in the first period and 11% in the third period (Gee 1988:191).

The absence of any dramatic change in women's participation in the formal labour market during the depression and throughout the second period suggests that the majority of women's labour time continued to be expended in the home, childrearing and homemaking much as it was in the first period. The combination of employment with marriage remained a rare occurrence and the combination of employment with marriage and childrearing even rarer. The main types of household adaptations to the depression, were to reduce family size, increase reliance on children as secondary wage earners, and increase reliance on welfare. These

adaptations did not substantially alter women's traditional role as homemaker during the second period.

The clear separation between women's employment and marriage and childrearing which was characteristic of the first two periods, was rapidly broken down in the third. The end of this pattern of 'separate spheres' is illustrated in the growth of women's employment rates from 20.6% in 1941 to 39.9% in 1971 and even more emphatically by the increase in proportion of employed women who were married from 10.2% in 1941 to 59.9% in 1971. The dramatic convergence of employment, marriage, and childrearing found in this period changed the age and sex composition of the labour force. It also changed the traditional sexual division of labour and in time, the demography of Canada. The three indicators which we have traced; first, employment levels of women; second, proportions of employed women married, and birth rates all shifted dramatically during the third period.

Table IV shows the increase of women's participation in the labour force, the impact this had on the sex composition of the labour force and the increased presence of married women in the work place. The Table shows that between 1941 and 1971 there was a 93% increase in women's participation in the labour force resulting in an increase of 87% in the female composition of the labour force and a 490% increase in the percentage of employed women who were married.

Table IV

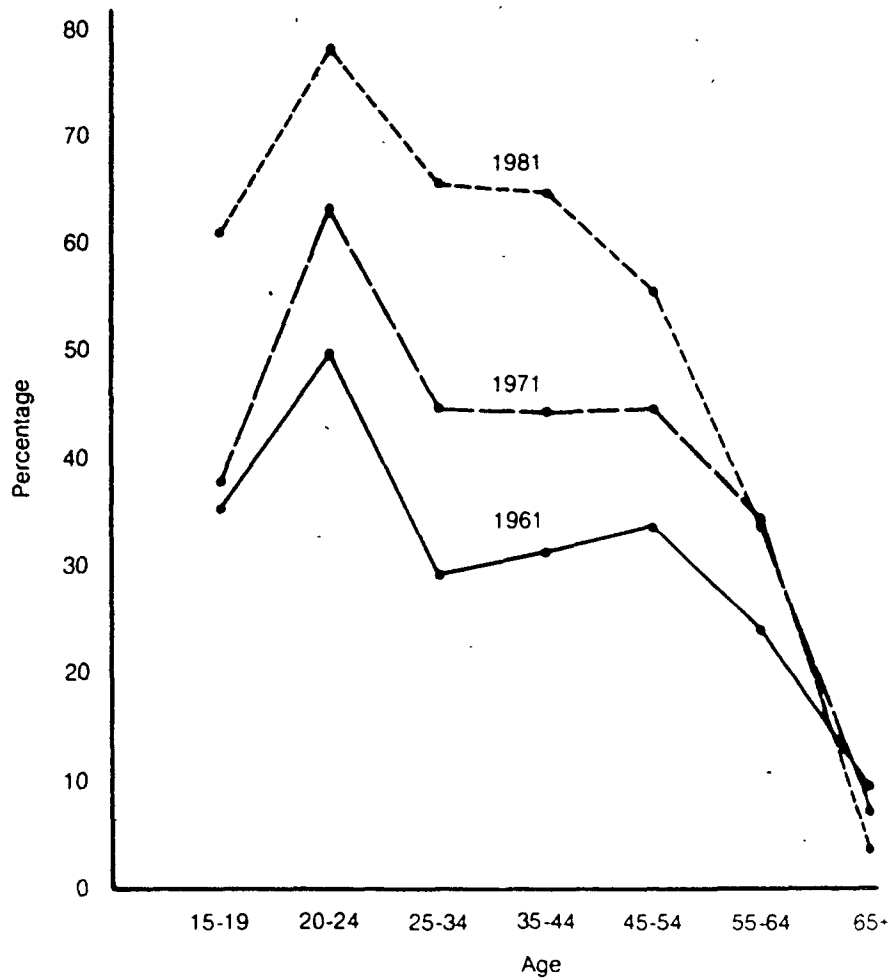
Female Labour Force Participation, by Marital Status,  
1941 - 1981

Year	Female Participation Rate (%)	Female % of Labour Force	% Employed Women who were Married
1941	20.7	18.5	10.2
1951	24.0	22.0	29.9
1961	29.5	27.3	49.7
1971	39.9	34.6	59.0
1981	51.8	40.8	60.0

Sources: Calculated from 1941 Census, Vol. III, Tables 1, 18, and 44; 1951 Census, Vol. II, Table 24, and Vol. IV, Table 11; 1961 census, Vol. 1.3, Table 99, Vol. 3, Table 17, and Labour Force: Occupation and Industry Trends (Cat. 94-551), Tables 1 and 2; 1971 Census, Vol. 1.2, Table 7, Vol. 1.5, Table 1 and Vol. III, Tables 2, 4, and 9; and 1981 Census, Age, Sex, and Marital Status (Cat. 92-901), Table 1.

While the typical wage earning woman of the first two periods was a young single woman, the Ontario Women's Bureau reported in 1964 that the typical employed woman in that year was 38 years old and married (Ontario Women's Bureau 1964:56). Figure 1 illustrates the dramatic impact the entrance of married women in the labour market has had on the age structure of employed women. In the past the predominant pattern was for women to enter the labour market until they married or became pregnant, at which point they would leave the labour force. After the family had grown up, a significant number would re-enter the market, giving the pattern of female participation a "saddle" shape (Phillips and Phillips 1983:36). By the end of the third period this pattern was changing, the 'saddle' was disappearing.

Figure 1: Female Participation Rates by Age



Source: Paul Phillips and Erin Phillips, Women and Work. James Lorimer and Company, Toronto, 1983, p. 37.

While women were entering the labour force in greater numbers they were also, simultaneously increasing their commitments to reproduction. The third period was characterized by increasing marriage rates, decreasing rates of childlessness and a rising fertility rate. This shows

the increasing convergence of employment, marriage and childrearing during this period. Table V illustrates these trends, indicating a 5.4% increase in marriage rates between 1941 and 1981 and a 5.9% decrease in childlessness over the same time period. While the trends in marriage rates and rates of childlessness are consistent over the five decades included in the table, the fertility rate is much more variable. The table indicates a consistent increase in fertility from 1941 to 1961, the census years that fall within the confines of the third period. However, the rise in fertility over those two decades reflected a unique concurrence of events, resulting in the baby boom, which were not sustained beyond the mid-sixties.<sup>5</sup> The fertility rates in 1971 and 1981 indicate a return to the more typical inverse relation between women's employment rates and fertility, as demonstrated in Figure 2.

Table V

Percent of Women Ever-Married, Percent Childless  
and Total Fertility Rates, Census Years 1941 to 1981

Census Year	Ever-Married %	Childless %	Total Fertility Rates (Per 1000 Women)
1941	88.8	13.1	2832
1951	88.3	11.8	3503
1961	90.5	9.6	3840
1971	93.0	8.4	2187
1981	94.2	7.2	1704

Source: Ellen Gee "The Life Course of Canadian Women: An Historical and Demographic Analysis" Table 2, p. 190; Table 3, p. 191 and Table 4, p. 193 in A. McLaren (ed.) Gender and Society, Copp Clark Pitman Ltd. Toronto 1988.

The events of the third period dramatically altered the historic pattern revealed in the first two periods in which the competing demands of work and family life had been accommodated by separating them. The erosion of the traditional sexual division of labour and the increased intensification of women's labour in both spheres changed women's lives, their households, the labour force and over time, the demographic structure of Canada. At the individual level we find that women's lives become subject to the daily competing pressures of employment, marriage, and childrearing. These pressures contributed to the rise of the women's movement of the mid-twentieth century. At the household level we see that wives have replaced children as the most frequent and most important secondary wage earners. We see birth rates have dropped precipitously and that divorce rates have risen. In the work place we see the changes of the third period alter the sex composition of the labour force. Finally, at the level of the nation state, we see the declining birth rates translate into a skewed demography with an aging population, negative population growth, and an increased reliance on immigration.

Figure 2 presents the separate trajectories of women's employment rates, the proportion of employed women who were married and the fertility rate over one hundred years. It is a visual representation of the separation and then convergence of employment, marriage, and childrearing which we have traced over the three periods. In the first two periods (1881-1941) we see the clear separation of employment, marriage, and childrearing in the separate, never intersecting lines of fertility, employment, and marriage. Despite this clear distinction we can, however,

also observe a consistent inverse relation between women's employment rates and fertility.

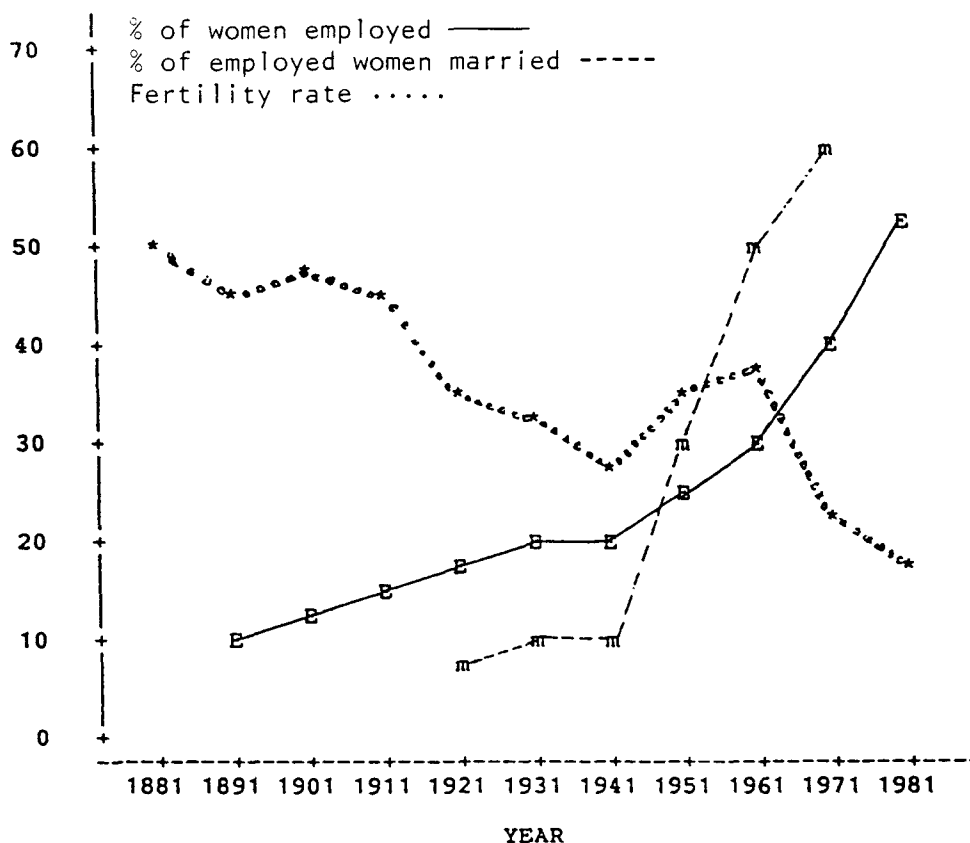
The years 1941 to 1961, marked by the simultaneous up turn and intersections of the three trajectories, indicates the dramatic convergence of employment, marriage, and childrearing which characterized post-war Canada. The final two decades illustrate the return to the historic inverse relation between women's employment and fertility.

These last two decades indicate an increasing divergence between fertility rates (reproduction) and women's employment rates (production). This, we argue, is a result of the contradictions between the structures of wage work and reproductive work, which become most manifest when the two structures converge in women's lives. The statistics we have just reviewed provides us with a picture of the pattern of separation, convergence, and divergence of employment, marriage and childrearing in women's lives at different points in Canadian history. The purpose of this study is to explore the role of the state in the unfolding of these patterns.

The following chapters outline the history of productive-reproductive dynamics and the patterns of state mediation from which contemporary family-state relations have been forged. Chapter four provides the historical backdrop to the events initiated in 1884 and the subsequent chapters analyze each period and the critical events which lead up to a particular pattern of mediation. As a companion to the discussion of inquiries, legislation, and enforcement, each period has an appendix which contains the detailed chronicling of the relevant Royal Commissions and inquiries, the list of new statutes and amendments, as well as a list



Figure 2: Proportion of Female Population Employed\*, Proportion of Employed Women who were Married and Fertility Rate,\*\* Canada 1881-1981.



\* The percentage of women in the labour force is calculated on the number of women 10 years of age and over for census years 1881 to 1911, women 14 years of age and over for 1921 to 1941 and women 15 years of age and over for 1951 to 1981.

\*\* While fertility rates are typically calculated in terms of the number of births per thousand women, for the purpose of this graph we are reporting number of births per ten women.

Sources: Ellen Gee, "The Life Course of Canadian Women: An Historical and Demographic Analysis" in A. McLaren, (ed.) Gender and Society Copp Clark Pitman Ltd. 1988, Toronto, p.193, Table 4.

Employment rates calculated from 1921 Census, Vol IV, Table VI, p.15; 1931 Census Vol. VII, Table 27, p.38; 1941 Census Vol. III, Table 18; 1951 Census Vol. IV, Table 11; 1961 Census Vol. III, Table 17; 1971 Census Vol. III, Tables 4 and 9; and 1981 Census, Age, Sex and Marital Status (Cat. 92-901), Table 1.

of the new bureaucracies and regulatory agencies which ensured the implementation of state policy in the areas of labour, welfare and family law.<sup>6</sup>

#### FOOTNOTES

1. The concept of family as continuity and work as contingency and the reversal of that understanding over time is borrowed from Joy Parr, The Gender of Breadwinners, University of Toronto Press, Toronto 1990 p.25.
2. In the next chapter we will discuss in detail the strong public response to evidence of women's employment.
3. Women are widowed much more frequently than men in all three periods, for example, in 1901 the rate for men was 4.1 and the rate for women was 8.8, in 1931 the male rate was 4.0 and the female rate was 8.5, in 1951 the male rate was 3.8 and the female rate was 9.4 and in 1966 the male rate was 2.9 and the female rate was 10.0. Daniel Kubat and David Thornton, A Statistical Profile of Canadian Society, McGraw-Hill Ryerson Ltd. Toronto 1974, Table H-4, p.99.
4. Although the Ontario Commission on Unemployment was undertaken in 1914 and therefore, falls within the second period, we are including their findings here because it occurs only one year beyond the first period and also because of the similarities in women's employment patterns in the first and second period.
5. Because the depression had so dramatically reduced the birth rate the return to pre-depression birth rates had the effect of creating a baby boom. The average crude birth rate prior to the depression (1921-1926) was 27.4. The average crude birth rate in the immediate post-war years (1951-1956) was very similar at 27.9. The combined effect of the end of the war, high employment and more income resulted in an increase in the marriage rate, especially early marriages. Early marriages led to childbearing at increasingly younger ages at the same time that older couples were making up for delays in childbearing caused by the depression and the war (Romaniuc 1984:13). Although families were somewhat larger in the 1950's, the big difference in fertility was the result of this democratization of procreation. The average number of children born to ever married women changed from 2.6 in the trough of the depression to 3.4 at the peak of the baby boom. Romaniuc, Fertility in Canada: From Baby-boom to Baby-bust 1984, Ministry of Supply and Services Ottawa.

6. For a guide to the location of the various government documents used in this study see; Brian Land "A Description and Guide to the Use of Canadian Government Publications," p. 501 in Paul Fox (ed.) Politics Canada, McGraw Hill Co., Toronto 1970, (third edition).



## CHAPTER 4

### HISTORICAL BACKGROUND: CANADA AND THE IMPACT OF INDUSTRIALIZATION

#### Introduction

While we have discussed the general impact of industrialization on reproduction in our earlier chapters, we must examine the specific conditions in Canada which preceded and provoked the new, more active, intervening role of the state. In setting the historical background we will examine the massive migrations of population into the country and into the industrializing cities occurring simultaneously with the spread of the wage labour system in Canada. We will consider the impact of these changes upon reproductive relations through an examination of vital statistics, government reports and welfare statistics on Ontario and Manitoba. Further we will examine the predominant social definition of these changes and their attendant social problems as articulated by the social reform movement. Finally, we will assess the impact of the social reform movement on the formation of government policy in its enthusiastic advocacy of greater government intervention and regulation of work and family life.

#### The Development of a Wage Labour System in Canada

The development of a wage labour system in Canada in the nineteenth century progressed through three identifiable steps which were effectively

completed in Ontario by the opening of our inquiry in 1884. The first step was the development of a reliable pool of wage labourers; the second step initiated by the national policy was the break down of a traditional alliance between workers and manufacturers over the issue of tariffs; and the third step was the mechanization, rationalization and extension of the wage labour system to previously unaffected sectors of the population.

According to Pentland (1981) two decades in the nineteenth century, the 1830's and the 1850's were significant in the process of amassing a pool of wage labourers. During these years Canada experienced major waves of immigration and major construction projects (canals and railroads) which absorbed large numbers of unskilled and semi-skilled labour. The impact of these waves of immigration was dramatic. With a population of approximately one million in 1830 Canada admitted 223,848 immigrants between 1830 and 1834 experiencing a one quarter increase in population over five years.

The characteristics of the emigrants were as important as their numbers. During these two decades the emigrants were disproportionately young men who came to work rather than to homestead. The largest category were the Irish who made up fifty per cent of the immigrants during this period. According to Pentland they were characteristically unskilled or semi-skilled, lacked the resources to become self-employed and provided the large pools of labour essential to the major rail and canal construction of the period. The other most numerous category were the English who while less spectacular in numbers were nevertheless important because they were industrial workers who arrived with the skills and discipline essential to the developing industrial sector.

Eagerness for the creation of a class of wage labourers was not confined to the nascent industrialists. Mercantile capitalists, investors in major construction projects and farmers to a lesser extent had a vested interest in having large supplies of cheap labour available to them. Pentland points out that an attempt was made to create a cottar class in Upper Canada, available for hire by neighbouring employers by locating poor immigrants on five acre lots. Interest in developing a large, reliable pool of wage labourers prompted the institution of policies which would guarantee that upon arrival in Canada the emigrants' options for survival would not extend much beyond the necessity of selling their labour. "The policy of deriving free grants of land that was followed fairly consistently after 1831 also owed something to the desire to push poor men into a permanent labour reserve" (Pentland, 1981:110).

With the subsequent waves of immigration, throughout the nineteenth century, labour supplies became more secure making it possible for employers to increasingly treat labour as a disposable commodity. Pentland observes: "It is instructive to notice that while manufacturers were protected from foreign competition in the 1880's and 1890's, working men were not and made no progress in their efforts to curb the importation of contract labourers and no significant gain in any other direction" (Pentland, 1981:174).

Having largely solved the problem of supply through immigration the impetus towards the commodification of labour was, nevertheless, still inhibited by a traditional alliance between workers and manufacturers over the issue of tariffs. The second hurdle was overcome with the institution of the national policy in 1879, in which the state came out in favour of

protectionist tariffs to support Canadian industry (Kealey, 1980:17). With tariffs ensured, workers no longer had to be courted for political support and employers were much freer to pursue the rationale of surplus extraction.

The national policy further promoted the development of a capitalistic labour market by facilitating the growth of industry and the consequent capitalization and rationalization of the production process. "A comparison of the industrial sector of the Toronto economy before and after the national policy conducted in 1885 showed significant growth between 1878 and 1884" (Kealey, 1981:31). As a result production units enlarged, introducing extensive mechanization and elaborate divisions of labour. Furthermore the expansion in manufacturing and the diversification of production (Kealey, 1981:33) meant that new forms of labour, specifically women and children, who were unsuited to the extractive industries, could now be drawn upon.

While productivity and the demand for labour increased, the consequences of these changes were ambiguous for the workers. Mechanization and divisions of labour were associated with deskilling and increased competition (Palmer, 1979; Kealey, 1981). "Total demand for labour was indeed more stable than before, but by this very fact, employers no longer had to make long-term commitments to particular workmen, and individual security was less. ...the general effect of the rise of the capitalistic labour market, with its perennial surplus of supply over demand, was to make the bargaining position of the individual workman much weaker than before." (Pentland, 1981:186)



The declining bargaining power of the individual male worker meant quite simply that a single wage was increasingly insufficient to support a family. Ames (1972) study of Montreal households in the 1870's indicated that the average family had 1.41 wage earners but the number varied depending on the occupation of the father. Bradbury's (1979) further breakdown of this data showed that the average number of paid workers in a proprietor's family was 1.2 compared with 1.8 for semi-skilled and unskilled workers. Although comparable data for Ontario is not available there is no reason to believe that the impact of industrialization upon households there was substantially different. In fact, evidence before the Royal Commission of the Relations of Labour and Capital in 1889 suggests that Ontario households were under exactly the same pressures. For example, testimony before the Commission indicated that a cigar maker with two or three children was barely able to live on the average salary of \$7.00 a week and they were advantaged considering that an Ontario male labourer averaged less than six dollars a week, a cotton mill operative under seven (Royal Commission, 1889). Furthermore, the average pay reported by immigration agents for unskilled workers in the industrial towns of central and eastern Canada at the time was between \$1.00 and \$1.50 per day or six to nine dollars a week if the worker was continuously employed (Phillips and Phillips, 1983). Add to this the process of urbanization<sup>1</sup> and the expansion of the market into domestic production and its results in the diminishing capacity of women and children to effectively subsidize the family's resources outside of the labour market.

It became essential that other members of the family go out to work. In 1871 women and children made up 42 per cent of the industrial work force in Montreal (Ames, 1972), and 34 per cent in Toronto (Kealey, 1981). As Table 4.1 indicates, women and children made up a significant percentage of the workers in light manufacturing, clothing, shoes, printing, tobacco and furniture in Toronto in 1871. While women and children's presence in these industries varied from 11.3% in furniture to 74.6% in clothing, they averaged 50.8% of the labour force in the five light industries and 34.2% of the labour force in all industries in Toronto in 1871.

Table 4.1

## Female and Child Labour, Toronto, 1871

Industry	No. of Women Employed	No. of Children Employed	Total No. Employed	% Women and Children
Clothing	1,411	201	2,161	74.6
Shoe	359	169	1,565	33.7
Printing	269	114	869	44.1
Tobacco	60	124	364	50.6
Furniture	50	4	479	11.3
Total	2,149	612	5,438	50.8
All industries total	2,238	1,180	9,999	34.2

Source: G. Kealey, Toronto Workers Respond to Industrial Capitalism, 1867-1892 (table 1.2, p.300) University of Toronto Press, Toronto, 1980

As the market encroached upon domestic production women were increasingly drawn into the labour force.

"Women who had spun the flax or wool grown by their fathers or husbands were now working in textile factories. Rather than cooking, baking and preserving for their families women

were working in biscuit factories. For example, by 1891, one third of the biscuit and confectionery workers in Toronto were women. Instead of sewing their children's clothing, women bought clothing from the companies they worked for. According to the Canadian Census, the number of seamstresses increased over ten fold between 1851 and 1871."

(Phillips, 1982:7)

By 1884, therefore, the development of a wage labour system in Ontario had sufficiently matured to have fundamentally altered not only the nature of work but also the character of family life for a significant sector of the working population. While it is true that industrialization during this period was localized in a number of urban centers in eastern and central Canada and was not a national phenomenon it is also true that what developed in the burgeoning Ontario cities was seen by observers to be a harbinger of the future of Canadian development. In addition, the experiences of England and the eastern United States were not lost to the Canadian observer, especially as they began to be replicated in our country. Thus, while the disturbing consequences of industrialization, female and child labour, tenement housing, high infant mortality and child abandonment, to name a few, were problems of the industrial cities and not a national phenomenon they were sufficiently upsetting to provoke a wide range of concerns and reactions throughout eastern and central Canada.

#### Wage Labour and Reproduction

What evidence do we have that the introduction of the wage labour system was, in fact, having a significant impact upon reproductive relations? There was, of course, the declining birth rate which became apparent in the 1880's in Ontario and was perceived as an alarming change in the attitudes and behavior of the population. By the late 1880's the

records of births, deaths and marriages were becoming much more systematically compiled by the Registrar General in Ontario. This led to some disconcerting discoveries. In 1891 the Registrar General reported that although marriage rates appeared to be increasing birth rates were declining. The reports submitted to the Ontario legislature throughout the 1890's records the increasing alarm over this situation. In 1894 the report simply remarks on what had become a pattern since 1891.

"That for three years past the births have gone on steadily decreasing is a fact which this year's returns leave no room for doubt. It is of interest to notice in this connection the fact that the increased number of marriages per 1,000 is not associated with a proportionately increased birth rate."

(Ont. Sess. Papers 1894 #11 p.2)

By 1896, however, the perpetuation of this trend gives rise to greater concern and comment and speculation that "neomalthusianism" (the victorian euphemism for birth control) is becoming a wide spread practice in Ontario. "...it is apparent that some cause or causes are operant to produce a decline of births so serious, in a still sparsely settled Province, as to call for the attention of all interested in the moral, social and economic welfare of the people" (Ont. Sess. Papers 1896:2). The continuing decline in the birth rate provoked a major analysis of the phenomenon in the 1899 report which left no doubt that it was viewed as a serious social problem that threatened the very stability of the nation.

"...it would be sheer hypocrisy not to acknowledge that the state today in Canada, by allowing the newspaper press to distribute daily by thousands advertisements teaching the arts of prevention, and by permitting pamphlets of every form and of a still more reprehensible character to be sent broadcast through the mails, is giving its tacit sanction to practices which it makes criminal laws to punish. This is not the place for teaching public morals, but rather to indicate wherein the state has duties in the interests of public health and economic progress. History gives attestation to the fact that

a degeneracy of manners and morals, which in any degree affects the sanctity of marriage and degrades nature's functions, bears its legitimate fruits in national decay and in the destruction of family life." (Ont. Sess. Papers: 1899:21)

Concern with the declining birth rate was exacerbated by evidence that the Ontario rate seemed to be lower than those of other industrializing countries. In 1895 the Registrar General of Ontario called attention to the fact that Ontario's birth rate not only fell far below that of England, Wales, and Scotland, but that it was also lower than the rates in France and Massachusetts, jurisdictions with acknowledged birth rate problems (Ontario Sessional Papers 1895, No. 30 p.2). Table 4.2, taken from the Registrar General's report, documents Ontario's low birth rate relative to the other jurisdictions. The table indicates a 17% decline in the Ontario birth rate in one decade, dropping from 23.1 in 1883 to 19.2 in 1893.

Table 4.2

## Birth Rates Per 1,000 Population for Selected Jurisdictions

England & Wales	Scotland	France	Massachusetts	Ontario
1883..33.5	1883..32.8	1882..24.8	1881..24.73	1884..23.1
1884..33.6	1884..33.7	1883..24.8	1883..25.17	1885..23.5
1885..32.9	1885..32.7	1884..24.8	1884..25.45	1885..22.0
1886..32.8	1886..32.9	1885..24.2	1885..25.12	1887..21.7
1887..31.9	1887..31.7	1886..23.9	1886..25.37	1888..21.8
1888..31.2	1888..31.3	1887..23.5	1887..25.80	1889..22.6
1889..31.1	1889..30.9	1888..23.1	1888..25.89	1890..22.0
1890..30.2	1890..30.4	1889..23.0	1889..26.19	1891..21.1
1891..31.4	1891..31.2	1890..21.8	1890..25.81	1892..19.7
1892..30.5	1892..30.8	1891..22.6	1891.. ---	1893..19.8
1893..30.8	1893..31.0	1892..22.1	1892.. ---	1894..19.2

Source: Ontario Sessional Papers 1895, No. 30, p.2, Registrar General's Report.

While the data indicated a decline in legitimate birth rates, illegitimate birth rates were showing an increase, in 1874 the ratio was 6.9 or one in every 144 live births, by 1884 the ratio was 14.4 or one in every 69 live births and by 1900 it was 1 in every 55 live births (Ont. Sess. Papers, 1888:11 & 1901:3). These data were particularly alarming because although the Registrar General complained throughout the 1800's that births tended to be underreported, the most underreported births were the illegitimate ones. Thus, there was the growing concern that the relation between marriage and procreation was breaking down, married people were having fewer children and apparently taking direct measures to prevent conception, while the rate of illegitimate births was rising.

As concern about birth rates increased, attention was turned to infant mortality rates. Throughout the first period infant and child mortality constituted a very high percentage of total deaths. From 1876 to 1902 infant mortality, children dying under one year of age accounted for 20-25% of all deaths; when the child mortality rate was included, children dying under five years of age, children accounted for 25-30% of all deaths. Furthermore, given the continued trend toward urbanization it was upsetting to discover that urban mortality rates were often twice as high as rural mortality rates. The report of the Registrar General in 1905 states that child mortality in urban areas was 5.2 per thousand population while the rate in the rural areas was 3.4 per thousand population, infant mortality rates revealed the same pattern 4.1 per thousand population in the urban districts and 2.6 for the rural (Ont. Sessional Papers, 1905, #9, p.3). Discussion of this phenomenon began to take up an increasing portion of the annual report and in 1910 the

Registrar General was moved to report on the "modern slaughter of the innocents, which has been going on with very little abatement for many years, as the following tables will show. Is not such a condition a reflection upon our so-called civilization?" (Ont. Sessional Papers, 1910, Part IV, #19) Table 4.3 is taken directly from the Registrar General's report in 1905. It indicates the high infant and child mortality rates and the fact that infant and child deaths accounted for 25 to 28% of all deaths in the province.

In 1910 the Ontario legislature commissioned a special report on Infant Mortality conducted by Dr. Helen MacMurchy which included studies from other industrializing countries as well as data on Ontario. These reports unambiguously linked the changing nature of work to changing family patterns and the consequent problem of infant mortality. Much attention was given to four themes: poverty, women's employment, illegitimacy and institutionalization, all of which were believed to be critical contributing factors. Subtitles within the report such as "The Mother Works and the Baby Dies" leave little doubt as to what was presumed to be women's proper sphere. The data indicating dramatically higher mortality rates among illegitimate and institutionalized children further suggested the dire consequences of a break down in traditional family patterns. Section VI of the recommendations suggests a strong suspicion on the part of the investigators that some infant mortality was purposeful. They recommend that doctors "...report, or notify all cases of abortion or miscarriage. There are grave reasons for this. It is only too well known that in this Province we have disgraceful instances of criminal abortion..." (Ont. Sess. Papers 1911 #9 Sec. VI, p.12).

Table 4.3

## Infant and Child Deaths in Ontario, 1879-1903

Year	Population	Deaths under 1 year, excluding still-births	Deaths under 5 years, excluding still-births	Total Deaths in Ontario, excluding still-births	Infant/Child Deaths as % of all Deaths
1897	2,279,378	5,052	7,257	26,498	27.3
1898	2,279,921	5,014	6,906	25,409	27.5
1899	2,302,705	5,473	7,374	27,747	26.5
1900	2,325,712	6,198	8,141	28,543	28.5
1901	2,184,144	5,446	7,290	28,500	25.5
1902	2,205,965	4,853	6,838	26,713	25.6
1903	2,198,692	5,434	7,368	28,399	25.9

Source: Ontario Sessional Papers, 1905, Part II, #9, Registrar General's Report.



On the basis of vital statistics reports on Ontario we can see that throughout this first period patterns of procreation were changing, that the ability of parents to care for their children was also changing and that these changes were most pronounced in urban industrial areas. The less sophisticated census techniques in Manitoba do not provide us with very accurate measures of birth rates, however, we do have some indication of the growing problem of infant mortality. "It had long been recognized by health officials in Winnipeg that while Winnipeg's overall death rate was high it was low in comparison with the city's infant mortality rate" (Artibise, 1975:236).

Statistics on this subject were first publicly recorded in Manitoba in 1908. Table 4.4 presents the first seven years of infant mortality data collected in Winnipeg.<sup>2</sup> The table reveals that the problem in Manitoba's major urban centre was as critical as any experienced in Ontario cities. 1911 to 1913 appeared to be particularly bad years in which 16 to 19% of all live births resulted in a death within the first year.

Table 4.4

Infant Mortality Rate per 1,000 Live Births,  
1908-1914: Winnipeg

Year	Births	Deaths	Rate
1908	3,738	535	143.1
1909	3,898	513	131.6
1910	3,890	628	161.4
1911	4,614	762	165.1
1912	5,041	1,006	199.5
1913	5,577	947	169.8
1914	5,789	729	125.9

Source: Winnipeg City Health Department, Annual Reports, 1908-14.

Other evidence of a disruption of reproductive relations associated with urbanization and industrialization comes from the records of charitable agencies and institutions. Their task was to provide for the disinherited, those individuals who were not in a position to be self-supporting and did not have relatives on which they could make claims for support. Splane's (1965) study of early social welfare programs provide us with some indication of the magnitude of this problem. He points out that in the 20 year period between 1870 and 1890 the number of houses of refuge in Ontario increased eight-fold while the number of orphanages doubled and their inmates tripled. Similarly, the rapid urbanization of Winnipeg in the late 1800's, brought on by the great influx of immigrants to western Canada, was associated with an increase of orphanages, foundling homes and homes for unwed mothers (Man. Sessional Papers 1890 to 1899).

A disorganization of reproductive relations results not only in an increase in homeless individuals but also an increase in the number of families incapable of supporting their members. An indication of this was the presence of children in the orphanages who were neither orphans nor abandoned in the true sense. During this period it was not an uncommon practice for parents to place their children in institutions as a result of family disruptions. These disruptions were most typically the loss of a critical family wage earner (usually the father) through death, injury or desertion. Under these conditions parents remained in contact with their children and if or when family conditions stabilized the children would be taken home again. References to cases like this occur over and

over again in the reports of the inspector of charitable institutions in Ontario and in the records of orphanages in Manitoba.

The cast-offs of a disorganized familial system and an insecure wage labour system congregated in the urban areas putting great strain on municipal and private charitable facilities. Not surprisingly women and children were the most frequent victims of this social upheaval. Table 4.5 combines the figures on orphanages and refuge inmates to get the total number of institutionalized destitute in Ontario, for selected years in the first period. The table reveals that throughout the first period women and children consistently accounted for 78% of the population or more.

Table 4.5

Total Number of Institutionalized Destitute,  
and Women and Children as a Percentage of Total Residents  
Ontario, selected years 1884-1912

Year	Orphanage Inmates	House of Refuge Inmates	Inmates	Total	Women and Child as % of Total
1884	3,407	1,042	911	5,359	83%
1888	3,452	1,376	986	5,814	83%
1892	3,742	1,775	1,477	6,994	78%
1897	4,222	3,020	1,456	8,698	83%
1904	4,562	3,305	1,823	9,690	81%
1908	4,718	8,876	2,071	10,665	80%
1912	4,998	3,886	2,169	11,053	80%

Source: Ontario Sessional Papers 1884-1912 - Reports of the Inspector of Charitable Institutions

The increase in the number of foundling homes during this period is a further indication of the breakdown of reproductive relations, for they were specifically designed to deal with the problem of abandoned and

illegitimate children. Such homes frequently came to public attention because they were characteristically plagued with high infant mortality rates. In 1883 the inspector of charitable institutions reported without comment the sombre record of 199 deaths in a year in which there had been 224 admissions in the Bethlehem Home for the Friendless in Ottawa. The death rate rose in the Infant Home in Toronto throughout the 1880's exceeding 50% in 1889 (Splane, 1965:242). Abandoned children usually entered the home in poor physical condition and the inability to provide them with breast milk caused further difficulties.

At a somewhat later date this problem became manifest in Manitoba as well. In 1897 the St. Boniface Orphanage reported an increase in abandoned children (many of whom suffered from exposure) as an explanation of the higher than usual death rate (Man. Sess. Papers 1897:75). In 1903 the St. Boniface infant's home reported 72 deaths among 105 admitted. Most deaths were attributed to the fact that the infants had been abandoned and suffered from exposure. Between 1897 and 1905 a number of maternity hospitals and orphanages expanded to include infants homes to accommodate the increased number of illegitimate and foundling infants (Man. Sess. Papers, 1905:14). While we cannot conclude that the rate of abandonment was rising any faster than the increase in the population (there is no base line upon which to make such estimates) this evidence does suggest that the problems of illegitimacy and abandonment were increasingly becoming public problems as public institutions were increasingly compelled to meet needs which had previously been met at the familial level.

Further evidence of the family's inability to absorb the costs of care for dependent members is indicated by the rising welfare expenditures in the two provinces. Per capita welfare expenditures rose in Ontario from .25¢ in 1870 to .46¢ in 1890 and .52¢ in 1910 and in Manitoba from .04¢ in 1875 to .23¢ in 1891 and .85¢ in 1911 (Rowell Sirois Report, 1937). While these statistics give a clear idea of the trend, they tend to underestimate the demand because throughout this period municipal and private charitable outlays were often equal to or greater than provincial expenditures. For example, in Ontario in the case of institutional care (orphanages and houses of refuge) the provincial outlay was a small percentage of the overall costs of these institutions. Table 4.6 indicates the limited level of provincial funding provided to institutions for the destitute. Throughout the first period, orphanages received from 8% to 16% of their budget from the province, while Houses of Refuge fared better receiving 20% to 30% of their budget from the provincial coffers.<sup>3</sup>

The discrepancy between government expenditure and overall demand was even greater in Manitoba. Unlike Ontario, Manitoba had no formula for supporting charitable institutions and consequently its support tended not only to be less significant but also less consistent. Public account figures in the Manitoba Sessional Papers 1884-1913 reveal a rather arbitrary pattern and a much lower level of support for the charitable institutions which persisted throughout this period.

Table 4.6

Provincial Government Expenditure as Percent of Total Expenditure  
for the Institutionalized Destitute.  
Ontario Selected Years 1884-1912.

Year	ORPHANAGES			HOUSES OF REFUGE		
	Total Expenditure	Gov't Expenditure	Gov't Expend. as % of Total	Total Expenditure	Gov't Expenditure	Gov't Expend. as % of Total
1884	94,127	14,347	15%	85,282	25,794	30%
1888	123,943	16,453	13%	118,776	35,210	29%
1892	99,096	14,641	14%	176,984	50,135	28%
1897	101,185	15,782	16%	194,470	54,254	27%
1904	131,535	16,310	12%	268,553	67,290	25%
1908	157,592	17,388	11%	351,877	75,572	21%
1912	210,956	18,796	08%	448,001	85,878	19%

Source: Ontario Sessional Papers 1884-1912. Reports of the Inspector of Charitable Institutions.

In conclusion, we have looked for evidence of a disruption in reproductive relations in two sources which both suggest that there were significant changes occurring at the familial level. First, vital statistics give us good empirical measures of family formation (marriage rates), procreation patterns (birth and illegitimacy rates) and even some indication of health and welfare (infant mortality rates). Vital statistics in Ontario did indicate significant changes in reproduction throughout the first period while such patterns did not begin to emerge in Manitoba until the latter part of the period. Secondly, records of public welfare institutions and expenditures indicating dramatic increases in both provinces bespeaks a declining ability of existing reproductive relations to provide sufficient care and maintenance for its members, especially in the urban areas. Additional evidence of family disorganization is available in the documents and statements of the social reformers of this period. Because this evidence is much more impressionistic it is not as reliable a measure of actual events as it is a measure of growing public concern.

The social reform movement played a critical role in documenting, defining and publicizing a wide range of social problems during this period. Despite the diversity of their concerns the reformers were characterized by a remarkable consensus on the urgency of the family problem as the central cause or consequence of the specific problems they were addressing. The consistency of their focus upon the family gives us some indication of how fundamental reproductive relations were perceived to be in securing a stable social order. Assessing the accuracy of the reformers' perceptions and interpretations is less significant to this

project than assessing the impact they had upon shaping public awareness and state action in defense of the family.

### Social Reform Movement

The social reform movements characteristic of industrializing countries at the turn of the century provide an interesting study in contrasts and similarities. The Canadian social reform movement was no exception. While remarkably homogeneous in its leading members, drawing largely from the Anglo-Saxon Protestant middle classes (Bacchi, 1978:460) it was remarkably diverse in the issues pursued and the alliances formed. Historians of the social reform movement frequently comment on the diverse alliances forged during this period which saw the Trades and Labour Council working with the National Council of Women on the issues of protective legislation, or the United Grain Growers meeting with the Women's Christian Temperance Union to support women's suffrage. In the face of the diversity of groups and their unpredictable alliances historians have searched for a common thread to make sense of them as a movement. Some<sup>4</sup> have suggested that certain ideologies (social purity, moral reform, racial regeneration) provided the temporary meeting grounds for unlikely alliances and the "moral cement" which gave cohesiveness to the otherwise disassociated groups.

Our analysis suggests that their common ground was material rather than ideological and the unifying factor within these diverse organizations was a commitment to stabilizing reproductive relations. The shared patriarchal heritage of the members and allies of the social reform movement provided the common meeting ground and is reflected in the pro-



family, pro-natalist, pro-patriarchal thrust of their diverse activities. This commonality of interest was expressed in a diversity of organizations because of the differences in class, region, and sex of the participants. Thus businessmen, farmers and feminists alike were all concerned with the disruption of family life which resulted from the extension of the wage labour system, rapid population growth and urbanization. While divided by their specific circumstances in life they were united in their conviction that a stabilized (patriarchal) family was not only the key to a stable society but also a critical component to achieving their own needs and interests. In short we will argue that the social reformers were the architects of social patriarchy and the state, its engineer.

The concept of the social reformers as the architects of social patriarchy provides a somewhat different focus in interpreting and understanding their activities. First, it highlights the reproductive concerns underlying the wide range of activities and organizations contained within the movement. Second, it provides an explanation of the location, the rise and the demise of the movement. Most social historians are in agreement that the rise of the reform movement was a direct response to the social problems which became increasingly manifest in urban industrializing areas. While there is consensus on the reasons for the reform movement's urban origins and growing strength at the turn of the century there is some confusion in the literature over the causes of its demise shortly after the First World War. Bacchi (1976), attributes the eclipse of the reform movement to "inner inconsistencies and eventual disillusionment" which is similar to Hofstadter's (1955) account of the demise of the American reform movement. Our perspective suggests that the

purpose of the reform movement was to push the state into a more active interventionist role specifically to protect reproductive relations. Our research suggests that by the end of the first period a complete legislative framework was in place for the development of social patriarchy. Thus the demise of the movement is not particularly mysterious, given that they had largely achieved what they were after by the end of the period.

Finally, our perspective calls attention to the close ties and shared interests between business, government and the reform movement which is often underplayed in other writings. There seems to be a subtle assumption on the part of a number of historians of the reform movement that activists for social change cannot, by definition, be a part of the establishment. As a result, a considerable amount of the discussion of the movement is devoted to distinguishing them from the business or government establishment, asserting the separateness of middle class interests. In American history Hofstadter (1955) has suggested that the American middle classes suffered from a general loss of societal status due to the appearance of corporate magnates and industrial millionaires. Bacchi suggests that the reformers in Canada were an amalgamation of new and old professionals and small businessmen allied to make a place for themselves against the fear of domination from big business above and political instability below, "...the reformers were willing to use state machinery to offset the domination of big business, to relieve the most pressing needs of the lower classes and to impose their mores upon both groups" (Bacchi, 1976:6).

While we do not question the distinctiveness of a middle class location, nor its strategic importance in the reform movement, we would suggest that the differences in interests between the middle class and the dominant class have been overdrawn, especially in the area that most concerns us, reproductive reform. Finkel (1979) has shown that membership in the establishment does not necessarily preclude an active interest in reform in his analysis of business and social reform in the thirties. However, such a theme has been underemphasized in the literature on reform at the turn of the century. In presenting the social reformers as the architects of social patriarchy we will focus upon the integration and involvement of the elites in their organization and the sense of shared values and cooperation that characterized their interaction.

Our concept of the reformers as architects of social patriarchy is not without problems, the most significant being the assumption of considerable influence upon the state. This assumption is problematic because of the diversity of organizations and the fragmentation of activities within the movement. The social reform movement did not have the characteristics typically associated with a powerful lobbying group such as the businessmen in Finkel's study. Unlike Finkel we cannot point to a singular homogenous, well organized lobbying group in this period. However, we can point out a number of factors operating at this time which indicate that the reformers had a significant impact upon the populace and the state, sufficient to justify our characterization of them as architects of social patriarchy.

First, the social reformers by virtue of the intersection of their class and patriarchal interests were well situated to come up with reform

policies that were sufficient both to the task (stabilizing the patriarchal family) and to the political possibilities of the time. Secondly, in spite of the remarkable diversity of the issues they addressed they did, to a significant degree, speak with one voice on the issue of the family. Their consistently pro-family, pro-natalist, pro-patriarchal thrust meant that they were seldom working at cross purposes. Their diversity did not result in competing or contradictory policies with regard to the family. Finally, and perhaps most important to explaining the influence and success of the reform movement and its policies is the lack of opposition. There was not one significant counter-movement. Their policies are the best historical case, literally and figuratively of a "Motherhood Issue".

First, let us consider in more detail the characteristics of the social reformers, their class position, their allegiance to patriarchy and their connections to business and government which would help to explain their analysis of social problems, their focus on the family and their influence upon the state. The reformers, by virtue of their middle class position had a profound vested interest in the new economic order. It was not to be seen as the fundamental source of the problem. While their class location ensured that they benefited from the economic system as a whole, they received no specific advantage from the more exploitative practices of the time and furthermore, they feared and sometimes suffered the consequences of such excesses. Disease and crime, the products of poverty and overcrowding could not necessarily be confined to the poor and added an element of self-interest to their altruistic pursuit of reform.

Blocked by class interest from a systemic critique, their focus turned to the symptoms of the contradiction between patriarchy and the wage labour system. On the one hand, their patriarchal heritage had taught that the family was sacrosanct, women's "divinely ordained" function was maternal and the only rightful purpose of sexuality was procreation within the married state. On the other hand, the increase of women in the labour force, (21.4% between 1891 and 1901),<sup>5</sup> created considerable anxiety about the changing role of women and the data on declining legitimate birth rates and rising illegitimate birth rates seemed to confirm their worst suspicions. In addition, the higher birth rate among French Canadian women and the increasing flow of non-English immigrants upset their ethnic sensibilities and interests. The reformers' commitment to an English dominated Canada added an immediate political relevance to their pro-natalist patriarchal heritage.

Their focus on the family seems almost structurally inevitable, as well as politically opportune. Their perspective furnished them with a politically neutral (non-inflammatory) explanation of social problems--family disorganization--which emphasized the commonality of interest in reproductive relations across class and regional divisions rather than drawing attention to the differences behind those interests.

An abundance of evidence exists, from the writings of the reformers themselves and the historians of the movement, which suggest that the reformers did, in fact, speak with one patriarchal voice on the issue of reproduction. Studies<sup>6</sup> of three of the major women's reform organizations of the time, the National Council of Women (N.C.W.), the Young Women's Christian Association (Y.W.C.A.), and the Women's Christian Temperance

Union (W.C.T.U.) indicates that their self-professed purpose was the promotion of social reforms which would strengthen the family. Their activities clearly reveal a nervous ambivalence about the effect of the new economic order and consequent social developments (such as urbanization, women's employment) upon the stability and future of the Canadian family. Underlying the diversity of issues addressed by these women, be it race suicide, prostitution, prohibition or women's employment, the common denominator was reproduction, defense of a patriarchal sexual code and the promotion of motherhood. As enthusiastic proponents of the patriarchal family, they justified their own involvement in extra-familial organizations as mothering on a national scale.

Lady Aberdeen, founder of the N.C.W. instructed its membership on its "grand woman's mission" which she defined as "in one word, mothering" (Roberts, 1979:30). As "mothers of the nation" their work was perceived as a kind of maternal activism to reassert the fundamental importance of motherhood against the onslaught of social and economic change. Through this commitment the very nature of the work came under scrutiny and the N.C.W. found itself compelled to criticize the extent and conditions of employment of women and children. Its advocacy of government regulation of employment practices reveals a fundamental patriarchal concern: "our duty to the race demands that we should govern the conditions of this woman's work so that in late years she may have the chance of becoming the mother of a sound generation" (Klein and Roberts, 1974:231).

The Y.W.C.A.'s shift in focus from fallen women to working women in the 1880's and 1890's reflects the common assumption of the time that participation in the work force would lead to a decline in women's morals

(Mitchinson, 1977:373). The family was viewed as the critical safeguard of women's embattled virtue. However, as young women were attracted to the city to work an increasing number of them were living without the 'benefit' of familial supervision. The role of the Y.W.C.A. was, therefore, to provide a strict Christian home away from home simultaneously imparting domestic skills and aspirations and protecting the virtue of its residents. Finally, the W.C.T.U. revealed a similar commitment to a patriarchal vision of reform. Their promotion of prohibition and later women's suffrage had its ultimate purpose in the protection of the family as explained by Mrs. Jacob Spence, first superintendent of the Ontario W.C.T.U.'s Franchise Department. "It is in the interest of our homes, our divinely appointed place, to protect the home against the license evil which is the enemy of the home, and also to aid in our efforts to advance God's kingdom beyond the bounds of our homes" (Mitchinson, 1977:159).

The women reformers, however, were not the only ones concerned with motherhood. If anything, their male counterparts frequently outdid them in their concern with protecting and if necessary enforcing women's "natural" procreative role. The church and the medical profession, bastions of male authority, were particularly outspoken on this issue. The clergy, invoking the will of God, and doctors, citing the 'evidence' of medical science, added weighty voices to the defence of motherhood and the cry for the regeneration of the race. Apart from invoking different authority the approach of the clergy and the medical profession was remarkably similar. They both attacked the practices of birth control and

abortion as immoral, unhealthy, and disastrous in its consequences for individuals and society.

Mitchinson's (1977) exhaustive review of medical journals and texts during this period reveals an early and sustained concern over the "rejection of motherhood". While some argued on moral grounds that contraception made marriage a form of prostitution others kept to the supposed medical repercussions--nervous disease, insomnia, insanity, and impotence (Kingston Medical Quarterly, III, 1898:165). As early as 1870 the Canada Health Journal referred to abortion as "The Great Crime of the Age" and the medical profession, based on the number of reported requests and the prevalence of ads for abortifacients, feared the number of abortions was increasing (Mitchinson, 1977:23). Mitchinson points out the complementarity of doctors' patriarchal and professional interests, for their recommendations advocated increasing medical authority over and medical control of reproductive behavior.

McLaren (1978) documents how doctors turned the abortion issue to their own purposes in advancing their claim to be the counsellors and confessors of protestant Canada. They saw themselves as rivalling priests in upholding the moral values of society. "It is probable that the two classes who are fighting against the evils of race suicide in all civilized countries are practitioners of medicine and priests in the Roman Catholic Church" (Canadian Practitioner and Review XXXIII:253).

While educators, as active members of the reform movement, sometimes found themselves at odds with the clergy and doctors on the issue of educating women they were always able to find common ground on the goals of education. The educational reformers of the mid and late nineteenth



century saw schools as agents of social reformation and social discipline (Graham, 1974:171). For example, the Free Kindergarten begun in Manitoba in 1892 had as their motto emblazoned on their annual reports, "Give me the child and the state shall have the man." The early educators emphasized the importance of moral education and their vision of the appropriate moral code was synonymous with the reform movement's ideal.

The influx of women into the educational profession was initially troublesome to the patriarchs of educational reform. For example, Ryerson invoked divine will to promote his masculinist vision of the profession; "Jesus forbids a woman to usurp authority over man" (Graham, 1974:200). However, Ryerson and subsequent reformers eventually became reconciled to women in the profession invoking the same patriarchal ideology to justify a womanly (nurturing, deferential, and underpaid) presence in the schools. The predominance of this ideology and rigid enforcement of its standards (Graham, 1974:186) insured that schools were an important means of promoting the reformers' vision of motherhood and nationhood. Educators' enthusiastic embrace of domestic science in the school curriculum (Mitchinson, 1979 & Bacchi, 1978) was testimony of their common commitment to domesticity.

Finally, journalists played a particularly important role within the ranks of the reform movement, in publicizing the problems identified and the solutions proposed by the movement. In Toronto, John Robertson of the Telegram; John Cameron (the editor of the Globe) as well as J.J. Kelso, Goldwin Smith, and suffragette Flora MacDonald Denison were active social reformers and prolific publicizers of the cause. In Manitoba, J.S. Woodsworth, clergyman, reformer, author, and later politician, wrote

prolifically in church magazines and Winnipeg newspapers on the social problems of the time. Similarly, author and suffragette Nellie McClung continually kept the issues alive in the Winnipeg press. Their writings all reveal a fundamental concern for family stability and a patriarchal vision of motherhood.

The organizational and professional composition of the reform movement provided a comprehensive coverage of Canadian opinion makers and disseminators with broad institutional access to the Canadian population (schools, churches, and newspapers to name a few). Consequently, their definition of the problem and its resolution extended beyond the immediate boundaries of their organizations or their geographic location. The reformers focus upon the family permitted alliances with rural organizations which had little else in common with the urban groups. Farmers' fear of rural depopulation and their anti-urban sentiments found particular focus in the defence of the family, the productive unit of agrarian life (Bacchi, 1978:100). The family-centered orientation of rural organizations such as the Women's Institute and the United Grain Growers allied them to urban reform causes on a number of occasions, specifically women's suffrage, temperance and support for domestic science in the schools.

In short, the evidence on the reform movement indicates a central concern on their part with stabilizing reproductive relations. It was the common denominator which gave cohesion to the diverse groups which composed the movement and permitted the unlikely alliances which characterized many of the more successful struggles, such as, suffrage, protective labour legislation and restriction of child immigrants. The

commonality in purpose and the strategic class and occupational location of the reformers all combined to maximize their influence upon Canadian society.

The reform movement's connections to the business and governmental elite are also important to an understanding of their influence upon Canadian society in general and Canadian policy makers, in particular. These connections were often quite direct. Splane's work on Social Welfare in Ontario makes frequent reference to the involvement of Ontario's elite in a variety of reform groups. In discussing the Industrial School Association of Toronto he remarks that their board of governors represented "Toronto's elite from the bench, the university, the professions and business", and he points out that the board of the Children's Aid Society was similarly constituted (Splane, 1965:252). He also recounts that when the Prisoner's Aid Association hosted the National Prison Association meeting in Toronto in 1877, invitations were extended by James Massie on behalf of the province of Ontario, with support from Howland, mayor of Toronto and featuring Rutherford B. Hayes, former president of the United States. Both Bliss (1974) and Mitchinson (1979) document the considerable support the YWCA received from the Canadian Manufacturers' Association.

D.C. Masters, (1947) in The Rise of Toronto, refers to a group of prominent citizens who were associated with the evangelical movement, an important component of the reform movement. Similarly, S.D. Clark in discussing the role of the church in the reform movement states: "successful business people tended to dominate in church politics and the middle and upper classes came to form the chief body of church supporters"

(Clark, 1972:391). Whether the business elite operated as active members, honorary members, or merely as substantial contributors the evidence suggests a co-operative working relation between the reformers and this influential segment of the population.

The connections between reformers and government seem similarly close. The government frequently recruited from the reform movement to staff the various commissions and inquiries conducted during this period and reformers were an important source of testimony in the hearings as well (Splane, 1965:55). The Women's Institute, a rural women's organization, initiated and funded by the Department of Agriculture in Ontario and later Manitoba, provided a major avenue for urban reform ideas on hygiene, child-rearing and family living to filter into the rural areas. Another example of the connection between government and reformers is the NCW which was founded by Lady Aberdeen, the wife of the Governor General. Its executive was largely composed of the wives and daughters of successful businessmen and politicians and its informal connections with government were close (Trofimankoff, 1976).

The extent of the co-operation and sense of shared values between reformers and government is perhaps best illustrated by the following interchange between Prime Minister Borden and three leading women's organizations. While this incident falls outside of our period by a couple of years, it assumes a long history of trust and co-operation which undoubtedly built up during the first period. In 1916, Borden sent a telegram to the presidents of the NCW, the WCTU, and the IODE requesting that the various organizations across the country take a straw vote to estimate the effect of full enfranchisement on the conscription issue.

Although the NCW and the WCTU were public advocates of women's suffrage all three organizations reported back that there were dangers in full enfranchisement because of the vote among the foreign women (Bacchi, 1978:117). Although the reform movement is not reducible to the Canadian political or economic elite it was nevertheless characterized by significant involvement and integration of the elite into their organization.

The final factor in explaining the success of the reform movement is the absence of opposition. This is rather remarkable given the magnitude of the changes being advocated, that is, the general thrust towards greater government intervention in production and reproduction. There are three groups at the time which could be identified as having interests potentially in opposition to those of the reformers. Business and labour had for very different reasons some objective class interests that were contrary to the particular forms of intervention in production advocated by the reformers. Women, on the other hand, had objective interests which were contrary to a number of interventions in reproduction supported by the reformers. The fact that these objective differences did not lead to a sustained opposition is important to understanding the influence of the reform movement, as well as revealing the significance of reproduction to all three groups.

#### Business, Labour and Patriarchy

Business and labour were the central protagonists in the development of the wage labour system and the consequent restructuring of society. As the central forces in the evolution of the new industrial order their

co-operation, support or at the minimum non-interference with the reform movement is critical to understanding the development of social patriarchy in Canada. In addition to sharing the roles of central protagonists, business and labour also shared a marked ambivalence towards the patriarchal thrust of the reform movement. Patriarchy both served and contradicted their interests. Thus, although there is evidence within both groups of resisting certain aspects of reform, their shared patriarchal heritage, and their conflicting interests were sufficient, not only to inhibit any effective resistance to the reform movement, but also to provide some strong and outspoken allies.

In the short term employers could both gain and lose from patriarchal tradition. On the negative side, familial patriarchal laws and custom inhibited the progress of the individual contract, critical to the spread of the wage labour system, as well as, inhibiting the full scale integration of women into the labour force. Thus we see enthusiastic reports in the Monetary Times of the advantages of the Married Women's Property Act (June 15, 1883), and equally enthusiastic reports of the benefits to all of women's integration in the labour force. "Faithful working and weary waiting have at last shown some result in demonstrating the fitness of the weaker and the daintier part of the human family for self-help and self-support" (April 5, 1881). However, in the same article patriarchal tradition is invoked to assert the legitimacy (as well as the advantage) of women receiving lower wages than men.

Certain ideological and structural aspects of patriarchy were clearly advantageous to the business perspective. Patriarchal assumptions about women's worth and women's place, (in the home under the care of

husband or father), justified their lower wage scale. It was assumed that women were never self-supporting, in the real sense, but were helpful in subsidizing the family's income. When the reality of single women on their own became too obvious to be ignored, we find that the Canadian Manufacturer's Association came to the aid of the YWCA whose mandate was to create a home away from home for the working woman.

This response is typical of the interaction of business with the social reform movement. Their interest in procuring cheap housing for their workers, "to keep the cost of living low so that manufacturers could keep wages down" (Bliss, 1974:71), neatly coincided with women reformers' concern for providing a highly controlled environment to preserve the virtue and domesticity of Canadian womanhood (Mitchinson, 1977:368).

In addition to these short term interests of business we also find evidence of concern over the long term process of reproducing and socializing the future labour force. Labour supply was always of central concern to employers of this period and while immigration was clearly their preferred method of increasing supply (Pentland, 1981) this method was not without serious problems that many businessmen could not ignore. For political and economic reasons the business community shared with the reform community a vested interest in the dominance of the Anglo-Saxon population in Canada (McLaren, 1978; Artibise, 1975), consequently they were particularly susceptible to the social reformers dire predictions of "race suicide" especially after the 1890's when the flow of immigrants began to reduce British predominance not only in the west but in Ontario as well. This translated into enthusiastic support of pro-natalist

policies, which within a wage labour system, comes into conflict with the interests of integrating women in the labour force.

Encouraging English Canadian women to produce English Canadian children was, however, only half the problem. The socialization of the new generation of labour (especially new Canadians) was a matter of concern to many forward looking members of the business community. Businessmen were exposed to the social problems of the time through their membership on boards of charitable institutions, Children's Aid Societies, and Industrial Schools (G. Kealy, 1973; Splane, 1965, and Bliss, 1974). Over and over again the problems of crime, undisciplined labour and a rebellious citizenry were explained in terms of poor family, lack of adequate education and improper socialization (Splane, 1965, and Sutherland, 1975). The most popular conception of a properly run home assumed the presence of a full-time mother-homemaker dedicated to the careful supervision of her children (Sutherland, 1976). Concerns with the quantity and quality of the future generation of labour came into direct contradiction with the interests of maximal exploitation of women and children's labour. Therefore, business did not present a united front to oppose the factory acts which greatly inhibited the employment of women and children. In fact, both the Monetary Times and the Canadian Manufacturers' Association came out in favour of such reforms (Bliss, 1974:67).

We agree with historians<sup>7</sup> who have argued that patriarchal ideology could be manipulated to serve a variety of interests quite unrelated to reproduction; for example, factory owners' attacks on the putting-out system while cloaked in phrases of paternalistic concern for the family,



were undoubtedly motivated by the desire to eliminate some difficult competition (Johnson and Johnson, 1982:44). However, we do not agree that this captures the full significance of patriarchy within the business community. We maintain that it had some very definite, although contradictory, material interests in the preservation of patriarchy which on the balance resulted in significant, if not consistent, support of the reform movement.

Labour's<sup>a</sup> position on the "woman question" was as contradictory as that of business. While the low salaries of individual male workers necessitated the employment of their wives and children, male wage earners as a group confronted women and children in the labour force as a direct threat to their job security and their wages. While they were unambiguously critical of child labour and could find numerous allies within the reform movement on this issue, the matter of women's employment was much more complex. Male unionists were torn between their new working class ideology which held out the promise of strength and protection through solidarity and the old patriarchal ideology which had in the past delivered male privilege and familial order. The physical separation of work and family life served to perpetuate the co-existence of these mutually contradictory commitments. Furthermore, working class struggles to secure their position in the labour force frequently brought them into alliances with the reform movement which reinforced and legitimated their patriarchal commitments. As a result of this ambiguity labour's response to women's employment fluctuated between exclusion, protection and unionization (White, 1980).

One of the earliest influential unions in Canadian labour history was the Knights of Labour. Their response to the threat of cheap female labour was to demand equal pay for equal work, advocate unionization of women workers and, in short, to choose working class solidarity over patriarchal paternalism (Kealey, 1973:165). However, with the decline of the Knights of Labour and the rise of craft unions labour's attitude to women's employment began to change. Craft unions had reason to be especially threatened by women workers because their influx into an occupation had become synonymous with deskilling. "Their (women's) entry into an occupation was the death knell of an artisanal trade. More, they were levers which destroyed its norms, habits and strengths." (Roberts, 1976:32) Increasingly, union spokesmen began to adopt the reformers' view of "women's place". The Trades and Labour Congress of Canada, as part of its 16-point program in 1898 called for "abolition of child labour by children under 14 years of age and of female labour in all branches of industrial life, such as mines, workshops, factories, etc." (White, 1980:15).

Labour newspapers at the time revealed the patriarchal assumptions within organized labour. Women's pages in labour publications were oriented towards the wives and mothers of trade unionists, providing recipes and fashion discussions (White, 1980:15). In 1907, an article entitled, "The Influence of Women in the Labour Movement" appeared in the Toronto Labour Day Souvenir Book. As Klein and Roberts point out, "this article deals exclusively with the role that women as consumers, wives and mothers can play in the union movement. There is not a hint to be gleaned from this article that there is such a thing as the employed female"

(Klein and Roberts, 1974:220). An article by May Darwin in the Tribune in 1905 on nurseries in Toronto clearly captured the ambivalence of labour to working women. In spite of a glowing report on nurseries she definitely saw it as a case of making the best of a bad situation, ultimately the employment of mothers was seen as an outgrowth of a rotten society and probably was responsible for the declining population and "race suicide" (Tribune, Nov. 18, 1905).

A series of articles and editorials in The Voice, a Winnipeg Labour paper, reveals the same ambivalence to women's employment in the west. The event that provoked the debate was the first strike of women workers in Winnipeg in 1899. The debate which ensued was over the position of male unionists--should they support these striking women? After several articles and editorials The Voice finally came out with a qualified if not begrudging support. They concluded:

"A serious problem frequently confronts us relative to the employment of women. Doubtless they (women) could have saved themselves many trials and tribulations did some of them see the folly of entering establishments where men should rightfully be holding the same position. 'Tis true that woman has put man in a serious position by such action, but when we consider the condition they were placed in and their desire to earn a living which was upright in order to protect themselves morally, we can well--and rightfully do we--accept their explanation." (The Voice, Feb. 24, 1899)

Perhaps the best publicized women's strike during this period was at Bell Telephone in 1907. Four hundred non-unionized women operators, protesting poor conditions, low wages and an increase in working hours went out on strike. The threatened strike attracted so much public attention and support that the mayor of Toronto called in W.L.M. King to attempt to forestall it. When King was unable to prevent the strike, the

controversy resulted in the formation of a Royal Commission to investigate the matter. During this time the women attempted to unionize, twice passing resolutions to affiliate with the International Brotherhood of Electrical Workers (IBEW) which had claimed jurisdiction over telephone operators. According to Sangster (1978), however, the IBEW had developed a strong tradition of inequality based on the belief that women made poor union members. "The electricians claimed that unskilled operators might make foolish decisions on craft matters which they did not understand. There was also a strong apprehension about 'petticoat rule': the large number of operators, it was feared, would come to control the union" (Sangster, 1978).

Consequently, the union did not help to organize the telephone operators, abandoning the struggle to reformers who translated the strike from a labour issue to a motherhood issue. The press and the commission were most sympathetic to the women but their sympathies were for protecting these women as future mothers rather than workers. The women's demands for unionization and higher wages were lost in the subsequent inquiry which focused upon medical-maternal matters. Medical evidence to the commission stated: "they turn out badly in their domestic relations. They breakdown nervously and have nervous children, and it is a loss to the community. ...The effects moreover upon posterity occasioned by the undermining of the female constitution cannot receive too serious consideration" (Labour Gazette, Oct. 1907:397-9).

While labour's position on women's employment fluctuated throughout this period, they were most likely to receive support from the reformers for protectionist policies and they most frequently settled on this

strategy. Labour's relative weakness in relation to employers necessitated their alliances with the middle class reformers; however, this resulted in a pattern of short-term patriarchal solutions, with protectionist and exclusionist policies predominating. If these strategies do represent compromises it is important to note that these compromises were greatly facilitated by the labour movement's longstanding prejudices about womanhood.

### Women and Patriarchy

The last group identified as having possible interests in contradiction to the reformers' patriarchal blueprint were women, especially the organized group of feminists associated with the suffrage movement. Much has been written about the early women's movement, not only in Canada but also in England and the United States, documenting the gradual transformation of the early women's movement from an overtly antipatriarchal stance to a maternal feminist position.<sup>9</sup> The maternal feminists represented a modern defence of patriarchy by advocating a more prominent position for women in society on the grounds of their special qualities as nurturers and moral guardians.

In spite of the similarities in the ethnic and class background of reformers and early feminists their response to the changing productive and reproductive relations brought on by industrialization were quite different. In contrast to the reformers' focus on family and motherhood the early feminists focused on women and advocated equal opportunity and equal treatment of the sexes. The equal rights strategy failed precisely because it was not a "motherhood issue" literally or figuratively. The

problem with the feminist strategy was three-fold. First, their focus on women rather than the family failed to address a predominant concern of the period, the declining birth rate. Not only did they bypass this issue but their strategy, which opposed the concept of a woman's sphere, was popularly perceived of as a programme which would only exacerbate the problem. In a rabidly pro-natalist period such a position was bound to provoke opposition. Second, while reformers were able to invoke patriarchal tradition to support their cause the early feminist strategy flew in the face of all patriarchal tradition. Consequently, important institutional sources of support for the reformers were equally important institutional sources of opposition for the feminists. Finally, the equal rights strategy served to alienate business, labour and professionals alike. Labour organizations and professions dominated by males resisted the unwelcome category of competition. Business was united against the equal rights strategy because it would erode the unique value of women to employers--the cheapness and maleability of the labour supply--all of which presupposed patriarchal family structures and tradition.

The social reformers had all the political advantages the early feminists lacked. They could invoke patriarchal tradition, could ally themselves with labour, business and professionals all in a way that promised a more concrete set of resolutions to distressing social problems and in a manner which would elevate women's status (granted, within narrowly prescribed roles). With reformers increasingly promoting women's suffrage as a means to their ends the suffrage movement was engulfed by the reform movement. The early feminists, founders of the suffrage movement, were confronted with a simple choice: accept their absorption

in the reform movement and the consequent social legitimacy, powerful allies and a reasonable expectation of success in a shorter period of time, or opt out. Not surprisingly the majority stayed in, leaving behind a splinter group too small and isolated to carry on any effective resistance to the patriarchal blue print of the social reformers.<sup>10</sup>

### Summary

The above brief history reviews the rapid and uneven transition of English Canada from a frontier society to an industrial society and the impact of this process upon reproductive relations. The transition was characterized by a continuous spin off of destitute dependents in the great migration from old country to new, rural to urban, and job to job. While mass migrations in the past were always accompanied by a certain amount of disruption and dislocation of reproductive relations it was, however, the collision between the new economic order and the old patriarchal family which threatened to transform these temporary problems into a chronic, concentrated (urban) condition of industrialism. It was the social reform movement which most explicitly articulated the problems of the (patriarchal) family without questioning the primacy of the new industrial order.

In the subsequent chapters we will examine the extent to which state intervention conformed to the social reformers' vision of the good society. We will further explore the connection between the social reform movement and social policy as we note the transformation from private philanthropist to public servant as the personnel and policies of the movement became integrated into new state regulatory agencies.

FOOTNOTES

1. Traditionally women and children had been able to subsidize family resources by gardening and raising small animals for meat, milk, and eggs. The increasing congestion of urban areas made such activities increasingly difficult and unproductive. Further the rise of the public health movement eventually made it illegal to raise animals in city limits.
2. A comparison of the Winnipeg data with the Ontario data is difficult because the Registrar General in Ontario reported infant mortality in relation to the overall population (see p. 169) while the Winnipeg statistics are more conventional, measuring infant mortality relative to number of live births.
3. We suspect that the lower level of provincial support of orphanages reflects the fact that churches had been the traditional source of support for these institutions. Houses of Refuge, on the other hand, had less history of church support in Canada and were therefore more dependent upon municipal and provincial government support.
4. For a discussion of historians' attempts to identify the common denominator among diverse reform groups see Bacchi, C., "Race Regeneration and Social Purity", Social History, Vol. XI #22, Nov. 1978, p. 468.
5. Employment figures were cited in W. Mitchinson "The YWCA and Reform in the Nineteenth Century", Social History, Vol. XII #24, Nov. 1979, p. 376. Her source is recorded as the Sixth Census of Canada Vol. 4, 1921, pp. xi-xiv.
6. See W. Mitchinson, Aspects of Reform: Four Women's Organizations in Nineteenth Century Canada, unpublished Ph.D. York University, 1977.
7. W. Lazonick, "The Subjugation of Labor to Capital: The Rise of the Capitalist System" Review of Radical Political Economics, Vol. 10 #1, Spring 1978. In this article Lazonick argues that patriarchy was merely a useful ideological tool used variously by employers and employees to legitimate their demands or practices.
8. In discussing the "labour" position we are referring to organized labour, which generated newspapers, lobbying groups and organization providing us with a well recorded history.
9. For a history of the transition of the early feminist movement to a "maternal" feminist position see: In Canada: Bacchi, C. "Liberation Deferred: The Ideas of the English Canadian Suffragists, 1877-1918" unpublished thesis McGill University, 1976, also Kealey, L. (ed.) A Not Unreasonable Claim: Women and Reform in Canada 1880-



1920. Women's Press, Toronto, 1979. In the United States:  
O'Neill, W. Everyone Was Brave, Quadrangle Books, Chicago,  
1971.
10. For a discussion of Canadian feminists, like Flora MacDonald Denison, who resisted the appeal of "maternal feminism", see: Gorham, D. "Flora MacDonald Denison: Canadian Feminist" in A Not Unreasonable Claim: Women and Reform in Canada 1880-1920, Women's Press, Toronto, 1979.



## CHAPTER 5

### PERIOD I: THE FAMILY AND THE STATE IN CANADA 1884-1913

In 1884 Ontario enacted the Factory Acts, which became the model for most early labour legislation in the English speaking provinces, an action long recognized as an historic moment in industrial relations in Canada. It is the purpose of this chapter to argue that it was also an historic moment in reproductive relations. 1884 marks the onset of a flurry of legislative activity in the areas of labour, family and welfare which when examined as a whole reveals a remarkable pattern of state intervention; this was the legislative fruit of the social reform movement.

State activity in response to increasing structural pressures and the growing demand for reform is evidenced in the following three processes: first, there were state commissioned inquiries which served the intermediary function of translating broad based demands into specific recommendations upon which the state could act; second, there followed the implementation of legislation and finally, the development of regulatory agencies. The latter category is clearly as critical as the legislation. Because enforcement, particularly in the areas of labour and welfare legislation involved the development of bureaucracies which would enact the authority vested in the state, the presence and growth of such bureaucracies are a very important indicator of state commitment to the intervention outlined in the legislation. In addition, the creation and

growth of these bureaucracies changes the structure of the state itself, expanding the tools of regulation, centralizing and rationalizing the apparatus of intervention. Finally, this development within the state serves to alter the material determinants of state intervention, as one of the critical determinants is the degree of rationalization and centralization of the state itself.

We have proposed that this emerging pattern of state intervention is best understood as an attempt to mediate the growing imbalance between production and reproduction. An imbalance which we have argued exists as a potential in all class systems but becomes most manifest and problematic in a wage labour system which separates the short term interests of production, the extraction of surplus, from the long term interests of society as a whole in the reproduction of the population. While this contradiction is inherent in the wage labour system we have argued that it will manifest itself differently under different material conditions. Because the state, to date, has shown no inclination to fundamentally restructure production to better meet the needs of reproduction the activity of the state is best understood as one of attempting to reduce the extreme consequences of this imbalance, to ameliorate the most troublesome symptoms of this structural contradiction.

As argued above, the most troublesome manifestation in the first period was the disorganization of reproductive relations. The old familial patriarchal system did not fit the new economic order and the new economic order gave serious indication of disregarding all reproductive needs/interests if left in its unmediated, unregulated form. In response to this specific manifestation we maintain that the implicit goal of state

activity during this period was the restabilization of reproductive relations. The reformation of the wage labour system and the transformation of patriarchy were the means and the development of social patriarchy was the result.

Although the reformation of the wage labour system and the transformation of patriarchy are structurally and historically interconnected the development of these processes tends to be manifest in different inquiries, legislation and agencies. Therefore, our analysis of state activity will proceed in the following way: First, we will examine the reformation of the wage labour system manifest in the growing body of labour law, including the inquiries which preceded and the agencies which resulted from such legislation. Secondly, we will examine the transformation of patriarchy as it is revealed in family and welfare legislation.

#### The Reformation of the Wage Labour System

According to Pentland (1981) the state in Canada has a long history of mediation in the labour process which significantly predates industrialization or the Factory Acts. The significance of the Factory Acts does not lie in the fact of intervention but rather in the nature of intervention. Prior to 1884 state interventions in the labour process were characteristically acts to repress and police labour in the interests of employers. Commenting on state intervention in the early nineteenth century Pentland states:

"'Labour relations' in the period when canals and railways were built meant troops and mounted police to 'overawe' the labourers, government spies to learn their intentions, and priests paid by the government and stationed among the labourers to teach them meekness. Here was a full program of

intervention, immediately on behalf of contractors, basically to promote economy for the state by encouraging contractors to make low bids in the expectation that low wages could be paid, and then enforcing the low wages." (Pentland 1981:190)

An examination of labour legislation before 1884 indicates that there were only a few statutes on the books in Manitoba and Ontario, such as the Master and Servant Act and the Apprentices and Minors Act which contained any clauses protecting workers' interests and or rights. Such laws provided minimal protection and the absence of any system of enforcement and or regulation suggests minimal commitment on the part of the state to the protective intentions of these acts. On the other hand the criminal code of Canada treated unions as criminal combinations in restraint of trade until 1872, unregistered unions were criminal until 1889. The General Railway Act (S.C. 1868 c. 68) set fines of \$400 or five year jail terms for strikes, and the Militia Act (S.C. 1868) provided troops to local governments to police labour.

In the 1880's however, a change in the character of state mediation began to emerge. Kealey (1980), Pentland (1968), and Palmer (1980), all point out that the late nineteenth and early twentieth century was a period of growing labour organization and resistance. One indication that this was putting pressure not only on employers but also on the state is the number of federal royal commissions, listed in Appendix I.A, dealing with labour disputes throughout the first period. Under such pressure the state could no longer politically afford the public role of employers' henchman. It became increasingly necessary to make some concessions to labour. As a result the degree of legislative activity in the area of labour accelerated dramatically after 1884 in Manitoba and Ontario,

Ontario being the more industrialized province was the most active introducing nine new labour laws in the ten year period between 1884 and 1894. While the amount of legislation marks a substantial break with the past the most important difference lay in the content of the legislation which for the first time set out to regulate conditions of work and employment (for example, the Factory and Mines Acts), as well as to provide some legal recourse to workers abused by the system, (for example, Wages Act and Workmen's Compensation Act.).

Our analysis suggests that the new mediating role of the state, derived from its mandate to balance production and reproduction, is best understood as an attempt to modify two of the most troublesome aspects of the wage labour system; first, its relentless drive towards the commodification of labour and second, its indiscriminate consumption of labour regardless of age or sex. These tendencies not only provoked great struggle on the part of labour but were also particularly problematic for their effect upon reproductive relations. As discussed earlier, the commodification of labour is merely the process whereby the employer dissociates their short term surplus extraction interests from their long term interests in reproducing the labour force. The result was wages set so low that they barely ensured the daily maintenance of the worker themselves much less their generational reproduction and no compensation beyond the actual labour time paid for. Thus the Workmen's Compensation Act (1886), as limited as it was, indicated an important restriction of the commodification process by extending the obligation of the employer beyond the actual labour time paid for. This legislation is a fine example of the intricate balancing act of the state mediating productive

and reproductive pressures by locating a point of consensus between the polarities of employer-employee interests. On the one hand the act was a major piece of protective legislation which guaranteed the right of workers and their families to make claims upon their employers in case of accidents in the work place, on the other hand, the act also served to protect employers by institutionalizing a limited degree of liability.

The Factory (1884), Mines (1890) and Shops (1888) Acts are examples of attempts to modify the second aspect of the dynamic of the wage labour system. Because the wage labour system is totally unresponsive to the reproductive needs of the population it is totally indiscriminate in its consumption of labour power. The increasing scale of female and child employment in industrial areas raised a dual spectre: the exhaustion and/or abuse of female workers implied the exhaustion and/or abuse of societies' reproducers, similarly the exhaustion and/or abuse of child labour implied the depletion of a future labour resource. The more benevolent aspects of these acts, therefore, served to limit the use of such labour and to improve the health and safety conditions under which such labour worked.<sup>1</sup>

A second effect of the indiscriminate approach of this system to labour was its potential to be sex blind, that is, there was no built in assurances that the employment of women would respect certain patriarchal necessities--the maintenance of women's subordinate status relative to men. Patriarchal tradition and perhaps the physical conditions of work during the early industrial period resulted in a clear sexual division in the labour force, women concentrated in light industry--men concentrated in heavy industry. However, there was no mechanism within the wage labour



system itself which would ensure the perpetuation of such a division. Employers in their short sighted pursuit of the profit motive might well extend the use of cheap female labour in other previously male occupations. If the short term pursuit of profit were a stronger motive than the perpetuation of patriarchy this could seriously disrupt the sexual segmentation of the labour force. Since the appeal of the wage labour system lay precisely in its ability to facilitate the short term extraction of surplus, regardless of reproductive considerations (including a disregard for patriarchal traditions that do not directly enhance the surplus extraction process), then it is not unreasonable to assume that the unmediated dynamic of the wage labour system could have a leveling effect.

Not only would the extensive integration of women in the labour force threaten the patriarchal premise of female subordination, and conflict with the long term process of generational reproduction but it would also erode women's special appeal to employers as a cheap reserve army of labour. Women's status as a reserve army is dependent upon their marginalization. If they became an integral part of the labour force this particular characteristic would be lost. Thus our analysis of labour legislation will consider the role it played in perpetuating the sexual division of labour, maintaining women's reproductive role as primary and maintaining patriarchal structures by restricting women's productive role.

Some acknowledgement of the necessity for state regulation of business in the interests of business comes from the Canadian Manufacturers' Association. "In fact manufacturers did not oppose factory legislation, having realized from the beginning of the discussion that,

as the secretary of the C.M.A. told the members, it would be both 'inevitable' and useful as the "regulator and balance wheel" of the industrial system (Bliss, 1974:67).

While we have identified two separate but related thrusts in the pattern of state mediation, containment of the commodification dynamic and reinforcement of the sexual division of labour, it is the second process which is of most interest to our study. Although limiting the commodification dynamic undoubtedly has important implications for reproduction, the latter process of reinforcing the sexual division of labour is determinant of the form (patriarchal) of reproduction which will be supported and, therefore, is most revealing of the relation between the state and the family. Thus our examination of state mediation in production will look for evidence of the impact of patriarchal assumptions and interests in the operation of inquiries and regulatory agencies and the determination of legislation.

#### Commissions and Inquiries

In the seventeen years from confederation till 1884 there were thirty one Royal Commissions only one of which, an inquiry into labour laws in Massachusetts, dealt with the concerns of labour. However, the growth of a vocal labour reform movement in the eighties was exerting increasing pressure on the federal and provincial governments of central Canada. Throughout the eighties, factory acts were introduced at nearly every session of the federal parliament, although no legislation was enacted (Kealey, 1973:ix). The Macdonald government resisted legislation on the grounds of constitutional jurisdiction and initiated a series of

investigations in an attempt to placate labour reformers. Between 1884 and 1913 there were twenty-one Federal Royal Commissions concerning labour and/or industrial disputes, listed in Appendix I.A. In Ontario there was a Royal Commission in 1910 on the question of workmen's compensation, as well as three special committee reports, one concerning female labour in 1900, one concerning child labour in 1907 and a report on underground work in Ontario mines in 1912, listed in Appendix I.B. There were no official government inquiries in Manitoba at this time.

Two consistent themes emerge from the Federal and Provincial inquiries which are important to our discussion. First, the growing conviction that the state must play an active mediating role in employer-employee relations. Second, a pronounced shared assumption that female labour is different from male labour and therefore must be subject to special protections and restrictions. The commissioners' vision of the role of the state is illustrated in their routine recommendations that the state regulate hours and conditions of work through the initiation and enforcement of factory acts. In recognition of the importance of expanding the state's role in this area the Royal Commission on Labour and Capital 1889 (Labour Commission), advocated the institution of a Labour Bureau, which would continually monitor labour conditions across Canada. The act establishing the Labour Bureau was passed in Parliament in 1890 although it did not become operative till 1900. It is interesting to note that although the Labour Commission was split down the middle according to the members' sympathies (pro-labour v.s. pro-capital) and filed separate reports there was a general consensus within both reports

on the two recurrent themes--expanding the mediating role of the state and regulating and restricting the role of women in the work place.

Inquiry reports addressing the issue of female labour were characterized by the following features: the separation of adult women workers from adult male workers and their inclusion with children in recommendations on hours and conditions of work; a special attention to the impact of employment on women's health which surpassed any consideration of male or even child workers; a concern with the impact of employment on morals which was unique to discussions of female labour.

The commissioners' special concern for women's health reveals the common assumption during this period (actively fostered by the medical profession) that women's reproductive capacity made them particularly physically vulnerable, and if women were to be employed, the work environment must be structured to take this into consideration. "Further, medical testimony proves conclusively that girls, when approaching womanhood cannot be employed at severe or long-continued work with out a serious danger to their health, and the evil effects may follow them throughout their lives" (Labour Commission, 1889:22). Thus girls unlike boys were perceived to become more vulnerable with age rather than less. The report of the Commissioners inquiring into the dispute between Bell Telephone and the operators contained some unusual recommendations which can only be understood in terms of reproductive considerations. In addition to the usual issues of hours of work, age at employment and conciliation they recommended the appointment of a commission of medical experts, regular health examinations and better seats.

The concern for morals tended to focus on two issues, the intermingling of the sexes on the job and the importance of separate sanitary facilities. While it was recognized that sex segregated work places would be impractical, recommendations stressed the importance of minimizing and controlling the contact between the sexes on the shop floor. To this end the Labour Commission recommended the employment of female factory inspectors and shop floor supervisors. "Female inspectors should visit factories in which females are employed, in order that inquiries may be made which men cannot properly make of women. Where considerable numbers of women and children are employed their immediate supervision should, where it is possible, be entrusted to women" (Labour Commission 1889:14).

The issue of washroom facilities came to be seen as an important measure of the moral tone of the work place as the following quote reveals:

"It has been sufficiently demonstrated that in some factories closets are used indiscriminately by the operatives of both sexes, and where the employer is thus careless of the moral feelings of his operatives it should be the duty of the State to interfere and see that the proprieties of life are strictly observed." (Labour Commission, 1889:46)

The above characteristic approach to female labour suggests that the very first steps taken by the state to mediate in the productive process not only reflected a nineteenth century patriarchal model of womanhood but through its recommendations served to ensure that this model and its procreative purpose would not be abandoned in the face of a major economic transformation. These underlying reproductive considerations will be discussed at further length in our analysis of the legislation which

served to institutionalize the special status of women workers recommended in the commissions.

### Legislation

The manifest object of this legislation is labour, the manifest concern, as stated by the legislators, was the improvement of the conditions of labour. We have argued, however, that beneath this manifest goal, particularly in the case of female labour, there is a more fundamental and determinant concern--the balancing of productive-reproductive needs of society. The legislation most likely to reflect this underlying dynamic is that which most directly addresses the intersection of production and reproduction, that is, laws which determine the conditions of female and child labour, and distinguish it from the conditions of male labour. We will assess the extent to which these laws speak to the presumed interests of women as reproducers, the self-expressed interests of women as workers and the existing sexual segmentation of the labour market, as a means of illustrating the latent goals and concerns guiding state intervention.

Table I.1, in Appendix I presents a summary of the labour legislation introduced in Ontario and Manitoba during the first period. In addition to illustrating the high degree of legislative activity at this time, the table also reveals a consistent pattern of initiation, Ontario's statutes precede and are the model for Manitoba legislation. For example, the Workmen's Compensation Act and the Shops Act introduced first in Ontario in 1886 were copied almost word for word in the drafting of the Manitoba legislation. Differences in the economic development of

the two provinces explain the differences in the schedule of legislation. While the Factory Acts preceded the Shops Act in Ontario the reverse was true in Manitoba, which is not surprising given that Manitoba was a commercial center long before there was much industry.

The two acts in which there was some divergence between Ontario and Manitoba legislation were the Factory Acts and the Mines Act. The Mines Act was passed in Ontario in 1890 and consisted of two parts, the first dealing with an extensive delineation of appropriate labour, the elimination of women and children from mine works and the careful restriction of the types of labour a youth could be involved in. The second part dealt with general safety rules which applied to all workers in the mines. When the Mines Act was passed in Manitoba in 1897 it copied word for word the second half of the Ontario Act but made no mention at all about the employment of women, children or youth.

In the case of the Factory Acts their introduction in Manitoba in 1900 was marked by a more stringent application of the same basic clauses as contained in the Ontario legislation. For example, in Ontario in 1900 the legislation defined a child legally as any one under fourteen, where as in Manitoba legislation stipulated sixteen as the cut off age. Initially, in Ontario the legal definition of a factory was any establishment employing 20 persons or more and involved in the manufacturing of goods with machines. By 1897 the definition was revised to cover establishments employing five persons or more. In Manitoba the initial act applied to all establishments employing two persons or more. The Manitoba act was revised in 1904 loosening up the restrictions and bringing them more in line with Ontario. It lowered the legal age to

fourteen for boys and fifteen for girls and applied the act to those establishments employing five persons or more.

While Manitoba passed fewer labour laws than Ontario during this first period, the laws which established a legal distinction between male and female labour were present in both provinces. In light of these similarities we will focus on the Ontario statutes in our content analysis of the legislation as they are consistent with and in most cases anticipatory of Manitoba legislation.

Table I.2, in Appendix I, presents a summary of the labour legislation in Ontario which applied exclusively to women and children. The table includes the three labour laws, (Factory, Shops and Mining Acts) which initiated legal distinctions between male and female/child labour. These three laws are important for the following reasons: as initiators they institutionalized the patriarchal conventions upon which these distinctions were perceived as justifiable/commendable and set the parameters for subsequent legislation which expanded upon and perpetuated such conventions. Although only three in number the acts encompassed a broad range of occupational fields, covering all of the manufacturing and mechanical sector (Factory Acts), much of the commercial sector (Shops Act), and an important component of the primary sector (Mining Operations Act). Throughout the first period these three laws were subject to frequent amendments and consolidations introducing ever more distinctions between male-female/child labour. It is important to note that these amendments are cumulative, having restricted our accounting to those amendments that seriously effect hours, places and conditions of work (excluding clauses which provide for separate washrooms), we find that by



1912 these three acts contain twenty three major distinguishing clauses, enumerating and entrenching the legal distinctions between male-female labour.

A number of social historians have observed that the above legislation had more to do with women as reproducers than as workers (Klein and Roberts, 1974). As documented above the reformers and commissioners, the architects of this legislation, clearly had a one-dimensional definition of womanhood, woman as mother. In this context the legislation can be understood as a form of legal recognition of the value of women's reproductive role which protects women as active or potential reproducers from being totally consumed in the productive process. The legislation introduced limitations on the hours that women could work, the places in which they could work and the quality of the work environment. One of the consequences of this preoccupation with women's procreative potential was the elevation of many issues regarded by labour as secondary to a level of central importance, because of their imputed effects on women's health and morals. These often were the work environment clauses which provided for separate lunch rooms, regular breaks, seats for women in shops, and separate lavatory facilities. Such a focus highlights the protective, benevolent character of these acts which are recorded in the factory inspectors' reports of improvements in the safety, health and sanitary conditions for female labour over time.

The legislation and its immediate impact appears to be quite responsive to the presumed needs of women as reproducers. We use the term presumed advisedly because it was not working women themselves who defined these needs. In fact, there is some evidence that the working women did

not share the patriarchal model of womanhood assumed in this legislation. Given the antinatalist dynamic of the wage labour system the legislators option was to circumscribe women's productive role in deference to reproduction; however, the increasing demand for birth control and abortion and the declining birth rate suggest that women had another accommodation in mind. Furthermore, on the occasions when women worker's demands have been recorded their concerns as workers were not much different than those of men--better wages, better hours and unionization (Klein and Roberts, 1974).

When we consider the impact of this legislation on women as workers, one cannot help but be struck by the number of workers excluded. The omissions in the legislation are as telling as the acts themselves. The single largest category of employed women, domestics, were excluded from any protective legislation (Leslie, 1974:71). Similarly, women working in their homes doing piece work or women working in small establishments were also exempt (the factory acts initially applied to places employing 20 persons or more). Presumably, the closer the working conditions approximated women's traditional place/role, regardless of how exploitative the conditions, the less likely it would be seen as necessary for state regulation.

The most significant omission, however, was the failure of any legislation to address the most compelling problem for women workers--the wage disparity between men and women. While it is true that the issue of wage scales did not enter into any legislation during this period, it is important to note that in making the case that women were a special category of labour subject to special concerns and in need of special

protection a rationale existed for such intervention. Of all the "special needs" of women workers the wage discrepancy was clearly the most fundamental.

Evidence available from the Ontario Bureau of Industries and the Labour Gazette indicates that throughout the first period it was nearly impossible for a female factory worker to make a living wage. The wage and cost of living figures for female factory workers in Toronto in 1889 clearly illustrates this problem. Table 5.1 presents these figures for women without dependents, while the figures for women with dependents are outlined in table 5.2. The first table indicates that the average woman's wage provided for subsistence for a woman without dependents. This subsistence was achieved only if she maintained a 54 hour work week, presumably never missing work due to illness or accidents and never having additional medical or other expenditures beyond the most basic food, clothes and shelter costs.

Table 5.1

Female Workers Over Sixteen Years of Age Without Dependents,  
Toronto, 1889

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Average number of hours/week worked	54.03
Average number of days/year worked	259.33
Average wages/year from occupation	\$216.71
Extra earnings aside from regular occupation	
Total earnings/year	\$216.71
Cost of clothing	\$ 67.31
Cost of board and lodging	\$126.36
Total cost of living	\$214.28
Surplus	\$ 2.43

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Source: Annual Report of the Bureau of Industries for the Province of Ontario, pt. 4, 1889, Ont. Sessional Papers Vol. 22 pt. 7 pps. 43, 49 L. Rotenberg, *The Wayward Worker: Toronto's Prostitute at the Turn of the Century in Women at Work in Ontario 1850-1930* Women's Press, 1974, Toronto.

In the case of women with dependents table 5.2 indicates that even when these women worked 5 hours more per week and 6 days more per year than women without dependents their wages failed to meet the most basic costs of survival.

Table 5.2

Female Workers Over Sixteen Years of Age With Dependents,  
Toronto, 1889

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Average number of dependents	2.10
Average number of hours/week worked	58.52
Average number of days/year worked	265.43
Average wages/year from occupation	\$246.37
Extra earnings aside from regular occupation	\$ 23.05
Earnings of dependents	\$ 16.48
Total earnings/year	\$285.90
Total cost of living	\$300.13
Deficit	\$ 14.23

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Source: Annual Report of the Bureau of Industries for the Province of Ontario, pt. 4, 1889, Ont. Sessional Papers Vol. 22 pt. 7 pps. 43, 49 L. Rotenberg, *The Wayward Worker: Toronto's Prostitute at the Turn of the Century in Women at Work in Ontario 1850-1930* Women's Press, 1974, Toronto.

A report in the labour Gazette twenty four years later indicates that the situation of women workers had not substantially changed. Professor C.M. Derrick of McGill University reports in the Gazette that the average wage of female factory workers in Canada was \$261/year or \$5/week. The living wage at that time was considered to be \$390/year or \$7.50/week (Labour Gazette vol. 13 #12, p.1373).

Further evidence of the pervasive practice and serious consequences of low wages for female workers was provided by the Social Survey Commission established in 1913 to investigate the problem of prostitution

in Toronto. The Commission argued that women's inability to make a living wage was a major factor in contributing to prostitution and recommended the passage of a minimum wage law. Despite the fact that female factory workers were among the most protected workers under the legislation of the time it did nothing to alleviate the primary economic problem they faced. By 1914 one third of employed women were working in factories in Ontario yet their ability to earn a living wage was no better than before the passing of the Factory Acts (Report of the Royal Commission on Unemployment, 1914, p.59).

While we have considered what the legislation did and did not do for women as workers and women as reproducers our analysis calls attention to a third consideration: What was its impact on the sexual segmentation of the labour force? This raises a number of questions: first, was the legislation really necessary given a rather clear segmentation of the labour force at the time of its passing? Second, was it merely a symbolic piece of legislation honoring or perhaps simply unconsciously reflecting the predominant patriarchal ideology? In order to address these questions and to suggest that there was intent and effect involved we will briefly consider some legal implications followed by some economic observations.

The first legislation which distinguished between male and female labour marked an historic transition; the norms and traditions upon which the initial segmentation was based became codified within legal structure. As legal historians point out (Schur, 1968; Evan, 1962) the transition from norms to a formalized legal code reflects a societal recognition of the fundamental importance of the norms and the consequent necessity to ensure their enforcement through state power. Implied in this transition

is the suspicion (on the part of the legislators or the populace as a whole), that the norms themselves are no longer sufficient to the task and require substantive institutional reinforcement. Furthermore, the commitment to enforcement through the development of the factory inspectorate suggests an active rather than passive commitment to the sexual segmentation of the labour force.

Because of the sexual segmentation of the labour force prior to the initiation of this legislation we do not have a simple before and after measure of its effect. Therefore, the best indicators of effects are to examine the long term flow of women into "protected" as opposed to nonprotected sectors of the economy. We will do this in the subsequent sections with particular attention to the Factory Acts (which provided the most "protection") and their effect on women's participation rates in the manufacturing and mechanical sector. Within the parameters of this period, however, there are some indications of its short term impact. We suggest that the creation of legal distinctions between male and female labour created economic and political disincentives for employers tempted by the possibilities of extending the use of cheap female labour into traditionally "male" occupations.

The special conditions attached to the employment of women, children and youths meant that the most economic use of such labour would be obtained in areas in which they were highly concentrated. The introduction of women in factories traditionally employing men would mean special hours for women workers, special facilities, special rules, all of which would add up to extra expense and extra surveillance from factory inspectors. The introduction of women into heavy industry during World

War I does suggest that it involved some improvement of working conditions, as well as a dramatic increase in the number of factory inspectors (Ramkhalawansingh: 1974, 276). The early labour legislation operated in such a way to create some real economic disincentives for employers considering the integration of women in non-traditional areas of work. Furthermore, the legal recognition of women as a different category of labour provided political/ideological support for organized labour which could be counted on to resist employer's attempts to introduce women into traditional "male" occupations. These political and economic effects served to neutralize the benefits to be gained by employing women in "male" occupations; however, it did not seriously disrupt the benefits to employers of female labour in "female" occupations.

#### Labour Bureaucracies

One measure of the seriousness with which the state pursued its new mediating role was the establishment of government agencies/bureaucracies which in the case of labour had two functions: first, labour bureaus both at the federal and provincial levels operated as ongoing commissions or inquiries compiling labour statistics, as well as reports from labour representatives on current issues of concern or controversy. Second, the factory inspectorate at the provincial level monitored employers' compliance with state regulations, informed employers of violations and fined or proceeded to prosecute offenders when necessary.

A brief examination of the institution of these agencies suggests a reluctance on the part of the state to assume its new role, as most

cases reveal a significant time lag between the legislation establishing such agencies and their actual operation. At the federal level we noted earlier a ten year time lag between the establishment of a labour bureau (SC 1890 c. 15) and its actual operation in 1900. In Ontario a labour bureau was established in the Department of Agriculture in 1882 but did not operate as such until 1900 when it was relocated in the Department of Public Works. The factory acts passed in Ontario in 1884 called for the inspection of factories, however, the first inspector was not hired until 1887 and in 1890 there were only three inspectors for the whole province. These numbers increased gradually over time. In 1895 the first female inspector was hired and in 1904 a second woman was added. By 1909 there were nine inspectors including two women for the province. Once hired, the factory inspectors in Ontario were diligent in their duties and from 1888 onward the Ontario sessional papers contained detailed annual reports on factory conditions throughout the province.

Manitoba's enforcement of the Factory Acts was much less systematic than Ontario's. The first reference to the existence of an inspector appears in the Manitoba sessional papers in 1902 buried in a paragraph in the Public Works report. Throughout the first period Manitoba had only one inspector on staff to monitor all factories within the province. Only two reports on factory conditions appeared in the Manitoba sessional papers in a twelve year period. In the 1912 report the inspector indicates that the biggest area of complaints of abuse were in the shops of Manitoba over which he had no authority to inspect and apparently no one else was responsible for enforcing the Shops Act in the province.



As the field workers of the new regulatory agency, factory inspector's reports are a good indicator of the philosophy and practice of government intervention in the productive sphere. Throughout the first period the Ontario reports reflect and amplify the same patriarchal assumptions and concerns articulated by the commissioners and legislators. The rationale for protective legislation and the necessity for enforcing it is eloquently argued by one factory inspector.

"When I tell you that today we have in this province, women working in the foundries, machine shops, and breweries, some of the weaker sex, and not a few of their champions will be surprised. I do not mention this as meaning to say that labour for women and children is degrading, but rather to show ample reason why they should be protected ... the effect of propagation by the present race and the degeneration of future generations." (Ontario Sessional Papers, 1906).

The activities and recommendations of the inspectors were a result of a complex set of factors in addition to and complementary with their patriarchal perspective. Among the most critical determinants of the manner in which they conducted their work was their general perception of the role of the inspector and the very real limits to their authority determined both by the legislation itself and the reality of industry at the time.

The inspectors' perception of their role reflected the dominant reform philosophy of the time which maintained that government regulation was designed to protect employers who wanted to initiate reform as much as they were to protect workers. As one inspector put it, "Factory laws are for the mutual benefit and protection of both manufacturing and labouring classes" (Ontario Sessional Papers 1908, vol. 49, p.58). The aspiration to serve both employer and employee by definition limited the

concerns of inspection to work environment issues, most frequently those which addressed the working conditions of women and children. Concern with the health and morals of the working woman translated into detailed reports on lunch room facilities, seats for women, communal drinking pails and above all, the provision of separate, modest and clean lavatories.

The inspectors' preoccupation with sanitation was reinforced, if not determined, by the limitations imposed by the legislation. The labour laws proscribed interference in the central nexus of employer-employee relations--the wage. The legislation not only ignored the issue of exploitative wage rates in the case of female and child labour but failed to legislate on well-documented abuses of the wage system; for example, the manipulation of apprenticeship/training periods and excessive fining for errors or lateness which frequently left women and children with next to no wage by the end of the week. Even when the legislation permitted and the inspectors rose above the peripheral issues the limits of their authority made it clear they were no match for the industrialists when a serious conflict of interest occurred. For example, in the 1908 inspectors' report there was a lengthy discussion of the employment of children in mica factories in the Ottawa area which violated the existing labour laws. The inspector reported that when he confronted the employers with this fact they stated that if the inspector attempted to enforce the law they would simply relocate to Hull where restrictions were not so severe or establish a putting out system. When pressed with compliance with the law the employers carried out their threat with impunity.

Imbued with the enthusiasm and paternalism of the reform era and restricted by the letter of the law the inspectors' emphasis on the

"motherhood issues" (health and morals) became an attractive and effective outlet compensating for the structural limitations on improving the conditions for women as workers. Roberts and Klein remark on the celebratory tone of their reports and suggest "...once separate lavatories are defined as central indices of progress, each new firm which complied was a victory in the inspector's eyes." (1974:225)<sup>2</sup>

The final stage of state activity, the development of regulatory agencies, is consistent in process and perspective with the preceding stages. All levels of intervention are characterized by a sustained, if somewhat reluctant, increase in the mediation role of the state generally and a consistent commitment to a specific pattern of perception and protection of women as reproducers.

#### Transformation of Patriarchy

The lack of fit between the new economic system and the old familial patriarchal system necessitated not only a reformation of the wage labour system but also a transformation of patriarchy. We have stated earlier that this transition could be broken down into three component processes. The erosion of the patriarch's legal authority over women and children, revealed in a shift in the legislation from father/husband's rights to father/husband's responsibilities. The increasing assumption of father/husband's traditional authority by the state. The provision of resources to subsidize the familial unit of reproduction. We will trace the transition process in two areas of state activity; family law and welfare law.

In our analysis of family law we have chosen to concentrate on two specific aspects of the legislation. These are the laws determining the disposition of children and the laws determining the disposition of property within a marriage and upon its dissolution. This focus was chosen for the following reasons: first, these laws are most revealing of the actual content of familial relations, particularly power relations; secondly, they reflect the areas of greatest legislative activity during the three periods under analysis; finally, they are within provincial jurisdiction and permit comparisons between Manitoba and Ontario. Thus while an examination of the federal laws governing the conditions of marriage and divorce show little change in the three periods under review the provincial legislation indicates dramatic changes in the rights and responsibilities of family members throughout the three periods emerging as the best measure of the transformation of patriarchy during our time frame.

Our discussion of welfare legislation will concentrate on two features, the extension of state authority over the care and disposition of children and the growth of welfare resources to meet the needs of certain dependency categories. Our discussion of state welfare activity will follow our three phase model as it is initiated by inquiries and commissions, realized in legislation and enforced through the development of regulatory agencies. We will begin our discussion of the transformation of patriarchy with family law as it both precedes and provokes developments in welfare law.

Family Law

Our discussion of family law will proceed somewhat differently than our discussions of either labour or welfare law, due to its distinctive legislative history. During the first period there was no clearly defined category of family law, in fact, the category of family law is historically quite recent, starting in the mid-twentieth century. As a result, early laws regulating family relations were dispersed over a variety of property laws, devolution of estate statutes, illegitimacy and guardianship acts. This results in a number of differences in the development of family legislation relative to the other legislation under review. During this period there were no inquiries or commissions specifically addressed to this issue. There were no regulatory agencies developed to enforce the legislation. The existing court system was the agency of the state as cases concerning disposition of property or children were handled in an adversarial rather than regulatory system. Family law, unlike labour or welfare legislation, was marked by a high degree of legislative activity prior to 1884.

The first step in the erosion of the patriarch's legal authority over women was the Married Women's Property Act introduced in Ontario in 1859. Prior to this change marital property law was based on the common law concept of "legal unity" whereby women's married identity was submerged in that of her husbands. Thus all property upon marriage belonged to the husband. The enactment of Married Women's Property Acts preceded industrialization in most provinces in Canada, whereas in European countries it was a consequence of industrialization. The old laws, taken in Canada from British common law, reflected the primacy of

the interests of the family of origin (Glendon, 1981:15), and functioned to preserve and consolidate aristocratic land holdings and wealth. In Europe the industrial revolution and the maturing of a class of commercial and industrial entrepreneurs was a necessary precondition for challenging those interests and bringing about the reform.

In Canada, as in the United States and Australia, the absence of aristocratic class interests and the lack of substantive economic gains to most classes of men, operated against the formation of a clear opposition to the reform. On the other hand, the pressures for change were more tangible. There was the reality of a nation in rapid transition from a frontier society to an industrial society, with neither economic system benefiting from the old laws<sup>3</sup> (Splane, 1965; Glendon, 1981). There were growing pressures on the state orchestrating this transition, which was characterized by a continuous spin off of destitute dependents in the great migration from old country to new, rural to urban, job to job. The disruptions this produced in family structure resulted in there being an overwhelming proportion of women and children among the destitute.<sup>4</sup> Thus the reform in women's property rights was not only consistent with the long term trend, introduced by the wage labour system, towards the individual contract, but promised some reduction of, or relief to, the homeless and destitute who were the result of the collision between the new economic order and the old patriarchal law.

Table I.3, in Appendix I, presents a chronology of legislative changes affecting the disposition of marital property. The Married Women's Property Act, (M.W.P.A.), and amendments gradually extended to married women the same property rights as single women, abrogating the

common law concept of "legal unity". A consequence of the M.W.P.A. was the elimination of the common law practice of curtesy, included in a number of property laws, which had ensured a husband claim on his wife's property. The complement of curtesy was the dower law which ensured a wife's claim upon a portion of her husband's property if he died intestate and prohibited a husband from willing all his property away from his wife. Interestingly enough this law was not abolished with the introduction of the M.W.P.A. Thus curtesy, which reflected a patriarchal right was abolished while dower which reflected a patriarchal responsibility was kept in practice and legislated in specific Dower Acts.

In keeping with this new emphasis upon male responsibility Ontario (1888) and Manitoba (1900) introduced legislation which made husbands liable for support of wives and children in cases of desertion or separation. However, these acts while significantly reordering the balance between rights and responsibilities contained some unambiguously patriarchal clauses, the adultery clause being the most significant. A woman lost all right to sue for an order for protection, to maintenance by her husband and to claim her children if she was found at any time to have committed adultery without her husband's collusion. Thus regardless of how brutal her husband, how long the separation or desertion or how legitimate her claim to her children, all would be lost if she did not maintain a chaste existence. Marriage laws contracted a woman's sexuality to her husband and regardless of the dramatic changes in property rights for married women, this fundamental premise of patriarchy was left untouched. Given the inaccessibility of divorce at this time,<sup>5</sup> a husband maintained a life time ownership of his wife's sexuality, preserved in the

new property laws. Although a husband may lose access to his wife's sexuality through legal separation, he never lost control.

An interesting exception to the extension of married women's property rights was the abolition of dower in Manitoba in 1885. Dower had not become a part of statute law in Manitoba but dower rights were included in estate law and property law until 1885. The abolition of these rights was not unique to Manitoba but occurred throughout western Canada, although nowhere in eastern Canada. The explanation for this anomaly appears to lie in the transformation of the land registry system in western Canada. In the period of rapid settlement and development in Manitoba land speculators were lobbying the government to adopt a new registry system referred to as the Torrens system. The virtue of this system was that it guaranteed upon issue of land titles uncontested ownership of property. This was particularly important in view of the complex and cloudy nature of land claims in western Canada.<sup>6</sup> The new system required the government registry department to settle all claims before issue of title. Thus anticipating and following the adoption of the Torrens system a whole series of legislation occurred to clarify and often eliminate claims based upon old laws and agreements. Native Canadians, Metis and women, through the abolition of the dower, seem to have been the major victims of the streamlining process.<sup>7</sup>

Twenty-five to thirty years after the establishment of the Torrens system most provinces reestablished dower rights, not only in the common law practice, but in the legislation of Dower Acts. This move was in response to pressure from a number of women's groups including the National Council of Women. We suspect, however, that the compliance of



the western provinces to the Council's request was more a function of having achieved their end, cleaning out all encumbrances to clear claims, than a result of the power or influence of women's groups at the time. All subsequent dower claims would be contained within the rules of the new registry system. Had dower not been abolished during this transition period the legitimacy of the age old common law claim would have conflicted with and inhibited the process of cleaning up land claims. This case provides an interesting example of the interaction between economic and reproductive interests. While the general pattern towards extending and protecting married women's property rights was clearly established during the first period, interruptions in this process did occur when women's property interests came into direct conflict with powerful economic interests. The history of dower in western Canada is one of the best examples of the power of economic interests in determining the parameters within which the transformation of patriarchy would occur.

The general pattern of eroding the patriarch's legal supremacy in property law is repeated in the area of custody. British common law established that children belonged solely to the father who was the only family member endowed with legal personhood. Thus women had no legal claim to their children within a marriage, in cases of separation, desertion or divorce. Even in widowhood, if the husband chose to will custody to an adult other than the mother, women had no legally recognized recourse. Table I.4 is a chronology of custody laws in Manitoba and Ontario which documents the changing legal status of the mother. The first legal recognition of a mother's claim to her children appeared in Ontario in 1859 and considerably later in 1878 in Manitoba. Through the

Infants Act and the M.W.P.A. the right of the mother's claim to custody and guardianship became extended.

Although the changes listed in table I.4, Appendix I, are dramatic it is important to note that throughout the first period fathers were assumed to be the rightful custodian and mothers' custody rights were granted under particular circumstances, for example, the "tender years" concept, cruelty or desertion. Thus while the first period saw the establishment of equity of property rights within a marriage there was no concept of equity of parental rights. Furthermore, all custody rights extended to mothers were subject to the same adultery clause which limited the rights of married women in property law--a clause which never applied to men.

While men's rights over their children were being eroded their responsibilities were being extended. This pattern is particularly clear in the Illegitimacy Acts of the first period. Prior to 1859 in Upper Canada a father of an illegitimate child could be ordered to pay restitution to the mother's guardians on the assumption of loss of service during time of pregnancy and birth. In 1859 the act was amended, changing significantly the intent and shifting the issue from one of lost services to one of responsibility for one's progeny. In Manitoba this transition did not occur until the introduction of the Illegitimacy Act in 1912. The entrenchment of a mother's right to sue for support served simultaneously to recognize the mother as a person, rather than as a ward, and to legislate a father's economic responsibility regardless of marital state.

The crises in patriarchy brought on by the wage labour system were a product of the male head of household's loss of control over the

resources necessary to sustain his family. This translated into a declining ability of men in general to support their dependents and a consequent decline in their authority. The end product of these processes was the transformation of married men's status from patriarch to breadwinner. This transition should make abundantly clear to us that the bottom line of patriarchy is not male privilege but control of reproduction through control of women. The above legislation indicates that when traditional male privileges were an encumbrance to controlling reproduction they were dispensed with.<sup>9</sup> The reforms in family law were necessary for such a transition and reveal a consistent goal--to maintain and enforce, where necessary, the privatization of the costs of reproduction. This was accomplished by legislating male responsibility and by removing legal encumbrances which had prevented women from assuming the responsibility in the absence of a functioning breadwinner. Table I.5, Appendix I, presents a summary of the four major pieces of legislation which reordered the rights and responsibilities of husbands and wives in the area of property, guardianship and maintenance. The overall pattern which emerges is, as predicted, an extension of women's rights and an extension of men's responsibilities.

Family law reform was a necessary but not sufficient step toward accommodating patriarchy to the new economic order. The declining ability of men to support their dependents, the declining benefits to men for assuming such responsibilities and the limited earning power of women meant that there were many cases in which the norm of privatizing reproductive costs could not be enforced. Thus a necessary corollary of the revisions in family law was the development of welfare legislation

which attempted to fill the gap created by declining male authority and a growing number of destitute dependents.

### Welfare Legislation

In response to the resource and authority crises of the family, state welfare intervention is characterized by an increasing assumption of authority over the family and an increasing provision of resources to certain categories of dependents. In order to illustrate this process we will concentrate on two features, the extension of state authority over the care and disposition of children and the growth of welfare budgets in Ontario and Manitoba during this period.

The usual analyses of state welfare activity have focused on the provision of resources and emphasized the evidently benevolent character of such intervention. The issue of authority has not been as systematically addressed. However, our analysis suggests that the assumption of greater authority over the family by the state is an integral and critical process in the transformation of patriarchy. As a preamble to our analysis we would like to theoretically situate the issue of authority and explain why we have examined the extension of state authority over the care and disposition of children in addition to the more usual analysis of the increasing provision of resources.

Our model suggests that the control of reproduction has always been achieved by making submission to particular reproductive policies a first order condition of access to necessary resources. Although control of women is a consistent and universal feature of this process the mechanism of control can vary dramatically from one society to the next: men as a

class having authority over women as a class (communal patriarchy); individual males having authority over individual females (familial patriarchy); or the state having control over the reproductive unit (social patriarchy).

The rapid substitution of state authority for the waning authority of the patriarch suggests a continued commitment to the control of reproduction. While such control was most blatant in the revision of the criminal code in 1892 in which birth control was criminalized and penalties for abortion increased (S.C. 1892 C.29) the operation of the regulatory clauses in welfare law give us an indication of the more subtle and pervasive character of this control. In our discussion of the extension of state authority over children the enumeration of conditions of family life meriting dramatic intervention (state custody) give us a fairly good indication of the model of family life the state was committed to supporting/enforcing. This model when considered in conjunction with the limitations imposed by labour and family law suggest a clear and conscious commitment to patriarchy, albeit in a revised and modernized form.

#### Commissions and Inquiries

In discussing the process of increasing state welfare intervention all three stages of state activity, inquiries, legislation and regulatory agencies are important. While there were no specifically entitled "welfare commissions" during this period many inquiries, especially those dealing with labour, crime and health, made reference to and occasionally recommended welfare programs or policies. This is particularly true at

the provincial level in Ontario. During this period Manitoba had no official commissions or inquiries relevant to our concerns.

What these inquiries all seem to suggest is that the old assumption that parents had the best interests of their children at heart was in many cases ill founded. Sometimes the parent's ideas of the child's best interest could be seriously at odds with the state's idea. In the past the only explicit indications of the state having an idea of a child's best interest were laws prohibiting infanticide or severe physical abuse. What commissioners and reformers alike were advocating was a series of laws making more explicit what were necessary conditions for child well-being, not merely a list of crimes to be punished, but a series of positive conditions to be required as judged by the health, education and behavior of the child and the legal, economic and moral condition of the parents. The reordering of familial authority between parents and the state was heralded by the birth of a new concept "children's rights". J.J. Kelso, long time social reformer appointed as the first Superintendent of Neglected Children for the province of Ontario begins his first report with the following quote from Bernardo:

"Are parental rights to be regarded as sacred when parental duties have not been neglected but outraged, and when the parents have done all in their power to make the life of the child while with them bitter and degraded! Has a child no rights? Are all the rights parental?" (Ontario Sessional Papers: 1894, #47, p.13)

In his analysis of social welfare in Ontario Splane identifies the 1890 Royal Commission on the Prison and Reformatory System as the single most important event in advancing public knowledge and official action respecting child welfare. He points out that the terms of reference of

the commission were sufficiently broad to cover much of the contemporary field of social welfare. "Child welfare, was in fact, directly involved in each of the first three of the seven matters referred to the commission for investigation: Those relating to the causes of crime, the improvement of the industrial schools and the rescue of destitute children from criminal careers" (Splane, 1965:268).

In discussing the causes of crime the commissioners gave foremost attention to the importance of family life and expressed great concern over "...the want of proper parental control; the lack of good home training and the baneful influence of bad homes, largely due to culpable neglect and indifference of parents and the evil effects of drunkenness" (Ontario Sessional Papers: 1891, #18, p.5). Their concern with bad home environments and bad upbringing led them to a series of recommendations that promoted increased state regulation of child rearing and outlined a series of steps to this end.

The following recommendations by the commission are unambiguous in their advocacy of a much more active regulatory role for the state. These recommendations are particularly important because most of them were, in fact, put in force by the end of the first period suggesting a high degree of responsiveness on the part of the state. First, they recommended that "an association...be formed having local boards in every important center of the Province who shall take upon themselves the important but delicate duty of looking after and caring for these (children judged improperly cared for) children." This was realized the same year in the founding of the Children's Aid Society. Further, the commissioners recommend that the province defray "the actual expenses incurred" by the proposed voluntary

association. They made a strong recommendation in favor of expanding the number of industrial schools and advised including them under the provisions of the Charity Aid Act qualifying the schools for much more extensive state support. They emphasized the importance of school attendance and recommended measures for its "vigorous enforcement". As preventative measures they recommended municipal curfews, and supervised municipal playgrounds and gymnasias. Finally in the area of correction they recommended the separate trial and separate detention of children. This was a central concern of prison reformers and was eventually realized in the Juvenile Delinquency Act (S.C. 1908).

While no other inquiries seem to have been as wide reaching in their approach to and recommendations on child welfare subsequent inquiries stressed the growing necessity for state intervention. The Special Report on Immigrant Children in 1898 prepared by the Superintendent of Neglected Children applauded the Child Immigrant Act and advocated further regulation and monitoring of immigrant children (Ontario Sessional Papers: 1898, #60). The Special Committee appointed to report on the condition of the feeble minded called for greater government attention to separating and institutionalizing the "feeble minded" reflecting a popular eugenic concern about preventing the deterioration of the race. Finally, the Special Committee on Infant Mortality and the Royal Commission on Milk both in 1909 called for greater government initiative and activity in ensuring the physical and social welfare of children.

Helen MacMurphy, director of the inquiry into infant mortality identified a number of social factors contributing to the problem. Women's employment was seen as particularly troublesome to the well being



of young children. In response to this issue MacMurchy suggested but did not formally recommend the following possibilities; recognizing the link between women's employment and men's wages and raises the idea of a family wage. "But any man who does useful and necessary work.... should be paid enough to allow him to marry and support a family." Addressing the cases of women forced, through economic need, to return to work right after the birth of a child MacMurchy states; "It should not be allowed to happen. The mother should have a pension, if necessary, to take care of the family" (Ontario Sessional Papers, 1910: 9.8). As a general measure she recommends a large scale state sponsored education campaign including health and nutrition pamphlets and visits from employees of the Public Health Department.

Despite the differences in terms of reference the above inquiries share with the labour inquiries of this period a consensus on the necessity of increasing government intervention and regulation. The commissioners' and reformers' conviction that many people could not or would not be good parents paved the way for the state and its regulatory agencies to assume increasing authority and justify increasing intervention on the grounds that it was the best, most impartial judge of a child's well being. These inquiries differed from the labour inquiries in that their recommendations for intervention were realized much more promptly in the enactment of the necessary legislation and the creation of the necessary agencies.

Welfare Legislation

Prior to 1844 Manitoba and Ontario welfare law consisted of two statutes, the Apprentices and Minors Act and the Charity Aid Act. Both acts dealt with the problem of care and support for the destitute. The Apprentices and Minors Act provided for the indenture of children who were orphaned or abandoned. The Charity Aid Acts made provisions for provincial support for hospitals and institutes for the destitute. The Ontario Charity Aid act was the most thorough providing a formula for funding, the details of which will be discussed under welfare expenditures. In Ontario there was an additional statute on the books, the Industrial Schools Act, which stipulated conditions for a much more interventionist and regulatory role for the state. However, this act did not come into force until it was amended in 1887.

Table I.6, Appendix I, documents the increase in welfare legislation in Manitoba and Ontario after 1884. The goals of the new legislation were threefold--the extension of support to public welfare institutions, increased government regulation of public welfare institutions and the increased regulation of children's environment and behavior both within public institutions and in private families. The most important pieces of legislation in accomplishing the above goals were the Industrial Schools Act, the Infants Protection Act later known as the Maternity Boarding Homes Act, the Child Protection Act and the Child Immigration Act. These four statutes, present in Manitoba and Ontario, formed the legislative framework for the child welfare system in the two provinces. As in the case of labour law, Manitoba statutes followed Ontario legislation a number of years later and were very closely modeled on them.

For our content analysis of welfare law we will utilize Ontario statutes as they are similar to and anticipatory of developments in Manitoba.

We have argued that this legislation reveals increasing government intervention in and regulation of family life by increasing state authority over the disposition of children.<sup>9</sup> Indicators of increasing state authority over the children are: conditions of catchment which include familial status, acts of children and acts of parents; the proliferation of agents of state authority; the proliferation of institutions or agencies for the disposition of children.

The amendment of the Industrial Schools Act in Ontario in 1887 marked the onset of a period of increased legislative activity which extended state authority over children. The amendment removed industrial schools from the authority of school boards and empowered charitable institutions to develop and supervise such schools. Board members of charitable institutions took on their new responsibility with enthusiasm and the first industrial school was opened in Toronto in 1887, subsequent schools were developed throughout the province later. With the establishment of such institutions the act was now enforceable and permitted state apprehension of children under certain conditions. These conditions are very important because they are the precursors of all later welfare clauses which provided for apprehension of children.

"Any person may bring before the police magistrate any child apparently under the age of fourteen years, who comes within any of the following descriptions namely:

- (1) Who is found begging or receiving alms, or being in any street or public place for the purpose of begging or receiving alms;
- (2) Who is found wandering, and not having any home or settled place of abode or proper guardianship or not having any lawful occupation or business, or visible means of subsistence;

(3) Who is found destitute, either being an orphan or having a surviving parent who is undergoing penal servitude or imprisonment;

(4) Whose parent, step-parent or guardian represents to the police magistrate that he is unable to control the child, and that he desires the child to be sent to an industrial school under this Act;

(5) Who, by reason of the neglect, drunkenness or other vices of parents, is suffered to be growing up without salutary parental control and education, or in circumstances exposing him to lead an idle and dissolute life."

(S.O. 1874, c.29 sec. 4 p.219)

Amendments to this act in 1897 and 1910 further extended the scope of state authority originally outlined in 1874.

In the same year as the amendment to the Industrial Schools Act, an Act for the Protection of Infant Children was introduced. This act provided state regulation of maternity boarding houses, usually private homes which would take in destitute pregnant women. In addition to the extension of state regulation over the conditions provided in these homes this act is particularly important because it reflected the first attempt by the state to regulate adoption procedures. The 1897 amendment to this act required that the Children's Aid Society supervise and determine the adoption of all children under one year of age from these homes. A 1912 amendment extended Children's Aid Society's authority over adoption of all children under three born in these homes. Although a specific adoption law did not appear on the books till 1922, the state was, through this and other acts, slowly expanding its authority over adoption procedures.

In 1888 the Child Protection Act was introduced which provided for state apprehension and custody of children under sixteen years of age judged ill-treated, neglected, or delinquent and the prosecution of parents found guilty of neglect or abuse. In 1893 the act was amended

appointing a Superintendent of neglected children in the direct employ of the provincial government. This amendment also empowered the Children's Aid Society as the major regulatory agency to inspect homes, apprehend children and place them in institutions or foster homes. Neither this act nor the Industrial Schools Act, which were the major legislative devices for removing children from the custody of their parents, violated the legal tendency toward maintaining or enforcing the privatization of the costs of reproduction. Both acts contained clauses permitting the state to sue the parent for support of their children while in government institutions. Thus, although parents lost all legal right to their children, they were still held legally responsible for the maintenance of those children.

In 1897 the Child Immigration Act was introduced after years of controversy among social reformers about the impact of these children upon Canadian society (Sutherland, 1976:33). While these children had initially been welcomed as an inexpensive source of labour the growing concern about the quality of a child's environment, the purity of the race and the rising demands on public welfare lead to a more critical view of these immigrants. Some critics argued that they were "inferior stock" which filled the jails and poor houses and led Canadian children astray. Other critics argued that the conditions these children were subjected to in Canada were often neglectful or abusive. These pressures in conjunction with the labour movement's criticism of importing cheap child labour led the government to tighten control over the children being admitted and to carefully monitor their activities for the first few years in Canada.

The above acts and their significant amendments listed in table I.7, Appendix I provided the legal apparatus for extending state control over children and the family. The acts were cumulative adding ever more conditions for the apprehension of children, ever more agents to apprehend and supervise, and ever more institutions to which the state channeled their wards. A brief before and after comparison makes the point quite clearly.

Prior to 1884 one law, The Apprentices and Minors Act, under one condition, a child without legal guardian, empowered three agents, Charitable Institutions, Mayors or Magistrates, to provide for such children in one way, apprenticeship. By the end of our first period legislation had resulted in a proliferation of conditions under which state could assume wardship, a proliferation of institutions and programs for the disposition of such wards and a proliferation of regulatory agents to supervise and regulate public and private institutions of child care.

As of 1913 the welfare statutes discussed above legislated twelve different conditions for state custody in addition to the original condition of a child without a legal guardian. These twelve conditions were equally divided between parents' acts and children's acts. Parents found to have committed the following acts could lose legal custody of their children: 1) commitment of the child or children to any of the following government regulated institutions: charitable institutions, Industrial Schools or Children's Aid Society; 2) abandonment; 3) neglect; 4) immoral conduct; 5) ill treatment or abuse of child; 6) permitting or encouraging child to violate, curfew, begging, vagrancy and labour laws. Children found to have committed the following acts, or in the following

circumstances would become state wards: 1) begging or vagrancy, 2) petty crime, 3) children reported by parents or guardians as uncontrollable, 4) any child under fourteen years of age whose actions resulted in their being brought before the court, 5) institutionalized immigrant children, 6) children expelled from school for vicious or immoral acts.

At the same time the number of regulatory agents or agencies empowered to apprehend children and/or regulate their institutions also increased. In addition to the Mayors, Magistrates and Charitable Societies operating before 1884, subsequent legislation added five more agencies: The Charitable Institutions Department, The courts and later the juvenile court, The Superintendent of Neglected Children, The Children's Aid Society, and The Department of Public Health. Finally, the number of agencies or institutions for the disposition of state wards similarly increased from the one provision of apprenticeship to seven additional provisions: industrial schools, orphanages, houses of refuge (work houses), Children's Aid Society Refuges, foster homes, adoption, and in the cases of immigrant children, deportation. Table I.7 provides a listing of the circumstances and conditions and agencies for child apprehension which developed over this period.

A brief review of the welfare legislation affecting the disposition of children reveals two points: the acts during this period were clearly more regulative than supportive; the usual solution to a "bad" home environment was removal of the child and frequently prosecution of the parent. It becomes evident that in order to enforce such legislation a comprehensive regulatory network had to be developed. The Children's Aid Society assumed that responsibility and acquired a unique status as a

quasi-state agency, empowered and financed by the state yet operating as a private agency run by its own board.

### Welfare Bureaucracy

Prior to the Child Protection Act in Ontario and Manitoba there was no substantial welfare bureaucracy. Both Ontario and Manitoba did hire inspectors of public institutions who reported regularly in the provincial sessional papers. However, in Ontario the inspectorate consisted of only three people until 1913, in Manitoba only one person. With the passing of the Child Protection Act, however the state committed itself to a new and more comprehensive child welfare program, without providing for any agents or agencies to administer the new program. Before long it became evident that the enforcement of the Child Protection Act and other welfare statutes was dependent upon some regulatory agency to carry out the program.

The Children's Aid Society (CAS) founded in Toronto in 1891 by the influential reformer J.J. Kelso became identified with a broad range of "child saving" programs. Its rapid spread throughout the province and its inexpensive operation (based largely on volunteer work) recommended the CAS as an ideal mechanism for administering the new child welfare program. In 1893 the Ontario Child Protection Act was amended appointing Kelso as the superintendent of neglected children and empowering the Children's Aid Society with the right to apprehend children, inspect private homes upon complaint and supervise adoption. The legal power and the financial support accorded to the Society by this legislation established it as the first welfare bureaucracy in the province. This procedure became the



model not only for Manitoba but for most of the other English speaking provinces also.

The use of a private agency to meet welfare needs was not surprising given that during this period most welfare agencies, for example, orphanages and refuges, were run by private boards and largely funded by private contributions. What was unusual about CAS was that it was empowered to legally enforce aspects of welfare law, specifically the apprehension of children. Further unlike many other agencies it has retained its private status, with minimal government regulation, to date. With this new decentralized organization reporting to one government employee, the superintendent of neglected children, the government could now launch its new policy of monitoring childcare not only in public institutions but in private homes throughout the province as well.

The assumption of power by Children's Aid Societies was not always smooth as a case in Manitoba illustrates. The Child Protection Act was passed in Manitoba in 1898 and a CAS was founded in Winnipeg the same year. One year later a major controversy erupted over the conduct of the Children's Aid Society brought to the attention of the Lieutenant Governor of the province by William Scott of the Winnipeg Labour Party. Scott was representing the case of a Winnipeg mother who had entrusted her children to the care of the CAS while she was ill with the understanding that it was temporary care. When she was better she went to reclaim her children only to discover that the CAS had placed her children for adoption. This was most unexpected because in Manitoba and Ontario it was common practice at the time for parents to put their children in orphanages or other institutions during a time of ill health or other family crises and

reclaim them when the problem was over. The Lieutenant Governor ordered an investigation into the case which resulted in the Children's Aid Society Act in 1900.<sup>10</sup> The act provided a clearer statement of the authority of CAS and more specific procedures for apprehension including the requirement that officers of the Society get a signed document from the parents releasing custody of their children when it was not a court ordered case.

The expansion of Children's Aid Societies was astronomical in comparison to the growth of the state employed inspectors of public institutions. Between July, 1893 and December 1895 the superintendent of neglected children in Ontario helped no less than twenty nine Societies to organize. As the number of societies expanded the number of children to come under their care also increased. By 1897, the CAS in Ontario were annually placing 200 children or more, by 1904 2,030 children had been placed. The numbers increased steadily and annual placement rose to 500 and 600 in the period from 1910 to 1913. More important perhaps than the numbers was the type of children coming under the care of the CAS. From their earliest recordings it was clear that the majority of children were not orphans or abandoned but were apprehended by CAS from undesirable homes. A sample of wards' backgrounds in 1902 revealed that out of 200 only 63 had been abandoned or orphaned, on the other hand, 112 had been apprehended because of "immoral homes, pauperism, lack of control". The remainder of the sample had been apprehended because of parental neglect, abuse or drunkenness (Ontario Sess. Papers, 1902 Report of the Superintendent of Neglected Children). More detailed reports in 1912 and 1913 revealed that over 70% of CAS wards were apprehended from undesirable

homes with cruelty or neglect accounting for only 9% of the apprehensions in 1913 and 20% in 1912.

The shift from parental rights to parental responsibilities documented in the family legislation took on a more rigorous tone in the enforcement of the welfare legislation. While family law limited itself to ensuring/enforcing a parent's economic responsibility the CAS through various clauses in the Child Protection Act took on the task of enforcing parents' moral responsibility. The superintendent of neglected children's 1911 annual report contains the following paper entitled "Parental Responsibility" by C.S. Pedley of the Woodstock CAS. He begins with the assertion, "Parental affection is an instinct, ...but parental responsibility is something different" (Ont. Sess. Papers 1911 p. 101). Because even some affectionate and well meaning parents may fail in their responsibility it is the task of the CAS to correct the situation;"...in the very act of taking their children from them we do something to bring their responsibility home to them." While he speaks of the advantage of returning children to their parents on probation he emphasizes that there are cases where this should not be done.

"But if the natural parents are too far below average, so that the State steps in and takes charge of the children, it is not a question of interference, and an invasion of parental right - it is just the resumption of a trust out of the hands of trustees who have failed to make good." (Ontario Sessional Papers, 1911, pps. 101-102)

The Superintendent's report in 1913 gives us some indication of just how frequently parents were found to be "too far below the average". While 72% of their wards that year were apprehended from undesirable homes only 17% were returned to their parents on probation. From the beginning

officers of the CAS proved to be vigorous and enthusiastic moral entrepreneurs. There is also, from the beginning, evidence of resistance to their child saving program. The problem of parents attempting to regain their children is indicated by an amendment to the Child Protection Act two years after the CAS had been empowered to apprehend children. The amendment made it a criminal offence for a parent or any person to attempt to induce a child to run away from an institution or home to which they had been committed under the authority of the Child Protection Act.

The efforts and impact of the CAS were not limited to their child apprehension work. The CAS also carried out an active educational campaign promoting "children's rights" and the necessity for expanding the role of the state in securing child welfare. They also formed an effective lobbying group pressuring the government to expand its sphere of authority and responsibility for Canadian children. Three reforms they lobbied for tirelessly during the first period were a federal juvenile court, a comprehensive adoption law and more effective legislation to deal with deserted wives and destitute widows. In their pursuit of better homes for Canadian children they not only argued for more authority on the part of the state, for example, the adoption law, but also more support for good homes. A good example of this is the CAS position on deserted wives and destitute widows. They argued that too many good homes were being broken up due to the poverty of the sole support mother, thus they recommended an allowance be paid by the state to maintain the mothers at home caring for their children. They also recommended much more rigorous enforcement of maintenance laws in the case of deserting fathers.

While controversy has surrounded the CAS since its beginning there is no doubt that in its work, its philosophy and its unique relation to the state, it epitomizes, perhaps as no other single organization can, the great transformation which characterized this period. Its policies reflected a remarkable integration of the two imperatives of social patriarchy; maintaining an acceptable level of privatization of reproductive costs and increasing the authority of the state over the family. Its policy of deinstitutionalization, its aggressive interpretation of the breadwinners' responsibility, its commitment to keeping mothers in the home, all under increasing scrutiny of the state, seemed the perfect blueprint for social patriarchy. Even in its organizational structure it anticipates the great transition from private philanthropist to public servant associated with the rise of health and welfare bureaucracies and the professionalization of social work in the twentieth century. By the end of the first period Children's Aid Societies had changed from a diverse group of "child savers" to a powerful regulatory agency and was well on its way to greater integration in the welfare bureaucracy.

#### Welfare Expenditures

The state's move to fill the authority and resource gap created by the demise of familial patriarchy was not without expense. Throughout the first period in spite of the fact that most welfare institutions relied heavily on private donations, state welfare expenditures rose dramatically. The increase in provincial government expenditures gives only a partial indication of the growing welfare needs of the population.

In the first period, in addition to private donations, there was also substantial municipal funding and some federal funding.

Despite the fact that the provinces had yet to become the primary funders of social welfare programs the expansion of these programs throughout the first period did have an impact upon provincial expenditures. In Table 5.3 we see that the per capita expenditures on social welfare in Ontario doubled during this period. However, this did not increase the proportion of the budget expended on welfare, (in fact, there was a 10% decline between 1900 and 1910) because of the rapid growth of the total provincial budget.

Table 5.3  
Provincial Welfare Expenditures Ontario

Year	% of Prov. Budget	Per Capita Costs
1870	26.0%	.25¢
1880	19.1%	.23¢
1890	27.1%	.46¢
1900	25.4%	.45¢
1910	15.1%	.52¢

Source: Dominion-Provincial Commission Report 1937, Ontario Submission Table 1 p. 37.

The impact in Manitoba was much greater. Table 5.4 indicates a per capita expenditure increase from .04¢ in 1875 to .85¢ in 1911, resulting in a substantial increase in the proportion of the overall budget allocated to social welfare.

Table 5.4

## Provincial Welfare Expenditures Manitoba

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Year	% of Prov. Budget	Per Capita Costs
1875	1.74%	.04¢
1881	2.79%	.11¢
1891	5.16%	.23¢
1901	7.81%	.30¢
1911	13.00%	.85¢

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Source: Dominion-Provincial Commission Report 1937, Manitoba Submission Table 1 p. 37.

All evidence indicates that municipal grants consistently exceeded provincial grants in this period. In the Ontario Sessional Papers the 1907 report on hospitals and charities contains a complaint that in the previous year provincial grants to orphanages and refuges (\$79,426.47) exceeded municipal grants (\$62,134.44). The inspector recalls that the whole purpose of the Charity Aid Act was to stimulate local funding, drawing attention to the undesirable pattern in the 1906 returns. When we include direct relief as well as institutional funding it is clear that the municipalities emerge as the level of government most heavily burdened with welfare costs. The Dominion-Provincial Commission report records per capita welfare expenditures of municipalities in Ontario in 1913 at .81¢ and \$2.38 in Manitoba as compared to provincial expenditures of .55¢ in Ontario and .90¢ in Manitoba. The report accounts for the high expenditures in the west as the result of population growth which saw western provinces urbanizing at a rate six times faster than central Canada (Commission Report, Chap. 2, p.85, 1937).

Finally, while the burden of welfare costs fell most heavily on local governments during the first period, Federal welfare expenditures also rose. Table 5.5 illustrates Federal expenditures relative to Provincial expenditures at the time. The table indicates that although provincial welfare expenditures exceeded federal welfare expenditures the rate of growth was greater for the federal government. The provincial increase from \$657 thousand to \$4.3 million constituted a 550% increase, while federal growth from \$213 thousand to \$2.6 million marked a 1,120% increase in expenditures.

Table 5.5

Provincial-Dominion Welfare Expenditures  
For Selected Years (All of Canada)

Year	Provincial Total	Dominion Total	Dominion Expenditures as % of Provincial Expenditure
1874	657,000	213,000	32%
1896	1,472,000	946,000	64%
1913	4,343,000	2,617,000	60%

Source: Dominion-Provincial Commission Report 1937, Chapter 2 pp. 63, 82

Thus, although the burden was unequally distributed, the overall pattern indicates a consistent increase of welfare costs to all levels of government throughout the first period.

### Summary

We have identified the primary manifestation of the contradiction between production and reproduction during this period as a disorganization of reproductive relations and the central task of the



state to reorganize and stabilize those relations. We suggested that this process would involve a reorganization of the wage labour system and a transformation of patriarchy. Evidence of the reorganization of the wage labour system comes from the early labour laws, particularly the legislation which distinguished between male and female labour. We have argued that this legislation was both supportive and regulatory in terms of reproduction. Its supportive thrust is revealed in the discriminatory clauses which protected reproducers (women) and future labour (children) from being completely exhausted in the productive process. These same clauses were also regulatory of the character of reproductive relations in that the distinction between male and female labour operated in such a way as to preserve and solidify existing sexual segmentation of the labour market. The outcome of the legislation was, in most cases, to maintain women in an economically dependent position relative to men, and hence preserve the most fundamental component of patriarchy--female subordination.

While the state intervened in the production process to accommodate certain patriarchal necessities it was at the same time involved in restructuring patriarchy to fit the new economic system. Through substantive reforms in family law the state dismantled the old patriarchal system and transformed patriarchs into breadwinners. This transition accorded greater legal rights to women and more economic responsibilities to men. While some theorists (Donzelot 1979; Lasch, 1979), have seen this as the beginning of the end of patriarchy we have argued that it is better understood as restructuring. The increased legal rights of wives and mothers were contingent upon observance of the ubiquitous adultery clause

which insured that women's sexuality continued to be subject to male authority. Coupled with the labour laws which maintained women's dependence upon male support this virtually guaranteed female subordination. The increased responsibilities of the patriarch-turned-breadwinner were necessary, in light of the sexual division of labour, to ensure the continued responsibility of private families for the costs of their reproduction.

Finally, the expansion of welfare legislation completed the restructuring process by filling the authority and resource gaps created by the transformation of patriarchy. In doing so, the state managed to extend its control over the family, maintain the principle of privatization of reproductive costs and provide a back up system when family support systems broke down completely.

As identified in the introduction of this study state intervention in the complex and contradictory dynamics of production and reproduction results in diverse impacts on individuals and families in different circumstances. In general the legislative changes most benefited those individuals and families that most closely conformed to the desired outcome of such interventions, that is, two parent families in which the breadwinner had steady employment. Women and children benefited from labour legislation which sought to reduce the length of the work day, improve their working environment, and restrict their employment in hazardous settings. Women and children also benefited from reforms to family law which sought to extend their rights as dependents to support and security. Finally, women, children, and the elderly who had no attachment to a breadwinner and, therefore, constituted the desperately

destitute received only the most minimal supports through the institutional care provided in work houses and orphanages.

For the adult male the impact of state intervention during this period was, perhaps, more mixed. While the pressure men experienced from women and children as competitors in the labour market was reduced, the pressure of women and children as dependents within the home increased. In keeping with these changes family law reform greatly reduced patriarchal rights and privileges for the husband/father and replaced them with obligations and responsibilities. For adult women who by choice or necessity were employed, the legislative changes of this period seemed much less responsive to their needs. While improved working conditions were beneficial, the restrictive clauses limited women's options and reinforced sexual segmentation in the labour force. The single greatest hardship for employed women was the low wage scale which resulted in working class women hovering on the edge and frequently falling below a subsistence level of income. Thus for all working women, with the exception perhaps of the limited number of professional women, the combined effect of state intervention during this period was to limit their opportunities for economic independence, reinforcing their dependence upon a male breadwinner.

The impact of labour and welfare legislation was greatest in the industrialized urban areas, having much less impact upon rural families. However, the extension of state authority over children contained within welfare law had a generalized impact on all families, urban or rural, working or middle class. This legislation eroded the family's

traditional, near absolute authority over their offspring and centralized greater portions of that authority within the state.

In conclusion, when we look at the combined effect of state activity in all three legislative areas, it appears that the major thrust was one of institutional reorganization. A modification of the wage labour system, a reordering of men's and women's rights and obligations within the family and the expansion of state apparatuses to effect such change. Having developed the legislative framework of restructuring and preserving patriarchy, on a much more precarious economic base than in the past, we suggest that the subsequent manifestation of the productive-reproductive contradiction was a resource allocation problem. Given the combined effects of social reforms which reduced the number of breadwinners per family, and demographic changes which increased the ratio of dependents to producers within the family, the second period is characterized by increasing costs of reproduction without a similar increase in allocation of resources for reproduction. In the second period we will see the government called upon to alleviate what appears at the household level as a cost of living crisis for the family. Prophetically, the last federal inquiry to be called in 1913 was the Commission to Investigate the Increase in the Cost of Living in Canada.

#### FOOTNOTES

1. For a discussion of a similar pattern of labour legislation in Britain see Jane Lewis, Women's Welfare - Women's Rights, Chapter 2, Croom Helm, London 1983.

For discussion of American and French labour legislation see Jane Jensen "Paradigms and Political Discourse: Protective Legislation in France and the United States Before 1914" in the Canadian Journal of Political Science, XXII:2 June 1989. Jensen contrasts American legislation (also very similar to Canadian) with French labour laws

which were much more accommodating to the concept of women's dual roles in production and reproduction.

2. We do not mean to imply that sanitation issues were not important; we only intend to draw attention to the disproportionate attention given to these issues at a time when women's wages seldom provided for subsistence.
3. Splane's (1965) discussion of the Guardian Act (1820) in Upper Canada gives an early indication of the unsuitability of British common law in a frontier society.

"although the terms of the act seemed to take for granted that the mother would not be appointed to the guardianship role, reflecting the contemporary approach of the English common law which accorded the mother few rights to her children, social practice in Canada had already begun to reject the traditional English approach, and it was quite common for the mother, whether or not she was married a second time, to be recognized as the obvious person to act as the guardian of her children". (Splane, 1965:218)

4. See Chapter 4 table 4.5 for the proportion of women and children among the institutionalized destitute.
5. The following table taken from McKie, et. al, - Divorce: Law and the Family in Canada indicates how inaccessible divorces were during this period. While there is an increase in the number of divorces from 3 to 11, the rate remains fairly constant at about 0.2 per 100,000 population.

Table 5.6

Number and rates of divorce, 1871-1900

Quinquennial periods	Numbers of decrees granted: annual averages	Decrees per 100,000 population
1871-1875	3	0.08
1876-1880	6	0.1
1881-1885	10	0.2
1886-1890	11	0.2
1891-1895	12	0.2
1896-1900	11	0.2

Source: Pike 1975, p. 125 taken from the Canada Year Book 1921, Table 40, pp. 825.

6. While ownership, once certified within the Torrens system was uncontested, defects in claims were judicable. The real Property Act of 1885 establishing the Torrens system included the development of an assurance fund, whereby a claimant upon proof of a defect in a claim would receive compensation from the fund but would not have the right to the property. The old registry system issued titles but conflicting claims could be taken to court and title holders could lose claim to the land.
7. Of the 3,154 sought after river lots in Manitoba approximately 10% were covered by claims of women enforcing dower rights, in the sense that this portion emerged as patentees. What percentage of women had dower rights that were lost in the shuffle of lots from their occupancy in 1870 to speculators in the 1870's-80's only a lot by lot scrutiny of titles in the Winnipeg land titles office could tell. Information taken from Table 5 Recognition of River Lot Occupants by the Government of Canada, in The Genealogy of the First Metis Nation D.N. Sprague (ed.) Pemmican Publications, Winnipeg 1983.
8. Authors, such as C. Lasch (1977) and J. Donzelot (1979) equate patriarchy with male privilege and on the basis of this falsely conclude that the growth of the welfare state and the reforms in family law indicate that patriarchy is dead. For a discussion of their work see Chap. 1.
9. By disposition of children we refer to conditions in which children become wards of the state with parental loss of custody and control of their children. Thus we are not including institutions (education) which play an important role in sharing the socializing role with parents, but only those situations in which the parents' role is usurped altogether.
10. The record of this case and subsequent investigation can be found in Lieutenant Governor J.C. Patterson's correspondence (1899) Manitoba Archives, M G 12F1 Box 4.

## CHAPTER 6

### PERIOD II: THE FAMILY AND THE STATE IN CANADA 1914-1939

#### Introduction

In the previous chapters we have argued that the extension of the wage labour system created a resource allocation imbalance between production and reproduction threatening the overall balance between the two spheres. The flow of resources in and between production and reproduction are two-fold: first, labour resources and secondly, nonlabour resources which appear as capital in production and income in reproduction. While the contradiction between production and reproduction is rooted in an imbalance of both resources, changing structural pressures have operated in Canada to highlight the salience of labour resource allocation at one point and income allocation at another. Thus the form in which the contradiction will become manifest and the parameters within which the state mediates are determined by the shifting social, economic and political conditions of the system.

During the first period the growing imbalance between production and reproduction was identified, if somewhat obscured by the Victorian rhetoric of women's "proper sphere", as a diminution of labour resources committed to reproduction. The legislation we reviewed during this period operated primarily to restructure and ensure a balance in the allocation of labour resources between the two spheres. However, having balanced the

allocation of labour resources without a parallel restructuring of income resources addressed only half the problem altering the manifest form of the contradiction between production and reproduction rather than eliminating it.

During the second period the contradiction between production and reproduction appeared primarily as a problem of income allocation. Thus one of the important material determinants of the form in which the contradiction becomes manifest is the strategy and impact of state-intervention in the previous period. In addition to the history of state mediation other important structural changes, outlined below, served to increase the salience of the income allocation issue as well as influence the pattern of state intervention characteristic of the second period.

One of the most important structural developments of this period was the increasing costs of reproduction resulting from the increasing ratio of dependent to productive members within the family unit. Increased longevity combined with child labour laws, compulsory education and a rising age of legal adulthood to swell the ranks of dependents at both ends of the age continuum, while the number of breadwinners within a family was limited by age/sex restrictions within the labour statutes. In addition, the encroachment of the labour market into domestic production, along with the process of urbanization, further eroded extra-market options for supplementing a family's livelihood.<sup>1</sup>

A second factor highlighting the income allocation issue was the change in the organization and focus of class struggle during the second period. The increased organization of labour in conjunction with the granting of universal suffrage enabled labour to press its demands more



effectively not only on the shop floor but also in the legislatures. Labour's more direct access to government via suffrage, labour parties<sup>2</sup> and labour M.P.'s coupled with their limited success in wresting a family wage from employers not only expanded the focus of their struggle but also altered the nature of their demands. Organized labour played an important role in broadening the issue of income allocation from one exclusively between worker and employer to an issue involving populace and state, through the inclusion of social welfare schemes on their political agenda along with the more traditional work and wage issues.

Finally, the shift in the labour supply-demand ratio from Period I to Period II influenced the manifest form of the contradiction. Attention to allocating labour to the reproductive sphere is highest in periods of labour shortage, as was the case in Period I. However, the second period was characterized by a declining demand for labour as evidenced by the dramatic shift from an aggressive open door immigration policy in the first period to a selective, restrictive policy characteristic of the second period (Dirks 1977:260). In the absence of a labour shortage the importance of allocating labour to reproduction declines and with the combined effects of the above structural pressures income allocation emerges as the central problem for the state in its ongoing struggle to balance production and reproduction.

The above developments indicate the success as well as the limitations of the strategies of state intervention in the first period and alert us to the most critical areas of state activity in the second period. The success of labour legislation in entrenching ge/sex divisions of labour and the success of family law in restructuring spousal

and generational rights and obligations, in accordance with those divisions of labour, resulted in little legislative innovation in these areas during the second period. New acts and amendments in family and labour law served primarily to refine and reinforce established patterns. However, the introduction of new acts and the extension of regulatory bureaucracies indicated that the balancing of labour resources between production and reproduction was not seen to be self sustaining and continued government intervention confirmed the state's interest in engineering that balance.

While family and labour law emerged as important mechanisms for redistributing labour between production and reproduction these statutes proved extremely limited as mechanisms for redistributing income. Because family law has no effect on the amount of income resources available to the family as a whole, the most it could accomplish during the second period was to ensure an equitable division of limited, often inadequate, resources within the family.

While labour law theoretically has more potential for solving income distribution problems the fundamental necessity of the wage system to the economic system meant powerful resistance to any attempt to alter the wage determination process. Thus the few statutes brought in to address income allocation through labour law (minimum wage or fair wage acts) were extremely limited in scope.

Caught between the inviolability of the wage determination process and the cost of living crises it provoked, the state "solution" was to develop a system of redistributing income outside of the wage labour system. Thus welfare law emerged as the critical legislative balancing

mechanism in Period II. Welfare legislation had the scope that family law lacked as well as a critical location which permitted it to compensate for the tyranny of the wage determination process without fundamentally challenging it. Because the welfare state strategy evolved at the provincial level (which had the jurisdictional authority to develop the system but lacked the resource base to fully exercise that authority) this period is best understood as transitional.

#### Capital, Labour and the Economy

In the twenty-six years that make up the second period the Canadian economy experienced a number of expansions and contractions that influenced the relations between capital and labour. Two constants, however, stand out during this period: capital's relentless drive toward concentration and monopolization and labour's relentless struggle to earn a living wage. These characteristics of an emerging modern economy shaped the parameters within which labour and capital developed their strategies and pursued their interests.

The second period begins with a recession only temporarily alleviated by a war economy. Pentland (1968) points out that government reliance on market forces to manage the war economy resulted in serious mis-allocations of resources as well as uncontrolled price increases which eroded the real wage levels. Thus returning soldiers and Canadian labour in general faced the same problems of unemployment and declining wages that had prevailed prior to the war. As a result labour militancy was high, there was a growth in organized labour and shop floor politics were the major focus of labour's struggle for a living wage.

Pentland's study of labour relations in Canada reveals an enormous wave of unionization after 1915. Between 1915-1917 there was an absolute gain of 162 local unions in western Canada and 639 in the east. Labour Gazette records indicate that this same period was high in the incidence of strikes and lockouts, the most frequent cause of which was wage disputes. While 1917 and 1919 were peak dispute years Pentland states that the incidence remained very high until 1925. In 1917 and 1919 the major struggle was over workers trying to raise wages and in the peak years of 1912, 1921-22, and 1934 the majority of disputes arose from wage reductions. Throughout this period of intense union activity and labour militancy, however, real wages did not rise (Pentland 1968).

While real wages did improve in the twenties, for many categories of the working class, even at the height of wage gains, income levels often fell short of the requirement of supporting a family. "In 1929, before the Crash, the Department of labour judged that a Canadian family of four needed between \$1,200 and \$1,500 for the minimum comforts of life. Its own figures showed that 60% of men and 82% of working women earned less than \$1,000 a year," (Morton and Copp, 1980:125).

While the twenties have been portrayed as a grey period in labour history in which union militancy and membership declined we can also view it as a period of reorganization from which labour emerged with a new strategy and a consolidated labour party. A number of factors came together during this period to broaden the issue of income allocation from one exclusively between worker and employer to an issue involving populace and state. The International Labour Organization (I.L.O.) founded after the first World War played an important role in articulating and promoting

labour's interest in social welfare policies. The I.L.O's welfare policies were increasingly included on the political agendas of organized labour in Canada. In addition, the granting of universal suffrage in 1920 enabled the working class to have more direct access to government. The opportunity to elect a labour M.P. or M.L.A. was not insignificant given that the majority of Canadian workers were still unorganized<sup>3</sup> and the vote was, for many, their only means of political expression. The significance of this fact is revealed in the 1921 federal election which marked a radical departure from the previous two party system that had predominated prior to the extension of suffrage. Table 6.1 indicates the growing significance of a third party presence in the House after 1921. In the 1921 election the "third party", in fact, formed the official opposition.

Table 6.1  
Federal Elections 1887-1935

	Conservative	Liberal	Other
1887	128	87	-
1891	122	91	2
1896	88	118	7
1900	81	132	-
1904	75	139	-
1908	88	135	-
1911	134	87	-
1917	153	82	-
1921	50	116	69 <sup>1</sup>
1925	116	99	30 <sup>2</sup>
1926	91	128	26 <sup>3</sup>
1930	137	91	17 <sup>4</sup>
1935	40	173	32 <sup>5</sup>

<sup>1</sup> 65 Progressives, 2 Labour, 2 Other

<sup>2</sup> 24 Progressives, 2 Labour, 4 Other

<sup>3</sup> 20 Progressives, 3 Labour, 3 Other

<sup>4</sup> 12 Progressives, 3 Labour, 2 Other

<sup>5</sup> 17 Social Credit, 7 Canadian Commonwealth Federation,

1 Reconstruction, 1 Labour, 6 Other.

Source: The History of Federal Electoral Ridings, 1867-1980, Information & Reference Branch of the Library of Parliament Vol. 1 Ottawa, 1982.

Although the extension of suffrage did not result in the immediate formation of a consolidated workers' party it did make a substantial difference in workers' representation in parliament. More important perhaps than the absolute increase in labour, progressive and populist representatives was the change in the strategy of these members after 1920. "Earlier labour MP's had been practical trade unionists; men from the ranks of organized labour dedicated to the extraction of favourable bits of labour legislation. They soon found they could best accomplish this by submitting to the discipline of one of the major parties" (Robin, 1971:270). After 1921 labour MPs led by J.S. Woodsworth became committed to the concept of an independent left and labour group which would persistently keep the viewpoint of labour before the House and country. Furthermore, the adoption of such a strategy was not necessarily at the cost of extracting "favourable bits" of legislation as Robin points out: "The efficacy of a minor party exercising a crucial vote in a balance of power situation between disciplined parties was well illustrated in 1926 when the labour group extracted an old age pension concession in return for legislative support for King" (Robin, 1971:273).

The enactment of the Old Age Pension Act in 1927 initiated a reallocation of millions of dollars of income annually, highlighting the benefits to the working class of a labour presence in the House. By the end of the second period approximately 40% of all Canadians 70 years of age and over (186,154 individuals) were recipients of transfer payments amounting to \$28,886,000 annually (Urquhart and Buckley: 1983, C300-312). A powerful victory in the income allocation struggle which few, if any union struggles could match. While labour was always sympathetic to

welfare issues the difference that emerged during the twenties was the systematic inclusion of social wage strategies on the agenda of organized labour as well as the emergence of an independent labour group in the house which could press these issues in the interests of all labour organized and unorganized.

In the 1930's there was a consolidation in the electoral strategies of labour with the founding of the CCF. In addition, this decade witnessed a revival of shop floor politics with the onset of a major organizing drive by American industrial unions in Canada. Thus labour responded to the crises of the depression with a dual strategy; pushing for a more equitable distribution of income through wage increases from employers and social wage initiatives from the state.

Capital having the strategic upper hand during this period exhibited less fluctuation in its position on state intervention. Prior to 1930 its posture was not significantly different from the first period which could be seen as favouring minimal, sporadic government intervention. However the upheaval of the depression shook the faith of many in the benign operation of "market forces" creating some powerful and vociferous supporters of state intervention within the business community.

From 1913 to 1930 business in Canada was preoccupied with the process of concentration and monopolization. Business philosophy at the time was a somewhat contradictory amalgam of a stubborn reliance upon the autonomous forces of the market with a serious concern for "undue competition". A philosophy which managed to serve the interests of big and small capital quite well by passing on to the workers the costs and insecurities of the transition to large scale organization. For those

businesses which succeeded in the expansion and merger process the problems of competition were largely resolved within the market place through informal price fixing mechanisms favoring large industries (Finkel, 1979:43).

For those business men who remained in small competitive industries their preferred solution to competition was to cut wages in order to keep themselves in operation. "Small inefficient producers have always inclined to the view that they should be kept in operation by low wage rates, taking into account the moral worth of small business--along with the moral worth of native-owned business" (Pentland 1968:77). While the prevalence of this commercial outlook (which thinks of wage cuts rather than investment) explains the consistently low wage of labour, it is somewhat puzzling in the face of the concurrent and dominant thrust of capital to concentration and monopolization. A brief consideration of the characteristics of monopolization in Canada during this period may help to explain the resiliency and impact of the commercial philosophy.

The process of merger and monopolization coincided with the penetration of American investment and ownership in the Canadian economy. In this process Canadians tended to retain ownership of older types of enterprises in which they had become established before American penetration and also enterprises in which success depended on entrepreneurial capacity and familiarity with local conditions (Pentland 1968:50). Thus while certain sectors of Canadian business formed successful conglomerates Canadian business men were disproportionately concentrated in the competitive sphere. As a result the voice of Canadian national industries was predominantly the voice of competitive capital.



Its impact, however, should not be overstated. When the interests of competitive capital conflicted with those of monopoly capital, competitive capital clearly emerged as the weaker sister. Small capital was never able, after the twenties, to have a significant impact upon tariff policies or foreign ownership (Pentland, 1968:50). However, where small and large capital's interests overlapped as in the case of wage determination the voice of competitive capital could be permitted to prevail. Small capital's constant demand to hold down wages was as beneficial, if not as essential to the interests of large capital. Pentland documents how unrelenting the pressure was: "There is no year from 1901 through to the 1920's - no matter how buoyant, how tight the labour market, how much prices and wages are rising - when a considerable number of employers did not try to carry through a wage reduction" (Pentland, 1968:77). This pressure from competitive capital tended to keep wages down generally and also had the effect of stabilizing labour relations in monopoly industries who could appear both progressive and benevolent merely by not cutting wages in a period in which competitive capital was ruthless.

The experience of the depression brought about a substantial shift in business philosophy and a new attitude toward government intervention. Two factors seem to have contributed to this change. First, the severity of economic disorganization had the effect of visiting the costs of "market forces" upon the business community itself. Second, the severity of social disorganization had the effect of reminding business, in a manner reminiscent of the turn of the century, of their dependence upon the stability, harmony and consumption patterns of the population. In

other words, the dislocation within and between the productive and reproductive spheres reached such proportions during the depression that the business community had to search beyond itself and the invisible hand of the market place to find a way out of its problems. Its solution was to turn to the state.

The old faith in market forces waned as the costs of those forces began to be borne by the business community itself. One of the earliest manifestations of this was the breakdown of informal price fixing mechanisms due to expansion over-production and consequent fierce competition. Once the costs of competition could no longer be passed on to the worker or consumer, competition, the hallmark of free enterprise was increasingly seen as problematic. Stability, growth and rationalization, conditions essential to the monopolization process became the new leitmotif of capital. Under the euphemism of "state encouraged industrial cooperation" business called upon the government to severely restrict competition through the regulation of pricing, production and marketing practices. "What the business community ultimately wanted was self-government--to control the state agencies established to enforce a set of rules business men evolved for themselves" (Finkel, 1979:29). Evidence of state responsiveness is seen in the Royal Commission on Price Spreads, 1934, the Natural Products Marketing Act, 1934 and the Dominion Trades and Industry Commission Act of 1935 (Finkel, 1979:30).

As the depression deepened the deteriorating condition of the population touched even the most stable of industries. Falling demand, falling prices, bankruptcies and perhaps most important of all, political unrest, led a number of influential and forward looking business men to

see a link between regulated industry (production) and regulated welfare (reproduction). While there was much debate within the business community over which policies would be best, the frequency and urgency of the debates and the assumption of greater state intervention contained within them indicates a distinct change in attitude from the earlier period. Business men began to argue that the business community itself had a vested interest in the development of welfare programs. The words of Raoul Dandurand, liberal leader in the Senate and influential business man are indicative of this new awareness: "When I think of them and of the inevitably slow process of reabsorbing into industry those who are now unemployed, I feel more and more concerned that if our capitalist system is to survive we shall have to establish a contributory unemployment system to tide our people over periods of economic depression (Finkel, 1979:91).

In summary, the economic conditions of the second period saw labour and capital moving, at different rates and with different blueprints, towards the demand for ever greater government intervention. Furthermore, these demands increasingly focused upon and articulated the need for comprehensive welfare schemes to ameliorate the irreconcilable wage conflicts between labour and capital and to cushion both interest groups from the severe problems associated with unregulated business cycles.

#### Labour Commissions and Inquiries

In the twenty-six years of the second period there were twenty-eight federal inquiries on labour and related issues. A list of these federal and provincial royal commissions is presented in Appendices II.A and II.B.

Out of a total of thirty four royal commissions we find that over half (nineteen) occurred in a four year period from 1916-1919, identified by Pentland as the peak dispute years in the second period. The majority of these commissions dealt with specific disputes in particular industries or particular regions of the country. However, a number of commissions addressed labour problems at the provincial or national level. It is these broader commissions we will review to determine: first, the saliency of the income allocation problem as evidenced in concerns over costs of living; secondly, the tendency to incorporate welfare recommendations as part and parcel of an overall solution to labour problems.

In 1913 the Prime Minister responded to increasing unrest over rising prices by calling a commission to investigate the increase in the cost of living in Canada. It was largely a fact finding mission and did not result in any specific recommendations. The inquiry does, however, provide us with detailed information on the cost of living situation in Canada up to 1913. The commission found that while the average wages in manufacturing had increased forty percent from 1900 to 1910 the average cost of living had risen fifty percent. Furthermore, the commission reported that the wage increases of unskilled workers and immigrants were far below the norm for workers in manufacturing. The most dramatic cost of living increase was that of housing which increased sixty to seventy percent in the ten year period. One of the consequences reported by the commission was that the number of families living in one room had increased by seventy-four percent, from 4.3% of all Canadian families in 1900 to 5.7% in 1910 (Cost of Living Inquiry, 1915:48). The increase in prices had long been justified by producers as being a result of rising

wages. However, the commission reported that the wage bill to employers dropped from 23.5% to 20.6% during this period. The commission also conducted a small sample study of family budgets in the City of Winnipeg and not surprisingly found that the likelihood of a family falling into debt was directly related to the number of dependents it had to support (Cost Living Inquiry, 1915, V. II:1019).

The recession of 1913-1914 added job insecurity to the existing problem of income insecurity and the Ontario government responded by calling for an inquiry into unemployment. The recommendations of this commission reveal the tendency we predicted; to advocate increased state involvement generally and the extension of welfare programs in particular to resolve labour problems. The commissioners called for greater state involvement in providing for the population in times of need and in regulating labour demand cycles. In the former case the commission recommended that the province develop a separate department of welfare, and introduce systematic provincial funding of relief programs, generated through taxation, which would permit greater government regulation of welfare programs. It further recommended that the province set up and fund training programs for social workers to staff the new bureaucracy.

With regard to regulating labour demand cycles the commission recommended a separate provincial department of labour, a national system of public employment bureaus and the regulation of public works at the federal, provincial and municipal level to insure relatively stable demands for labour. They also considered the development of an unemployment insurance scheme. After a detailed study of the British National Insurance Act they concluded that while it was desirable in

principle it was inadvisable to introduce such a scheme until the above recommendations were made law. They were particularly concerned that a national employment bureau and adequate statistics of unemployment precede the introduction of such a plan as a safeguard against abuse and malingering. In spite of these concerns they did recommend that the provincial government subsidize voluntary workingmen's associations which provided unemployment benefits at a rate of twenty percent of overall benefits.

The post-war labour unrest which culminated in the Winnipeg general strike provoked a number of inquiries which focused explicitly on wage price disparities as the central problem. In 1919 the Premier of Manitoba called for a royal commission to inquire into the cause of the general strike. The testimony of James Winnig, President of the Trades and Labour Council, emphasized that the cost of living crises were a major cause of the high level of labour unrest in the province at the time. Pointing out that the Minimum Wage Board of the province considered that it took \$12 a week for an individual woman to provide herself with the bare necessities of subsistence, Winnig cited the following information on male wages: "...my observations have been that in the various factories (in Winnipeg) that men have been working for as low as \$15, yes, and as low as \$12, and they are expected to maintain a family on \$17, \$18 and \$20 a week throughout the city" (Inquiry Report, 1919:7).

Having received a wide range of testimony, the Manitoba commission identified nine causes of industrial unrest ranging from profiteering to employers' refusal to recognize the right to collective bargaining. The commissioners concluded that the most critical factor, however, was the

wage-price disparity. In contrast to the ruthless anti-labour role the state played in terminating the strike, the Commissioners advised a more balanced, sympathetic role for the state. Having concluded that labour's grievances were well founded the commission expressed their vision of state responsibility as follows:

"It must be apparent to all that a system of capital and labour should continue to exist. There must be something to provide the necessary incentive to effort or progress will cease. It would be as bad for Labour as for Capital if the incentive to capital to press forward were withdrawn, but it is the office of Government to see that these two important factors maintain proper regard for each other. If Capital does not provide enough to assure Labour a contented existence with a full enjoyment of the opportunities of the times for human improvement, then the Government might find it necessary to step in and let the state do these things at the expense of Capital" (Inquiry Report, 1919:27).

While the commission was not instructed to make recommendations they nevertheless advised the development of a progressive system of taxation to facilitate the redistribution of wealth. "It is submitted that there should be a scheme of taxation of those who can afford it and application of wealth to the reasonable needs of the others in the community whose lot in life has not been favored" (Inquiry Report:1919:29). Thus the idea that labour problems cannot be resolved solely within the confines of labour legislation is clearly expressed.

Concurrent with the Manitoba inquiry the federal government called for a national inquiry into industrial relations in Canada. This inquiry, also referred to as the Mather's Commission, identified the wage-price disparity as the central problem in labour relations. "...the high cost of living was assigned as one, if not the chief, cause of labour unrest. The opinion was frequently expressed that if that problem could be solved,

and the equilibrium established between the wages and the cost living, labour unrest would largely disappear" (Mather's Commission, 1919:8). Taking this evidence to heart the commission focused equally upon labour conditions/legislation and welfare conditions/legislation. With regard to labour the commissioners called for immediate legislation to establish minimum wages and maximum hours of employment in all provinces. They also recommended that suitable action be taken by the government to insure the right to organize, the right to collective bargaining and the payment of a "living wage" (Mather's commission, 1919:19).

The commissioners' other recommendations anticipate and endorse what amounts to the basic framework for a modern welfare state--compulsory contributory state insurance. "We recommend to your Government, the question of making some provision by a system of State Social Insurance for those who through no fault of their own are unable to work, whether the inability arises from lack of opportunity, sickness, invalidity or old age" (Mather's Commission, 1919:8). They further endorse state regulation of public works for the relief of unemployment and government assistance for public housing and the extension of equal opportunities in education. These recommendations were endorsed by the Liberal party at their 1919 convention. A similar scheme was again proposed by the Select Standing Committee on Industrial and International Relations in 1928 and received the support of the House of Commons in May 1929. Despite all this discussion and apparent approval no universal social insurance programs were introduced in the twenties, leaving these concerns to be discussed once again during the thirties.



Finally, the Price Spreads Commission, formally called upon to address the question of rising prices in general was, in fact, a commission by and for big business to resolve their concerns over competition. Despite this bias, testimony before the commission does give us some indication of the problems of labour. In the interests of discrediting competitive capital the commission sponsored an investigation into "Violations and Evasions of Minimum Wage and Factory Acts" (Price Spreads Inquiry, 1934:4811). The testimony before this section of the inquiry provides overwhelming evidence of the lack of enforcement and effectiveness of minimum wage, maximum hour legislation, and describes the wage rates and working conditions in the industries they survey as frequently deplorable as well as illegal. In response to these findings they recommended that the minimum wage be extended to men as well as women and youth. "Otherwise the practices, so often illustrated in the evidence, will continue of substituting men and boys for women at wages below the legal rate that must be paid the latter" (Commission on Price Spreads, 1934:131).

In summary, the inquiries during this period revealed a consistent pattern of concern over the income allocation problem, all responded to this problem by advocating greater government intervention and many included as a corollary to labour law reform a strong recommendation for state social insurance programs.

### Labour Legislation

The second period like the first was characterized by a high degree of legislative activity measured both by the introduction of new statutes,

and by the number of amendments to existing labour laws. However, a number of important differences distinguished the two periods. In the first period Ontario emerged as the leader in initiating labour legislation and Manitoba lagged behind, modeling its labour laws on the Ontario statutes. In the second period Ontario lost its distinction as the leader in this field. Although it introduced a larger number of statutes during this period some of the most important protective statutes were initiated in Manitoba. Manitoba was clearly catching up to Ontario and developments in labour law in both provinces were much more equal than in the past. The legislation is listed in Appendix II, Table II.1.

More importantly, however, was the difference between the manifest problems of balancing production and reproduction which emerged in each period and the type of legislative response they provoked. In the first period we traced the pattern of labour legislation introduced to distinguish between child/female labour on the one hand and male labour on the other. We argued that such legislation was introduced to correct the imbalance caused by an over-allocation of labour to production. The special protection and restrictions applied to child/female labour were intended to and had the effect of reducing the amount of that labour that could be absorbed by production. The second period presented a different manifest problem. There was an imbalance of income resources between production and reproduction. Thus the primary challenge of this period, to which all legislation that is reviewed here had to respond, was the issue of income allocation. However, this does not mean that the legislation set in place in the first period to protect or restrict female/child labour could be abandoned or revoked. The income allocation

issue did not replace but was added to the ongoing concern with labour allocation. As a result our analysis of labour legislation during this period will focus upon two processes--first, the pattern of age-sex specific legislation and secondly the introduction of new legislation or the expansion of old legislation designed to alleviate the pressing income allocation problem of the period.

Table II.2 in Appendix II gives a good indication of the state's continued commitment to differential protection of female/child labour. This was achieved through the introduction of new statutes and through amendments to existing acts to extend age/sex differentiation. The Minimum Wage Act is the only new statute introduced during this period that further distinguishes between female/child labour and male labour. It was introduced first in Manitoba in 1918 and then in Ontario in 1920. Throughout most of the second period the act applied only to women and youths. When the legislation was extended to include men in the late 1930's the principle of distinction was maintained by setting differential minimums for men and women.

Most of the activity with regard to maintaining the sexual differentiation occurred through amendments to existing acts. We have again used Ontario legislation for the analysis because the only difference between Ontario and Manitoba in this area was in the timing of the amendments; the general principle was the same. Part of the difference can be explained by the fact that Ontario consolidated the Factory and Shops Acts in 1913 creating the Factories, Shops and Office Building Act. This permitted more comprehensive rulings. For example, in Ontario the new act established the principle of a 60 hour work week

for women and youths in 1913 when it was consolidated; Manitoba on the other hand had not consolidated and the 60 hour limit did not apply to shops in Manitoba until 1916. In other areas, however, Manitoba did take the lead, introducing the Minimum Wage Act two years before Ontario and raising the minimum age for work in shops from 12 to 14 in 1916 while Ontario did not follow suit until 1921.

The major thrust of the amendments to the protective legislation during this period was to eliminate loopholes and exemptions from the existing acts. The 1914 and 1918 amendments to the Factory, Shops and Office Buildings Act made canning factories (major employers of women and children) subject to all the regulations of the act. The 1919 amendments extended the regulations to women who worked in bush camps and a further amendment in 1939 brought under its scope a wide range of small shops previously exempted. In addition to these changes we also find some extension of special working conditions for women, such as the requirement of separate eating and dressing rooms and the ever present concern for water closet and seating facilities for women. For children we find that the minimum age of employment rose and the maximum hours of employment declined.

With regard to age-sex specific legislation the second period is neither as interesting nor as innovative as the first. However, the important point is that there is no reversal or abandonment of the policy of differential treatment for female/child labour and, in fact, there are moderate attempts to extend the principle.

The second area of labour law of concern to us are the few legislative attempts to address the problem of income allocation. As

stated earlier these attempts were very limited so this discussion will be brief as well. During this period there were two types of labour legislation which addressed the income allocation problem directly. The first was the Workmen's Compensation Act, which while introduced in the first period, was rewritten in the second period providing much more comprehensive coverage and representing a substantial reallocation of income. The second type of legislation included the Minimum Wage Acts, the Manitoba Fair Wages Act and the Ontario Government Contract, Hours and Wages Act. These acts represented an attempt to provide a floor under which wages could not legally drop and during this period they were highly selective in their application and in their determination of minimums.

The original Workmen's Compensation Act established the principle of employer's liability for workers' injuries on the job. The act was based on the concept of individual (employer or corporate) liability and provided the courts as the means of determining the validity of a claim and the determination of the compensation. The adversarial court system was difficult, expensive and time consuming for all parties involved. Initially the legislation had the effect of discouraging claims because of legal costs. Furthermore the fact that the burden of proof of negligence fell to the claimant resulted in few cases settled in favour of workers. In the five year period from 1889 to 1893 only twelve cases were brought before the courts in Ontario and only three of these cases were found in favor of the claimants (Ont. Weekly Report, Vol. 16-23). Over time, however, the number of cases, the amount of litigation and the size of settlements all increased.<sup>4</sup> In the five year period between 1908-1912 there were ninety-one cases brought to court with well over 60% being

settled in favor of the claimant. Also the settlements were getting larger (Ont. Weekly Report, Vol. 11-22). In 1910 the Ontario government called a Royal Commission to inquire into the Workmen's Compensation Act with the support and cooperation of the Canadian Manufacturers' Association. Four reports and three years later the commission recommended a complete redrafting of the law.

The commissioners recommended a new program based upon the concept of collective rather than individual liability and the replacement of the courts by a workmen's compensation board which would handle claims and administer the program. The board was to be empowered to classify industries according to number of employees, accident rates, etc., and assess appropriate annual payments the industries must make to a collective accident fund. A new act was passed in Ontario in 1914 adopting the recommended program and Manitoba followed suit in 1916. The new Workmen's Compensation Act required a much more active role on the part of the state which would be responsible through the board for determining rates of assessment and compensation and necessitated a rather complex bureaucracy to administer the program. For employers the program operated as an insurance fund and as such they supported it; for workers it meant a more stable, accessible system for making and receiving claims. From an income allocation point of view this was the first state program which operated to administer and guarantee massive transfers of income resources from employers to those employees who qualified. In the first thirteen years of operation the board collected millions of dollars in assessments on industries and between 1915 and 1927 had paid out over \$63

million in benefits to qualified employees (Ontario Sessional Papers #28 Chapter 3:19).

The second type of labour legislation which attempted to address the income allocation problem did so through setting minimum wage regulations. In addition to the better known Minimum Wage Act there were also the Fair Wages Act in Manitoba and the Government Contract, Hours and Wages Act in Ontario. The two latter acts stipulated minimum wage guidelines for all employees working on government public works projects. Manitoba took the lead in this case introducing the Fair Wages Act in 1916 which established a fair wages board to determine minimum wage and maximum hours for all classes of workers employed in the construction of public works for the province. It was twenty years later before Ontario passed a similar statute and it used as its model the federal Fair Wages Act (S.C. 1930, c.20).

The more comprehensive law was the Minimum Wage Act which called for a board to be set up to determine and enforce wage minimums for women and youths. During this period there was no concept of a provincial minimum wage. The legislation stipulated that minimums should vary by trade, region, skill and age of worker. When this act was amended to include men, toward the end of this period, sex became another category upon which wage minimums varied; with male wages consistently set higher than females wages. In theory this act could effect a considerable reallocation of income by requiring a greater share of the surplus to be returned to the worker as wages. The legislation empowered the boards to check employers wage sheets and prosecute in cases of violation.

The first Ontario board set out its guidelines as follows:

"The Board is fortunate in the nature of its task, which rests upon an economic and moral principle so simple and convincing that all admit its cogency. This principle is the right of the worker to live from her work. ...It does not fix wages, but sets levels below which wages may not fall." (Ont. Sess. Papers, 1922 #73, p.5)

While the principle may have been simple and convincing the enforcement proved to be quite another matter as the Commission on Price Spreads revealed. There was a multitude of loopholes whereby employers could circumvent the law and many employers simply violated the law without ever being discovered.

Because of these pervasive and well documented problems of enforcement it is very hard to get any kind of estimate on how much income was in fact reallocated to wages. We do know that the minimums set were very modest. However, a common order in the twenties for a \$12/week minimum at a time when a \$8/week wage was not unusual was a significant increase if and when it could be enforced. In addition to the act's potential for reallocating income it was also a very important piece of legislation because it established the principle of government intervention in the wage determination process, an intervention which was initially strongly resisted by capital but became increasingly accepted in this period as the monopolization process required not only standardized pricing and marketing but more standardized labour costs as well (Price Spreads Inquiry, 1937C.9).

In summary, the labour legislation in Manitoba and Ontario during this period accomplished three things: first, it elaborated on and extended much of the protective legislation introduced in the first



period; second, it maintained and in some cases strengthened the sexual segmentation in the labour force; third, it introduced a number of statutes which clearly acknowledged the income allocation problem although it responded somewhat weakly. All of these legislative activities had one common effect and that was to dramatically increase government involvement and regulation of the labour process necessitating a much expanded labour bureaucracy to meet the task.

#### Labour Bureaucracies

The labour bureaucracy generated by the legislation in the first period was limited; Ontario had a small labour branch attached to the public works department and nine factory inspectors. Manitoba had one factory inspector. The legislation enacted in the second period, however, greatly expanded the administrative and regulatory functions of the government resulting in the emergence of a complex and full blown bureaucracy by the end of the period. By 1939 Ontario had introduced eight new administrative boards as well as a separate department of labour and Manitoba introduced six new administrative boards and a labour bureau. The legislation responsible for these burgeoning new bureaucracies is listed in Appendix II, Table II.3.

The Ontario Workmen's Compensation Board provides a good example of the growth in administrative work throughout this period. Once the board was established the number of claims brought forth grew astronomically. Prior to the change in the law, 1912 was a particularly active year with 36 claims brought to court. In contrast, the first year the board was established it received 17,033 claims. This rate escalated by

approximately 10,000 additional claims annually and in 1923 the board received 61,109 claims and dispensed well over five million dollars in compensation (Ont. Sess. Papers 1924 #51, p.16). The employment bureaus grew at an equally rapid rate in Ontario as regional offices opened up throughout the province requiring, by the end of the period, a full time staff of one hundred and eleven persons (Ont. Public Accounts 1940). The increase in Manitoba was similar although less dramatic given the smaller population and the less industrialized economy. However, with the passage of the Labour Bureau Act and the Fair Wages Act the staff increased tenfold from 1913 to 1917 (Man. Public Accounts, 1917).

In both Manitoba and Ontario the staff responsible for workplace inspections and the boards responsible for Fair Wages and Minimum Wage Acts increased as their tasks and responsibilities increased. Further, new boards designed to handle industrial disputes at the provincial level were added to the labour bureaucracy and all had to be housed and administered in ever more complex labour departments. Thus by the end of the second period we find that the Ontario Labour Department had two hundred and thirty full time staff and an annual budget of over \$500,000. Manitoba's Labour Bureau had fifty full time staff and an annual budget of \$90,000, a fifth of the expenditure of Ontario for a province with a fifth of the population.<sup>5</sup> In short, it is fair to state that Manitoba and Ontario's labour bureaucracies were expanding at comparable rates to meet the new administrative and regulatory demands created by the new legislation of the period.

The growing tendency to see welfare programs as part and parcel of an overall solution to labour problems is revealed occasionally in the

operation of the labour bureaus. One of the first tasks assigned to the new Ontario Department of Labour was to investigate the need for a mothers' allowance programme in the province. The Labour Department conducted the investigation, recommended adoption of the program and played an important role in selecting and advising the new board when the legislation was passed (Ont. Sess. Papers: 1921 #16). In Manitoba and Ontario the labour departments played a critical role during the depression in issuing relief certificates, maintaining statistics and administering the vast relief programs of the time. In Manitoba the labour bureau was given over almost entirely to administering relief programs and for five years from 1935 to 1939 the only reports submitted by the bureau were relief reports. In addition to these specific "welfare" services the administrative experience the province gained in the operation of the early boards, like Workmen's Compensation, served as a model for the development and administration of welfare departments.

In summary, a review of the labour commissions, legislation and bureaucracies of this period supports our interpretation that the primary concern was one of income allocation. The general response was to greatly increase state regulation of the economy, not only the labour process but also marketing and pricing mechanisms. The specific concern of income allocation to working class families was addressed by a few critical pieces of legislation, identified above, which were seen to be but one part of a larger welfare strategy recommended by the commissions and inquiries at the time.

Constructing Social Patriarchy

In the first period we outlined a restructuring of patriarchy which we maintained consisted of three component processes: first, the erosion of the patriarch's legal authority over women and children, a corollary of which was a shift in the legislation from father/husband's rights to father/husband's responsibilities; second, the increasing assumption of that authority by the state; third, the provision of resources to subsidize the familial unit of reproduction. We proposed that such restructuring was necessary at a general level to create a better fit between the reproductive system and the wage labour system. We traced this transition through changes in family and welfare law and argued that the details of these changes could best be understood as a response to the most manifest form of the contradiction between production and reproduction during that period, the labour allocation problem. As a result the bulk of legislative activity was concentrated in the first and second processes (erosion of patriarch's rights-extension of state authority) with minor legislative attention to the third.

In the second period the shift in the manifest problem from labour to income allocation results in a new legislative strategy and a shift in emphasis to the second and third processes, that is, increasing state authority over and subsidization of the reproductive unit. One of the obvious consequences of this new strategy is a dramatic change in welfare philosophy, legislation and expenditures compared to relatively minor developments in family legislation. This is indicative of a larger process which we will trace through the second and third period. We find that as the state welfare apparatus expands it tends to absorb more and

more issues and regulations previously located within family law and the distinctions between welfare and family law which were quite clear in the first period become increasingly blurred. We will begin our discussion of the challenge that patriarchy presents to the state by looking first at developments in family law and then proceed to document the growth in welfare inquiries, legislation and bureaucracies.

### Family Law

In the first period the critical thrust of family law was the erosion of the special legal rights and privileges of the patriarch and a rewriting of his role as breadwinner. This most frequently took the form of extending the rights of married women. To illustrate the shifting rights and obligations of spousal and parental relations we focused upon two issues; the disposition of property and the disposition of children. Changes in property and custody laws in the first period clearly revealed a trend to expanding women's rights and extending men's responsibility within a marriage.

In the area of marital property three acts basically rewrote the nature of spousal relations (Married Women's Property Act, Maintenance & Protection Acts and Dower). They established that while married status could no longer be the basis for denying women the right to own and control their income and/or property it was the basis for extending women's claims to maintenance and inheritance rights. Having accomplished their purpose in the first period these acts underwent very little change during the second period with only minor amendments occurring periodically to clarify details. The one new piece of property legislation in this

period was the Dower Act in Manitoba (1919 c.26) which served to correct the peculiar western Canadian anomaly discussed in Chapter 5.

In the area of custody a more dramatic development occurred in the second period. While the principal of equity in property rights between husband and wife had been established in the first period the issue of custody remained mired in patriarchal tradition. Although the first period saw the extension of a mother's rights to claim custody under certain circumstances, the concept of father as rightful guardian until proven unfit predominated. However, in 1922 in Manitoba the Child Welfare Act asserted the concept of joint guardian rights between mother and father and in 1923 Ontario followed suit with an amendment to the Infants Act. The entrenchment of the principal of equity had two important consequences. First, it acknowledges women's rightful claim to guardianship of their children. Second, in asserting the mother's right as being equal to the father's they eliminated the infamous adultery clause which had only applied to women and had automatically disqualified her as guardian had she committed adultery. This removed one of the most critical legal sanctions of the sexual double standard. The adultery clause, however, remained intact in the Maintenance and Protection Acts in both Ontario and Manitoba throughout the second period.

With the challenge of modifying patriarchy through the adjustment of property and custody rights largely accomplished in the first period, the second period presented a new challenge to family law. The income allocation problem was addressed to some extent in family law by the increasing clarification of rights of dependents and obligations of providers to ensure the most equitable division of resources within the

family unit. However, because access to income resources lay largely outside the family its redistributive effects were in most cases minimal. This then raises a question of why we see ever greater delineation of familial rights and obligations given its limited impact on income allocation for family members. A possible explanation lies in the fact that while such careful specification of familial obligations might have limited internal (family) impact it had significant external impact in terms of clarifying the parameters within which state subsidization would occur.

The increasing pressure for a social wage and the extension of welfare programs raised a disturbing possibility of overburdened breadwinners abandoning their dependents to the state. The introduction of each new welfare measure was invariably coupled with more detailed laws of familial obligation to ensure that state support would only be received when all available family resources had been exhausted. For example, we find a coincidence of Old Age Pension Act with the introduction of Parents Maintenance Acts and a tightening up of maintenance laws with the introduction of Mothers' Allowance. In short, we may best understand the legislation in family law during the second period as an attempt to entrench the concept of privatizing reproductive costs as a check upon the growing pressure to socialize those costs. While the state did indeed proceed to socialize some of the most pressing and unavoidable costs it did so with the clear understanding stated in the law that the obligation to support the nation's dependent population lay first and foremost with their relatives. Thus the developments in family law make most sense as a necessary corollary to the reigning welfare philosophy of means tested,

crisis intervention aid and a studied avoidance of anything suggesting universal plans.

All of the new family legislation introduced in the second period is listed in Appendix II, Table II.4. The most striking feature of this table is the extreme imbalance between Ontario which added seven new pieces of legislation to the statutes introduced in period I in comparison to Manitoba which only brought in three new statutes while repealing two earlier ones (Infants Act and Illegitimate Childrens Act). While the statutes we have identified as family law did diminish in Manitoba during this period there was no less regulation of families in the province. The pattern which emerges in Table II.4 indicates that the integration of family law issues into welfare law appears first in Manitoba, and is a reflection of Manitoba's earlier development of welfare policies and legislation. Most of the regulations present in Ontario family law appear in Manitoba largely under the Child Welfare Act. Therefore, in our analysis of the content of family law during this period we will use Ontario legislation as the guide and list the Manitoba regulations which are equivalent in intent whether they appear in family or welfare statutes.

Table II.5 in Appendix II highlights the characteristic features of family law during the second period. There is a consistent pattern of rights and obligations which supports our analysis that family law introduced during this period had the predominant purpose of entrenching the tradition of familial responsibility for reproductive costs. In the table we have underlined the terms, rights, and obligations and the family members to whom they apply. A brief examination will reveal a consistent



pattern of extending rights to dependents and obligations to presumed providers. This effects a complete reversal of familial patriarchal law which extended rights to provider and obligations to dependents. However, such a reversal was essential, we argue, to preserve familial economic responsibility as a concomitant to social patriarchy. Thus, whether we are talking about spousal, parental, or filial relations the law always operates to extend dependents' rights to family income and to enforce obligation to provide on the part of productive members.

In summary, this period marks a transition towards a growing acceptance of state subsidization of the reproductive unit within clearly defined boundaries and family law serves to define those boundaries. Therefore, the pattern and direction of family law in the second period can best be understood in conjunction with the expansion of welfare legislation and programs which we will now examine.

#### State Welfare Activity

In the first period we documented state welfare activity in two ways; first, through the extension of state authority over children as a measure of increasing control over the family and, second, through increased state expenditures as a measure of growing support for the family. Period I was essentially a period of regulation with dramatic increases in regulatory legislation and modest increases in fiduciary legislation. In contrast, Period II was characterized by dramatic increases in fiduciary legislation and modest increases in regulatory legislation. This shift in emphasis was a function of three factors which contributed to the distinguishing characteristics of the second period.

The comprehensiveness and success of the early regulatory legislation required a limited number of new statutes in the second period to maintain the regulatory role of the state. Second, the extension of state control during this period was more dependent upon expanding the bureaucracy to enforce the existing legislation than upon introducing much new legislation. Third, the new emphasis upon fiduciary legislation was the state's largest and most concerted attempt to ease the income allocation problem through 'progressive' taxation and income redistribution. It marks the state's first, largely provincial, steps towards the systematic support of the reproduction of the population popularly known as the welfare state.

Another development that distinguishes welfare activity in the second period is a growing specialization of state institutions for the care of dependents, coupled with a move away from institutional care for certain categories of the destitute. Many of these developments do not always appear as new legislation. For example, in Ontario the Houses of Refuge Acts remained on the books with minor amendments throughout the second period; however, the actual utilization of the institutions changed dramatically. Female Houses of Refuge became reclassified as reformatory institutions and Houses of Refuge became reclassified as old folks' homes. Thus, broadly defined charitable institutions which predominated in the first period, which would frequently house orphans, destitutes and delinquents at one and the same time, ceased to exist. Institutions were reclassified to specialize primarily in reformatory work and care of the elderly.

This specialization was a reflection of a dramatic shift in welfare philosophy away from indoor or institutional relief to outdoor or noninstitutional relief. For orphaned and neglected children this meant foster or adoptive homes as an alternative to orphanages or industrial schools. For poor women with dependent children this meant mothers' allowance and for the unemployed, public works, and other relief programs replaced work houses. This was a major departure from the philosophy and management of relief in the previous period and consequently required a new system of administration and an expanded bureaucracy to operate the programs.

A final distinguishing characteristic of this period was the growing significance of federal involvement in the developing welfare state. We will, therefore, review federal as well as provincial welfare legislation and expenditures. With the new fiscal role of the state the welfare field emerges as the area of greatest legislative innovation. Although legislation effecting reallocations of income are the core of legislative activity during this period they by no means exhaust the list of innovative developments of the time. While limited in number, new and innovative regulatory legislation was introduced, the welfare bureaucracy was expanded and reorganized and for the first time we see at the provincial level royal commissions and inquiries dealing specifically with welfare. Finally, we should note that in this important transition from private philanthropy to public welfare, Manitoba is the province that takes the lead and sets the pace not only for Ontario but for most of the other provinces as well.<sup>6</sup>

Commissions and Inquiries

In discussing welfare commissions it is important to recall that these inquiries did not by any means exhaust the list of welfare recommendations made to various levels of government during this period. As we have seen the labour commissions frequently recommended welfare programs and policies as a strategy for dealing with the ever present income allocation problem. In addition to labour commissions' attention to welfare we see, for the first time, commissions and inquiries specifically addressed to welfare issues. During the second period the Ontario government called four provincial inquiries: one into the Ontario School for the Blind in 1917; another into the care and control of the mentally defective in 1919; the Royal Commission on Public Welfare in 1929; and an inquiry into the Mental Hospitals Act in 1938. In the same period Manitoba called three commissions: the Public Welfare Commission in 1919; the Royal Commission on Child Welfare in 1928; and the 1931 Commission on the Welfare of Blind Persons. Among these commissions (listed in Appendix II.B) three major inquiries addressed the overall problem of welfare services and played a critical role in redesigning welfare services, laws, and bureaucracies, (1919 Public Welfare Commission and the 1928 inquiry on Child Welfare in Manitoba and the 1930 Ontario Royal Commission on Public Welfare).

Canada's experience in World War I brought about a new set of expectations concerning the state's obligation to the population. Given the high price of the war effort to the Canadian working class (sixty thousand soldiers died) few politicians were willing to disagree with the growing sentiment that the quality of life, and particularly the security

of the population must be improved. The formation of the International Labour Organization gave substance to these sentiments promoting specific social insurance programs which were added to the agenda of organized labour, referred to by commissioners in a variety of inquiries and endorsed by various political parties including the Liberals at their 1919 convention. Losses on the battle field gave new authority to those voices which pressed for better child care and family support services on the grounds that our population was our greatest natural resource. Such concerns were given specific focus after the ministrations of the Canadian Patriotic Fund<sup>7</sup> had accustomed citizens to the support and supervision of large numbers of fatherless families. Thus the post-war years witnessed a growing demand for modernizing the whole process of relief assistance throughout the country.

Manitoba, which had been the centre of the most bitter post war labour struggles, was one of the first provinces to act on this new initiative with the formation of the Public Welfare Commission in 1919. Over a year of research and investigation the commissioners studied existing welfare services concentrating on finance, supervision and control, and filed three reports. In their second interim report they outlined five principles of a modern welfare system. The first principle was: "Responsibility of Government in seeing that the primary needs of all children are provided for from one source, and that the reasonable needs of the handicapped and less fortunate of its citizens shall be adequately supplied" (Man. Sess. Papers 1919 #29). The subsequent principles outlined steps to achieve the goal of the first principle and included: government direction on all welfare funds whether public monies

or private contributions; government inspection and regulation of all welfare institutions and agencies, whether public or private; and the creation of a separate welfare department or portfolio to administer a public welfare program. The commissioners also advocated a government appointed public body for the purposes of inspection, research and development of welfare programs which was realized in the Act Respecting Welfare Supervision which was passed the same year. In their final report the commission essentially wrote the Manitoba Child Welfare Act based on the Missouri Children's Code Commission. Their efforts were realized in the Child Welfare Act passed in 1922 although it did not come into force until 1924. The commissioners' activities gave Manitoba the distinction of being the first province in Canada with a comprehensive child welfare act.

The second Manitoba commission, the Inquiry on Child Welfare, in 1928 was the result of a campaign led by the Winnipeg MLA, W. Ivens, who consistently complained in the legislature and the press about the administration of the Child Welfare Act and especially about the Mothers' Allowance programme. Ivens argued that there were insufficient funds allotted to child welfare in general and mothers' allowance in particular. The government embarrassed by the negative publicity in the same year that it had set up the Department of Health and Public Welfare ordered a commission of inquiry. Charlotte Whitton, the epitome of the new breed of professional social reformers and executive director of the Canadian Council on Child Welfare was called in to conduct the inquiry.

Most of Whitton's report was a history of the policies behind the Manitoba Child Welfare Act and the funds dispersed for child welfare

through the act. She provided much detail in comparing Manitoba's programs with other provinces. Her report undoubtedly pleased the government under attack as it presented the welfare programs in Manitoba at the time in a very favourable light. She pointed out that Manitoba had the highest per capita expenditure on mothers' allowances of any province and that the mothers' allowances were higher than the monthly allowances provided either by workmen's compensation or city welfare (Whitton Report, 1928: Part III, p. 65). In addition, Whitton concluded that Manitoba had the most comprehensive child welfare act in the country.

In spite of the glowing nature of her report she did have some recommendations for improvements in the letter and administration of the law. The biggest problem she stated was that while Manitoba passed a commendably comprehensive child welfare act it did so without having any administrative facilities to put it into force. Although the creation of a child welfare division in the Department of Public Works in 1924 permitted it to come into force according to Whitton the division was suffering from administrative incapacity. She strongly recommended that trained and qualified social workers be recruited to administer the programs.

Most of Whitton's recommendations concerned the expansion and improvement of the welfare bureaucracy in the province. In addition to these major recommendations she also advised some rewriting and clarification of the child welfare statutes and came down particularly hard on the necessity of enforcing maintenance laws. Consistent with the dominant welfare philosophy of the time, the idea that families are first and foremost responsible for their members, she rejected the idea of

extending mothers' allowance to divorced or deserted women. Instead she advocated the adoption of a statute similar to the Ontario Child Maintenance Act that would provide for the imprisonment of parents defaulting upon their economic responsibilities. While the Whitton Commission did result in some administrative reshuffling and amendments to the Child Welfare Act, it is most significant as an historical document of the philosophy and practice of social welfare in the twenties.

Ten years after the Manitoba Public Welfare Commission was conducted Ontario initiated a similar inquiry to determine the necessity of reorganizing its welfare programs. The report on the Ontario Public Welfare Commission released in 1930 gave ample evidence of the need to reorganize and upgrade the system. The commissioners reported that the work they surveyed embraced conditions affected by 56 different statutes, the programs and agencies they reviewed were administered by a variety of departments and the inspection of the 400 public institutions involved was entrusted to one provincial inspector with two assistants (Ross Commission on Public Welfare, Ont. Sess. Papers 1930-31 Part IV p.3).

The commissioners had inquired into the conditions and services in general and mental hospitals, houses of refuge, jails and corrective institutions, facilities and services for handicapped children and the operation of general child welfare programs. As a result of their exhaustive review of these institutions and services they put forth an equally exhaustive list of recommendations. At the general organizational level they called for the creation of a Public Welfare department and the expansion of programs to provide trained social workers to administer the welfare programs. They also recommended new legislation to deal with



hospitals and charitable institutions and the repeal of the old act which still operated on the funding and inspection guide lines developed in the nineteenth century. The commissioners recommended an increase in most of the hospital and charitable institutions (both new facilities and extensions), substantial increases in funding and the enactment of laws requiring cities to provide houses of refuge.

Their advice specific to child welfare is of particular interest because of its direct impact upon the family. They recommended substantial increases in government finance of child welfare programs including a doubling of the allotment to orphanages, increased funding for CAS and a reorganization of the Children's Aid branch. The commissioners supported the move to deinstitutionalization in their recommendation that private homes caring for children under CAS supervision should qualify for the same provincial subsidy as orphanages. They also emphasized the need to reorganize and systematize the operation of Industrial Schools. Characteristic of the attitudes of the time the recommendations for extended funding and support for children was coupled with several recommendations for tightening up on both the letter and the enforcement of maintenance laws for paternity suits, desertion and divorce. Government response to this report was nothing short of dramatic. One year later the Ontario legislature passed four new and comprehensive welfare laws including the establishment of a separate Public Welfare Department, completing the first steps in revamping their welfare system.

In spite of the overlapping concern with welfare characteristic of both labour and welfare commissions during this period their approaches were distinctly different and worth noting. The labour commissions tended

to adopt the ILO strategy of advocating broad social insurance schemes which presumed a connection to the labour force, such as unemployment insurance or pensions plans. The welfare commissions addressed the needs of those largely marginal to the productive system, typically, women and children. In short, labour commissions addressed the reproductive needs of productive workers while welfare commissions addressed the needs of those largely confined to reproductive work. Furthermore, the labour commissions' recommendations were of broad scope and could not easily be funded at the provincial level, while the welfare commissions confined themselves to programs operating at the provincial level. The offshoot of these differences was that the welfare commissions seemed to have a more dramatic impact upon legislation and administration of the welfare systems in both Manitoba and Ontario. We should not, however, conclude that the labour commissions were ineffective. In spite of the financial and constitutional problems their proposals posed they saw the realization of a national pension plan in the second period and the realization of much of their recommendations in the post war years of the third period.

In summary, the welfare commissions played an important role not only in instituting and supporting significant income allocation programs like mothers' allowance program but they also served to construct a legal and administrative structure that facilitated the vast expansion of welfare programs in the subsequent period.

Welfare Legislation

The defining feature of social patriarchy is the particular combination of state support and state control which shifts the locus of power in patriarchy from the head of household to the state. Welfare legislation in the first period consisted largely of dismantling the old patriarchal system and substituting state authority for the waning authority of the patriarch. Legislation in the second period, however, is more characteristic of the operation of social patriarchy combining support and control in increasingly balanced measures. In our review of the legislation of this period we will consider the extension of state control over the family, which is largely a continuation of the process begun in the first period and then, we will discuss at greater length the legislation which introduced increasing state subsidization of the reproductive unit.

The evidence from the welfare and the labour commissions indicates that the state was under mounting pressure to introduce programs which would alleviate the income allocation problem. Thus the state's increasing concern with the support/reproduction of the population explains the growing trend to supportive or fiduciary legislation. The particular form in which this support was undertaken was, however, informed by other equally important considerations. First, the extension of state authority over the family generally and children in particular had the effect of greatly increasing the number of state wards. Second, there was a growing number of elderly people dependent upon state support because of the combined effect of increased longevity and decreasing familial resources. State attempts to reduce this effect by passing the

Parents Maintenance Act, legally requiring children to support their elderly dependent parents, merely served to prove the old adage, 'you can't get blood from a stone'. Attempts to enforce the Act, according to testimony before the old age pension commission (1933), would in most cases simply drive the whole family into destitution (Bryden, 1974:100).

These developments occurred at a time when welfare legislation and practice was based on the principle of institutional relief, creating the possibility of an endlessly growing population of institutionalized state dependents. This practice had serious implications for the viability of low income families, which were most vulnerable to state scrutiny and intervention. Furthermore, the fiscal, organizational and social consequences of coupling extended state authority with institutional relief were overwhelming. The CAS in Ontario had long complained that the institutionalization of dependent and neglected children was not only bad care but bad economics.

Unwilling to retreat on a program of extending state authority but unhappy with the escalating costs associated with doing so the two provincial governments pursued identical legislative strategies--selective de-institutionalization, expansion of non-institutional relief programs and comprehensive enforcement of familial economic obligations through both welfare and family law. Such a program, however, necessitated a complete reorganization of the existing welfare systems explaining the appearance of separate departments of welfare during this period. The reorganization had the effect of facilitating the extension of non-institutional relief programs, consolidating them within one government

department and, in doing so, centralizing the control of the welfare system at the provincial level.

The new welfare legislation enacted in Period II is listed in Appendix II, Table II.6. The table reveals that Manitoba has a greater volume of legislation but more importantly that it precedes Ontario in the initiation of welfare statutes. This is a clear reversal of the pattern of the first period. Because of the higher level of activity we will use Manitoba legislation as our major reference point. In addition to providing us with a good indication of what is to come in Ontario our analysis benefits from the greater consolidation and hence greater coherence of the Manitoba statutes.

The consolidation of family and welfare acts in the new Manitoba Child Welfare Act (1922) indicates that concern with reorganization and support did not detract from the continued commitment to increasing state authority over the family. Two particular clauses served to greatly expand the authority of the state in family matters: first, the adoption clause, which now made the state the ultimate authority in all adoption cases; and second, the children of unwed parents clause which accorded paternal authority to the state. The same extensions were achieved by the Ontario government in two separate acts--the Child of Unmarried Parents Act and the Adoption Act in 1921. Prior to these statutes the state's authority over adoption was limited to cases over which CAS supervision had been extended, usually cases of unwed mothers. However, after the adoption act/clause the state determined all of the conditions for adoption, including eligibility, overruling parental wish and/or community tradition.

The pattern of extending state authority was perhaps most pronounced in the Child of Unmarried Parents Act/clause. During the first period the state had greatly extended its authority over the supervision and control of children born out of wedlock, however, this process was intensified during the second period. The new act provided that a representative of the state automatically be appointed guardian of the child, either jointly or solely. There was no longer any requirement of proving neglect. Furthermore, while the mother increasingly lost control over her child, the act proclaimed her liability for the support of the child, even if she was deemed unworthy of custody and the child became a state ward. Finally, the state's concern with enforcing the concept of privatizing the costs of reproduction led to the clause that permitted the state to remove the child from the mother if she refused to press a paternity suit (SM 1926, c.4 s.12). The concern with enforcing paternity suits led to an unusual clause which permitted the mother to lay information against more than one man (S.M. c.3s. 83 1925). This amendment put an end to the classic defense men had used, which was to get another man to testify that he also had intercourse and, therefore, paternity could not be ascertained. With the new amendment the willingness of another man to so testify was greatly reduced because he stood the risk of being held jointly liable.

In addition to the above major developments we find that both Manitoba and Ontario were periodically amending their acts to add new criteria for declaring a child neglected. By 1924 The Child Welfare Act in Manitoba listed sixteen different conditions under which a child would be made a ward of the state, including children who used profane language,

had possession of obscene literature or frequented pool halls (SM c.30 sec. 29). An amendment to the Ontario Child Protection Act permitted the state to apprehend children whose parents did not provide adequate medical, surgical or remedial care (SO 1919c.65). This clause was also incorporated in the Manitoba new Child Welfare Act. In addition to specific welfare laws there were other statutes, like School Attendance Act, which further defined parents' obligations and the state's authority. Throughout the second period the School Attendance Acts in both Ontario and Manitoba increased the age for mandatory attendance to sixteen years. This law created a further condition for the apprehension of children as parents who were unwilling or unable to enforce attendance could be defined as negligent (SM 1922c .2).

#### Reorganization of the Welfare System

While the number of dependent and destitute citizens increased and the demands on state coffers to support them increased, state control over their care and disposition was, for the most part, limited to regulatory clauses in the Charitable Institutions Act. Care of the destitute of all ages was provided by a vast and uncoordinated web of private agencies, municipal refuges and provincial institutions. Furthermore, the old indoor or institutional patterns of relief were increasingly coming under criticism not only in terms of the quality of care they could provide but because of the increasingly high costs of institutional care (Welfare Commission Manitoba 1919, Ontario 1929). The two categories of the population most frequently institutionalized because of destitution were children and the elderly.

The Children's Aid Society, following the inspiration of their founder J. J. Kelso, had long come out in favor of the normalizing influence of family life and been critical of the institutionalization of children. Given that the CAS was the agency primarily responsible for the apprehension and disposition of children their opinion held great weight. In addition to this philosophical orientation the care of the young could be more easily deinstitutionalized. The destitution of the elderly was more endemic to the system as a whole. While neglected or dependent children could be redistributed throughout the population via adoption or foster homes, maintaining the privatization of most of their costs, the elderly dependent could not be so easily be disposed of. As a result the deinstitutionalization program was selectively applied. Children's institutions increasingly became temporary shelters or specialized as reformatories. Under pressure from the CAS the Ontario and Manitoba government over time agreed to subsidize foster homes at a rate equivalent to the funding of children in orphanages. Although orphanages did not close, the proportion of neglected children they cared for declined.

In Ontario industrial schools and female refuges also frequently provided care for destitute children, as well as children sent by juvenile court. The tendency to house neglected children with juvenile offenders and unwed mothers, in the case of female refuges, came under increasing criticism. The old Industrial Schools Act was amended over the second period to ensure that industrial schools specialized as reformatories (S.O. 1931c.60 & 1939c.51), and dependent and neglected children would be assured other placements (S.O.1927c.92). Female refuges were designated as women's reformatories (S.O.1913c.79).



Refuges which usually housed destitute adults became specialized as old folks' homes. This was a typical pattern in Ontario which had a large number of refuges in operation. In Manitoba, where there was not a well developed system of refuges, old folks' homes were established through acts in the legislature. In 1927 the passage of the federal Old Age Pension Act provided some alternative to institutionalization. The provisions of the act were soon adopted by both Manitoba and Ontario. With the federal government first assuming fifty percent of the costs and later seventy-five percent (1931) this greatly relieved provincial expenditures.<sup>8</sup> Furthermore, the provision of a small monthly subsidy to the needy elderly could take some of the pressure off institutions and permit the elderly poor to live on their own or with their families, reducing the cost of their maintenance.

While the welfare commissions approved of these developments they strongly recommended that they be accompanied by a systematic reorganization and centralization of the welfare system under greater control of the provincial government. Why Manitoba took the lead in this area and preceded Ontario by ten years in the process can be explained by the different histories of the two provinces. Ontario had a much more highly developed system of municipal and private charitable institutions dating back to the mid-nineteenth century. While the system was clearly inadequate to meet the demands of the twentieth century its existence ameliorated some of the immediate crises of relief delivery and forestalled the development of a more modern system. Manitoba, unlike Ontario had a much less well developed private and municipal relief system and a much more dramatic influx of immigrants in the early twentieth

century. The lack of charitable institutions made the development of outdoor or noninstitutional relief programs more pressing and necessary. Thus Manitoba was the first province in the country to introduce Mothers' Allowances and criteria for eligibility were consistently more liberal than those in Ontario.

As a result of these developments the Manitoba government also took greater initiative in attempting to extend government control over welfare programs. In 1917 the passage of the Public and Other Institutions Act provided for a commission to investigate and report on institutions and systematize provincial expenditures. In 1919 the Act Respecting Welfare Supervision established a research and development board to investigate existing programs and recommend new programs. In 1928 the Health and Public Welfare Act established a separate government department for the administration of all health and welfare statutes and programs in the province.

The form of welfare delivery was clearly changing, deinstitutionalization and greater government involvement and control distinguished this period from the first. However, three fundamental principles of welfare philosophy from the nineteenth century remained intact: first, the conviction that support conferred (if not morally required) the right to control; second, the belief that support of dependents was properly the responsibility of family and should only be assumed by others in cases of crises when all existing familial support was depleted; and finally, like the philanthropists of the nineteenth century, the legislators and social workers of the early twentieth century had an entrenched patriarchal vision of the world and women's role within

it. Because women and children had always been major recipients of welfare, a function of their marginality to the wage labour system, the patriarchal vision of women's proper role became an important determinant of the application of supportive legislation. An examination of the Mothers' Allowance Act and its application reveals all three principles in operation and indicates the underlying patriarchal assumptions built into the developing welfare state.

One of the consequences of the sexual division of labour encouraged by labour and family law was the frequent inability of mothers to support their children in the absence of a male breadwinner. Death, desertion or disability of a husband would often result in the break-up of the family and the institutionalization of the children. The Mothers' Allowance Act was a recognition of this fact and an attempt to resolve the problem by paying mothers a monthly income to stay in the home and care for their children. As such, the act testifies to the state's continued commitment to ensuring a proper allocation of labour resources to reproduction.

From the beginning then, Mothers' Allowance was conceived of not as charity but rather as a salary. While the concept of salary was designed to remove the stigma of charity from the recipients it also removed destitution as the major criterion for qualification. Thus two categories of most frequently destitute women, unwed mothers and deserted women were automatically excluded from coverage. In the former case, unwed mothers had in the eyes of society and the law already proved by virtue of their condition that they were morally unsuitable. In the case of deserted women they were seen to be the responsibility of their husbands. Ontario relented somewhat in an amendment in 1921 providing eligibility to

deserted mothers if they could prove their husbands' whereabouts had been unknown for at least five years and hence all attempt at enforcing maintenance had failed. Neither province relented on the issue of supporting unwed mothers, in spite of the fact that both provinces had accorded the state automatic parental authority over their children.

The concept of salary was used by administrators of the program to justify their selectivity in accepting applicants and the close supervision of recipients:

"The members of the Commission do not wish applicants to be considered as applying for charity; rather, the mother when in receipt of an allowance is to be regarded as an employee of the Ontario Government receiving remuneration for services rendered in the proper care of her children. It is the duty, therefore, of the Commission and of the local board to investigate carefully the fitness of the applicant for her position." (Ont. Sess. Papers 1922 #89)

"They (Commissioners) believe that the Province should satisfy itself that it is employing the right kind of women to bring up its future men and women, and that when the contract of employment between the mother and Province is signed, and the mother is in receipt of her salary, that the Province should satisfy itself that the services rendered for that salary are accomplishing what was intended..." (Man. Sess Papers 1918 p.5)

The operation of the Mothers' Allowance program gives a good indication that the state's move toward outdoor relief did not require any abdication of its claims to authority or control. On the contrary, the terms of acceptance onto the rolls of Mothers' Allowance allowed far greater scrutiny of households than before. In the first year of operation of the Mothers' Allowance board in Ontario seventeen percent of the recipients were removed from the rolls on the grounds that they were inadequate mothers or had failed to provide a good home environment (Ont.

Sess. Papers 1922#89). Thus the exercise of moral entrepreneurship went hand in hand with the support of needy families.

The new system of administration brought in by the Public Welfare Acts, the move to outdoor relief programs and the increasing specialization of existing institutions, under much greater government regulation, all required a much expanded bureaucracy. We will now turn our attention to the development, the philosophy and the operation of the new welfare bureaucracy.

#### Welfare Bureaucracy

Because welfare law is regulatory rather than adversarial its enforcement is dependent upon the development of an administrative bureaucracy. Thus tracing the growth of a welfare bureaucracy provides us with a measure of the state's commitment to enforcing the legislation. In addition, the law usually provides some measure of discretion to the administering body. Thus, a look at how the welfare bureaucracy operated, gives us some indication of the assumptions and ideas about family life built into the application of welfare legislation. Finally, the assignment of responsibility to enforce certain pieces of family law to welfare staff indicates a growing awareness of the unsuitability of an adversarial system in managing reproductive relations. In this section we will briefly consider all three issues--rates of growth and the practice of welfare administration, as well as the relation between family law and welfare administration.

The welfare bureaucracy generated by the legislation in the first period was limited. At the opening of the second period Ontario's

bureaucracy consisted of one inspector of charitable institutions with two assistants and one superintendent of neglected children, Manitoba had one inspector of public institutions and one superintendent of neglected children. The largest agency was the Children's Aid Society which operated largely with volunteer staff with some commitment in Ontario for government funding of regional directors. The legislation enacted in the second period, however, greatly expanded the administrative and regulatory function of the government resulting in the emergence of a complex and full-blown bureaucracy by the end of the period. By 1939 Manitoba had introduced six new administrative boards or commissions as well as a separate department of Health and Welfare; Ontario had introduced five new commissions and a Welfare Department. In Appendix II, Table II.7 provides a list of the legislation which created 11 new regulatory boards and two new departments. Thus over half of the welfare legislation passed in both provinces during this period served to establish new administrative bodies.

By the end of the second period welfare administration far outstripped the more established labour departments in budget and staff. In Manitoba, the Department of Health and Welfare had an overall budget of two and a half million dollars and a full time administrative staff of sixty-nine for the welfare division (Man. Public Accounts 1940). In Ontario, the budget of the welfare department was over thirteen million dollars and they employed a full time administrative staff of one hundred and ninety persons (Ont. Public Accounts, 1940-41). Manitoba's commitment to welfare and its administration is underestimated by the above figures because during this period two of the largest welfare programs, old age

pension and unemployment relief were administered by the Department of Labour.

If we exclude the emergency relief programs necessitated by the depression we see that three pieces of legislation, Child Welfare, Mothers' Allowance and the Old Age Pension Acts, accounted for the greatest increase in administrative costs and staff. In Manitoba and Ontario the administrative staff assigned work in the areas of child welfare and mothers' allowance accounted for 50% of their staff by 1939. In Ontario, the old age pension was administered by a separate commission, and accounted for 23% of the total administrative staff. Administration of these three acts accounted for 73% of the overall staff of the welfare department in Ontario by the end of the second period (Ont. Public Accounts: 1940-41). The reason why these acts accounted for most of the welfare bureaucracy at the time was because of the extensive investigative work they involved.

In the case of child welfare we see that it was not so much the nature of the work but the reorganization of it during the second period which accounted for its increasing presence in the welfare bureaucracy. During the first period Manitoba and Ontario had largely entrusted the administration of the child welfare acts to the CAS. It operated as a series of local volunteer philanthropic agencies which permitted the intensive investigative work required by the acts to be conducted at minimal cost to the state. However, during the second period the attempt to centralize the operation of the welfare system resulted in the CAS becoming increasingly integrated into the welfare bureaucracy. Throughout the twenties and thirties the provincial governments were advised, by the

welfare commissions to extend their control over these autonomous agencies. The welfare commissions suggested that this could be accomplished by the provinces providing a greater share of the agencies overall funding as well as promoting the professionalization of their workers. On the whole the CAS supported this move and over the second period we find a phasing out of the part time philanthropist and the increasing presence of the trained social worker.

A report of the Ontario Department of Welfare indicates how funding was used to increase the accountability of the agencies while preserving their distinctive status as a private agency. In 1934 a survey of all the societies in the province was conducted and a series of recommendations was compiled. The welfare department established these recommendations as regulations upon which provincial funding was determined.

"...placing the Department in an entirely new relation to the local Societies. The local Societies retain their autonomous character but they are graded on the quality of the work done, the type of organization established, the system of records installed and the qualifications of the staff. Grants ...are paid on the basis of the grading". (Ont. Sess. Papers, 1935 #19 p.4)

While this clearly meant greater provincial coordination and control over the agency it also meant greater administrative staff and expense.

In the case of the mothers' allowance and the old age pension acts investigative staff were required to ensure that the applicants and beneficiaries conformed to the criteria of the means-tested programs. For example, throughout the twenties and thirties Manitoba and Ontario had a rejection rate between 25-30% for applicants of mothers' allowance and a cancellation rate of 15-18% for recipients. An indication of the amount of work that went into such investigations is contained in the 1935 report



of the Family Allowance Commission of Ontario. The report states that during that year there were 7,418 families in receipt of the allowance and the commission conducted 38,137 family visits. Even when we allow for a number of these visits to new claimants who did not qualify, according to their statistics 620 rejections, this meant that the average family on allowance was subject to five inspections a year. "In the same period, 1,333 allowances were for various reasons cancelled. Of these, 47% was due to the activities of the staff investigators" (Ont. Sess. Papers, 1932 Part IV #20). These inspections were costly in terms of staff and travelling costs (administrative expenses that year came to \$83,085) however, they were deemed necessary to ensure only the "deserving poor" benefited. By 1939 Ontario pooled their inspectorate for mothers' allowance and old age pension giving them a full time staff of fifty seven and an annual budget over \$100,000 (Ont. Sess. Papers, 1940 Part IV #19 p.9).

While means-tested programs were the only form of outdoor relief at the time and both provinces had to develop a bureaucracy to administer them, the interpretations of eligibility varied between Manitoba and Ontario. Bryden's (1974) analysis of old age pensions in Canada indicates that Ontario had some of the strictest criteria for eligibility. "...the proportion of the seventy and over age group in that province (Ontario) receiving pensions (full or partial) averaged about one-third, a substantially lower figure than in any other province" (Bryden, 1974:101).

In addition to these, more usual forms of reallocating income, the welfare department was also assigned the responsibility of negotiating paternity suits. Throughout the thirties Ontario averaged 2,000-2,500

illegitimate births which accounted for 4 to 4.5% of all births. In the same time period Manitoba averaged 500-600 illegitimate births or 3.6% of all births (Kubat & Thornton 1974). Provincial officers working out of the welfare department were charged with investigating the putative fathers and negotiating filiation settlements. This involved a considerable amount of investigative work and both provinces were able to collect settlements in about one-fifth of the cases (Man. & Ont. Sess papers 1932-39). In these cases the supportive and regulative roles of the welfare state were particularly intertwined. This policy which was followed throughout the twenties and thirties testifies to the state's commitment to privatizing reproductive costs where ever possible.

We can see the growing integration of family and welfare law in the state's commitment to privatizing the costs of reproduction at the same time that it was engaged in a process of socializing some of these costs. The adversarial system provided by family law resulted in an incomplete enforcement because family members often were simply unwilling to take their providers to court. In the case of filiation payments to unwed mothers, maintenance payments to deserted wives and support for the elderly destitute (from their adult children), the benefits accruing to the plaintiff were often not sufficient to motivate them to go to court and endure the economic and psychological costs associated with a court hearing. Therefore, the letter and the application of welfare law was designed to motivate the reluctant dependents through a variety of measures to have their day in court. The most common means of pressuring people to take their designated providers to court was to deny them eligibility for relief. This is a pressure built right into the operation

of means-tested welfare programs which fell particularly hard upon deserted wives, unwed mothers and the destitute elderly. In addition the unwed mother had the double incentive of potential loss of custody of her child if she did not file a suit and finally, the provincial officer took over the task of pursuit and negotiation with the putative father regardless of the wishes of the mother. What existed in family law as a right to dependents became translated through the operation of welfare law into an obligation.

The investigators of the new welfare programs operated as investigators of family resources, locating husbands who could afford maintenance, and adult children who could afford to support their elderly parents. In short the welfare workers became the invisible plaintiffs pursuing potential providers to save the state the expense. As such, the new welfare workers facilitated the enforcement of family law by locating potential providers and putting the onus of support upon them. This process would operate quite independently of the wishes of the dependent.

In summary, when we consider the issue of growth the second period is clearly distinguished from the first in terms of the size and the centralization of welfare administration. When we consider the practice of administration the patriarchal assumptions built into the delivery system are unambiguous. There was a continued commitment to the sexual division of labour which assigned women the primary role of child care and men the primary role of breadwinner. This is evident in the letter and application of mothers' allowance and child welfare laws. The Child of Unmarried Parents Act/clause and its enforcement is fraught with punitive patriarchal clauses which discriminate against unwed mothers. The

automatic appointment of the state as guardian, in lieu of a husband/father, ensures that even in the absence of an internal authority, mothers will be accountable. This clause fulfills one of the most fundamental requirements of patriarchy, that women do not control the conditions of their own reproductive labour.

The support of homemaker-breadwinner roles as essential components of a "proper family" is central to the process of privatizing the costs of reproduction. Thus the patriarchal assumptions become even clearer when we examine the impact of means-tested welfare programs upon the enforcement of family law. Thus the growth of the welfare bureaucracy and its administrative policies during this period attests to the seriousness of the state in expanding its supportive and regulatory role.

#### Welfare Policy and the Depression

Up to this point we have been discussing the evolution of the welfare state without specific mention of the depression because the majority of legislative and administrative changes which characterized welfare policy during the second period were largely in place prior to its onset. Although the effects of the depression cannot be seen as the significant determinants of welfare policy in this period, the impact of the depression upon the evolution of the welfare state is indisputable. However, this impact, as measured by legislative and administrative changes, was not realized until the third period.

Throughout the ten years of depression the characteristic response of all levels of government was to struggle with the existing system to meet the overwhelming demands for relief. The only substantial change was

the dramatic increase in federal government expenditure. This however, was accomplished on an 'ad hoc', year by year basis and did not result in any substantial reordering of federal-provincial welfare legislation, policy or administration during the second period. The legacy of the great depression was to show the severe limitations of a provincial welfare system.

With the notable exception of the Old Age Pension Act, federal government involvement in welfare during the second period was characteristically a response to national crises of war, recession or depression. These were the conditions that provided the occasion for the federal government's first welfare legislation. However, it wasn't until the depths of the depression that federal welfare programs were conceived of as anything other than temporary relief or specific programs, such as veterans' pensions. During the depression there was an attempt to pass an unemployment insurance act, however, it was ruled 'ultra vires'. Thus while it was becoming increasingly evident that national programs would be necessary, none were instituted as a direct response to the depression until the third period. In spite of the federal government's sporadic involvement its input was critical in effecting the massive reallocations of income required during such crisis situations. We will briefly discuss the history of federal welfare legislation and then consider the overall pattern of federal and provincial welfare expenditures throughout the second period.

Federal Welfare Legislation

The major contribution of federal welfare legislation during the second period was to make available large sums of money for the reallocation of income. During this period the federal government did not develop a coherent welfare policy nor did it develop an extensive administrative system or bureaucracy. However, it did allocate increasing portions of the national budget to welfare expenditures. When we discuss this new fiscal commitment we will define welfare expenditures in two ways; first, there is the narrow definition which includes only those expenditures labelled as welfare; second, there is a broader definition which includes all services and expenditures which provide for the reproduction of the population and reallocate income outside the wage labour system. The second measure would add in health and education expenditures as well as veterans' benefits. We suggest that the second definition provides a more accurate measure of the state's commitment to supporting the population or socializing the costs of reproduction.

Federal welfare activity during the first period was minimal; there were no welfare commissions, only a few federal statutes dealing with veterans' benefits, no welfare bureaucracy and a miniscule budget allocated to welfare. The first World War I, however, brought an end to this era of non-involvement. First, federal responsibility for veterans and their dependents escalated dramatically, going from a budget of thousands of dollars prior to the war to annual expenditures between forty-five and seventy-five million dollars during the second period. The traditional responsibility of the federal government had gone from one easily resolved by giving away crown land, to a long term fiscal

responsibility for veterans and their dependents. Second, and most important, the presence of the Convention of Labour at the Treaty of Versailles called for the signatory states to work towards the provision of social security programs within their nations. This call was taken up at home by the Trades and Labour Congress and a significant number of Members of Parliament who brought the issue of welfare into the federal House.

With welfare on the national agenda it begins to appear as a central theme in commissions and inquiries during the second period. A number of Royal Commissions on labour recommended the pursuit of national social insurance schemes. In addition there was the 1922 Royal Commission on Pensions and Re-establishment and later the 1937 Royal Commission on Dominion-Provincial Relations, which sought to redefine taxation and welfare policy between the two jurisdictions. Finally, during this period there were two special committees of the House called in 1924 and 1925 to inquire into the development of a national old age pension plan.

Accompanying this increasing debate in the federal House was an increase in welfare legislation. In contrast to the inactivity of the first period the second period saw the introduction of eighteen new welfare statutes, listed in Appendix II, Table II.8. This dramatic increase in legislation was accompanied by an even more dramatic increase in welfare expenditures. Using the narrow definition of welfare expenditure as the first figure and the broad definition as the second figure we see that welfare accounted for 1.6% - 2% of the national budget in 1914 and 11% - 20% of the overall budget in 1939 (Leacy 1983: Series H19-34). This dramatic increase in legislation and expenditure was the

result of three major programs; veterans' benefits, old age pension and depression relief projects. In 1939 these three programs accounted for fourteen of the eighteen new statutes and \$137.4 million of expenditure out of a \$138 million welfare budget (Leacy 1983: Series H19-34).

The above statistics reveal that the federal entry into the welfare field mirrored the provincial experience, crises intervention and increasing expenditure without a systematic welfare policy or bureaucracy. This was largely the pattern of federal involvement in the second period, with the notable exception of the Old Age Pension Plan. The depression, however, brought the consequences of such a strategy to a head. In 1935 the federal government passed the Employment and Social Insurance Act which was an attempt to systematize and centralize the development of social insurance in Canada. This act, on complaint of Ontario, was ruled "ultra vires" by the privy council. Thus the next step in the development of a national welfare policy was delayed by jurisdictional debates and did not proceed until the third period.

The one exception to the crisis intervention pattern of federal involvement was the passage of the Old Age Pension Act in 1927. This act was unique, given the history of welfare program development at the time. Most welfare programs were first introduced at the provincial level during this period, yet the old age pension was always conceived of as a national responsibility. It had no provincial precursors and was never seriously considered at the provincial level.<sup>9</sup> Unlike the Employment and Social Insurance Act of 1935 which was ruled "ultra vires" there was no challenge to the Pension Act although it involved legislation deemed to be in the jurisdiction of the provinces. In spite of these unique characteristics,



the pension act, as an isolated piece of legislation, did not substantially change the character of federal involvement during the second period, nor did it provoke the development of a national social insurance policy or a national welfare bureaucracy. In the absence of a federal administrative body, the provinces were left to administer the program as they saw fit and the federal government's role was largely limited to paying the bill.

Without a national welfare policy or a national welfare bureaucracy the federal government found itself increasingly implicated in the reallocation of income, especially during the depression, with limited control over the manner in which funds were dispersed. As relief demands outstripped the resources of the provinces the federal government's control of national revenue became essential to bailing out the increasingly indebted municipalities and provinces. However, the federal government's revenue policies were not themselves adequate to meet the demands of the depression. Therefore federal involvement in relief provoked a change in taxation policy during the thirties. Although personal income tax had been introduced during the First World War its impact upon revenue was limited. With personal exemptions set at \$1,000 and \$3,000 for single and married persons at a time when sixty per cent of employed males and eighty-two per cent of employed females earned less than \$1,000 per year the revenue generated by personal income tax was quite small (Labour Gazette, 1929). For example, in 1926 personal income tax generated \$18.1 million or 5% of the total national revenue.

In response to the relief demands of the depression the federal government reduced exemptions and raised the tax rate. By 1932 exemptions

were reduced to \$2,000 for married and \$1,000 for single persons adding an additional 200,000 tax payers to the rolls (Perry, 1955 Vol. 1:261). As the federal tax rate rose most provinces which did not already have personal income tax introduced it during this period. Thus the tax burden on the employed increased dramatically during the thirties. Between 1929 and 1940 these new taxation policies increased personal income tax as a source of revenue almost 200% from 7% to 13.3% of all federal revenue. In contrast, corporate tax increased 60% going from 11% of all revenue in 1929 to 16.9% in 1940 (Perry, 1955 Vol. 1:258). In the attempt to reallocate income it was the wage earners who were hit the hardest. As incomes fell and a smaller proportion of the population was employed the amount of revenue from wage earners doubled and the proportion of national revenue generated from personal income tax doubled.

#### Welfare Expenditures

We have argued that the central strategy of the state in dealing with the income allocation problem was the development of a system of reallocating income outside of, and noncompetitive with the wage labour system. In spite of significant development in labour law the most significant legislation in channeling income resources into the reproductive unit occurred in the welfare field. The welfare state strategy for balancing production and reproduction in advanced capitalist nations has usually been understood as a post World War II phenomenon in Canada. A careful analysis of fiscal and legislative developments in this period, however, suggests that such a strategy was well underway prior to the war although limited by its provincial location. It is interesting

to note that the greatest leap in this period (650%) in all government welfare expenditures (municipal, provincial and federal) occurred between 1913 and 1921 when federal involvement was still quite limited (Urquhart & Buckley 1965:53).

Table 6.2 demonstrates the rate at which government expenditures on welfare increased throughout the second period. Overall welfare expenditures in Canada rose from \$15 million in 1913 to \$100 million in 1921, reaching the level of \$235 million by 1939. A comparison of the impact of this increase on the three different levels of government indicates a 56 fold increase in expenditure at the federal level, a 20 fold increase at the provincial level, and a 4 fold increase at the municipal level.

Table 6.2

Government Expenditure on Social Welfare,  
by level of government and per capita,  
Canada 1913-1939  
(in millions of dollars)

Year	Federal	Provincial	Municipal	All Government	(dollars) per capita
1913	2.7	4.3	8.2	15.2	-
1921	58.6	22.8	18.8	100.2	11.42
1926	49.7	28.6	20.7	99.0	10.49
1930	73.0	52.2	31.5	156.8	15.38
1933	96.7	57.4	41.9	196.0	18.46
1937	126.4	101.5	39.0	266.9	24.20
1939	113.7	86.2	35.2	235.2	20.91

Source: Urquhart, M. and Buckley, K. Historical Statistics of Canada 1965, P.53, Series #B266-270.

This massive increase in social welfare expenditures was associated with a shifting pattern of fiscal responsibility, as ever larger resource bases were necessary to cope with the escalating demand. Table 6.3 indicates this changing pattern; in 1913 the municipalities bore the brunt of welfare costs. By 1930, however, this burden had shifted to the province and in the heart of the depression federal welfare expenditures came to equal that of the provinces.

Table 6.3

Dimension of Public Welfare Expenditures  
in Canada (other than relief)

	1913	1930	1937
Municipalities	53%	40%	29%
Provinces	30%	42%	36%
Dominion	17%	18%	35%

Source: Royal Commission on Dominion-Provincial Relations Report Book II p. 208, table 82.

In discussing the process of state absorption of the costs of reproduction we will include categories not traditionally calculated as "welfare expenditures" although they are clearly understood as part and parcel of the development of the welfare state. Our criteria for including nontraditional categories, such as health, education and veterans' benefits, is that they are government expenditures which serve to transfer income or provide services to the population outside the usual operation of the wage labour system. Thus in our accounting of government expenditures we will be concerned with welfare narrowly defined and the costs of reproduction (total social expenditures) more broadly defined.

Table 6.4 presents an overall accounting of the growth of federal welfare and social expenditures throughout the second period. Welfare refers to standard transfer payments, such as relief and old age pensions, while health and education expenditures make up the second category. Veterans' benefits are presented in a separate column because of their specific origins and hence atypical growth patterns. The first category of welfare expenditure indicates that the real growth period in federal funding was during the depression years. When we consider total reproductive/social expenditures throughout the second period we find that the absolute expenditures of the federal government increased from \$4 million in 1914 to \$137 million in 1934. As a proportion of the overall national budget the commitment increased over twenty-fold from 1.6% in 1914 to 28.6% in 1934.

Table 6.4

Federal Welfare Expenditures For Selected Years,  
By Components And As A Proportion of Total Expenditures  
(in millions)

Year	Total Expenditure	Health Welfare & Ed.		Veterans Benefits	Total Social Expenditures	
	Amount	Amount	Amount	Amount	Amount	%
	\$	\$	\$	\$	\$	
1914	246	3	-	1	4	1.6
1918	696	4	-	30	34	4.8
1922	411	7	2	48	57	12.9
1926	359	5	2	46	53	14.7
1930	442	17	1	57	75	16.9
1934	478	81	1	55	137	28.6

Source: Leacy, F.H., Historical Statistics of Canada (Second Edition), 1983, Series #19-34.

When we consider veterans' benefits we find that federal responsibility for supporting/subsidizing significant sectors of the population increased dramatically with the First World War. While the federal government has always been responsible for veterans' benefits the character of that responsibility was transformed both by the vast number of veterans the world war generated and by the changing political-economic conditions of the twentieth century. The significant economic factor was the inappropriateness of traditional veterans' benefits (crown land grants) in a decreasingly agrarian, increasingly industrialized society. Twentieth century veterans were largely urban individuals with neither the skills nor the inclination to return to the land. Thus benefits had to be increasingly geared to labour force re-entry coupled with long term pensions for the disabled veterans and bereft dependents. The significant political factor was the appearance of masses of veterans and their dependents in a period of welfare state development. As the provinces improved the provisions for certain categories of indigents the federal government was under pressure to improve veterans' benefits proportionally. While veterans' benefits were clearly a special case of state support, the form of support increasingly mirrored the development of general welfare policies, for example, disability payments, old age pensions, support for bereaved wives and dependent children. As a result post WWI veterans' benefits bore a greater resemblance to, and owed much of their development to twentieth century welfare programs more so than to pre-war veterans policy.

The provinces, like the federal government, experienced dramatic increases in their welfare expenditures in spite of the fact that they had

already made substantial commitments to welfare in the first period. Submissions to the Royal Commission on Dominion-Provincial Relations (1937) indicated that the per capita welfare expenditures in the first period averaged .41¢ in Ontario and .37¢ in Manitoba. This increased to an average of \$3.75 and \$3.45 respectively in the second period. When we include education as part of the reproductive costs broadly defined we see an equally dramatic increase in provincial expenditure. Per capita education expenditure for the provinces rose from a first period average of .41¢ in Ontario and .85¢ in Manitoba to a second period average of \$2.98 and \$3.33 respectively. At the same time, municipal welfare expenditures also increased.

Tables 6.5 and 6.6 document the combined expenditures on education and welfare, referred to as social expenditures, at the provincial and municipal levels in Ontario and Manitoba. These tables reveal that the local governments' commitments to social expenditures grew throughout the second period to absorb approximately half of all local government expenditures.

Table 6.5

Ontario Provincial and Municipal Social Expenditures\*  
For Selected Years 1913 to 1937.  
(in thousands of dollars)

Year	Provincial			Municipal		
	Total Budget	Social Expenditures Amount	%	Total Budget	Social Expenditures Amount	%
1913	10,455	4,175	40	34,414	13,379	39
1921	22,243	10,512	47	82,504	33,825	41
1926	38,975	45,932	41	100,496	41,814	42
1930	56,315	23,476	42	118,366	49,411	42
1937	83,752	38,930	47	108,039	53,080	49

\* Within the category "social expenditures" we include, health, education and welfare.

Source: Royal Commission on Dominion-Provincial Relations Report, Book III, Table 19, pp. 58-65, 1940.

Table 6.6

Manitoba Provincial and Municipal Social Expenditures\*  
For Selected Years 1913 to 1937  
(in thousands of dollars)

Year	Provincial			Municipal		
	Total Budget	Social Expenditures Amount	%	Total Budget	Social Expenditures Amount	%
1913	3,608	443	32	10,707	3,562	35
1921	8,225	3,994	49	18,337	7,713	42
1926	8,984	4,024	45	18,240	7,949	44
1930	12,424	6,165	50	21,359	9,024	42
1937	15,056	7,807	52	19,900	9,446	47

\* Within the category "social expenditures" we include, health, education and welfare.

Source: Royal Commission on Dominion-Provincial Relations Report, Book III, Table 19, pp. 58-65, 1940.

We have argued that the extension of fiduciary welfare legislation was the prime strategy of the state to compete with the chronic income allocation problem of this period. If we use the amount of income reallocated to the reproduction and maintenance of the population as an indicator of how well the system fulfilled its mandate, Tables 6.4, 6.5 and 6.6 would suggest it was highly effective. The magnitude of the transfers (even prior to the depression) were massive in comparison to the first period. At the height of the depression, 1937, the combined expenditures of the provincial and municipal governments in Ontario reallocated over \$47 million of income and services through the welfare system in that one year. For that same year Manitoba reallocated over \$10. Thus as a system for reallocating income, innovations in welfare law and its concomitant, tax law, achieved far more than labour or family law reforms.



While the large outlays in 1937 resulted from an immediate crisis, evidence that the income allocation problem is endemic to the wage labour system and not merely a function of the depression lies in our research of the third period in which welfare costs not only do not decline but in fact rise dramatically.

### Summary

We have argued that the primary manifestation of the contradiction between production and reproduction during this period was an income crisis for the reproductive unit. In response to this crisis we have suggested that the central task of the state was the reorganization of income flows between the two spheres to stabilize the patriarchal family. We suggested that this process would involve a modification of the wage labour system and an elaboration of social patriarchal functions. Evidence of the modification of the wage labour system comes from labour laws which sought to provide income protection for workers, for example, workmen's compensation, and minimum wage, as well as sustain and elaborate on sexual divisions with the work place. The outcome of state intervention in the labour process was to preserve and solidify existing sexual divisions of labour and to provide for increased flows of income to the reproductive unit.

While the state intervened in the production process to accommodate certain reproductive necessities, it was at the same time involved in adjusting the patriarchal family to fit the economic system. The family law reforms of the earlier period were elaborated to increase the entitlement of dependents and increase the obligations of productive

family members. The model for accommodation between patriarchy and production, characteristic of both the first and second period, was the support-service marriage structure, that is, the male breadwinner and the female homemaker. However, despite reforms in labour law and elaborations in family law, the costs of this accommodation outgrew the willingness of employers and the resources of families.

Caught between the inviolability of the wage determination process and the cost of living crises it provoked, the state solution was to develop a system of redistributing income outside of the wage labour system. Thus, welfare law emerged as the critical legislative balancing mechanism in the second period. The expansion of welfare legislation and welfare bureaucracies represented a further development of social patriarchy as the state expanded its supportive and regulatory roles to fill the authority and resource gaps created by the disjuncture between production and reproduction. In doing so, the state managed to extend its control over the family, maintain the principle of privatization of reproductive costs and provide a back up system when family support systems broke down completely.

In considering the various impacts of state intervention on individuals and families in different circumstances in this period, we find that some of the groups and individuals most neglected in the first period benefited more from state mediation in the second. Dependent individuals with no attachment to a breadwinner were the target population of the developing provincial welfare programs. Mothers' Allowance was specifically targeted to women and children while the federal old age pension provided support for the elderly. The move from institutional to

noninstitutional relief served to substantially humanize support services for the destitute.

For the adult employed male the impact of state intervention remained much the same. The pressures of women and children as competitors in the work place continued to be reduced as the legal age for employment rose and sex specific protective legislation increased. However, the pressure of women, children, and the elderly as dependents in the home continued to increase the burden on the male breadwinner. Obligations to these growing numbers of dependents became further articulated and more rigorously enforced through the interaction of family law and means-tested welfare regulations. Some support for men's growing financial obligations was introduced in the labour laws which provided some wage protection for workers.

Although the combined effect of legislation during this period still served to reinforce women's economic dependency on men, women's circumstances did improve somewhat over the first period. Labour legislation finally addressed the dismal wage situation of women and youth through the introduction of the Minimum Wage Act. In addition, family law reform accorded greater rights to all women, most importantly their equal claim to guardianship of their children.

During this period, because of the depression, welfare programs and relief measures became as relevant to rural families as to the urban poor. While welfare was much more supportive during this period the price of that support was much greater bureaucratic scrutiny of family life. As the rural poor and the urban working class became increasingly subject to

this scrutiny the middle class, particularly middle class women, filled the ranks of the growing social work professions.

While the support-service marriage structure appeared to be the most viable accommodation between production and reproduction throughout most of the first and second period, major national and international events were soon to call this solution into question. The depression highlighted the limits of state intervention at the provincial level and the economic boom of the third period called into question not only the location of state mediation but its strategy as well.

#### FOOTNOTES

1. During the second period Canada passed the half way mark in urban-rural distribution of the population, by 1931 53.7% population lived in urban settings. By 1909 every province in Canada had Public Health Acts and most municipalities had public health inspectors and bylaws (Sutherland 1976:40). This combination of greater population density and greater regulation of urban living conditions reduced the extra-market options available to women and children for subsidizing family livelihoods. The maintenance of gardens was more difficult in dense population areas (typically poorer urban neighbourhoods) and public health rules prohibited the keeping of small livestock in urban areas.
2. We use the term labour parties as a short hand term for a larger number of populist parties during this period who were supported by the working class for example, Progressives, Canadian Commonwealth Federation, Reconstruction as well as Labour see Table 6.1.
3. "The trades, labour, and industrial unions of the early part of the twentieth century represented only a small part (between 10% and 15%) of Canada's wage earners and a still smaller proportion (6% to 7%) of the "gainfully employed" (Pentland 1968:109). This pattern prevailed throughout the second period.
4. Based on his research on trade union history in British Columbia Phillips suggests that the increase in claims correlates with the increase in unionization in Canada. Membership in a union would provide union lawyers to workers who previously could not afford legal representation (Phillips, Paul No Power Greater, British Columbia Federation of Labour and the Boag Foundation, Vancouver 1967).

5. Canada Year Book 1978-79 gives provincial population figures for two census years during this period.

Year	Province	Population
1921	Ontario	2,933,700
	Manitoba	610,100
1931	Ontario	3,431,700
	Manitoba	700,100

6. Manitoba's leadership in the transition from private philanthropy to a public welfare system is a bit puzzling given Ontario's longer history of responding to welfare needs. On the basis of magnitude of the problem one would have expected Ontario to have taken the lead in rationalizing the welfare system. However, two factors appear to have contributed to Manitoba's leadership in this field. First, Manitoba experienced a sudden and dramatic acceleration of welfare demands with the massive immigration which characterized the post-war period. The problem was particularly visible and pressing as it was all concentrated in Winnipeg which was the major reception point for western immigration. Second, unlike Ontario, Manitoba did not have a well developed network of philanthropic and non-governmental charitable institutions. Thus in the post-war period Manitoba faced a rapidly growing problem with very few agencies able to respond and the pressure on the government to fill the void was substantial. In Ontario the existence of a well established network of private charitable organizations served to forestall the urgency of a governmental response and may have served as a barrier to such development given that the established private agencies would have an interest in preserving their mandate and autonomy.
7. The Canadian Patriotic Fund Act S.C. 1914 c.8 (2nd sess.) established a charitable corporation to collect, and administer funds for assistance for wives and dependents of men in active service during the war.
8. While the introduction of a federal-provincial cost shared Old Age Pension was initially resisted by some provinces because of the added expenditure, it relieved the long term expenditures by providing federal funding for the support of elderly who would otherwise be dependent upon municipal welfare roles or the more costly provincial program of old folks' homes.
9. The one exception was the enactment of a statute to provide public pensions for coal miners in Nova Scotia in 1908. However, it was never proclaimed and was dropped from the statutes in 1923 (Bryden, 1974:51).



## PERIOD III

### THE FAMILY AND THE STATE IN CANADA 1940-1968

#### INTRODUCTION

The third period was characterized by a pattern of state mediation which was distinctly different from the earlier two periods. While production and reproduction continued to compete for labour and income resources major national and international developments, combined with the limitations of former mediating strategies to push the state towards new levels and patterns of mediation. These differences altered the usual expression of tension between production and reproduction. We will argue that although the expression of conflict between the two spheres changed and structural conditions altered the patterns and possibilities of state mediation, the process of mediation remained essential.

A further difference in this period was the fact that during the war the federal government managed the Canadian economy. This substantially altered the power of the federal government and the process of state mediation. The different powers of the state during the war and after resulted in quite different processes of mediation. Therefore, our discussion of the third period will be divided into two chapters. Chapter 7 will deal with the war and reconstruction years and Chapter 8 will deal with the post-war years in which state activities became more

circumscribed with the return to a market economy. Despite these differences, we maintain that the war and post-war years were marked by strong continuities and similarities in political pressures and legislative response which propelled the country towards a centralization of the state's mediating role and united the 28 years into a coherent period.

In the third period the World War and the global restructuring of production, form the critical backdrop for evolving state mediation strategies. These dramatic international events changed the scope and possibilities of state mediation. Our treatment of these events focuses on the manner in which they impacted upon Canadian capital and the Canadian family, creating new tensions to which the state had to respond. Equal in importance to the external factors, in understanding the anatomy of state intervention, were the internal factors, that is, previous mediation strategies and their contribution to the new dynamic of the period. Thus, in order to situate the third period as a coherent entity for analysis, and highlight the common mediating strategy of this period, we begin with a brief review of the outcomes of previous intervention strategies.

In the first period state intervention was directed to the protection of labour resources for reproduction while in the second period the focus of intervention was directed to the provision of income resources to the reproductive sphere. The result of the two periods of intervention was a legislatively sanctioned and subsidized sexual division of labour, male breadwinner-female homemaker. This created the support-service marriage structure which secured a particular flow of labour and



income to the reproductive sphere. However, this solution was not without costs to both spheres and the state. In the productive sphere, employers were required to forego a cheap and plentiful supply of labour, a cost which was deemed bearable when wages were low and labour was unorganized, and a cost which became onerous when labour was organized and pressure for wage increases intensified. In the reproductive sphere, the family was subject to an increasing ratio of dependents to producers but not a commensurate increase in the earning potential of the producers. The state in turn was called upon to assist in the support of dependents, a process we refer to as socializing the costs of reproduction.

In the first two periods the state had structured a compromise which led to two sustained systemic pressures during the third period. To state the matter somewhat simplistically, the support-service marriage structure created a unit which was, relatively speaking, labour rich but income poor. Conversely the productive sphere was in a position of being income rich and labour poor (full production with a tight labour market). Canadians experienced the shortfall in their homes as a lack of income and an inability to provide necessary goods and services for their families. This was first expressed in the war years as an intense struggle over wages, and later became translated into a pervasive public demand for more comprehensive social services and support. Employers experienced the restrained labour market in terms of increased labour militancy, work stoppages and rising wage demands. During the war years this became translated into a demand from employers for wage controls and industrial harmony. In the post-war period employers' interests were pursued through

the rationalization of the labour process and the creation of a segmented labour market.

In response to these compelling structural pressures the state's mediating strategy in the third period marked a dramatic change from the earlier two periods. The most dramatic change was the state's removal of restraints upon the use of female labour in production, thereby dismantling the critical base of the support-service marriage structure. Second, the state formally inserted itself between capital and labour with the introduction of the Labour Relations Act which transformed key shop floor struggles into legal-bureaucratic processes. Finally, the best known and most analyzed intervention was the development of the modern welfare state, which shifted the critical location of state mediation to the federal level. These three policy developments realized in a variety of labour and welfare statutes encompassed the strategic realignment of labour and income flows which distinguished the third period.

The critical areas of state activity and innovation during this period were in the area of labour and welfare legislation. Developments in family law were insignificant in the third period. While there were some minor amendments to existing statutes no new legislation was introduced.<sup>1</sup> The critical role family law played in the second period, defining the parameters of public versus private responsibility, was dramatically reduced in this period with the massive expansion of federal responsibility for welfare. While the increasing participation of women in the labour force did introduce new pressures for family law, legislative response to these pressures did not emerge until after 1968, falling outside of the boundaries of this study. In view of the absence

of activity in this area discussion of the third period will not include a section on family law.

In summary, the pressure point of the third period was located in the allocation of income and labour between the two spheres which created a labour rich--income poor reproductive unit and an income rich--labour poor productive unit. The mediating strategy of the state during this period was the realignment of labour and income allocations between the two spheres. This dramatic shift from previous strategies took place in two steps.

During the war years the increasing conflict over the wage led to federal intervention to legalize and bureaucratize key labour struggles through the implementation of the Labour Relations Act. This intervention restricted labour's ability to extract income from capital, thereby increasing the political pressure for a social wage. As a result, the federal state set the course for massive reallocations of income to the reproductive sphere through the introduction of national welfare programs.

The second stage in the realignment process took place in the post-war years and involved the massive transfer of female labour to production. The reallocation of women's labour to production was an employer-led dynamic key to the rationalization of the labour process and the creation of a segmented labour market. State mediation of this process involved the implementation of labour legislation which at one and the same time opened the doors to the employment of women while circumscribing their ability to organize and integrate with traditional labour pools. However, the depressing effect of labour market

segmentation upon wages exacerbated the demand for social welfare programs.

In order to accommodate the requirements of both spheres during this process of realignment the state was pushed to assume responsibility for wage subsidization and the legislative management of industrial relations. This strategy succeeded in (temporarily) reducing the polarization between capital and labour, production and reproduction, by a partial fulfillment of demands and significant displacement of conflict from the shop floor to the state. As the state attempted to contain the contradiction between production and reproduction by absorbing their costs and consequences, it came to mirror the contradictions within itself. In short, the relations between family and state, familial and social patriarchy shifted in relation to the progress of the realignment process.

In the previous two periods, state support of the patriarchal family was evidenced in three distinct functions of social patriarchy: first, the provision of resources to subsidize the reproductive unit, that is, socializing the costs of reproduction; second, the regulation of the family, including the disposition of property, wages and children; third, the regulation of the flow of labour between production and reproduction, specifically the allocation of women's labour to reproduction.

In the third period these functions of social patriarchy changed in relation to the restructuring of production and the state. The first function, socializing the costs of reproduction, expanded massively with the introduction of the welfare state. The second function, regulating family life, was redirected from control of service consumers to control of service providers. The third function, regulating the flow of labour

between production and reproduction, devolved from the state to the market place. In this process of expansion, redirection and devolution, the state's relation to the family changed significantly.

State support of the patriarchal family was expressed largely in terms of reallocating income to the reproductive unit. While social patriarchal functions of the state continued and expanded they did so primarily in the direction of support. The regulatory social patriarchal functions of the state were less relevant to the mediating strategies of the third period, hence, the uniquely benevolent quality of state intervention during the third period. However, this benevolence was symptomatic of the increasing displacement of the costs of reproduction from capital (production) to the state, a process which would have serious implications for the state, the family and Canadian society in the long-term.



## CHAPTER 7

### THE WAR AND RECONSTRUCTION YEARS 1940-47

#### Introduction

Canada's entry into the Second World War marked a dramatic departure from the conditions which prevailed during the previous period. The most significant difference, for the purpose of our analysis, was the eight-year period 1940-47 when the federal government managed the Canadian economy. Under these conditions the usual operation of state mediation was dramatically altered. First, the War Measures Act superceded provincial jurisdiction over labour, designating labour legislation and mediation as federal matters. Second, the special Dominion-Provincial War Time Tax Agreements altered jurisdiction over taxation powers transferring provincial authority over personal, corporate and succession tax exclusively to the federal government, substantially increasing the federal government's revenue generating power. Third, legislative activity in the welfare field ceased in Manitoba and Ontario while it expanded dramatically at the federal level. Thus, not only was most provincial legislation suspended but the pattern of state mediation was altered by the requirements of management. During the war years legislation was as frequently initiating as it was reactive, introducing the state as an active protagonist along with capital and labour, at the same time as it attempted to fulfill its mediating role.

The economic changes which occurred during these eight years were as dramatic as the political developments. A war economy meant a boom economy, moving Canadians from a crushing depression to full production and full employment in 1 1/2 years. With the rapid growth of the economy capital and labour intensified their struggles over the division of wealth between wages and profits. However, the economic boom altered the power differential between the two protagonists. Ironically, prosperity made capital potentially more vulnerable because their vested interest in full production made labour's ultimate weapon, work stoppages, far more effective. If conditions of high demand and full production coincide with high employment, labour is in a particularly good position to further its demands. Such were the conditions that prevailed during the war years and the strength of labour grew dramatically.

As the power differential between capital and labour became more evenly balanced, the potential for stalemate increased. The federal state, with its newly acquired power and mandate, was required to intervene in a far more direct fashion than ever before. As capital and labour approached a deadlock in the midst of the war years, the state formally inserted itself between the two protagonists, with the introduction of the Labour Relations Act. This act transformed key shop floor struggles into legal bureaucratic processes which were much more amenable to routinization and control.

Economic recovery coincided with reproductive recovery and the birth rate rose steadily from 1940 on. The competing pressures of production and reproduction were expressed in the early war years in the classic conflict between capital and labour over the wage. However, the combined



effect of stalemate on the wage issue and the experience of a state managed economy gave new expression to reproductive pressures in the later war years. Reproductive demands for income and services increasingly focused on the state and gave birth to a powerful social consensus on the necessity of a national social security system.

The location of state intervention and the concerns of war overshadowed the usual patterns of state mediation in reproduction, during the war years. However, evidence of continued pressure on the state from the reproductive sphere lay in the public demand for a national welfare system, a system which, while not realized within these eight years, was undeniably launched within this period.

#### Political Economic Overview

At the outbreak of the war the federal government was faced with the problem of rapidly increasing the supply of everything required for the war effort. However, the experience of the First World War had impressed upon the government the risks of leaving high speed economic development solely to private initiative. In order to achieve the desired economic expansion and avoid the inflation and profiteering which characterized the war economy of 1914, the government invoked the War Measures Act to control all aspects of the economy and established the Wartime Prices and Trade Board and the War Labour Board. "In fact, the government instituted what we might call socialism, capitalist style; during the war, Canada had a centrally planned economy in which market mechanisms were largely superceded by administrative decisions, while ownership of most of the

productive capacity was left in private hands" (Phillips and Watson, 1984:23).

The object of wartime economic policy was victory in war, not economic development. However, the resulting growth in the Canadian economy was dramatic. Canadians were able to raise the real output of their economy by about two thirds between 1939 and 1944 despite the massive transfer of workers to the armed forces. Between 1939 and 1942 private investment increased by 80% and public investment increased 201%. Under these conditions of rapid growth the unemployment problem disappeared as it plummeted from 20% during the depths of the depression to 1.4% during the war. Further, the structure as well as the size of the economy were changing. In 1939 less than 16% of the labour force was employed in the manufacturing sector. By the end of the war, this had risen to over 26%. Manufacturing reached its zenith in 1944 in terms of the percentage of the labour force employed in this sector (Phillips and Watson, 1984:23).

The rapid increase in employment in manufacturing, which doubled between 1939 and the end of 1942 involved a massive transfer of workers from other sectors, especially agriculture, into manufacturing. There was, therefore, a shrinkage of employment in sectors little affected by industrial clashes and a massive growth of the manufacturing sector in which the conflicting attitudes of employers and workers over the issue of collective bargaining were at their sharpest. This growth and a significant amount of labour discontent led to a rapid rise in union membership. Between 1939 and 1944 organized labour doubled its

membership. This momentum continued on into the reconstruction period and by 1949 unions had tripled the 1939 membership figure (Lipton, 1973:275).

Government management did prevent the inflation associated with the First World War. The strict controls protected real wages and the average wage in production rose from less than \$1,000 in 1939 to \$1,400 in 1942 (Russell, 1984:60). However, to state that conditions were better than during the depression does not indicate that the workers fared well during this period of rapid economic development. Government management did not prevent the economic burden of the war being placed squarely on the shoulders of the country's wage earners. Their share of national income declined sharply while the shares going to profits, rents and interest were well maintained (Pentland, 1968:205).

While capital was benefiting from a period of uninterrupted full production, labour found itself straight-jacketed by rigid wage controls. Wage controls, however, were only half the problem. Workers were called upon to finance the war effort through personal income tax. What small increases in wages workers were able to wrest from the war labour board were gobbled up by taxes. Income tax exemption levels were systematically lowered to \$660 (individual) and \$1,200 (family) by 1942. Table 7.1 demonstrates the cost of the rising tax rate to lower income Canadians. The rates of taxation were increased from six per cent in 1940 to an astounding thirty per cent in 1942. Further, a new flat-rated tax, the National Defence Tax, assessed on total income rather than on income in excess of the basic exemption level, was introduced in 1940, with rates reaching the seven per cent level by 1942 (Russell, 1984:60).

Table 7.1

Comparison of Income Tax Payable at Various Income levels,  
1939-47\*

Gross Income Level	1939	1940	1941	1942	1946	1947
\$1,250	-	\$ 25	\$ 50	\$ 50	\$ 14	-
1,500	-	30	75	217	84	-
2,000	-	75	175	431	194	118
2,500	\$ 15	125	275	651	337	243

\* Married persons, no dependents

Source: Canada, Department of Finance, budget speeches, 1933, 1939-46.

By 1944 less than one-quarter of Canadian households were exempt from the provisions of the Income War Tax Act, introduced ironically, during the last war as a "conscription of wealth". Despite the buoyant economy labour found itself squeezed between wage controls and rising taxation to a point that threatened household subsistence.

During the war years taxes on corporations rose as well. However, their impact did not appear to threaten the resources of corporations as it did the workers. Quite the opposite occurred, in fact, as we can see by the expansion of manufacturing and the growth of Canadian industry in general. The stimulating effect of high corporate taxes can be understood in terms of the particular manner in which profits were taxed, exempted and returned to corporations. A standard of normal profits was determined based on the pre-war profit levels of each corporation as measured by their 1936-39 profit averages. All profit above that level was considered

excess profit and taxed theoretically at 100% with a 20% post war refund. Tax on normal profits was 18% in 1940-41 and 12% thereafter.

The impact of the excess profits act was far less spartan than it appears. First, the excess profits act was accompanied by eight remarkably generous 'relief measures'. Four of these relief measures took the form of accelerated depreciation allowances which were granted on expenditures of well over \$500 million. One company alone, the Aluminum Company of Canada was granted a depreciation allowance of about \$180 dollars (Perry, 1955:355). The other relief measures provided further means of reducing the taxable profits (Perry, 1955:356). In addition to taxes not paid there was a substantial return to corporations through government investment in private corporations and post war refund policies. Despite substantial revenue from excess profit tax, \$787 million or 44% was returned to corporations: \$220 million in post war tax refunds; \$402 million in direct government investment in private corporations and \$165 million in direct government investments in alterations and expansions to private corporations. Nearly half of the revenue generated by the excess profits tax was returned to industry in this way (Perry, 1955:346).

Table 7.2 presents a comparison of the differential tax load borne by individual wage earners and corporations. While workers and corporations provided comparable levels of revenue, for example, \$698 million from wage earners in 1943 and \$740 million from corporations, wage earners did not benefit from post-war tax returns as did the corporations.

Table 7.2

Government Revenue from Corporate and Personal Income Tax  
1939-1945  
(in millions of dollars)

Year	Personal		Corporate		Excess Profit	
	Am't.	% Increase	Am't.	% Increase	Am't.	% Increase
1939	45		78		--	
1940	104	+231	132	+169	24	
1941	296	+284	186	+ 40	135	+565
1942	484	+163	348	+ 87	435	+320
1943	698	+144	311	- 10	429	- 1
1944	673	- 3	276	- 11	341	- 20
1945	687	+ 2	218	- 21	427	+ 25
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Total	2,987		1,549		1,788	

Source: Perry, J. H. - Taxes, Tariffs and Subsidies, Volume 2 in Phillips, P. & S. Watson 1984:26-28

The fact that government management of the economy seemed to serve the interests of business quite well is not surprising since the war managers were recruited largely from the business community. The locus of government's planning and control of the economy was the Department of Munitions and Supply established under C.D. Howe, a wealthy Canadian businessman who became even wealthier as a result of the war industries he owned. On April 29, 1942 CCF leader, M. J. Coldwell, charged in the House of Commons that C.D. Howe's Department was a concentration point for the Canadian Manufacturers' Association and its friends (Lipton, 1973: 267). Both taxation and labour legislation at the time suggest that government economic policy was closely allied with the interests of business--full production, industrial harmony and low wages.

Labour Relations

During the war the federal government was the major actor in the area of labour legislation and mediation. All provincial labour laws were superceded by the War Measures Act. Privy Council Orders issued directly from cabinet replaced the lengthy legislative process and the necessity of a house debate. These changes in the location and process of state intervention altered the typical sequence of state activity--inquiries, legislative enactment and bureaucratic enforcement. As these processes merged in form and function, decision-making became highly centralized.

The combined effect of the concentration of decision making and the massive mobilization of the labour force provides a unique opportunity to see the state struggle with wage and labour allocation problems in a direct and immediate way. The important issues in labour during the war were the massive employment of women and the intense struggles by labour for union recognition and wage increases. Women provided a vast reserve army of labour which was at one and the same time extensively utilized and effectively contained within the rhetoric and contracts of temporary placement. While the strategy for women's employment emerged early and seemingly effortlessly from a history of patriarchal hegemony the wage and recognition struggles took longer to resolve. Because all three factors remained the 'live' labour issues in the post war period we will argue that state strategies not only served to manage the war economy but set the course for post-war industrial relations.

By the spring of 1940 the war was heating up and Mackenzie King's Liberals were returned to office with a landslide victory. In June the government's War Labour Policy (P.C. 2685) was issued declaring the right

to form unions and bargain collectively and banning strikes and lockouts in war industries. Industrial harmony was deemed essential to the war economy and the union recognition clause was designed to win the cooperation of labour on the no strike policy, a strategy which worked until it became evident that the government was preoccupied with wage control policies and had no sympathy for union recognition. Evidence of the government's priorities is seen in the rapid succession of orders in council, listed in Appendix III.A, which, with the exception of P.C. 2685, dealt exclusively with matters of wage restraint, mechanisms for wage enforcement and dispute settlement.

On the heels of the depression, full employment, full production and increasing productivity created an unrelenting pressure for wage gains. This force confronted the equally strong commitment of the state to contain inflation through wage controls. In 1940 P.C. 7440 imposed severe wage controls limiting wage settlements to rates established during the 1926-29 period. The consequences of the order became evident shortly after its issue when workers from the Peck Rolling Mills in Montreal petitioned for a wage increase. The board operating under the Industrial Disputes Investigation Act refused any wage increase on the argument that 30 cents an hour was higher than the 1929 level. In November of 1941 P.C. 8253 provided for a National War Labour Board with powers of investigation and recommendation on wages and conditions. Increases in basic wages were prohibited, save by permission of the Board. Finally, P.C. 9384, enacted in 1943, stipulated that a wage adjustment could be granted only where it was necessary to correct "a gross inequality or gross injustice" -and this commensurate with the employers' ability to pay (Lipton, 1973:269). Large



numbers of workers found themselves earning less than 50 cents an hour, an income which even the war labour board acknowledged as inadequate to support a family (McTague Report, 1943:16).

Maintaining wage controls and industrial harmony became increasingly difficult as the war progressed. The Industrial Disputes Investigation commission, first brought into effect to manage disputes in war industries in 1941, was extended by 1943 to cover any dispute situation perceived to be a "threat to the war effort" (P.C.496). Nine regional War Labour Boards and a twelve-man National War Labour Board were empowered to set wage ceilings and enforce them. In addition to these major mechanisms of restraint and enforcement, nine Royal Commissions, listed in Appendix III.B, were called between 1940-43 for the purposes of addressing wage disputes.

While the government expended more and more effort issuing and enforcing wage restriction orders, its disregard for the recognition clause in the War Labour Policy became increasingly evident. Emphatic exposure of this attitude and a crystallization of public feeling about it came in 1941 with a number of explicitly anti-union acts on the part of the state. In a dispute at the General Motors engine plant at St. Catherine the Minister of Munitions and Supply, C. D. Howe, promised RCMP protection for workers who broke the strike. In the summer, the government ordered in troops to resolve a dispute between the Aluminum Company of Canada and a Catholic syndicate in Arvida. Finally, two major recognition strikes, at the National Steel Car Plant in Hamilton and the Kirkland Lake gold mines involving thousands of workers received no government support in their bid for unionization. Government leaders

defended their refusal to enforce laws supporting collective bargaining as a sincere effort to avoid compulsion in industrial relations (Roberts and Bullen, 1984:113).

The government was not moved to reconsider its labour policies until threatened by a massive outbreak of industrial disputes. The trade union's no-strike policy, its contribution to the war effort, kept a lid on tensions for a while. However, by 1942 the cumulative effect of backlogged complaints, the wage-tax squeeze and unresolved recognition battles led to a dramatic increase in disputes. Strikes and lockouts doubled in number between 1941 and 1942 and doubled again in 1943. The number of workers involved in disputes in 1943 (one unionist in three) was about twice the number of the previous year--already high--and much more than in any earlier year of Canadian history, including 1919. In 1942-43 there was a loss of one and one-half million person-days of labour. Furthermore, the strikes were concentrated in critical war industries, in manufacturing (steel, autos, aircraft and textiles) and in mining (Clement, 1984:90). In the winter of 1943 the threat of a general strike in steel loomed large, the War Labour Board had lost all credibility.

#### Labour Board Inquiry

Under threat of a paralyzed economy the government was forced to rediscover its mediation role and come up with a strategy to end the increasing polarization between capital and labour. Labour's bottom line was recognition and wage gains--capital's bottom line was industrial peace and wage control. In February 1943 King disbanded the controversial War Labour Board and appointed a three man board of inquiry to report on

labour unrest and recommend the means to improve labour relations. The activities of the inquiry and the government over the next year reveal the complex process of compromise and containment. The public process was relatively simple involving one inquiry, one order in council and one act of parliament all accomplished within one year. The speed and apparent simplicity of the resolution was, however, the product of intense behind the scenes manoeuvring by top government officials.

One compromise emerged early and encountered little resistance. The events of the last two years made it clear that union recognition was unavoidable. However, the battle line was drawn, both within the inquiry and behind the scenes over the wage issue. The first public indication of division among the mediators (the labour inquiry board) came with the submission of two reports to the government in August. A majority report was submitted by Justice McTague the chairman of the inquiry and a prominent conservative. The minority report was submitted by J. L. Cohen the third member of the inquiry board and a prominent labour lawyer.

The two reports were in basic agreement in their recommendations for dealing with the recognition problem. Interestingly enough the McTague report, the voice of conservatism and officialdom, was as adamant as the Cohen report in denouncing previous patterns of industrial relations and in recommending a system of compulsory collective bargaining, labour-management co-operation and genuine labour representation on government boards. These recommendations were followed and enacted in P.C. 1003 the following year.

Both reports were also sympathetic to labour's complaints about wages and were critical of the existing wage orders. Throughout the

inquiry labour consistently argued for the removal of wage controls for workers earning less than 50¢ an hour. Workers with substandard wages could then bargain freely to increase their wage while workers earning more than 50¢ an hour would continue to be subject to wage controls. For labour the principle was an equitable return for their work, a principle shared and articulated by Cohen. Cohen strongly recommended the labour proposal as the only acceptable solution.

In McTague's report the focus was shifted away from the concept of an equitable share to the problem of family income. A perspective which was not publicly articulated in any of the inquiry hearings and whose origins are to be found in confidential government documents of the time. In discussing low wages McTague states: "Rigid control at such a level of earnings in the case of a family is hardly defensible, politically and morally." While he acknowledged that labour's proposal was one option he cautioned against a problem contained within it. "Such a solution would be based, however on the assumption that all such workers are heads of families - a completely unwarranted one" (McTague Report, 1943:17). Lifting controls on low wages would be a costly solution that would benefit all low wage workers, when heads of households, were in fact, the workers deemed to have the most legitimate complaint.

In response to this dilemma McTague proposed: "Another answer would appear to be a system of family allowances to be paid for by the Dominion Government." While Cohen argued strenuously against family allowances as the solution, stating it would merely perpetuate and legitimate substandard wages, it was the McTague Report that was favored by government.

The language and recommendations of the McTague Report presented in its clearest form the logic behind and the link between the welfare state and contemporary industrial relations, that is, the necessity of providing for the costs of reproduction without disrupting the wage determination process. We will depart from usual procedure and discuss Family Allowance within this section because although it is welfare legislation, its origins and significance lie within this particular chapter of labour history. Furthermore, the story of Family Allowance reveals the behind the scenes process of containment and compromise which is the essence of state mediation. In considering the two outcomes of the Labour inquiry we will examine the Family Allowance Act first and then the Privy Council Order PC1003.

#### The Family Allowance Act: A Wage Subsidy Programme

Our discussion of family allowance is presented in the form of a case study. As such, we introduce a much more detailed consideration of the individual actors involved in the lobbying for and drafting of this legislation. This should not be read as a sudden reversal to a 'great man theory' of history or an abandonment of structural analysis. We are utilizing this format because it provides the most accurate reflection of a particularly explicit process of compromise undertaken by the state at a point in time in which it operated both as manager and mediator of the Canadian economy and the Canadian population.

The Family Allowance Act was unique in a number of ways: first, the major beneficiaries of the programme never asked for it--in fact, most Canadians had never considered such a programme until planning was well

underway. Second, although it was destined to become a critical component of the modern welfare state, welfare commissions, inquiries and departments had nothing to do with its development<sup>2</sup>. Third, the act owed its existence to three somewhat unlikely advocates; Norman Robertson, Under-Secretary of the State for External Affairs, Graham Towers, Governor of the Bank of Canada, and W.C. Clark the deputy Minister of Finance and the real architect of the programme. All three were members of the powerful Advisory Committee on Economic Policy and while only Clark had revealed any previous interest or commitment to labour or welfare issues, all were highly committed to the effective management of the war economy. In sorting out the actors and their motivations it is important to remember that the members of the Economic Advisory Committee (E.A.C.) were drawn from the Canadian business elite and represented the strong voice of business in government.

The driving force behind the development of the Family Allowances programme was the stalemate between business and labour over wages. In order to mediate this struggle the battle had to be removed from the shop floor and contained within the state terrain of inquiries, bureaucracy and legislation. Labour used the inquiry hearings to promote its position while business worked quietly through the E.A.C.

The activities of the labour board inquiry were being closely watched by members of the E.A.C. who were fearful for the maintenance of the Wage and Price Stabilization programme. It was known that Prime Minister King would likely be sympathetic to the removal of controls on substandard wages. By 1943 King was of the opinion that it had been a mistake to freeze the low wage levels in the first place. "The Finance

Department were responsible and they should never have frozen an increasing injustice" (Pickersgill, 1960:159). Members of the E.A.C. were convinced that to opt for the removal of controls, no matter how limited, would ultimately jeopardize the whole stabilization programme.

Although the inquiry was generating a lot of sympathy for labour, business held the trump card. Before the hearings were completed a powerful bureaucracy swung into motion to reframe the issue, construct the compromise and manage potential labour allies (including the Prime Minister and inquiry board members). The account of the behind the scenes events which gave Canada its first universal welfare programme were all duly recorded in the confidential documents of the Department of Finance and the Economic Advisory Council as well as the private papers of key actors in the process.

In private memos to Prime Minister King, dated June 8, 1943, both Clark and Robertson separately reported on a meeting they had with Judge McTague the previous evening. Robertson states: "I think his (McTague's) mind is turning toward recommending the restoration of free collective bargaining for the adjustment of wage rates up to fifty cents an hour." He then related McTague's response to concerns about the impact of such a policy on the Wage and Price Stabilization programme: "McTague thinks it might be possible to hold adjustments at the fifty cents an hour level, but is naturally not confident that this could be done" (King's Papers C187885). While it is not indicated in the memos it is likely that Robertson and Clark did more than express their fears; they probably also expressed what they considered the better alternative, family allowances. Clearly they had given the issue a lot of thought for their memos to King

outline the major arguments in favor of family allowances as well as touching on costs and jurisdictional issues. It is most likely that Clark and Robertson first planted the idea of family allowances in McTague's mind, as there was no previous reference to it as an option in the briefs before the Labour Board Inquiry.

On July 13, 1943, Towers sent a memo to the Minister of Finance warning of the dangers of tampering with wage controls.

"It seems to me quite probable that the National War Labour Board will endorse the proposal for removing any ceiling on rates up to 50 cents an hour. If this is done, I think that the whole price and wage stabilization programme will have to be abandoned in a comparatively short time. If rates below 50 cents are raised, it will be impossible to prevent increases in the wage of those now receiving more. In other words, there will be a fight on the part of labour - I think a successful fight - to maintain, in part at least, the existing differentials in wage rates" (Dept. Finance Papers: 101-53-114).

One day after Towers' memo to the Minister of Finance, Clark came forward with a Finance Department document entitled "The Case for Children's Allowances", followed one week later by a working paper on family allowances from the same department which included a report on family allowances programmes in other countries, a summary of the literature and preliminary cost estimates (Finance Central Files: 101-53-114). Arguments and evidence were being compiled in anticipation of McTague's recommendations.

With the submission of the McTague Report, activities around the issue of family allowances increased. In early September a memorandum was sent to Mackintosh, Vice-Chairman of the E.A.C. entitled "Proposed Family Allowances Scheme for Canada" (Finance Central Files 101-53-114, Vol. 1). On September 17, 1943 the Economic Advisory Committee summarized its



position on the wage issue raised by McTague. Speaking strongly against any removal of wage restraints, it offered two broad alternatives: "a) A stronger re-inforced wage control policy directed to reducing the overall increase in wage-rates that are being made but more flexible with regard to rates which are low by absolute standards. b) Children's allowances payable for all children without means test" (Finance Central Files, Sept. 17, 1943).

Working with the consistent opposition of the Minister of Finance, Ilesley, but the support of the Economic Advisory Committee, Clark took the committee's recommendations to a meeting with Cabinet and McTague on the first of October. McTague argued strenuously against the Committee's first alternative and supported the second. While seeing family allowances as the best solution to the wage problem, McTague cautioned against any public association of the two. "Also McTague was most emphatic about not allowing any discussion of family allowances to become a part of the labour policy as such. Rather they were to be considered in connection with a social security programme" (King's Diary Oct. 1, 1943:859). Thus while the internal (bureaucratic) strategy was well underway the public strategy was now in the making.

To have introduced family allowances immediately after the McTague and Cohen reports had been received would have suggested that family allowances were being used as a protective device for the maintenance of the Government's wage and price stabilization policy. In his radio address to the nation December 4, 1943 King announced that the Government was prepared to accept as a basis for a revised labour policy the main proposals on which the Majority and Minority Reports had been able to

agree. In doing so, King sidestepped the issue at the heart of the controversy between the two reports--family allowances in lieu of removing wage restraints. To ensure that no association between wage policy and family allowances be made, the reports were held up on a variety of contexts and not released for a year.

In the meantime a great deal of work remained in promoting family allowances within the government. While King appreciated the necessity of disassociating the two issues and acted accordingly, his initial response to Clark's proposal was far from enthusiastic. "I pointed out that to tell the country that everyone was to get a family allowance was sheer folly; it would occasion resentment everywhere" (King's Diary, Oct. 1, 1943:859). From January to June 1944 Clark presented the Cabinet with a steady flow of memoranda, working papers and statistical analyses promoting the adoption of the family allowance scheme. A brief review of the major arguments presented by the Finance Department to Cabinet is most revealing of the significance of this particular welfare programme to the government's role as mediator of production and reproduction.

While cabinet was exhorted to never discuss family allowances as a part of labour policy the internal documents made the connection quite clearly. "Children's allowances are the most direct and economic method of meeting the current strong demand for relaxation of wage control in respect of the lower wage rates. If current dissatisfaction of lower-paid workers is met by allowing them unrestricted wage bargaining (and thus promoting union organization) a good deal of industrial strife and stoppage of essential work must be expected" (Finance Files, 101-53-144 June 14, 1943: 3&4). Family allowances were argued for not only as a

means of rescuing the wage stabilization programme and restoring industrial harmony but also as a basis for developing a competitive post-war economy. "Children's allowances are likely to protect Canada's ability to compete with other countries in world markets. In the long run, minimum wages, and average wages, are likely to be pushed higher in the absence of family allowances, than they would be if this supplementary equalizing measure were in effect" (Finance Files, 101-53-144 June 14, 1943:5).

As public pressure for social security measures mounted the Finance Department invoked the arguments of Beveridge and Marsh pointing out that wages could not be made responsive to family size. Their analysis of the 1941 census brought this point home with shocking clarity. The census revealed that of all gainfully employed 48% were single, 20% married or widowed with no dependent children, 13% married or widowed with one dependent child and 19% married or widowed with more than one child. Further, the census indicated that 84% of all dependent children came from families with more than one child, the net result being that 19% of the gainfully employed supported 84% of Canada's dependent children (King's Papers: C187877). In response to criticisms of the plan for a universal programme the Finance Department revealed: "An income ceiling would save little, a ceiling of \$3,000 would exclude only 3% of all families" (Finance Files, 101-53-144 Sept. 1943:5).

It was Clark's argument that the gap between wages and family costs fueled labour militancy. Since it was clearly demonstrated that the wage labour system could not be made responsive to those costs, the options were either government subsidization of family costs or labour militancy

and rising wages. It was a compelling argument made all the more so in the face of growing public pressure for social security programmes. The cabinet supported the bill in June, 1944, the first reading was in July and the act passed unanimously in August of the same year.

While King had originally predicted widespread resistance to the scheme the critics of family allowance were few and their arguments ineffectual. The English press remained critical of the programme through the years 1943-45; however, they appeared to have little impact on public opinion. As media criticism escalated between 1943 and 1944, public opinion became more favorable. The first Gallup poll on family allowance, run in October 1943 when the idea was first talked about, revealed that 49% of Canadians thought it was a good idea, 42% a bad idea and 9% were undecided. When estimates of the cost of the programme were included support dropped to 43%. A second Gallup poll in 1944 one day after the act was passed indicated that 62% of Canadians supported the programme, 30% did not and 8% were undecided.

The Labour movement presented a half-hearted opposition in 1944 when the Trades and Labour Congress criticized the scheme "as a substitute for paying adequate wages to enable families to live in decency and health" (TLC Journal: Vol. 23:28). However, within a year they were reporting: "This congress has gone on record as approving, in principle, the payment of family allowances while emphatically declaring that such an allowance must not take the place of an adequate wage rate" (TLC Journal, Vol. 24:13). It was clearly not politically popular to attack a programme which offered to subsidize the income of families who could not adequately provide for their basic needs with wages alone. Cognizant of the politics

involved, the Conservatives and CCF endorsed the programme and limited all their criticism to smaller details of administration. Thus the only committed critic of Family Allowances, the Conservative Premier of Ontario, George Drew, carried on his vitriolic campaign in isolation and to little effect.

The family allowance issue had never provoked strong feelings on the part of Canadians. It was neither the object of popular demand nor strong opposition. The labour movement, which objectively had the most to lose, could not rally any significant opposition. It is curious that a programme which was precedent-setting in a number of important regards could arrive so uneventfully.

The family allowance scheme was the most direct form of state mediation of production and reproduction. It was, in a way, a perfect compromise, neither pleasing nor offending capital or labour--as each faced worse alternatives in the absence of the programme. While family allowances provoked some criticism from labour because of its blatant connection to low wage policy, it was merely a more obvious form of the 'social wage' strategy that organized labour had backed since the inception of the ILO. Family allowances presented the compromise between capital and labour in its most naked form--subsidizing a wage system designed to ignore reproductive costs, only to perpetuate it. As such, few could find in the programme much to get excited about but fewer still could afford to do without it.

No other programme draws attention to the lack of fit between wages and human welfare as explicitly as family allowances. The necessity for family allowances reveals the dynamic of the wage system that transforms

reproduction (the most fundamental process of social survival) into a "universal risk". It leads one to question the rhetoric of "universal risk". What are child birth, sickness and old age if not natural processes of reproducing the population? And none of these can be adequately accommodated by the wage labour system. The rhetoric of the welfare state identifies the necessity of state mediation while disguising the source of the necessity-the contradiction between production and reproduction. The history of the initiation of family allowances permits us to peek behind the disguise and see the essential purpose of the welfare state, the mediation of these two contradictory spheres.

The Labour Relations Act: Privy Council Order 1003

While the announcement of the Family Allowances Act was carefully orchestrated to belie its origin and intent, the second recommendation of the McTague report, a labour relations act, was announced with much fanfare. This legislation was presented to labour as a great concession, a great victory to workers and employers grudgingly accepted it. It was clearly an important moment in labour history, for the first time federal legislation guaranteed automatic recognition once a union gained majority support through a government-supervised vote. However, analysis indicates that the benefits to workers were not as unqualified as King suggested.

Prior to PC1003 relations between capital and labour were by and large adversarial, with labour law providing only the broadest of parameters within which this struggle could occur. The greater the power differential between the two parties the more likely the adversarial procedure would favor the stronger party. Thus when capital was strong

and labour weak or fragmented, such a system favored capital, as evidenced by the slow growth of unionism between 1919 and 1935. The major avenue for labour to force recognition and/or settlements from capital was through strikes or threats of strikes. As labour became stronger during and shortly after World War II strikes became a major source of disruption in an economy geared for full output. It was at this point that significant regulatory elements were introduced into labour legislation. PC1003 provided for recognition and contract settlement through legal procedures which by-passed and explicitly penalized strikes for the attainment of either recognition or settlement.

While the labour relations act was explicitly regulatory once a unit had entered the system, that is, been certified, its regulations for certification maintained a strong adversarial element<sup>3</sup>. Unlike the protective labour legislation in which the regulatory element resulted in the state initiating and enforcing worker's rights, for example, minimum wage, hours and conditions of work, the labour relations act required that workers petition the board under set conditions for certification and/or contract settlement. The law did not legislate certification on principle, organizers had to take the initiative and meet a set of criteria, that is, conform to the determination of the bargaining unit which was outside of the organizers' control and sign up a stipulated number of workers without full knowledge of what the real population of eligible workers would be.

The way in which application for certification worked, in fact, ensured that those workers concentrated in large industries and more easily organized (union membership doubled prior to 1944) would be readily

acknowledged and certified. The criteria for certification, however, made it difficult for more fragmented workers, especially those in the tertiary sector, to achieve recognition. Those workers most in need of government intervention, to help even out the power differential between themselves and their employers, found the legislation unresponsive to the particular circumstances of their employment which made it difficult in most cases to meet the criteria for certification. The old principle of equality before the law ensured that those who started out unequal remained so. This particular characteristic of the legislation, that is, favoring the strong and ignoring the weak became increasingly important in the postwar period as capital embarked upon a segmented-labour market strategy. It is interesting to note that when government itself was the employer it did not honour the principle of its own legislation. The federal and most provincial civil service workers were not legally permitted to unionize until the mid-sixties.

It is possible that PC 1003 granted no more than would have been achieved during the years (1942-1948) in which labour was in a strong bargaining position. The order achieved the effect of reducing strike incidents for sanctioning and enforcing agreements that labour was in a good position to win. However, while PC 1003 may have blunted the sharp edge of labour militancy during the war years, it similarly restrained and contained harsh employer policies when labour was weakened and divided. It acted, as mediation is intended, as a law of compromise--both sides agreeing to be regulated in order to avoid the high costs they would incur when the balance of power was not in their favour.



PC 1003 and all subsequent labour relations acts are an interesting marriage of regulatory and adversarial elements. The adversarial aspects left the initiative, risks and responsibilities with the workers while the regulatory aspects protected against strikes and controlled access to certification. Workers' prerogative--withholding their labour --was effectively outlawed as a condition of coverage by the legislation. Capital's prerogative--to determine wages, to acknowledge or fight certification continued to operate through a mass of rules and regulations which favored the party with the larger legal budget.

Although PC 1003 did not alter the fundamental pattern of wage determination it did introduce significant new protections for labour and a substantially increased role for the state in managing industrial relations. This would alter the process of class struggle for both protagonists in the post-war years. When government management of the economy was ended in 1947 most provinces quickly adopted Labour Relations Acts which were modeled, sometimes word for word, on the federal legislation. The pattern quite clearly was to involve the state much more directly in industrial relations as a critical third party. The result was a much more standardized means of arbitrating labour-management relations and a much heavier dependence upon formalized legal procedures. The effect was a post war period of industrial harmony which remained virtually undisturbed until the mid-sixties.

#### Patriarchy and Patriotism: Women in the War Economy

The third significant development in labour during the war was the massive employment of women. Much of this study has documented the

important role the state played in supporting patriarchy by restricting women's access to employment, however the declaration of war in 1939 suddenly pressed the state into an unprecedented recruitment role. The years 1939 to 1944 saw a startling and rapid reversal of 65 years of limited labour force participation when 600,000 Canadian women entered the labour force (Pierson and Cohen, 1984:222). Sustaining the war effort was dependent, not only on drawing women into the labour force, but also upon their employment in 'nontraditional' industries, particularly, war manufacturing. There was a potential that the exigencies of war would jeopardize the traditional patterns established by the 'protective' labour legislation to restrict access and to segregate women's employment. Yet perhaps even more remarkable than the rapid recruitment of a female labour force was its rapid demobilization and/or deployment to other sectors after the war.

The question remains why an event of such historic proportions should leave so little impression upon the history of women's employment. Given the state's history of support for patriarchy and its concurrent commitment to the war effort, the dilemma was simply to achieve maximum utilization of female labour without permitting their integration into the labour market.

A study by Pierson and Cohen (1984) documents a wide range of implicit and explicit discrimination in the recruitment, training and placement of women in the labour force which served to maintain the principle of "male economic primacy." Even when labour shortages required women to directly replace men, the War Labour Board made it possible for employers to reclassify those positions. Invoking the traditional view

that women's labour is more properly categorized with that of children and youth and hence not the equal of men's the War Labour Board approved lower wage scales for women.

"Women workers were considered together with youths and less experienced or less capable men who had to be engaged to perform work done before the war by experienced men. The Board was prepared to deal with applications made by employers for the establishment of new and lower paid classifications within an occupation for which classifications had already been made." (Labour Gazette 1950:186)

In the reconstruction period we find the processes of restricted access and sexually segmented opportunities in operation despite the official policy of sexual equality. This was the period in which the government launched large-scale retraining programmes to prepare Canadians for postwar industry. However, once again, government policy greatly circumscribed women's participation in these programmes.

Married female veterans and married civilian women out of work were not eligible for the living and dependent allowances offered to individuals enrolled in the retraining programmes. Also in determining eligibility for enrolment a critical criterion was the projected labour demand for the field in which training was sought. The Re-instatement in Civil Employment Act of 1942 guaranteed the ex-service personnel be given back their pre-enlistment jobs. Thus all civilian women who had worked in non-traditional employment replacing men could not make any claim to employability in those occupations. Across the country local offices of the National Employment Service attempted to assess the projected labour demands for women, their reports back to Ottawa gave prominence to traditional women's trades. As a result fully 85% of women taking government sponsored vocational training courses were found in the

following five occupational categories--commercial, hairdressing, dressmaking, nursing and prematriculation (Pierson & Cohen 1984:232). Finally, in 1945 the government renewed the enforcement of the civil service regulations barring married women from working for the federal government.

While the state's motives and methods were unique to the war experience the lesson--that one could achieve maximum utilization of female labour without permitting their integration within the labour market--became a critical and instructive lesson in the development of post war employment policies. In short, the analysis of war employment policies not only explains the deft reconciliation of patriarchy and patriotism but more importantly served as a "pilot project" for a segmented labour market strategy so quickly adopted and so religiously adhered to in the post war period. A segmented labour market was capital's solution to the age old dilemma of 'having your cake and eating it too'. Women had long been a source of cheap labour because of their limited bargaining position, because of their marginality to the labour market. The segmented labour market strategy provided the means--through judicious channelling of women into union-resistant sectors characterized by part-time, temporary and seasonal work - for maximal utilization of their labour while retaining their marginal status and hence their specific utility to capital.

#### The New Welfare Ideology

The war and reconstruction period was a watershed in Canadian welfare history. This period was like the first period in being a moment

in Canadian social history of amazing and powerful social consensus provoked by the reproductive dynamic. In both periods the public mobilized to demand dramatic state intervention to address serious structural imbalances between production and reproduction. The crisis of the first period gave rise to the Victorian social reform movement which identified the employment of women and children as a direct threat to the Canadian family. The crisis of this period gave rise to a new welfare ideology born from the reality that most Canadian incomes could not meet basic health, housing and nutritional needs.

The new welfare ideology was an achievement of public consensus equal in significance but substantially different in effect to the Victorian social reform movement. The social consensus of the war and post war years would shift the emphasis of state support for reproduction from the "protection" of female labour to the provision of income and social services to the family. Despite dramatic differences in their expression, both of these moments of social consensus force the attention of the state to the needs of reproduction and are an important measure of the pressure of the reproductive dynamic. In the former case, the social consensus called for a pattern of protective, supportive and regulative legislation which underwrote the support-service marriage structure for over a half a century. In the latter case, the new welfare ideology, constituted a forty year commitment of Canadians to the development of social welfare legislation which would provide a social security net for themselves and their families.

While the social reform movement of the first period was unambiguously oriented to reproduction the welfare philosophy of the third

period was not consciously familistic. The turn of the century call to rescue girls and women from factories, to protect their reproductive potential and promote family living was so evidently pro-familistic that making the case for the pressure of the reproductive dynamic was simple and straightforward. In contrast, the pervasive demand for state intervention to provide income security and social services during the third period was not expressed or experienced as a specifically reproductive or familial issue. The demands for social reform in this period were expressed in general humanitarian terms that obscure the reproductive origins of those demands.

During the third period, the family allowance programme was the only piece of the welfare state package which provides us with an explicit view of the social/political calculus undertaken by the state in attempting to balance pressures from production and reproduction. Subsequent programmes were developed or implemented without the revealing circumstances of a head-on confrontation between capital and labour which contributed to the explicitness of the family allowance strategy. Furthermore, subsequent policy tended to address the family more obliquely, either by providing universal programming or by absorbing some of the traditional responsibilities of the family, for example, housing and/or pensions for the elderly. In short, not only as the costs, but also as some of the functions of reproduction became socialized our awareness of these costs or functions as reproductive tends to be obscured. In the face of this tendency to only recognize as reproductive those functions and costs which have remained privatized, it is important to understand that the welfare

state is a more extensive response to the same competing pressures from production and reproduction that gave us the family allowance programme.

By 1945 the concept of federal responsibility for social security was an accepted principle in Canadian politics. In addition the negative pre-war image, means-tested welfare was replaced by a positive concept of social security--a right of all citizens to be insured against universal risks of sickness, old age and unemployment. This transition (initiated with the depression and expressed in overwhelming popular demand during the war years) was the result of a build-up of structural pressures to socialize reproductive costs on a national scale. The government's dual mandate, managing the economy and the population--at a time when the two historic protagonists, capital and labour, were most evenly matched--brought home very directly the problems as well as the necessity of coordinating the contradictory sphere's of production and reproduction.

During the war years the government kept its fingers on the pulse of the nation through the monthly reports of the War Information Board. The board had an international branch which dealt with war intelligence and a domestic branch which gathered information on the public's response to war time regulations and policies. The domestic branch was extensive, it commissioned monthly public opinion polls and it received regular reports from commissioned individuals all across Canada who daily monitored all forms of media. These reports are the best source of popular opinion during the war. From 1942 on the documents of the War Information Board indicate that the major preoccupation of Canadians was a concern over post war conditions in Canada.

The increasing strength of labour and the CCF was impressing the government with the saliency of the welfare issue more effectively than had ten years of depression, misery and want. While need could be overlooked, the government found that it was troublesome to ignore strength. As labour was finding a stronger voice in its expanding organizations the population at large was beginning to express itself in new voting patterns. The popular vote for the CCF rose from 8% in 1940 to 23% in 1942. In the years 1943-44 the CCF became the official opposition in Ontario, won victories in several federal by-elections, became the Saskatchewan provincial government, and surpassed the Conservative and the Liberals in public opinion polls. The remarkable growth of the CCF had a significant impact upon Prime Minister King and his cabinet. In 1943 the Minister of Health wrote to King expressing his concern, "There is no doubt that our government is unpopular. What of the rise of the socialism across Canada? It was for years a British Columbia and Saskatchewan freak but it is now definitely a national political menace" (Taylor 1978:35).

It was clear that a government without responsive post-war social and economic programmes would not be a government for long. It was also evident that the end of the war would mean an end to government management of the economy and an end to the broad jurisdictional powers accorded the federal government as a war emergency. This left welfare as the major legislative mechanism for federal response to the growing demands of the population.<sup>4</sup>

Labour unrest in 1946-47 revealed that the Labour Relations Act on its own could not guarantee industrial harmony as workers militantly



fought for an improved standard of living. The increased income workers sought could ultimately only come from production. However, these gains could be achieved directly in the form of a rising personal wage or indirectly through the expansion of the social wage. The former option would mean a short term vertical redistribution of wealth that would immediately cut into profits, while the latter option would mean a long term horizontal redistribution of wealth which would raise the standard of living while minimizing the immediate costs to capital. The fact that the state chose the latter option should not suggest that the interests of capital were being violated nor that they were the only interests being catered to. At a time when the two protagonists were most evenly matched, state mediation had to effect a real compromise. The welfare option appeared to be the only one which could simultaneously address the demands of workers for a higher standard of living while protecting the interests of capital in holding down wage gains and preserving industrial harmony.

The shifting balance of power between capital and labour during the war had quite simply pushed the struggle along to a new terrain--the interests, the antagonists, and the contradiction had not changed but the issues most certainly had. From 1943 on the question was no longer whether the federal government should get involved in social security legislation but rather, which programmes, when and how? The government's role as mediator between production and reproduction, between capital and labour, was pushing it inexorably toward the construction of the modern welfare state. The war years marked the first critical steps in that direction.

Commissions and Inquiries

Between 1940 and 1945 ten studies or inquiries on welfare were released to the Canadian public. While they varied dramatically in terms of public impact and/or influence on policy makers their greatest significance lies in the fact that they spoke with one voice, the new ideology of the welfare state. Clearly, they articulated an idea whose time had come.

The stark contrast between the stagnation of the depression and the rapid economic growth during the years of government management made a strong impression on the political thinking of Canadians. Traditional assumptions about the limited political role of the state were shattered. A national poll in 1943 indicated that 43% of Canadians were in favor of continued government management of the economy in peacetime, with 17% undecided. It was the better educated (48%) and the middle income group (50%) that were most in favor of the extension. In addition the sample poll revealed that two out of three Canadians would "like to see some 'great change' in our way of life after the war". The changes Canadians were most anxious to see were: the elimination of unemployment, the expansion of social security, improved living conditions and a more equitable division of wealth. Furthermore, comparison studies conducted by the War Information Board revealed that Canadians (71%) were more highly committed to change and reforms than either the Americans (32%) or the British (57%) (War Information Board Report, Dec. 3, 1943:3).

Chronologically, the generation and submission of reports reflected the rising tide of concern about post war conditions. The report of the Royal Commission on Dominion-Provincial relations (Rowell-Sirois Report)

was released in 1940, receiving little public or political attention as it was overshadowed by the urgency of the war effort. However, two years later the release of the Beveridge report created quite a sensation in Canada. The following year the Canadian populace and the government were deluged with welfare reports. The Report on Social Security for Canada (Marsh Report) was released in 1943 coinciding with the report of the Heagerty Commission on Health and the majority and minority reports of the War Labour Board Inquiry. In addition this same year saw the publication of two independent studies, one by Whitton and the other by Cassidy which outlined their vision of the welfare state.<sup>5</sup>

In response to this intense public discourse and the increasing threat from the CCF the government established a House of Commons Committee on Social Security composed of forty-one members of Parliament. The terms of reference of the Committee were:

"To examine and study the existing social insurance legislation of the Parliament of Canada and of the several provincial legislatures; social insurance policies of other countries; the most practicable measures of social insurance for Canada, including health insurance, and the steps which will be required to effect their inclusion in a national plan; the constitutional and financial adjustments which will be required for the achievement of a nation-wide plan for social security; and other related matters" (Taylor 1978:20).

In July 1943 after four months of hearings and deliberations the House of Commons Committee endorsed the recommendations of the Heagerty Report calling for a national health insurance plan and advised that a conference of Dominion-Provincial representatives be held to discuss the proposed bill. In February 1944 a Cabinet Committee was established to draw up specific legislative proposals to present to the next Dominion-Provincial conference. In addition, 1944 saw the completion and

submission of the Curtis Report on a national housing policy. All of this intense study and debate culminated in the submission of the Green Book proposals, the government's social security package, to the Dominion Provincial conference in 1945.

In assessing the relative impact of the inquiries upon the development of the Canadian welfare state we utilized three criteria: first, public impact, second, influence on policy makers and finally, legislative implementation. It is the the final criterion that provides the acid test. Only two inquiries had their recommendations implemented in legislation before the end of the war. These were the McTague Report which resulted in the Family Allowance Act in 1944 and the Curtis Report which led to the National Housing Act (SC 1944 c46) in the same year. We will discuss this latter report in the subsequent section on legislation.

In terms of the second criterion, influence on policy makers, the two most influential reports were the Rowell-Sirois Report on Dominion Provincial Relations and the Heagerty Report on Health which formed the backbone of the government's Green Book Proposals. The authors of these reports were the conscious architects of the Canadian welfare state in that they approached their inquiry with a specific welfare objective unlike McTague whose goal lay within the field of labour relations. We will discuss the contributions of these two inquiries in our analysis of the Green Book Proposals.

Finally, the single report which had the greatest impact upon crystallizing public opinion was the Beveridge report. While a number of Canadian reports provided an equally well-articulated rationale and plan for the welfare state, Beveridge's report was the first to fall on the

fertile ground of rising Canadian aspirations. The Beveridge Report attracted the most extensive media coverage, headlining in all the major newspapers in Canada. The report became a reference point in public opinion polls and Beveridge himself delivered a radio address over the national network of the CBC in May 1943 (War Information Board June 1943).

The Beveridge Report was perhaps the most explicit in identifying the lack of fit between the wage labour system and human welfare. Based on careful surveys of living standards in England between the two World Wars he documented that from three-quarters to five-sixths of want resulted from the loss of earning power and the remaining twenty to twenty-five percent was attributable to society's failure to relate wage to family size. "But a national minimum for families of every size cannot in practice be secured by a wage system, which must be based on the product of a man's labour and not on the size of his family" (Beveridge Report 1942:154). In view of the systemic nature of the problem he argued that short-term crises intervention or means-tested schemes were inadequate. He recommended that the state undertake substantial redistributions of income through social security programmes to compensate for the shortcomings of the system.

The Canadian reports reiterated Beveridge's arguments and gathered evidence that indicated that even in wartime with all able-bodied men and women employed basic needs were not being met for a substantial proportion of the population. The Curtis Commission documented the problem of inadequate housing for low-income groups which in 1941 was identified as urban families of five with incomes of less than \$1,200. This category accounted for approximately one-third of the urban population. Health

reports indicated that in the forties only 43.7% of families of wage earners outside of agriculture had sufficient income to guarantee them a satisfactory nutritional diet (Guest 1980:129). In addition, Canada had developed the highest infant mortality rate of all the developed countries in the British Empire (Taylor 1978:5). Finally, the Heagerty Commission found that the majority of Canadians did not have sufficient income resources to provide for medical care for sustained or serious illnesses. Thus the most basic requirements of adequate food, housing and health care were beyond the financial resources of a large number of Canadian families.

On the heels of all these inquiries the Green Book Proposals were developed in late 1944. The two reports, Rowell-Sirois and Heagerty, which were the backbone of the proposals, reflected the full range of government response to the demand for a more activist state. The Rowell-Sirois Report reflected the cautious, conservative, fiscally-minded mood of the early war years, while the Heagerty Report shared the vision of social change characteristic of the mid-forties. Despite their substantial differences these two reports were combined to form the body of the government's post war social security package.

The Royal Commission on Dominion-Provincial Relations was commissioned in 1937. Provoked by the fiscal and social dislocation of the Depression, it focused on the constitutional and fiscal underpinnings of social security planning. While accepting that some federal powers would have to be widened the report remained strongly supportive of provincial autonomy. The commissioners' focus and philosophy resulted in a residualist approach to federal involvement in welfare--advocating

federal responsibility for only those programmes which could not be provided equitably and efficiently on a provincial scale. This limited category included the unemployed (employables) and the elderly. For the unemployed the commissioners recommended a two-tier system; a national unemployment insurance programme and a federal assistance program for the uninsured. The matters of health and welfare were seen to lie exclusively within provincial jurisdiction (Moore, Perry & Beach 1966:20).

Addressing fiscal issues, they recommended that the financing of welfare at the provincial level would best be accomplished through the provision of National Adjustment Grants payable by the federal government to each province on the basis of fiscal need. In return for these grants the provinces would vacate the fields of personal, corporate and inheritance tax. The commissioners expected that the implementation of these recommendations would put an end to the fiscal anarchy characteristic of the Depression, correct regional disparities and would respect provincial autonomy through the distribution of unconditional grants which would assist provinces in developing their own welfare programmes.

The emphasis placed by the commissioners upon the rearrangement of taxation powers as the fundamental fiscal requirement for a comprehensive social security system was the one recommendation strictly adhered to in the drafting of the Green Book Proposals. However, the incorporation of the Heagerty Health Commission recommendations in the Green Book was a clear departure from the Rowell-Sirois Report which viewed health care as an exclusively provincial matter.

The Heagerty Report called for a joint federal-provincial programme of health insurance with the medical care and public health provisions administered at the provincial level with federal government assistance through grants-in-aid. The report envisaged the whole population being covered for medical, dental, pharmaceutical, hospital and nursing services. Recommendations did permit, but not encourage, provincial discretion in limiting benefits to those in low income categories.

The Heagerty Commission has an interesting history. If public, professional and ministerial support were good predictors of success then the national health plan should have been implemented in 1944 rather than 1968. The national health insurance proposal, the product of a two-year national inquiry, was aggressively promoted by the Minister of Health and Pensions and received broad media and public support. In fact, never has a proposed welfare scheme received so much support. Upon release of the Heagerty Report the Canadian Medical Association, the Canadian Hospital Council and the Canadian Life Insurance Officers Association all commended the report and supported the principle of a national health insurance scheme (Taylor, 1978). The forty-one members of the House of Commons Committee on Social Security endorsed the proposal for a national health insurance plan and advised that legislation be prepared for the next Dominion Provincial Conference. Finally, a Gallup poll on the proposed health bill showed 80 per cent of Canadians approved of the scheme in 1944 and again in 1949.

Despite overwhelming support and meticulous preparation, the health bill was not destined to be passed during the war. It was deferred in 1944 in order to implement the Family Allowances scheme. However, it



reappeared the next year in the Green Book Proposals as a key component in the government's post-war social security package.

The Green Book Proposals were clearly a product of the influence of Keynesian economics in the late war years. Under the considerable social and political pressure for an activist state the Green Books revealed the federal government's willingness to take a quantum leap in the field of social and economic welfare. Some indication of the magnitude of the step lies in the fact that it took the federal government over twenty years to negotiate and implement the programming brought to the table in 1945. The Federal government outlined three broad goals. The first goal was to divide public revenues among government units efficiently. The second goal was to inaugurate social insurance against the hazards of illness and old age. The third was to co-ordinate the economic influence of all governments for the purposes of full employment. To this end the Federal government proposed to assume full responsibility for old age pensions for Canadians aged seventy years and over; to share in the cost of a public assistance scheme for the needy aged sixty-five to sixty-nine; and to share in the cost of a national health insurance scheme (Moore, Perry & Beach 1966:22).

To ensure full employment the federal government would undertake to extend unemployment insurance by quick stages to all employees in Canada; to extend assistance benefits to unemployed employables not yet or no longer eligible for insurance benefits; and to extend assistance to encourage anticyclical timing of public investment.

In return the federal government proposed the continuation of the Wartime Tax Agreement of 1941 which granted the federal government

exclusive occupancy of the direct taxation field (personal, corporate and inheritance tax). The Dominion offered to pay a new unconditional subsidy of not less than \$12 per head of their 1941 provincial population. These new subsidies were to supplant all existing statutory and special subsidies and unconditional grants previously in effect (Moore, Perry & Beach:1966:22).

The position of the provinces in 1945 was not at all similar to their position during the war when they temporarily vacated the direct taxation field. In 1941 the provinces, struggling with Depression debts and confronting the gloomiest year of the war, had adopted a cooperative posture. However, the particular combination of penury and patriotism which led to the War Time Tax Agreement was no longer to be had. The boom in the war economy had the more industrialized provinces anxious to resume their pre-war taxation jurisdictions. As expected the "have-not provinces", that is the Maritimes and the Prairies, were generally in favour of the federal offer since they stood to gain financially from the proposed arrangements. Quebec and Ontario, however, could not be persuaded to relinquish their taxation jurisdictions. After nine months of negotiations the federal and provincial governments were stalemated and the Green Book Proposals were shelved.

Although the "package" was never to be implemented the approach adopted in the Green Book Proposals marked federal government social policy for the next three decades. Instead of the bold leap outlined in the Green Books, the history of Canada's welfare state was one of painstaking negotiation around the jurisdictional pitfalls of ten diversely endowed and motivated provinces. Nevertheless, the die was cast. The

pitfalls did not outweigh the structural pressures pushing towards a new activist role for the state. Labour and capital remained tenuously balanced in the post-war period of high employment--high production, and the necessity to mediate, even in periods of quiescence was not diminished. The war years were formative in giving momentum and direction to the new welfare ideology and in seeing the implementation of a number of key welfare statutes.

### Welfare Legislation

Between 1940 and 1948 13 new federal welfare statutes were passed which are listed in Appendix III.C. Nine of the statutes dealt with veterans' benefits while the remaining four laid the ground work for the welfare state. As with the First World War, federal responsibility for veterans and their dependants escalated dramatically. Government commitments increased 9 fold from a peak expenditure of \$76 million in the First World War to an expenditure of \$605 million in 1946. The increased commitment to veterans mirrored the new attitude to welfare in general. The legislation introduced during this period consisted largely of broadening eligibility and providing more comprehensive coverage for those who were eligible. Improvements in veterans' disability and pension coverage resulted in longer term government support. Thirty years after the Second World War the federal government was paying out \$684 million in veterans' benefits (Leacy, 1983 series H19-34).

Although the social welfare statutes targeted to the general population were fewer in number they were destined to have a greater impact upon Canadian society in the long run. By the end of the war two

major social security programmes, Unemployment Insurance and Family Allowance, were in place, a federal health and welfare department and bureaucracy had been created and the federal government was actively involved in the funding and construction of housing. An understanding of why these statutes were enacted while others failed lies in an appreciation of the government's role as economic manager. Most particularly one might wonder why Family Allowances were instituted in preference to the National Health Insurance Bill. Contrasting the characteristics of these two proposals reveals the logic behind federal welfare legislation during the war years.

If one uses a political pressure or legitimacy model for explaining the introduction of social security schemes then Health Insurance should have been preferred on all accounts over Family Allowance. We suggest that the reason that this was not the case lies in the particular conditions of government mediation of production and reproduction during the war years. During this period the government was called upon to simultaneously manage the economy and the population. However, both as the experience of the Depression and the Beveridge Report had shown, "taking care of business" was not synonymous with taking care of the population. Nevertheless, in the position of direct management the government was called upon to do both.

Our analysis suggests that in this position the government would opt for those programmes which could simultaneously solve war production problems, as well as respond to the mounting pressure for social security legislation. Using these criteria the National Health Insurance scheme had little to recommend it as it would have virtually no impact upon

production, in the short run. Family Allowance, on the other hand, like Unemployment Insurance and the National Housing Act had the virtue of solving major war management problems in the form of innovative social security programmes.

Of the four welfare statutes enacted during the war years the Unemployment Insurance scheme had the longest history of consideration and debate. In spite of this fact, the passing of the Act had a hasty quality to the process associated with war-time emergency which characterized most of the welfare legislation at this time.

An Unemployment Insurance Bill had been proposed by the Conservative government and passed the House in 1935. However, it was ruled 'ultra vires' the same year when the Ontario government challenged it on jurisdictional grounds. When the Liberals took over the following year Unemployment Insurance was in a state of suspended animation due to the jurisdictional problems. At this time the new government was committed to a balanced budget and a reduction in federal responsibility for relief expenditures. Thus the new Prime Minister's only initiative was to appoint a National Employment Commission to study the issue, undoubtedly on the assumption that research was an acceptable excuse for inactivity. For when the Commission submitted its report in 1937 strongly urging the immediate adoption of unemployment insurance it occasioned a serious split between the civil service and the Cabinet (Struthers 1983:180). The government delayed the release of the report and fought its recommendations announcing that without unanimous provincial support of constitutional reform there would be no consideration of an unemployment insurance scheme until the tabling of the Rowell-Sirois Report. Thus the

Liberal government spent the first three years of their administration resisting all attempts to introduce the bill.

The outbreak of the war in 1939 changed the situation. According to the Labour Minister the war itself had created a compelling new reason for unemployment insurance, "namely, the need for affording a cushion when we are faced with the problem of demobilization and the cessation of war industry" (Struthers, 1983:197). Convinced that unemployment insurance was a critical component of war management King now actively sought out and received the co-operation of the provincial premiers. The last hold out, Alberta agreed in the early months of 1940. On July 10 the British Parliament amended the BNA Act to give the federal government exclusive jurisdiction over legislation in the field of unemployment insurance. On August 7, 1940 the Unemployment Insurance Bill had passed the House and received royal assent.

The plan, like its predecessor the Employment and Social Insurance Act of 1935, was modelled on British legislation. In spite of the limitations of the Act--excluding certain occupational categories and introducing the precedent of having benefits and contributions wage-related--it was the largest social security programme introduced in Canada up to that time. The programme aimed at covering 75% of wage earners and included 4.6 million people in its first year of operation.

The Liberal government's dramatic about face on this issue appeared to have more to do with war management than with the plight of the unemployed. The insurance scheme offered the Liberal government an opportunity to kill two war management problems with one stone. First, it offered a concrete and comprehensive response to the demobilization

problem the government envisaged at the end of the war. As the governor of the Bank of Canada pointed out, post-war workers would "likely face unemployment with much greater resentment--to put it mildly--than displayed during the Depression years. In the interests of peace, order and good government Ottawa would have to assume full responsibility for the problem" (Struthers 1983:206). Second, the generated funds (which would not begin to pay out for two years) would constitute a significant source of revenue for the war effort. "While contributions under the scheme (i.e., unemployment insurance) will not be a tax, they will, nevertheless, achieve this same purpose of diverting a proportion of the national income from present private expenditures to place it at the disposal of the government" (King Papers 15 July 1940). The Finance Department's predictions were correct. By 1945 the par value of the reserves of the fund stood at about \$300 million and the accrued interest amounted to approximately \$2 million. With workers receiving only 6% the..."Unemployment Insurance Act worked admirably well in transferring about \$280 million throughout the war from the hands of labour to the coffers of the state" (Cuneo 1979:15).

After five years of foot dragging delay, the war provided the means (provincial co-operation) and the motives for a rapid introduction of unemployment insurance in Canada. Regardless of the motives that lay behind it, it was a landmark piece of social legislation. In sheer administrative and financial terms, the Unemployment Insurance Act was a crucial milestone in the development of the Canadian welfare state. "In one stroke 3,000 new civil-service jobs were created and 1,600 federal

offices were opened in cities and towns across the country" (Struthers, 1983:202).

In 1944, the year after the CCF overtook the Liberals and Conservatives in the public opinion polls, the federal government introduced three new welfare bills, The National Health and Welfare Act (SC 1944 c.22), The National Housing Act (SC 1944 c46) and the Family Allowances Act (SC 1944 c.40). The first Act was at the behest of Mackenzie, the Minister of Pensions and Health who thought a separate ministry would increase the momentum for the health insurance bill he strongly supported. While Mackenzie never saw the implementation of the Health Insurance Bill during his term in office, the National Health and Welfare Act laid the departmental groundwork for the development of a federal welfare bureaucracy.

The National Housing Act was recommended in the Curtis Report which advised large scale federal intervention in the housing market with a special emphasis upon the provision of low rental housing. This report researched and edited by Marsh viewed housing policy as part and parcel of a comprehensive social security system. As conceived in the Curtis report the Act would have a substantial impact upon the living conditions of low-income Canadians. This impact was relatively shortlived, however, as federal involvement in the provision of housing lasted only as long as federal management of the economy.

The implementation of the full intention of the Act was found only at those points in which housing policy intersected with war production or demobilization plans. During the war years the agency administering this Act produced a total of 45,930 wartime houses in centres where war



industries were located. During the reconstruction period (1947-49) a home building programme entitled Veterans Rental Housing aimed at building 10,000 homes per year as part of a national demobilization strategy (Guest 1980:128).

However, once the government vacated the field of economic management, the low income housing projects were given lower priority. Bowing to the primacy of the private market in the post-war period, programme emphasis shifted to the maximization of private home ownership through the provision of low interest mortgage monies. As a result, the programme's major beneficiaries became the housing industry and middle income families.

Although the implementation of the act did not live up to the original intent of the Commission in the immediate post-war period, an important precedent was set during the war for substantial federal subsidization of housing for Canadians.

Three of the four welfare statutes passed during the war had a direct link with the management of the labour force and the economy. The only exception was the Act creating the Department of Health and Welfare. Unemployment insurance generated millions of dollars for the war effort and provided a cushion during demobilization; family allowances made it politically possible to depress wages below their market value; and the Housing Act provided an essential infrastructure for rapid relocation of labour. The regulatory nature of state intervention during the war is not surprising given its dual mandate of managing the economy as well as the country. However, we should not lose sight of our argument that state mediation is supportive as well as regulatory. The short term utility of

Family Allowances or Unemployment Insurance to war management does not negate the long term significance of these programmes for the redistribution of income to reproduction. A look at the growth of welfare expenditures and the transfer of resources from production to reproduction it entails will reveal the more benevolent face of the welfare state.

### Welfare Expenditures

We have argued that a central strategy of the state in dealing with the lack of fit between production and reproduction was the development of a system of reallocating income outside of, and noncompetitive with the wage labour system. In the earlier periods this took the form of allowances to people who were considered unable to work, mothers, the elderly, or the disabled. The most significant change in the ideology and design of welfare which took place during the war, was the move beyond welfare as a substitute to welfare as a subsidy for wages. The three major welfare statutes of the war years, Family Allowances, Unemployment Insurance and Housing did not exclude, and in fact, were specifically focused on the able bodied worker, who by virtue of circumstance (that is, had children, could not afford housing or was temporarily unemployed) was eligible for assistance from the state.

The legitimation of welfare for the employed dramatically increased the proportion of the population entitled to assistance from the state. By 1947 one and a half million Canadian families were recipients of family allowances and 4.6 million Canadians were registered with U.I.C. (Urquhart & Buckley:1965:Series C14-26). More comprehensive programmes required a national resource base to meet the increasing expenditure

commitments. In addition, as the number of social welfare recipients and expenditures grew so also did the federal bureaucracy, almost tripling from 46,000 to 125,000 in the eight years under review (Bird:1970:299). By the end of the war it was clear that the federal government would, of necessity, be the key actor in the field of welfare in the third period.

Despite massive war expenditures the federal government's welfare expenditures increased dramatically from 1939 to 1947. Table 7.3 indicates that when family allowances are added to the general welfare category expenditures increased from \$78 million in 1939 to \$411 million in 1947. The family allowances programme alone accounted for over half of the increase, with expenditures of \$263 million in 1947. Using the broader definition of social welfare, which includes health, veterans' benefits, and education, federal expenditures went from \$140 million in 1939 to well over \$700 million in 1947 (Leacy, 1983:Series H19-34).

Table 7.3

Federal Social Welfare Expenditures Classified  
by Function for Selected Years 1939-47  
(in millions of dollars.)

Year	Veterans	Health	Family Allowance	Welfare	Education	Total
	\$	\$	\$	\$	\$	\$
1939	60	1	-	78	1	140
1941	58	1	-	51	7	117
1943	70	1	-	75	6	152
1945	402	2	173	111	14	702
1947	341	8	263	148	10	770

Source: Leacy, F.H. Historical Statistics of Canada 1983, Series H19-34.

The war years were characterized by a period of consistent growth in state welfare expenditure and a continuing pattern of fiscal responsibility. During a period of high unemployment and increased federal social expenditures provincial social expenditures increased as well. While the absolute expenditures of local governments increased, their relative importance declined in the face of rising federal involvement.

Table 7.4 indicates that the growth of expenditures on all social services (welfare, education, health, and veterans' benefits) was escalating in all three jurisdictions absolutely and proportionately. Social welfare expenditures were shared at the federal level. In 1941 social welfare expenditures were divided between the three jurisdictions; however, federal expenditures accounted for 62% of all government social expenditures.

Year	Government		Social Services*		Municipal	
	Amt. \$	%	Amt. \$	%	Amt. \$	%
1941	345	33	10	10	125	36
1943	393	41	30	30	134	34
1945	967	69	16	16	145	15
1946	1,327	96	14	14	178	13
1947	1,187	73	22	22	208	18

\* Social Services-includes Welfare and Education, Health and Veterans' Benefits.

Source: Urquhart, M. and Buckley, K. Historical Statistics of Canada 1965, Series H148-160, H188-196, H176-187, H161-175.

A final measure of the growing welfare mandate of the state is the increasing importance of social welfare in the overall pattern of government expenditures. Although government expenditures, in general, began to decrease after the war, social welfare expenditures continued to accelerate. Table 7.5 indicates the increase of social welfare expenditures both in absolute terms, from \$345 million in 1941 to \$1.1 billion by 1947, and as a percentage of the overall budgets of all jurisdictions in Canada.

Table 7.5

All Governments Social Welfare Expenditures  
in Relation to  
All Governments Net General Expenditures  
Canada 1941-1947  
(in millions of dollars)

Year	Net General Expenditure	Social Welfare Expenditure	Social Welfare Exp. as % of Net
	\$	\$	
1941	2,376	345	15%
1943	5,572	393	7%
1945	5,683	967	17%
1946	3,357	1,327	40%
1947	3,097	1,187	38%

Source: Urquhart, M. and Buckley, K. Historical Statistics of Canada 1965, Series H148-160.

A new pattern of increasing fiscal commitment at all three levels of government had emerged. This pattern, evident by the end of the war, indicates a massive reallocation of income to the reproductive sphere.

The Legacy of the War Years

The war and reconstruction period saw a dramatic growth in the Canadian economy under conditions which altered the balance of power between capital and labour. During this period the government was called upon to simultaneously manage the economy and the population. This mandate changed the structure and pattern of state mediation in two ways. First, as managers, government intervention in the spheres of production and reproduction became much more direct. Second, the locus of government mediation switched to the federal level. Under the pressures of war management, precedents were established for greater government intervention in labour relations and federal responsibility for social welfare.

The new balance of power between capital and labour pushed the state to pursue policies which would at one and the same time cushion capital from the growing strength of labour and increase resources to the reproductive unit. This strategy resulted in the introduction of the highly regulative Labour Relations Act (PC1003) and the expansion of the social wage. Despite massive war expenditures the Federal government's social welfare expenditures increased steadily throughout the war years. Because the new balance of power between capital and labour persisted beyond the war years the labour and welfare policies of the forties became prototypes for post war social policy. Although the government retreated from active management to indirect mediation after 1947 the dual strategy of regulating labour relations and expanding the social wage became the foundation for Canada's modern welfare state.

While not the central focus, we have, throughout this study, acknowledged the diverse and sometimes unpredictable impacts of state mediation on different groups of people and over different periods of time. In the first two periods the diverse impacts of state mediation were most explicit in considering individuals and families in different circumstances. In this period, however, the move away from selective interventions to standardized mediations and universal programs resulted in a more consistent impact on Canadian families. The conditions of war, as well as the patterns of mediation, tended to reduce some historic discrepancies. For example, sex-based divisions of labour became less rigid as 600,000 women entered the labour force. Discrepancies in state support for urban and rural families were reduced with the universal application of family allowance. And distinctions between middle class and working class became less severe in a period of full employment and mass mobilization for the war effort. While the new directions in state intervention impacted more evenly on the lives of more Canadians within this period than in the past, the consequences of these mediation patterns varied dramatically over time.

The three best examples of the diverse and unpredictable long term consequences of state intervention during the war are family allowances, unemployment insurance and the Labour Relations Act (PC1003). All three measures were introduced during the war as relatively inexpensive, expedient measures to handle major war management crises and respond to the growing demand for social security. While family allowances started out as a \$200,000 solution to maintain depressed wages it was not anticipated at the time that they would become a billion dollar bedrock

in a national social security network. Similarly, the immediate benefits of unemployment insurance in raising capital for the war effort and forestalling labour unrest in the post-war demobilization period did not anticipate the equally vast expense and level of national commitment to unemployment insurance characteristic of the late 20th century. Finally, PC1003, which later became the Labour Relations Act, appeared as a modest concession in the strife torn years of 1942-43 and 1947 to contain and control workers strength and militancy. However, the Labour Relations Acts acquired a new meaning and effect in the 1960's when service sector workers finally broke into the system and won the protections industrial unions had won in the 1940's.

These dramatic variations over time are, on the one hand, a predicted effect of the tentative and temporary nature of state 'solutions' to structural problems. On the other hand, they are more evident and dramatic in the third period because it was a period in which a new strategy of mediation emerges involving new patterns in production, reproduction, and state organization.

In assuming responsibility for wage subsidization and legislative management of industrial relations, the state became a buffer between capital and labour; it became the other entity with the power to provide income and resources and settle industrial disputes. This process referred to as the politicization of class struggle reduced the polarization between capital and labour by a partial fulfillment of demands and by a significant displacement of conflict from the shop floor to the electoral process and/or regulatory agencies. The adoption of this strategy meant the undoing of previous patterns of mediation, particularly



a changing policy on labour allocation to reproduction, a new pattern of federal fiscal commitments and over time a transition in the demographic structure of Canada.

#### FOOTNOTES

1. While Manitoba did introduce two new statutes into the family law area one was merely a copy of a law introduced in Ontario in the second period and the second was an extension of the maintenance law to permit enforcement with other provinces or countries.
 

S.M. 1946 c. 64    The Testator's Family Maintenance Act - identical to the Ontario Dependents Relief Act (1929)

S.M. 1946 c. 35    Maintenance Orders (Facilities for Enforcement) Act. Provides for the enforcement in Manitoba of maintenance orders made elsewhere and transmission of maintenance orders made in Manitoba to reciprocating states.
  
2. As of the summer of 1943 the whole history of family allowances in Canada was contained in four isolated events. Family allowances were discussed by a Parliamentary Committee on Industrial and International Relations in 1929, by a Quebec provincial commission in 1932, were approved in principle at the CCF convention in 1942 and advocated in the Marsh report in the spring of 1943. To interpret these events as a growing political pressure for family allowances would, however, misrepresent their significance. No reference to any of the four events appears in the planning documents prepared by the department of finance, although the recommendations of Marsh and Beveridge were invoked in the later stages of Cabinet approval to encourage the support of recalcitrant ministers. Reports of the War Information Board indicate that the CCF convention and the Marsh report had no measurable impact upon the press or the public's interest in family allowances. (War Information Board Reports January 1942 - August 1943) For a detailed summary of discussions of Family Allowances in Canada see: B. Kitchen, "The Introduction of Family Allowances in Canada" in Moscovitch, A. and J. Albert (eds.) The Benevolent State, Garamond Press, Toronto 1987
  
3. Labour Relations Law, Industrial Relations Centre, Queen's University, Kingston, 1981
  
4. While labour's position on the development of welfare has been consistently supportive there is a debate in the literature concerning capital's position. Finkel (1979) maintains that the depression resulted in the conversion of a significant number of Canadian capitalists to the idea that state intervention and welfare was an essential balance wheel for modern capitalism. Cuneo (1979)

on the other had, argues that the converted were few in number and the conversion limited to the grim years of the depression. He maintains that post depression Canadian capitalists were consistently antagonistic to state welfare measures. Both theorists, however, concentrate upon the productive sphere, largely ignoring the reproductive sphere. We suggest that more important than capital's ritualistic denunciations of proposed welfare measures is the fact that those proposals were legislated and that the key to understanding why lies in the state's mandate to balance production and reproduction. While we could not expect capital to be enthusiastic about the welfare state we must consider whether they could afford (politically and economically) to do without it.

5. For an excellent summary of the Marsh, Whitton and Cassidy reports see, Dennis Guest: The Emergence of Social Security in Canada Chapter 8 University of British Columbia Press, Vancouver 1980.

## CHAPTER 8

### POST WAR CANADA 1948 - 1968

#### Introduction

The predominant feature of post-war Canada was growth. The years 1948 to 1968 were characterized by a more or less concurrent growth in production, reproduction, capital, organized labour and the state. Post-war Canada appeared to have achieved that elusive goal of balancing production and reproduction. However, against this one dimensional backdrop of growth and stability a major realignment of labour and income flows between production and reproduction was taking place. This process was provoked by the imbalance between the two spheres identified in the war years and shaped by larger centralizing processes in operation in the third period.

During the war years it became evident that previous state strategies for balancing production and reproduction had resulted in a family structure which was heavy on dependents, light on providers and consequently, chronically low on income. On the other hand production was in the position of experiencing an expanding market and high demand in the face of a very tight labour market. In the post-war years this imbalance resulted in divergent pressures for the two spheres. Reproductive pressures were expressed in a sustained demand for more income, largely

directed to the welfare state, while productive pressures focused on labour supplies and labour markets. Unlike the war years the immediate concerns of production and reproduction, labour and capital, did not appear to be on a collision course.

Two major centralizing processes realized in the post-war years determined the parameters, focus and direction of state response to the pressures of production and reproduction. First, the centralization of the state itself, evidenced in federal control over taxation and growing federal responsibility for social welfare programs. This expanded the resources and terrain of state mediation permitting the socialization of reproductive costs on a national scale. The second major process was the centralization of production which was accelerated by rapid post-war economic growth. Evidence of the impact of the internationalization of capital is seen in the increased numbers of mergers and the increased flow of foreign investment in Canada at the time. The flow of foreign capital into Canada accelerated dramatically in the post-war period, the outcome of which was significant foreign ownership of Canadian industry. In 1939, 38% of Canadian manufacturing industry was foreign controlled; by 1970, 61% was foreign controlled, 46% by American interests (Phillips and Watson 1984:34).

The influx of foreign capital into Canadian manufacturing was in part a manifestation of the reorganization and centralization of production characterized by the rising dominance of large global corporations. Table 8.1 documents the rising tide of post-war mergers which gobbled up smaller Canadian firms and absorbed them into

multinational firms. A third or more of these mergers were foreign takeovers.

Table 8.1

## MERGER ACTIVITY IN CANADA, 1945-74

	Number of Mergers	Yearly Average	Foreign	% Foreign
1945-49	289	57.8	76	26.3
1950-59	398	79.6	113	32.7
1955-59	698	139.6	271	38.8
1960-64	959	191.8	383	39.9
1965-69	1,572	314.4	574	36.5
1970-74	1,838	367.6	604	32.9

SOURCE: D.N. Thompson, "Mergers, Effects, and Competition Policy: Some Empirical Evidence," Table 1 in Cross, M. & C. Kealey, Modern Canada p.35, McClelland & Stewart, Toronto 1984.

The global organization of production created the necessary conditions for a global labour supply. The consequences of production exceeding the boundaries of the nation state are many and varied. For the purposes of our analysis two factors are particularly relevant: first, the liberation of capital from any concern about reproducing a domestic labour supply; and second, the consequent shift in the value of women's labour from reproduction to production within industrialized nations. Under these conditions state mediation strategy in the post-war years was substantially different from earlier periods.

At the national level production increased as capital in Canada (not necessarily Canadian capital) rushed to take advantage of the overwhelming demand for goods and services after the war. Thus, while the global

restructuring of production resolved any long-term concerns about cheap labour supplies, the immediate demands presented employers with circumstances similar to the war years--full production, full employment, and a strong organized labour movement. Once again, corporate interests looked to the state to secure industrial peace and cheap labour supplies.

However, corporate interests were not the only interests that had to be dealt with by the Canadian state. The continued commitment of Canadians to secure a better standard of living maintained its momentum in the post-war period. This powerful social consensus was articulated in the demand for national welfare programs. This demand was directed to the federal government through electoral pressure, lobbying from organized labour and aggressive, if unpredictable pressure from the provinces. With corporate interests pulling in one direction, and the population, its labour organizations and the provinces pulling in the other, the potential for polarization and conflict was high. However, the post-war years were characterized by amazing quiescence, a period of political and industrial peace of remarkable length.

The ability of the state to come up with the necessary compromise was based on two factors: first, the generation and circulation of enormous amounts of capital in the twenty years following the war; second, the apparent parallel, rather than conflicting demands of the two spheres. The imbalance between production and reproduction was experienced by the family as an income shortage, whereas it was experienced and expressed by capital largely as a labour shortage. This permitted both spheres to exert strong pressure upon the state without coming into direct confrontation with one another, as happened during the war years.

The state's response to demands from the reproductive sphere for income was the welfare state--the combination of services (medicare), and cash transfers (Family Allowances) which increased all state expenditure on social services 1000% in the post-war period. Social welfare expenditures rose from approximately \$700 million in 1947 to nearly \$7 billion in 1968 (Leacy, 1983, Series H19-34). The rapid growth of the Canadian economy permitted the state to meet these demands and to extend an equally generous hand to capital.

The state's responsiveness to corporate interests was evident in both financial concessions and labour policies. Among these concessions were: the sale (at low prices) of government created industrial capacity to private corporations after the war (Phillips and Watson,1984:34); substantial post-war corporate tax rebates (Perry,1955:346); a liberal open-door immigration policy, legislation facilitating the employment of women and a sympathetic reading of the Labour Relations Acts which maintained industrial peace but contained unionization. While the range of benefits flowing from the state were substantial, we will concentrate on those concessions which effected a realignment of labour and income between production and reproduction. In short, we will examine the labour and welfare legislation which resulted in the systematic absorption of women in the labour force and the creation of the modern welfare state.

The organization and discussion of this period is quite different from the earlier periods because the historical circumstances were very different. It was a period of balance rather than crisis. The contradiction between production and reproduction was temporarily muted by the parallel rather than colliding nature of their short-term demands,

income for the family, labour for production. Out of the pressures of the war years both capital and labour made compromises. The position of capital with regard to organized labour was one of accommodation where necessary and automation where possible. In turn, labour's position was to accept the fact that the earned wage would never be sufficient and to direct considerable energy towards the extension of the social wage. Further distinction was added by the fact that this was a period in which the political-economic significance of women's reproductive labour plummeted while their actual reproductive rates soared. All of these factors combined with the escalating level of state intervention to obscure the on-going dynamic of and contradiction between production and reproduction.

The state's assumption of responsibility for the social wage and the legislative management of industrial relations, reduced the polarization between capital and labour by a partial fulfilment of demands and by a significant displacement of conflict between the two spheres to the electoral process and/or regulatory agencies. This displacement of conflict dramatically altered the form in which productive-reproductive pressures were felt within the system. In this period much of the action around resolving the competing pressures for income between the two spheres occurred at the federal-provincial negotiating table. While the pressures continued to originate with the lack of fit between the productive-reproductive units, these pressures became rapidly translated into a bureaucratic form. For example, demands for more income or services from Canadian families were felt first at the provincial level, provincial governments then became the carriers of these expectations to



the federal government and these expectations then became the focus of federal-provincial negotiations over taxation agreements and transfer payments. Similarly, labour-capital disputes over contracts, wages, and unionization became quickly transferred to the Labour Relations Boards activating regulatory agencies to resolve disputes which reflected the underlying conflict between the structures of production and reproduction. This was, of course, the intended effect of mediation, to switch the terrain of dispute to more neutral grounds, to locate or create mechanisms for compromise.

During this period the competition between production and reproduction for income and labour resources was not only experienced and expressed differently, they were in one important regard substantially different. The active possibility of a global labour supply removed the imperative from the state to secure the long-term interests of production by 'protecting' labour resources for reproduction. As a result this was the first period since industrialization in which there was no political, economic or social pressure upon the state to restrict the use of female labour in production. In the absence of countervailing pressures and the presence of a rapidly expanding economy the state readily removed barriers to the employment of women, accommodating production's primary pressure for more cheap labour.

The substantial realignment of labour and income resources between production and reproduction undertaken in the post-war years was not, of course, without consequences. Evidence of a growing imbalance between production and reproduction is seen in the declining birth rate, the skewed demography, the growing ratio of dependent to productive members

of society and in the flight of capital to avoid the high costs of Canadian labour. However, these consequences would not be visited upon the Canadian population or the Canadian state until the end of the third period. As a result the focus of our discussion of this period is two-fold; first, a recounting of the processes and pressures which led to this restructuring and second, an analysis indicating the longer term problems inherent in this temporary and tenuous moment of balance.

### Restructuring Reproduction

The state's support and subsidization of the family has been a two-fold process since the onset of industrialization; the allocation of female labour to reproduction and the direction of income resources to the family. In the post-war years the first function of state support was entirely abandoned. This resulted in a restructuring of the labour force and a restructuring of reproduction, specifically, the erosion of the support-service marriage structure. In this section we will address the question of how this dramatic reversal in state policy towards the family occurred with so little notice and no controversy. This question arises out of the contrast with which the issue of women's employment was addressed and 'resolved' in the first and second period.

At the turn of the century the idea of women's employment encountered a wall of social resistance, gave rise to an international social reform movement and over half a century of restrictive, pro-natalist legislation. One might wonder why the issue which mobilized a nation at one moment in history would pass without remark in another. The answer lies in locating the point at which the contradiction between

production and reproduction becomes manifest in each period. One of the most important variables in determining this point is the birth rate. The long-term trend in wage labour systems is for women's employment to be inversely related to birth rates, a visible indicator of the balance between production and reproduction.

At the turn of the century Canadians experienced the first impact of the wage labour system upon reproduction. The impact was powerful because of the absence of any comprehensive social programs to cushion the blow. As a result, the inverse relation between women's employment and the birth rate was distressingly evident. In addition, the process of industrialization resulted in a serious disruption of the reproductive unit and a concentration of its casualties in urban centres across the country. In chapters 4 and 5 we reviewed the process whereby Canadians came to see a relation between industrialization, urbanization, family dissolution, abortion, abandonment and the declining birth rate. While the underlying cause was the lack of fit between the wage labour system and the structure of reproduction the obvious, manifest symptom was the employment of women and children. Thus, the process of saving the family and reducing all the ugly social problems associated with its dissolution became synonymous with protecting women and children from employment. The result was the legislative engineering of the support-service marriage structure, the male-breadwinner, female-homemaker family ideal.

In the third period Canadians experienced the impact of the wage labour system on reproduction through a cushion of social welfare programs and a filter of unprecedented economic prosperity. The impact was neither harsh nor unfamiliar and the tension that did exist focused on the issue

of income and social services. There was no need to "save" the family. Post-war family ideology was a celebration of the triumph of the nuclear family. The evidence was impressive; increased marriage rates, increased birth rates, a vibrant and growing population combined with a vibrant and growing economy. The reversal of the typical inverse relation between women's employment and birth rates was dramatic but somewhat misleading. The increased birth rate was a relatively shortlived anomaly, it lasted for 15 years. However, its impact on public attitudes to women's employment was much more profound.

Because the depression had so dramatically reduced the rate of reproduction, the return to pre-depression birth rates had the effect of creating a baby boom.<sup>1</sup> The average crude birth rate prior to the depression (1921-1926) was 27.4. The average crude birth rate in the immediate post-war years (1951-1956) was very similar at 27.9. The combined effect of the end of the war, high employment and more income resulted in an increase in the marriage rate, especially early marriages. Early marriages led to childbearing at increasingly younger ages at the same time that older couples were making up for delays in childbearing caused by the depression and the war (Romaniuc:1984:p.13). Between 1952 and 1965 close to half a million children were born annually. The rate of natural increase went from 9.7 in 1937 to 20.0 in 1957 with an average crude birth rate of 27.9 and the Canadian population doubled--from 10 million in 1930 to over 20 million by 1971 (Leacy, 1983, Series B1-14). While immigration rates were also very high the increase in population was largely due to natural increase, as demonstrated in Table 8.2. The convergence of the baby boom with the first 15 years of women's slow

Table 8.2

Components of Canada's Population Growth, 1931-1976  
( '000s)

	Total Increase	Natural Increase	Net Migration
1931-1941	1,130	1,222	-92
1941-1951	2,141	1,972	169
1951-1961	4,228	3,148	1,080
1961-1971	3,330	2,608	722
1971-1976	1,424	931	493

SOURCE: Statistics Canada, Perspective Canada II (Ottawa, 1977), Table 1.2; F.H. Leacy, ed., Historical Statistics of Canada, 2nd ed. (Ottawa, 1983), A339-49.

but steady absorption into the labour force obscured any awareness of competition between the two spheres for labour.

While conditions in Canada converged to increase the domestic supply of labour, international conditions and liberal immigration policies were augmenting the adult labour supply. Post-war Europe was a source of a large and desperate labour pool of war refugees and displaced persons. In April of 1947, the Canadian government repealed an order-in-council of a generation earlier which had prevented contract labour being brought into this country. A special committee of government and industrialists was struck and empowered by Privy Council Orders to recruit and contract labour from displaced persons' camps in Europe. Between 1947 and 1951, 100,000 war refugees were recruited by this committee for Canadian employers experiencing labour shortages (Dirks 1977:151-152). While this special recruitment program ended in 1951 large numbers of immigrants continued to be a source of cheap labour throughout the post-war period.<sup>2</sup>

Over a million and a half immigrants entered Canada between 1951 and 1960 and another 900,000 entered between 1964 and 1968 (Dirks 1977:260). The rate of natural increase combined with the increased immigration rate to suggest an unlimited supply of labour. Indeed the Canadian labour force doubled from 4 million in 1948 to 8 million in 1968 (Leacy 1983, Series D8-55). Earlier resistance to women's employment based on concerns about labour supplies was nonexistent in the post-war period.

As the conditions of reproduction were changing to favour the employment of women so also were the conditions of production. General improvements in the hours and conditions of work eroded the legal distinctions between male and female conditions of work. In addition, the rapid post-war development of the tertiary sector increased the number of temporary, part-time and full-time employment opportunities well within the regulations applied to female labour. The amenability (by structure and design) of this sector to part-time and temporary employment permitted the presentation of such employment as a complement to, rather than a competition with women's reproductive responsibilities. The baby boom gave further credence to the new concept of the compatibility of employment with women's familial roles. Further, the selective recruitment and hiring of women into the expanding tertiary sector created socially acceptable (pink collar) ghettos of women's employment. This resolved any social or moral dilemma about women's place and reassured men in the "traditional" industrial sector that women's employment posed no threat to them.

The improved conditions of work, and the part-time and flexible nature of employment obscured the underlying reality that the increasing

absorption of women in the labour market amounted to an intensification of female labour. The intensification occurred across spheres as women's labour was increasingly in demand in both production and reproduction. At the beginning of this period, the 1941 census indicated only 4.5% of married women were employed; however, by the end of the third period the 1971 census indicated that 33% of married women were in the labour force. Cross-sphere intensification involves an increase in the productive/reproductive labour ratio, that is, more hours of labour being expended in production in order to sustain a reproductive unit. The changing ratio was reflected in the fact that the majority (57%) of Canadian families had one wage earner in 1951 in contrast to the majority (64.9%) of Canadian families with multiple wage earners in 1971 (Armstrong and Armstrong 1978:157).

This process constituted a radical restructuring of the reproductive unit, as well as the labour force. The support-service marriage structure based upon the allocation of women's labour to reproduction would be seriously undermined. Ironically, the intensification of women's labour and the increase in the productive/reproductive labour ratio, processes which further subordinate reproductive interests to productive interests, are first experienced as beneficial to the family. The increased opportunities for women's employment, coupled with the extension of the welfare state addressed the immediate income shortage experienced by families. Because the needs of capital (for cheap labour) coincided with the short-term needs of the family (for income) this major transition in state mediating strategies and reproductive structure proceeded with little controversy or debate.

The reallocation of women's labour to production represented a structural subordination of reproduction to production; however, it also represented the potential for greater economic independence for women. Thus, while the reproductive unit was subordinated the individual member who had anchored that unit, the wife/mother, was provided with greater freedom. The state's support/commitment to reproduction switches from a process of allocating women's labour to reproduction to a process of allocating income/services to reproduction. As such the state was directly associated with increasing flows of income and services to the family and was not directly associated with limiting women's options in the labour force (although labour legislation did have this effect through omission). As a result the state and social patriarchy presented a uniquely benevolent face during this period.

In the halcyon days of the post-war welfare state the restructuring of reproduction was, itself, not apparent and hence its consequences were not anticipated. The proud, patriarchal pronouncements of Talcott Parsons and the whole school of nuclear family celebrants were premature in their assertion that the modern family was particularly well suited to the requirements of industrialized societies. In the absence of a "crisis of the family", state support for a critical underpinning of the nuclear family was removed. As the state abandoned its role in allocating female labour to reproduction the nuclear family would undergo a gradual but fundamental change.

By the mid-sixties the consequences of women's employment began to be felt. The traditional nuclear family was on the verge of becoming a minority, birth rates were down, divorce rates were up, abortion had once



again become a central social issue and women were beginning to articulate their anger with a double work load and 50% pay. These issues were articulated on a national scale in 1967 in the Royal Commission on the Status of Women, the final state activity we will examine in this period. What follows is a discussion of the interaction of capital, labour and the state which restructured the labour force and the family and created the conditions calling for a Royal Commission on the Status of Women.

#### Restructuring The Canadian Labour Market

In the post-war period capital embarked on a course of protecting its income interests through management and control of the labour process rather than direct confrontation with organized labour over the wage. The goal was to contain unionism and control the costs of labour. The method was a segmentation of the labour market, which could concede higher wages to organized workers while preserving a large category of unorganized low-wage workers. The segmentation strategy combined with the expansion of the tertiary sector dramatically increased the demand for low wage, semi-skilled workers. Women constituted the largest pool of such labour in Canada, and were, therefore, a key component in the segmentation strategy of capital. This strategy, in the absence of any countervailing pressure resulted in the massive absorption of women into the labour force. Our review of the process which restructured the Canadian labour market, as well as the Canadian family will proceed in the following order: first, capital's labour market strategy; second, its effect on labour markets, particularly the employment of women; third, labour's response; and finally the role of the state.

Studies in the U.S. and Canada have suggested that capital's response to labour's new post-war bargaining power was to restructure and rationalize the labour process.<sup>3</sup> Rationalizations in the labour process, however, presupposed certain rationalizations in the productive process much of which were well underway during the war and accelerated in the post war period. To begin with, many large employers observed that effective systems of labour management depended upon successful systems of demand management. Stable product demand enabled employers to provide steady employment and to automate to offset workers' wage demands through increasing productivity. Thus the old division between large and competitive capital became even more pronounced. Large multinational corporations concentrated in fields in which monopolization would secure stable demand, either contracting out or developing separate establishments for aspects of the productive process subject to cyclical demand and higher risks (Gordon, et. al., 1982:191). The growing distinction between core and periphery industries can be measured by the increasing concentration of capital. Data on merger activity in Canada indicate rapidly increasing rates of concentration from 1945 to 1969 as demonstrated in Table 8.1.

Capital's ability to meet organized labour's wage demands without serious encroachment upon profits was based upon increasing automation which both increased the productivity of workers and reduced their numbers. Increased capital intensification, however, was only profitable in industries which had secured a stable demand and only necessary in industries where labour was strong. To the distinction of size and concentration between core and periphery industries was added the

distinction of automation. Core industries 'enjoyed' both the necessary conditions (secure market, economies of scale) and pressures (unionized labour force) to encourage automation, while periphery industries lacked both.

As clearly articulated differences between core and periphery industries accelerated in the post-war period recruitment and hiring practices began to be tailored to the needs of each sector. This period witnessed a growth in personnel departments and a move to centralized hiring procedures permitting a much more systematic selection of workers into different aspects of the production process. The unionization of workers in core industries was accepted and accommodated while strong resistance was met by workers attempting to extend unions into periphery sectors of industry and the labour intensive tertiary sector. Strategies for developing a segmented labour market were assisted by the differential pattern of unionization. Core industries, with a vested interest in stable labour supplies, offered unionized jobs, with internal job ladders and job security which attracted skilled, white male labour, Canada's traditionally advantaged labour pool. Periphery industry and the tertiary sector offered non-unionized jobs, with little promotional opportunity and little on the job training which attracted unskilled, marginal labour such as women and immigrants, Canada's traditionally disadvantaged labour pool. With the massive expansion of clerical and service occupations in this period, employers maximized the use of temporary and part-time labour to keep labour costs down in such labour intensive occupations. Thus by structure and design distinct primary and secondary labour markets emerged. While this distinction was not new it acquired greater

structural stability and significance as employers streamlined their hiring practices, as the distinction between core and periphery industries increased and as the tertiary sector expanded.<sup>4</sup>

To a large extent the segmentation strategy was dependent upon the existence of a large pool of marginal and latent labour in this period of high employment. In Canada women provided the single largest pool of such labour. Therefore, the increasing absorption of female labour can be understood in terms of the ongoing rationalization of the labour process. The segmentation strategy both fed upon and reproduced women's historic segregation within the labour market.

#### Structural Characteristics of the Canadian Labour Market 1948-1968

Given the theory and the postulated goals of the segmentation strategy its application should produce the following effects: first, a growing discrepancy between core and periphery industries; second, a consistent wage differential between the two sectors; third, little labour mobility between the two sectors, and finally, the extensive use of female labour to fill the secondary labour market. Research on sexual segmentation of the labour force in the tertiary sector is abundant. However, studies of labour market segmentation in manufacturing are limited in Canada. The best evidence that can be presented is a number of illustrative studies which vary over time period and focus but most of which have findings consistent with the wage and employment patterns predicted by segmentation theory.

Studies of Canadian manufacturing from 1950 to 1970 conducted by Aw (1980) and Kumar (1974) provide evidence of growing discrepancies between

core and peripheral industries, consistent wage differentials between the two sectors and little labour mobility between the two sectors.<sup>5</sup> Kumar's study also provides additional information on the impact of the sexual composition of the labour force. He found that the sexual composition was the most significant factor in inter-industry wage differentials for workers of equal skill. His data revealed that a one percent difference in the proportion of females caused a five percent differential for unskilled labour and a three percent difference in wage rates of skilled labour (Kumar: 1974:68).<sup>6</sup>

Several Canadian studies (Armstrong & Armstrong 1979, 1984; White 1980; Phillips & Phillips 1983) indicate that three of the four occupational categories absorbing large numbers of female workers during this period were organized in terms of secondary labour process--clerical, peripheral manufacturing, and unskilled personal service workers. The most rapidly growing occupational category, clerical workers, specifically recruited women as it expanded at three times the rate of the overall labour force (Phillips & Phillips 1983:31). In 1941 clerical occupations accounted for 18% of the total female labour force. By 1968 this had risen to 30% (White 1980:38). Second, in the post-war consumer boom the retail-wholesale trade sector expanded dramatically tripling its labour force from .4 million in 1941 to 1.2 million in 1971 (Leacy, 1983 Series D8-85). While men's employment in this sector doubled between 1941 and 1971 women's employment quadrupled. Furthermore, the biggest change was in the occupation sales person, in which women went from being a significant minority of the staff (35%) in 1941 to a clear majority (58%) in 1971. As Armstrong & Armstrong point out, greater detail in

considering industry divisions reveals the striking concentration of women in the lowest-paid sales positions. "For example, the highest average wages within retail trade can be found in liquor, wine, and beer sales (\$121.24), but only 5.8% of employees here are women. However, almost 73% of the workers in variety store sales are women and employees here receive the lowest average wages in retail trade (\$63.78)" (Armstrong & Armstrong, 1979:27).

A third area of expanded employment for women was manufacturing. Two factors influenced the pattern of female employment in this area; first, the expansion of the nonproductive component of manufacturing and second, the increasing use of women as low wage workers by peripheral industry employers. Using 1961 census data on occupations and industries (disaggregated at the SIC three digit level), we analyzed the distribution of male and female employees in manufacturing industries. Looking at the nonproductive occupations we find that although roughly the same proportion of women and men are nonproductive workers (43% and 42% respectively) they were concentrated in quite different occupations. The largest concentration of male nonproduction workers (33%) was to be found in positions labelled by Gordon as independent primary, professional and managerial positions. In contrast the largest concentration of female nonproduction workers (67%) was to be found in clerical positions which are typically organized on secondary labour market principles. In fact 29% of all women employed in manufacturing were in clerical positions in contrast to 8% of all men (Canadian Labour Force Survey Statistics Canada:1961).

For our analysis of all workers in manufacturing we took two samples of industries which conformed to Aw's distinction of core and periphery industries.<sup>7</sup> Given that women made up 27% of the labour force in manufacturing in 1961 we compared the overall sex ratio with the specific sex ratios in the core and peripheral industries. We found that women were underrepresented by a factor of 3 in core industries and overrepresented by a factor of 2 in the peripheral industries.

Table 8.3 documents the sex distribution in ten selected core manufacturing industries in 1961. The data indicate that in all categories except printing and publishing women were significantly underrepresented relative to their overall presence (27%) in the labour force at that time. The table also indicates that within the core industries women's salaries were substantially lower than men's.

Table 8.4 documents the sex distribution in fourteen selected periphery manufacturing industries in 1961. The data indicate that in all categories except furniture women were significantly overrepresented relative to their overall presence in the labour force. The table also indicates that the discrepancy between male and female wages was even greater in periphery industries than it was in the core industries.

Table 8.3 LABOUR FORCE AND INCOME BY SEX IN TEN CORE MANUFACTURING INDUSTRIES

Industry	Total Labour Force	Men	Women	% Women	Female over/under Rep.	Average Male Wage	Average Female Wage	Female/Male Wage Rate
Breweries	10,474	9,788	686	6%	- 21	4,721	2,926	62%
Tires & Tubes	9,026	7,982	1,044	12%	- 15	4,435	2,833	64%
Pulp & Paper Mills	72,141	67,769	4,372	6%	- 21	4,617	2,715	59%
Printing & Publishing*	84,265	62,649	21,616	26%	- 1	4,104	2,260	55%
Smelting & Refining	24,286	23,172	1,114	5%	- 22	4,873	2,946	60%
Fab. Structural Metal	14,054	13,359	695	5%	- 22	4,140	2,618	63%
Motor Vehicle Assembly	32,564	30,327	2,237	7%	- 20	4,567	3,387	74%
Petroleum Refining	16,036	14,383	1,653	10%	- 17	5,559	2,958	53%
Industrial Chemicals	11,588	10,508	1,080	9%	- 18	5,015	2,840	57%

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\*If we separate production workers from nonproduction workers we find 29,104 men and 5,589 women, women are 16% of production workers in the Printing and Publishing industry.

SOURCE: Census Canada 1961 Catalogue 94-518 VIII Part 2 and Catalogue 94-542 Vol. III Part III



Table 8.4 LABOUR FORCE AND INCOME BY SEX IN 14 PERIPHERY MANUFACTURING INDUSTRIES 1961

Industry	Total Labour Force	Men	Women	% Women	Female over/under Rep.	Average Male Wage	Average Female Wage	Female/Male Wage Rate
Fish Products	20,464	14,724	5,740	28%	+ 1	2,040	742	36%
Fruit & Vegetable Canning	13,881	8,840	5,041	36%	+ 9	3,385	1,535	45%
Confectionary	8,298	4,282	4,016	48%	+ 21	3,644	1,812	50%
Rubber Footwear	4,391	2,704	1,687	38%	+ 11	3,523	2,019	57%
Shoes	21,239	11,528	9,711	46%	+ 19	3,053	1,666	55%
Small Leather Goods	6,441	3,475	2,966	46%	+ 19	3,298	1,721	52%
Cotton Yarn & Cloth	18,695	12,675	5,920	32%	+ 5	3,014	1,913	63%
Woolen Yarn & Cloth	8,216	5,067	3,149	38%	+ 11	3,214	1,858	58%
Hosiery	8,908	3,598	5,310	60%	+ 33	3,314	1,741	53%
Men's Clothing	33,693	11,895	21,798	65%	+ 38	3,410	1,631	48%
Women's Clothing	30,800	8,312	22,488	73%	+ 46	3,808	1,730	45%
Child's Clothing	6,542	1,737	4,805	73%	+ 46	3,495	1,524	44%
Household Furniture	23,782	21,150	2,632	11%	- 16	3,024	2,051	68%
Sporting Goods & Toys	6,410	4,014	2,396	37%	+ 10	3,406	1,591	47%

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SOURCE: Census Canada 1961 Catalogue 94-518 Vol. VIII Part 2 and Catalogue 94-524 Vol. III Part 3.

Both sex and sectoral differences were associated with significant wage differentials. Men in periphery industries earned 69% of the average wage of men in core industries, while women in the periphery earned 59% of the average wage of women in the core. Further, within sectors sex remained a significant factor, women earned 60% of the male wage in core and 52% of the male wage in periphery industries.

The one major area of expanded employment for women that was not organized on secondary labour principles was in the field of community services in which women had already secured a traditional hold on certain occupations. With the expansion of the welfare state the increase in teachers, nurses and health technicians served to swell the ranks of female professionals. However, for the majority of women during this period their entry into the labour market was decidedly circumscribed by their selective recruitment into low skill, low wage, secondary labour markets.<sup>e</sup>

#### Labour and the Post War Economy

Organized labour emerged from the war years with an agenda shaped by the depression, the war and its industrial base. While this contributed to labour's success in certain areas it also inhibited their ability to identify and respond to the labour market strategies of capital. As a result labour's performance in this period was highly variable, opening with a tremendous show of militancy and organization followed by fifteen years of dissension and stagnation and ending in an outbreak of militancy in the late 1960's. While not wishing to minimize periods of militancy and their significant achievements our analysis will

examine most closely the 15 years of labour quiescence as the critical years in the restructuring of the labour market and the reallocation of women's labour. These are the changes which altered the resource flows between production and reproduction changing both the conditions of work and the conditions of reproduction to which the state is called upon to respond.

Labour was strong and united on a number of traditional labour issues, hours and conditions of work, vacations with pay, workmen's compensation coverage and minimum wages. Labour was perhaps most effective in its pursuit of the social wage, acting as a powerful national lobby which pushed reluctant governments to extend social services. However, its ability to recognize and respond to the restructuring of the Canadian labour market was limited. An area in which these limitations were most evident was in its response to the conditions of women's employment.

While women's employment was perceived as a direct threat to the status and security of male workers at the turn of the century it was seen to have no particular effect or impact on men's employment in the 50's. The recruitment of women in the post war period seldom involved the direct replacement of high cost male labour with low cost female labour. While there were a few cases where women did replace men, for example, bank tellers, the preferred practice was to hire women to fill the ranks of the expanding tertiary sector and reduce the costs of male industrial labour through automation. This type of shift in the labour market was not particularly alarming in times of high employment. Furthermore, the recruitment of women into part-time and temporary employment obscured

their growing numbers and importance in the labour force. As a result organized labour's interest in and response to women's employment was very much a 'hit and miss' affair. Three areas which reveal labour's inconsistency on women's employment issues were unionization of the tertiary sector, equal pay and sexually discriminatory legislation.

Post-war efforts to organize the tertiary sector were dramatic but very short lived. Despite some earlier abortive attempts to crack the tertiary sector (CCL's bank drive 1941-42 and the AFL's attempt to organize Simpsons in 1945) the CCL and the CIO combined forces to launch the largest white collar organizing drive in Canada in 1947. Eaton's in Toronto was the target. Three years of organizing, a quarter of a million dollars in expenses and nine thousand employees signed up testified to the seriousness of the effort (Sufrin 1982:203). In spite of all of this Eaton's handily defeated the union by delaying the count (of signed up members) until Christmas, the peak of seasonal employment. Management's right to delay procedures while debating the appropriate certification unit was a simple but effective weapon in a work place characterized by high labour turn over. This experience revealed the necessity of rethinking traditional organizing principles in order to break into the tertiary sector. It was not that unions were hostile to this task it was just that they were less well equipped than their opposition and they did not have an analysis which kept them focused on women or the tertiary sector as a priority.

Encountering serious blocks to organizing the unorganized, union activities became increasingly introverted in the early fifties. More time and energy was spent union raiding and purging left wing unions than

working with the tertiary sector (Roberts and Bullen 1984:125). Thus while capital was honing its skills at scientific management the union movement was caught in the grips of internecine warfare. Women, concentrated in the unorganized sectors were the first victims of this warfare. While the unionized sectors managed to maintain their wages above the industrial average throughout this period the less unionized sectors experienced wages well below the average (Labour Gazette, April 168:202). By 1958 the average hourly earnings in mining, manufacturing and construction hovered around the two dollar mark while the average earnings in service was only one dollar an hour (Lipton 1973:201).

On issues of equity organized labour was also inconsistent and seldom took a leadership role. The historic differential between male and female wage scales was addressed by the ILO in the post war period. After much study and debate the ILO ratified the equal pay for equal work convention in 1951. However, the first formal adoption of the equal pay principle was introduced in Canada, not by a union, but by the Ontario legislature which passed the Fair Remuneration for Female Employees Act in 1951. One year later the CCL passed a resolution on equal pay and included the phrase equal opportunity as a result of some intense lobbying by women members (Labour Gazette 1951:1322). In 1953 the equal pay principle showed up in the TLC resolutions but only as a subsection of a clause on *minimum wage* (Labour Gazette 1953:1291). The two other major unions at the time, the Railway Transportation Brotherhood and the Canadian and Catholic Confederation of Labour were both mute on the issue. Ironically, the first Canadian organization to recommend equal pay for work of equal value was a business organization. In 1956 the Canadian

Federation of Business and Professional Women approved the ILO convention of equal pay, recommending that the federal government pass such legislation and that the provincial legislation substitute the term equivalent work for the original wording "identical work" (Labour Gazette 1956:1000).

Another equity issue which arose in 1950 concerned a revision to the Unemployment Insurance regulations which was blatantly discriminatory. The amendment disqualified women upon marriage from receiving UIC for two years unless they met special employment criteria. This revision was justified by the Commission as a necessary measure to prevent ... "a drain on the unemployment insurance fund through claims from women who, on marriage, are really withdrawing from the employment field" (M.F. Greeg, Minister of Labour, Labour Gazette 1950:1988). In the three months following the implementation of the amendment 10,808 women were disqualified from UIC (Labour Gazette 1951:446). During the seven years this amendment was in force the number of married women in the labour force increased from 303,000 to 543,000. It was estimated by the Minister of Labour that the amendment served to disqualify 12,000 married women annually (Labour Gazette 1957:1504).

Despite the evident discrimination in the new regulations and despite the significant loss of income this meant for thousands of women and their families, the labour unions were once again inconsistent in their response. The most outspoken opponent of the amendment was the Canadian and Catholic Confederation of Labour which, in their annual presentations to the federal Minister of Labour repeatedly called attention to the discriminatory nature of the regulation and called for

its removal. The Canadian Congress of Labour also protested the discriminatory regulation but were less emphatic and persistent. The TLC and the Railway and Transportation Brotherhood never registered any protest in the seven years the amendment was in force (Labour Gazette 1950-57).

In the fifties and early sixties organized labour did not have a strategy which could effectively counteract the segmenting trends in the labour force. While the wage gap between unionized and nonunionized sectors increased, unionized occupations decreased and nonunionized occupations proliferated. Between 1951 and 1971 mining, manufacturing and construction declined 7% in the percentage of the labour force they absorbed while trade, finance and service increased their market share by 15% (White 1980:39). Although labour presented a strong challenge to capital in the closing years of this period the issue remains that the labour market had fundamentally and irrevocably changed. Furthermore, the costs and consequences of these changes to labour would continue to be high. The entrenched segmentation and gender stratification of the labour market not only changed the way in which labour was structured and organized but also changed the flow of labour between production and reproduction. Segmentation would continue to frustrate attempts at organizing labour while the increased employment of women served to extract double the labour time in production in order to sustain a reproductive unit.

Labour Commissions and Inquiries

The pattern of the post-war inquiries, listed in Appendix III.D, is a good reflection of the tide of labour relations of the time. The first post-war decade was very quiet witnessing only two Royal Commissions dealing with the updating of the Workmen's Compensation Acts in Ontario (1949) and Manitoba (1957). The tone of these commissions, their recommendations and subsequent implementation reveals the new commitment of Canadians to the concept of people's entitlement to adequate social security. The report of the Ontario Commissioners in 1949 recommended extension of coverage to all work places where four or more employees requested it, the reduction of the waiting period from 7 to 4 days, increased payments from two-thirds to three-quarters of the worker's salary and enhanced coverage for widows and dependents. Manitoba followed with similar reforms in 1957 and Ontario further extended benefits after the 1967 Royal Commission on Workmen's Compensation.

Workmen's Compensation had become a major program for transferring income into the family, insuring workers and their families from economic crisis due to injury or work related illness. The extension of coverage and the massive growth in the labour force throughout the third period resulted in dramatic increases in compensation payouts. In 1940 Workmen's Compensation payments amounted to \$5 million in Ontario, less than a million in Manitoba and \$17 million in the whole of Canada. By the end of the third period payments had increased to \$68 million in Ontario, \$5 million in Manitoba and throughout Canada close to \$200 million was paid out to workers and their dependents (Leacy, 1983, Series C274-286). Because it is easier for government to respond to the demands of labour



outside the wage determination process, in programs which compensate for, rather than confront the interests of capital, it is not surprising that some of labour's greatest successes in the 1950's were in the social security field.

In the 1960's the number of inquiries increased as all three jurisdictions had to come to terms with two major problems; first, how to deal with the large number of increasingly restless government employees excluded from the Labour Relations Acts and secondly, how to deal with rising labour militancy, wild cat strikes and picket line violence. The solution to the former problem was fairly straight forward and resulted over time in the systematic coverage of previously excluded employees under the Labour Relations Act. The second problem did not lend itself so readily to a solution. Evidence of mounting tension can be traced in the sequence of inquiries into labour disputes in the 60's.

In 1960 Manitoba commissioned an inquiry into the Brandon Packers strike and a year later Ontario commissioned an inquiry into labour-management relations in the construction industry. While both commissions had been called because of circumstances the labour boards had been unable to manage there was a sense in the early 60's that these cases were anomalies. In Manitoba Justice Tritschler reported the lack of cooperation from both the company and the union in conducting the inquiry and the necessity to invoke the Evidence Act to obtain essential information. He condemned the company which had lied to and withheld evidence from the labour board claiming an inability to increase workers' wages at a time when profits were soaring. He also criticized labour for conflict of interest because one of the active participants in the strike

was sitting on the labour board hearing the case. Tritchler recommended a series of reforms to further empower labour boards to obtain necessary company records and prevent conflict of interests.

The Ontario inquiry also brought in a series of recommendations to improve the labour board's management of an industry infamous for the exploitation of their workers. The commission recommended special provisions for the construction industry including the appointment of a Construction Industry Panel to deal with certification, jurisdictional disputes and collective agreements. The commission also called for better enforcement of the Hours of Work, Vacations with Pay and Minimum Wage laws. However, the sense that judicious revisions of labour board regulations could resolve the growing polarization of employers and employees came to an abrupt end with the widespread and alarming numbers of strikes and lockouts that occurred in the mid-sixties.

In 1965 the federal government called an inquiry into labour-management relations in the post office and the following year the Ontario government called an inquiry into Labour Disputes. Finally, reminiscent of the circumstances leading up to the War Labour Board Inquiry in 1942 (when 33% of the nation's working time was lost through strikes and lockouts), the Privy Council of Canada commissioned the Woods Task Force on Labour Relations in 1966.

The Ontario commission conducted by Justice Ivan Rand held out a plan for restoring industrial peace that pleased employers and outraged the labour movement. The Rand report recommended that unions become legal entities, able to sue or be sued, that mass picketing and boycotts be banned and above all that a labour court be created armed with sweeping

powers to report on disputes and to end strikes and lockouts in industries deemed essential, all without appeal. "The Ontario government studied the report, thanked the author, listened to the uproar from labour ranks, and prudently buried the document" (Morton and Copp 1980:262).

The Woods Task Force, on the other hand received guarded welcome from unions, disapproval from employers and offered little comfort to governments looking for an end to industrial strife. The Woods Task Force reiterated the uncomfortable lessons of history; there are limits to which governments can manage or contain inherently adversarial relations, and that even the most effective labour relations boards could not guarantee industrial harmony.

"The Woods Task Force had given Canadians a blunt and uncomfortable message. Industrial conflict was as much a part of their liberal democratic system as debate in Parliament, the adversary system in the courts, and economic competition in the market-place" (Morton and Copp 1980:264).

### Labour Legislation

In the first and second periods and during the war years state mediation of the labour process was explicitly interventionist and regulatory. This was not the case in the post-war years. The restructuring of the labour market, the main labour event of this period, largely proceeds through the abandonment of previous protectionist legislation. It was a market driven process, as discussed above, in which the state "cooperated". The strongest observation that can be made about state activity in this field is captured in the terms of omission and/or bias, a language of passivity or compliance rather than intervention. Omission and bias leave little trail of decision making, no discussions

of anticipated 'cost-benefit'. They appear intentionless and as non-events their chronicling is dull reading. However, despite these factors we will attempt to demonstrate that the outcome of these legal omissions/biases was not exactly unexpected or unintentioned. We will argue that the labour legislation in general and the Labour Relations Acts in particular had an effect consistent with and supportive of the segmentation strategy of capital.

Until the widespread rebellion of labour in the sixties it appeared that the state could meet the needs of capital and labour simultaneously. The reforms labour most consistently lobbied for, for example, minimum wage, workmen's compensation and hours and conditions of work, did not conflict with segmentation strategies and were accommodated by the state without much dispute. At the same time the state could accommodate the demands of capital for a plentiful supply of cheap labour (women and immigrants), and contain the spread of unionization (through a cautious implementation of the Labour Relations Acts), without unduly provoking organized labour. The fact that these apparently parallel demands would eventually collide is revealed in the high level of labour disputes in the 1960's.

The characteristic features of state intervention in this period are accommodation to organized labour, disregard for unorganized labour and the implementation of routinized management through the operation of labour relations boards across the country. In our discussion of labour legislation and its enforcement we will consider how the state responded to labour's demands in general, how the state accommodated women's employment and finally, the implementation of the Labour Relations Act.

The state's more conciliatory attitude to unions opened new avenues to labour to communicate their concerns directly to government. Labour leaders met regularly with federal and provincial ministers to present their resolutions. They consistently lobbied the federal government to implement full employment policies and to extend social services. At the provincial level labour pressed to extend the regulations on hours and conditions of work from specific employees, for example, women and children, and specific occupations, such as, factories or mines to employees and work sites in general. Organized labour wanted universalized standards of work and a change in emphasis from the protection of labour to workers' rights. Their formula was: standardized minimum wages, hours and conditions of work and vacations with pay (Labour Gazette 1948-1960). While many unions had such benefits in their particular contracts, labour organizations like the TLC and the CCL pressed government to legislate these benefits as basic rights for all workers.

Labour leaders responded to their new legitimacy with an incremental reform strategy. The state in turn gradually implemented these changes. Table III.1 in Appendix III presents a list of new labour legislation for Manitoba and Ontario in this period. The appearance of greater legislative activity on the part of Ontario is merely a reflection of their later move to consolidation. Manitoba was every bit as active in extending protective legislation. However, much of this activity is contained within the large, consolidated Employment Standards Act.

The success of the CCF in the 1940's, particularly as the official opposition in Ontario put some muscle into labour's legislative agenda.

Prior to the end of the war labour won a real victory in Ontario with the Hours of Work and Vacations with Pay Act (S.O. c.29 1944) which empowered the labour board to enforce 8 hour days and vacations with pay. Manitoba followed suit with a separate Vacations with Pay Act in 1947 and an Hours of Work Act in 1949.

As more standardized rules began to govern more diversified workplaces a move to the consolidation of labour laws began. In 1957 Manitoba consolidated most existing labour law in the Employment Standards Act and proceeded through a series of successive approximations to meet labour's demands on hours, wages and conditions of work. The Ontario government opted for a series of separate statutes addressing health and safety issues in a variety of different industries, making their first move to consolidation with the Industrial Safety Act in 1964. The last piece of the labour reform package to be put in place was the standardization of the minimum wage. In 1960, Manitoba rewrote the minimum wage regulations putting an end to industry specific wage minimums as well as the differential between male and female minimum wages. Ontario followed with an amendment to the Minimum Wage Act in 1963. Finally, in 1964 the federal government provided for a single minimum wage rate and a single maximum hours (40 per week) in a revision to the Canada Labour Code Part II section II.

By the end of the third period organized labour had realized one of their major goals, the implementation of labour codes which extended basic employment standards for workers whether or not they had the benefit of a union contract. In the pursuit of this goal labour also participated, quite unconsciously, in the dismantling of legislative barriers to the

employment of women. The success of organized labour in extending to men much of the protective legislation which previously included only women had the serendipitous effect of removing special restrictions on the use of female labour. Upgraded health and safety standards also had the effect of eliminating separate standards for male and female workplaces. All of these changes were promoted by organized labour which was apparently unaware or unconcerned with the equity effect it would have on male and female employment. Labour didn't use the equity argument even though in most of the cases the standards they were lobbying for were already imposed on women. These changes which evolved gradually over the third period were passive equalizers, because although they did in the long run erode the special "status" of female workers, equalization was not the intended effect, either on the part of labour who lobbied for them or on the part of the government who granted them. Nevertheless, by the end of the third period most labour laws ceased to distinguish on the basis of sex. This was a significant change from the 23 or more sex specific clauses of the earlier period.<sup>9</sup>

In contrast to the intense focus on women, their 'nature' and their employment, which gave rise to the "protective" statutes in the first period, the elimination of women's protected status was accomplished with little reference to women at all. Nevertheless, the increasing presence of women in the labour force did require some specific legislative attention. However, the state's response to women's employment was decidedly uneven. Legislation removing barriers to women's employment was simple and straightforward while legislation addressing issues of equity was weak and contradictory. This pattern revealed a legislative bias

towards access rather than equity. A list of the legislation actively facilitating women's employment is presented in Appendix III, Table III.2.

A good example of the uneven legislative response to women's employment is seen in the federal statutes of the time. In 1955 the federal government removed regulations prohibiting the employment of married women in the federal civil service. However, from 1950 to 1957 Unemployment Insurance regulations disqualified women upon marriage from receiving benefits unless special requirements were met. While employers were to have equal access to women regardless of marital status, women were not to have equal access to benefits. In 1956 the federal government passed equal pay legislation; however, for the next nine years the federal labour code specified unequal minimum wages for men and women. Unfortunately, this mixture of progressive and regressive legislation was not unique to the federal government.

The first provincial legislation to specifically address women's employment was the equal pay act. The very first act was introduced in Ontario in 1951 as the Fair Remuneration of Female Employees Act. Ontario's leadership on this issue is puzzling as it preceded the adoption of equal pay resolutions by any of the Canadian Labour unions by a year or two. The question which arises is where did the demand come from? The answer lies in the composition of the legislature at the time. In 1950 the CCF held 22 seats and was the official opposition in Ontario. At the beginning of the session 4 CCF members and one labour Progressive introduced 7 private members bills dealing with labour reforms including Equal Pay, Fair Employment, Hours of Work and Vacations with Pay bills. In this manner, the CCF used their status as official opposition to keep



labour reform a high profile issue in the house. Of the four proposed bills the Hours of Work and Vacations with Pay bills would be most costly to employers and hence were much more contentious. The Fair Employment and Equal Pay bills, however, amounted to asserting a principle rather than implementing a policy with clear calculable costs. The compromise was obvious.

One year later the Ontario government led the way nationally with the Fair Employment Practices Act and the Fair Remuneration for Female Employees Act. Manitoba followed suit with a Fair Employment Practices Act in 1953 and an Equal Pay Act in 1956. The move towards the principle of equal pay was, however, quite uneven. Ontario continued for another twelve years to set a separate and unequal minimum wage for men and women. In Manitoba there was a four year gap between the enactment of equal pay legislation and the equalization of the minimum wage regulations. In addition Ontario, Manitoba and the federal government excluded civil servants from coverage under the equal pay act until the 1970's.

In spite of the relatively early passage of the equal pay legislation it was a well known fact that the statutes did little to reduce the gap between male and female wages. Its negligible impact was a result of both the wording of the legislation and its enforcement. The Ontario act called for "equal pay for the same work done in the same establishment", while the federal and Manitoba legislation called for equal pay for "identical or substantially identical work". However, in a labour force that was highly sex-typed women were most unlikely to obtain employment in the same occupations as men, as indicated in Table 8.3 and Table 8.4. As the Women's Bureau of Ontario reported: "It was

discovered that classifying jobs as 'male' or 'female' was a greater obstacle to equality than separate wage scales" (Ontario Dept. of Labour 1968:16). Thus in the absence of equal opportunity legislation which was not introduced until the 1970's the concept of 'same' or 'identical' work served to disqualify the majority of working women.

All three acts made it clear that for a claim to be considered valid the discrepancy in pay had to be based entirely on sex. An employer who could establish a difference in seniority or qualifications of employees, or type or location of work, or any other grounds considered reasonable was exempt from penalty. In all acts, provision was made for prosecution in the courts as a final resort in settling a case, and failures to comply with the acts were punishable by the payment of a fine. Only one of the acts, however, set up a specific bureaucracy for enforcement. Ontario set up a Fair Employment Practices Branch charged with the enforcement of the Fair Employment Practices Act and the Female Fair Remuneration Act. In Manitoba and in federal cases a claimant had to submit a registered letter of complaint to the Department of Labour which would then assign an officer to inquire into the matter.

Ontario's more routinized procedure provides us with an excellent history of the first eighteen years of enforcement of the equal pay legislation. These records reveal that the problems of the 'letter of the law' were compounded by a very lenient enforcement of the Act. First of all, the annual data on complaints indicates that putting the burden of initiation on the claimant, resulted in a small number of complaints being filed. In ten of the eighteen years less than three complaints were filed annually, in five of those years there were no complaints at all. In the

eighteen year period 339 claims came before the Branch, of which 55% were dismissed, 15% withdrew, leaving only 30% of the cases resulting in settlements. None of the 339 cases were prosecuted in court and the settlements typically consisted of a wage adjustment not a fine (Ontario Department of Labour Annual Reports 1951:68).

The Fair Employment Practices Branch were at pains to clarify, annually, that their purpose was not to punish or penalize but to effect a 'satisfactory settlement' between employers and employees. They defined their job as one of clearing up unfortunate misunderstandings rather than bringing to justice employers who had violated the law. In the absence of fines and/or prosecutions employers had everything to gain and nothing to lose by the continued violation of the law.

The new labour legislation listed in Table III.1 and Table III.2 were strong on access but weak on equity. A characteristic which fit extremely well with labour market segmentation strategies. As the demand for women in the labour force escalated the state obliged by removing old barriers to women's employment, eroding the "protected" status of women. However, what the new legislation did not do is equally important to understanding the characteristics of the modern labour market and women's position in it. Despite the Fair Employment Practices Acts there was no prohibition on discrimination in employment on the basis of sex and/or marital status. Jobs and work sites became consciously gendered by employers interested in a sexually segmented labour force. The result was a massive flow of female labour into specific sectors of the Canadian economy which were typically low paid and nonunionized.

The one statute which appeared as a countervailing force against the creation of a cheap pool of female labour, the equal pay laws, were worded and enforced in such a manner as to amount to little more than window dressing. By all accounts the equal pay laws had no appreciable effect upon women's wages during this period. The Act which may have had the greatest depressing effect on women's wages was the Labour Relations Act. We will examine this law separately in order to highlight its importance as it best epitomizes the state's response to capital, labour and women in the labour market during this period.

#### The Labour Relations Act

In reviewing the Labour Relations Act we will focus on its impact upon the extension of unionization, particularly in the tertiary sector. The tertiary sector was the litmus paper of industrial relations during this period. As the fastest growing occupational sector it became a critical component of capital's segmentation strategy, the new frontier for labour and the primary location of women's reallocated labour. In assessing the impact of this act we will consider the following: the terms and conditions set out in the act, the inclusion of restrictive clauses at the provincial level; the exclusion of collective bargaining rights for civil servants; and finally, the operation of the labour boards.

With the termination of the government managed economy at the end of 1947, labour regulations were transferred back to provincial jurisdiction. As a result the regulations in P.C. 1003 (the Labour Relations Act) were enacted in separate statutes for each province and

were incorporated in the federal Industrial Dispute Investigation Act (S.C. c. 54 1948).

In our earlier discussion of P.C. 1003 we outlined the certification procedure which made it difficult for tertiary sector employees to organize and easy for a determined employer to obstruct certification. All of these features were incorporated in the provincial statutes. The biggest stumbling block for tertiary sector organizing involved the processes outlined in the labour relations acts for the determination of the appropriate bargaining unit. The process permitted employers to develop two very effective strategies to defeat applications for certification. First, employers could argue for a unit so large as to abort any possibility of collective bargaining. This has typically been the strategy of bank administrators in Canada (Labour Relations Law Casebook 1981:161).

Second, the acts also permitted employers to prolong the dispute over the appropriate bargaining unit in order to substantially delay proceedings. This was the case in the Eatons drive in 1950 in which the company succeeded in delaying proceedings for seven months through bargaining unit debates (Suffrin 1982).

To the extent that labour boards were required by law to countenance such delays the possibilities for successful certification were dramatically reduced. Because of the high labour turnover in tertiary occupations, delays virtually guaranteed that the union sign-up list would not match the company's employee list. Because of the characteristics of its labour force--dispersed, high turnover--the tertiary sector was much more vulnerable to such tactics than the industrial sector.

In addition to the fact that the Labour Relations Act provided employers with an 'unfair' advantage in legally blocking certification it also provided very little sanction for employers who used illegal practices to discourage unionization. The original regulations (P.C. 1003) and their subsequent enactments included an "unfair practices" clause, a list of employer practices which were prohibited such as firing employees attempting to organize, and denying promotion to employees involved in union activities. While the prohibitions were fairly comprehensive and the practices clearly deemed illegal the labour relations acts provided no specific penalty, no fine nor process for redress to enforce these prohibitions. Magistrates' court, not the labour board, had jurisdiction over the enforcement of the unfair practices clause. Thus, an aggrieved party had to go to court to seek redress but could only launch a prosecution after obtaining leave from the Minister of Labour or the labour relations board (Labour Relations Law Casebook 1981:57). In other words, the system was so cumbersome as to discourage all but those with a solid union backing. Even then only about 25% of the cases proceeded to court (Labour Relations Law Casebook 1981:63). This remarkable omission in the labour relations act resulted in the frequent violation of the unfair practices clause. For example, one industry alone, the Canadian banks, were found guilty of 6 major violations before the Canada Labour Relations Board.<sup>10</sup>

During this period there is, perhaps, no better indication of government's attitude to organizing the unorganized than in its relation to its own expanding labour force. Between 1941 and 1971 government employees increased six-fold, health and welfare workers increased five-

fold and education workers also increased by a factor of five (Leacy, 1983:D56:85). These million and a half workers were the backbone of the developing welfare state. During this period government, like most other employers in labour intensive industries, dug in its heels on the issue of certification. Civil service regulations explicitly denied the right to collective bargaining in all provinces except Saskatchewan, and in the federal government. In addition, civil servants were often excluded from other labour legislation, for example, equal pay laws. Furthermore, most Labour Relations Acts excluded a large number of workers whose wages came from government coffers, for example, teachers, hospital labour, and municipal workers. For almost twenty years this massive labour force remained outside of the usual protection afforded by the Labour Relations Acts. Not until the mid-sixties did the barriers begin to come down.

In addition to problems with the letter of the law and the exclusion of large sectors of the labour force, the decentralization of the Labour Relations Act added further impediments for labour. It is argued by many labour historians that the decentralizing of the labour relations acts made labour more vulnerable to local anti-union sentiments (Morton:1981, Pentland:1968, Roberts and Bullen 1984). Throughout the fifties seven provinces introduced a variety of restrictive clauses to their Labour Relations Acts.<sup>11</sup>

#### Labour Relations Boards

In considering the operation of the boards we must keep in mind the very specific impediments to tertiary sector organizing contained in the legislation itself. The law undoubtedly circumscribed the activities of

the board, particularly in the case of enforcing the unfair practices clause. However, given these limitations the boards did have some discretionary power and could set policy within the guidelines of the act. Given the restrictions of the acts one might suggest that the success of a white collar union drive would in no small part be dependent upon a sympathetic interpretation of the rules. However, a look at the composition of the labour boards in Manitoba and Ontario suggests that they were not a particularly fertile ground for pro-labour sentiments. While both provinces had an equal number of business and labour representatives the persons who occupied the chair and vice-chair positions could be seen to be of questionable neutrality. For example, in Manitoba, the Chairman of the board from 1948 to 1962 was the Deputy Minister of Labour; this was also true for the position of vice-chairman in Ontario. Given that the governments represented by these deputy ministers had at the time an explicit policy of prohibiting collective bargaining among their own employees, it seems reasonable to question their sympathy toward tertiary sector organizing.

With a certification procedure that permits all sorts of delays and a board divided between labour and business interests one has all the conditions for lengthy proceedings, if an employer chooses to exercise all their options. Not surprisingly most employers did do so and proceedings in most of the tertiary sector organizing drives were plagued with delays (Labour Relations Law Casebook, 1981:155).

Where the boards had some real discretionary power was in regard to the determination of the appropriate bargaining unit. Two decision-making patterns adopted by the boards during this period added further



impediments. In 1955, the Ontario Labour Board adopted the following policy; " ... that in the interests of all parties, office workers should be placed in a bargaining unit separate and apart from other employees, despite their preference for inclusion in a bargaining unit with the other employees" (Labour Relations Law Casebook 1981:161). This decision, in force throughout the third period, had the effect of creating significant barriers to sales and clerical workers dispersed throughout productive industries whose only likely option for unionization would be inclusion in a plant union. While the Ontario Labour Board was calling for separate bargaining units for white and blue collar workers the Canada Labour Board was pursuing a policy of comprehensive units, which in many cases were so large as to be effectively unorganizable (Labour Relations Law Casebook 1981:155).

A second less formal decision making pattern concerned the labour board's broad and rather ill defined concept of ineligible employees. According to the labour relations acts, individuals categorized as managerial or confidential could be excluded from the bargaining unit. Bairstow's study, White Collar Workers and Collective Bargaining (1968) reveals that in all jurisdictions across Canada labour boards made little distinction between managerial and supervisory staff and that white collar workers were subject to large scale exclusion due to dubious categorization. Bairstow recounts the experience of Ontario Hydro's union drive in the late 1950's in which 900 white collar workers were excluded due to managerial or confidential categorization. When the union protested the exclusion, proceedings before the labour board dragged on for almost two years with no result. Another instance of large scale

exclusions involved Quebec Hydro. Five thousand white collar workers were employed by Hydro and only 2,800 were permitted to become members of the bargaining unit. All senior clerks were excluded, thus eliminating promotion possibilities within the bargaining unit. (Bairstow 1968:55) The labour boards' acceptance of the definition of over half hydro's staff as "managers" stretches their credibility and suggests at the minimum a lack of understanding of the conditions of white collar workers. While the policies and decisions of the labour boards in the provinces and federally display a somewhat random quality they do seem to have had the consistent effect of retarding unionization in the tertiary sector.

In summary, we have argued that labour legislation in general and the Labour Relations Acts in particular shared many of the same characteristics of the segmentation strategy of capital, accommodation to organized labour, routinized management rather than crisis intervention and disregard for unorganized labour. Our argument that the labour relations act itself constituted a significant barrier to tertiary sector organizing is borne out by the fact that it was not until the act was revised to eliminate major exclusion clauses that the first significant breakthrough in organizing this sector occurred.

By the 1960's the gap between wages and productivity had risen to 30% and both organized and unorganized labour were getting restless. This restlessness was translated into a new militancy as the strike rate increased steadily from 1962 on. The climax was reached in 1966 when 33% of the nation's working time was lost through strikes and lockouts involving 411,459 workers and a loss of over 5 million person days (Jamieson 1968:397). A new feature of the strike situation in the 60's

was the number of government employees involved. As work stoppages and labour unrest spread in the public sector, federal and provincial governments found themselves in a position similar to that of the 40's. If they didn't quickly establish a machinery for legal bargaining they would find themselves caught in an escalating cycle of crisis intervention. Preferring a more stable atmosphere for labour relations, federal and provincial governments introduced legislation and/or amendments to extend bargaining rights to the civil service.

In 1965 Ontario granted collective bargaining rights to hospital labour (S.O. c.48) and in 1966 Ontario removed the exclusion of librarians, non-teaching staff and municipal workers from the Labour Board Act (S.O. c.76). The following year the federal government passed the Public Service Staff Relations Act (S.C. c.71 1967) providing collective bargaining rights for federal civil servants. The significance of the exclusion clauses can be appreciated when we consider the consequence of their removal. " ... in one blow, 260,000 of the government's 400,000 employees gained the right to choose between arbitration or the strike" (Morton & Copp 1981:261). When the 120,000 member Public Service Alliance of Canada entered the ranks of organized labour it became the third largest union in the country. Moreover the federal example spread rapidly to the provinces, with Manitoba and Ontario following suit in 1971 (S.M. c.75 & S.O. c.67). The effect was dramatic. Organized labour stalled at less than a third of the non-agricultural work force as late as 1964, boosted its share to more than 40% by the mid-seventies. Furthermore, the organization of government employees accounted for the largest increase

in unionization of women, a 106% increase for women compared with a 40% increase for men (White 1980).

On the labour front the third period closed much as it began, punctuated by industrial disputes, expanding unionism and demands for greater government intervention, once again attesting to the limits of state mediation. While the achievement of industrial and social harmony was, indeed, time limited, the reallocation of women's labour to production would have a more lasting effect. By the end of this period the labour force had been substantially restructured and women's role in Canadian society was rapidly changing. Although the state was no longer called upon to reserve women's labour for reproduction the state was under sustained pressure throughout this period to increase income and services to the reproductive unit. Thus, while women were moving out into the work force the state was moving in with greater support and services for the family. The welfare state expanded to fill the gap between the private wage and human need and now also to compensate for labour losses with services.

#### State Welfare Activity

Welfare ideology in the war and post-war years is marked by strong similarities and continuities. Most important of these was the sustained public demand for adequate social security and the continued commitment to the concept of entitlement. This new ideology not only resulted in greater state activity but also in a shift in emphasis from regulative to supportive government interventions. This shift is largely a result of the introduction of universal programs. Both the philosophy and the

actual administration of universal programs reduced the state's capacity to use its financial assistance as a lever for regulation of individuals or the family. When every one is entitled, then access to programs cannot be made dependent upon fulfilment of particular social standards, as was the case with Mothers' Allowance in the previous period. Intrinsic to universality and the concept of entitlement is the emphasis upon the state's responsibility rather than the state's right to regulate. Just as the individual patriarch experienced the transition from rights to responsibility in the second period, so did the social patriarch (the state) in the third period. In addition to the more benevolent policy thrust of universal programs, the sheer wealth of the period permitted even means-tested programs to proceed in a more open handed less punitive way.

While this was a more generous period in social history it was also a more bureaucratic one. This difference results from the fact that the war years constituted the design phase of the welfare state while the post-war years constituted the implementation phase. The war years were the idea years, characterized by a large number of commissions and inquiries and broad based public debate. The competition over income between capital and labour--production and reproduction--was explicit and explosive as the events of 1943 revealed. The connection between state mediation of the productive-reproductive dynamic was equally explicit as the documents recording the development of family allowances indicate. In contrast, the post-war years were the bureaucratic moment in Canadian social policy characterized by a limited number of commissions (listed in Appendix III E) and a reduced amount of public debate.<sup>12</sup>

The state's assumption of responsibility for the social wage absorbed and transformed the expression of the productive-reproductive competition over income. While the pressures continued to originate with the lack of fit between the two spheres, these pressures became more rapidly translated into a bureaucratic form. For example, public demands for more income or services were felt first at the provincial level, provincial governments then became the carriers of these expectations to the federal government and these expectations then became the focus of federal-provincial negotiations over taxation agreements and transfer payments. Social policy activity of the post-war period now occurred at the federal-provincial negotiating table, the actors were bureaucrats and politicians whose exercise of power and responsibility seemed far removed from the productive-reproductive dynamic they mediate. We are, nevertheless, dealing with different actors doing the same thing, displacing the costs of reproduction to an ever larger resource base. This displacement of the costs of reproduction from capital to the nation state obscures the dynamic from which the necessity for intervention originates. However, despite the new faces and the new setting the problem remains the same, balancing production and reproduction and the primary strategy available to the state, in this period, was the reallocation of income to reproduction.

While the intensity of public debate on the responsibility of the state diminished substantially in the post-war years, the provinces emerged as new and aggressive actors alongside the electorate and organized labour in the pursuit of greater federal financing of social welfare. Although the post-war years were characterized by provincial

rebellion against the centralism of the war years their rebellion was tempered by escalating social welfare expenditures. The gap between provincial jurisdictional responsibility for health and welfare and the revenue generating capacities of their treasuries frequently led provinces into aggressive advocacy of national cost-shared programs. The pressure to socialize the costs of reproduction created an unlikely alliance of provincial premiers, organized labour and the general electorate on a number of social welfare issues. The entry of provinces as strong and frequently querulous partners in the construction of the welfare state shifted the struggle for income to a new terrain.

Our analysis of the construction of the welfare state will focus on the pressures to socialize the costs of reproduction which bring the federal and provincial governments to the negotiating table on social welfare issues. First, we will assess the impact of the 'new' welfare ideology on provincial legislation, enforcement and expenditures. Second, we will review the joint federal-provincial legislation which introduces a new and massive scale of public funding of the private family. We will argue that the task of absorbing the costs of reproduction on a national scale required the state to centralize, change its taxation and expenditure patterns and alter its relation to the family. We suggest that the very existence of the welfare state is a compelling measure of the fundamental nature of reproductive relations and their continuous pressures on the system.

Provincial Welfare Legislation

Throughout the third period provinces were subject to two major countervailing pressures which shaped their legislation and their relation to the federal government. On the one hand, there was the combined effect of jurisdictional responsibility and mounting public pressure for social services which pushed the provinces in the direction of liberalized statutes and extended benefits. The opposing pressure was the resource limitations of most provinces. Broad jurisdictional responsibility in conjunction with a narrow resource base has typically impelled provincial governments to establish mechanisms to limit their commitments to social expenditure.

In the second period the provinces' responses to the responsibility-resource squeeze was to limit their obligations through an aggressive enforcement of private familial responsibility. Welfare legislation in the second period was closely coupled with regulative family law to ensure full exhaustion of private support mechanisms before public responsibility could be established. Family law was amended to emphasize parental financial obligations and the Parents Maintenance Act and the Child of Unmarried Parents Act were implemented. These statutes in conjunction with means-tested welfare legislation empowered the state to pursue private support on behalf of dependent individuals, translating a person's application for assistance into a mechanism for aggressive investigation into a legal reallocation of familial resources. Means-tested welfare not only established clear boundaries around public responsibility, it also carried with it the conviction that support conferred (if not morally required) the right to control. Thus, the inevitable concomitant of the



means-tested welfare system of the second period was the heavy hand of the state--regulative legislation and moral entrepreneurship.

The new philosophy of entitlement and the resultant move from means-tested to universal services changed the structure of social welfare systems in the provinces, as well as throughout the nation. The concept of entitlement made the privatization strategies of the second period politically untenable. In the face of continued resource base limitations provinces had to accommodate increasing demands for social services with their structural predisposition to limit social expenditures. These countervailing pressures pushed the provinces to liberalize its legislation and services while off-loading its costs onto the federal government. Thus the distinguishing features of provincial welfare activity in the third period are the systematic liberalization of social welfare legislation and the growth of federal-provincial cost-shared agreements.

For the most part, provinces maintained their traditional focus on services to people marginal to production, women, children, elderly and disabled. As a result provincial legislation retained the quality of "substitute" for wages while federal universal welfare legislation moved more boldly in the direction of "subsidy" for wages. Despite these limitations provincial legislation was unquestionably affected by the new social service expectations of the Canadian electorate. We will look for evidence of provincial response to these expectations in broader definitions of eligibility, a move away from means tests, a refocusing of regulative functions away from surveillance of service consumers towards

surveillance of service providers and finally, a redefinition of the role of welfare workers from moral entrepreneur to social advocate.

Table III.3 in Appendix III lists the new welfare legislation in Ontario and Manitoba throughout the third period. A brief review of the table indicates that there was no new legislation passed during the war years and that in the post-war years Ontario was more active than Manitoba. We will cite Ontario legislation as our major reference point.

In examining the state's impact on the family we considered the effect of welfare legislation on the disposition of property within the family, the disposition of children in cases of family breakdown or neglect and the allocation of resources to the family. In the third period, state activity in all three of these areas underwent substantial change as a result of the strong shift away from regulation toward support. Considerable legislative activity was involved in producing this effect. There were 20 new statutes in Ontario and 11 in Manitoba. However, what the state did not do is almost as revealing as what it did. Thus, we will begin our analysis of state conduct during this period with a brief consideration of what the state did not legislate or did not enforce during this period.

Throughout this study we have argued that state control of the disposition of family property had the important function of drawing boundaries around which costs would become public. In Period II we examined the interaction of family law and restrictive welfare legislation as a mechanism for maximizing privatization. Not surprisingly, under the new wave of entitlement these mechanisms were largely abandoned. There was an absence of any new family law delineating further family

obligations and restrictive welfare legislation was either rewritten or ignored.

In the second period two welfare acts, The Child of Unmarried Parents Act and the Parents' Maintenance Act became synonymous with very aggressive investigative teams seeking a legal reallocation of family resources to keep applicants off the welfare roles. The Parents' Maintenance Act remained on the books in both Ontario and Manitoba throughout the third period; however, it simply ceased to be enforced. Enforcement required the maintenance of a team of investigators who would regularly check the financial status of the families of elderly recipients of social assistance. The introduction of a universal old age pension in 1951 (S.C. 1951 C.18) removed all fiscal incentive to carry out such enforcement. Manitoba went so far as to introduce the Old Age Pension Debt Cancellation Act to terminate court cases in which the state was suing to regain funds from the families of elderly welfare recipients (S.M. 1954 c.23).

The Child of Unmarried Parents legislation also experienced a lapse in enforcement as well as amendments which altered the thrust of the act from regulation to support. Two of the most regulative and punitive clauses were written out of the legislation in the fifties. Specifically, the Ontario clause (S.O. 1921 c.54 s.10) which provided for the appointment of a provincial guardian just because a child was born out of wedlock and the Manitoba clause (S.M. C.4 s.12), which empowered the state to assume sole guardianship if a mother refused to press a paternity suit, were removed.<sup>13</sup>

In the second period these statutes mobilized an aggressive bureaucracy of provincial officers devoted to seeking out and obtaining child support from putative fathers. Manitoba and Ontario's welfare reports were filled with detailed accountings of the number of illegitimate births, fathers located, support agreements achieved and the number of court cases initiated by the provincial officer when agreements could not be reached. In contrast, in the third period mothers were no longer required to press paternity suits under threat of losing their children and the overall activity of the departments shifted from hunting down putative fathers to assisting unwed mothers achieve necessary social supports (Manitoba and Ontario Dept. of Welfare Annual Reports, 1948-1968). Both the amendments and the change in enforcement policy reflect a move away from regulation and privatization towards acceptance of public responsibility for family support.

In addition to reducing their regulative relation with the family, Ontario and Manitoba also introduced a large number of statutes which extended their supportive role. A review of this legislation reveals a much more benevolent posture on the part of the provinces both in regard to the allocation of resources to the family and the disposition of children. Because the extension of financial support to families was a precondition for greater benevolence in the disposition of children we will address the former issue first.

Perhaps the most direct example of the provinces increasing support for families was the systematic extension of eligibility and coverage in the provision of Mothers' Allowance. Prior to the war Mothers' Allowance was circumscribed by a long list of eligibility requirements; it excluded

families with only one child, it excluded the divorced and the unwed, it required a long period of provincial residency and heaped on top of all of these limits were a series of moral and behavioural requirements. However, shortly after the war the impact of the new welfare ideology began to be felt at the provincial level. By 1948 both Ontario and Manitoba began to remove the barriers to eligibility and extend the benefits within the Mothers' Allowance program. Table III.4 in Appendix III outlines the amendments introduced by both provinces to increase accessibility to Mothers' Allowance.

The impact of these amendments was substantial. Despite a booming economy and near to full employment rates, case loads in Manitoba and Ontario grew as eligibility broadened. In 1951 Ontario had an average monthly enrolment of 7,500 families at an annual expenditure of \$6.5 million, by 1961 the enrolment had increased to 9,800 families at a total expenditure of \$12.8 million (Ontario Dept. of Welfare Annual Reports 1948-1962). Manitoba experienced a similar but proportional increase, although their accounting is less detailed than Ontario.<sup>14</sup>

As the material conditions for support began to change so also did the attitude of the bureaucracy administering Mothers' Allowance. In the second period these allowances were regarded as wages for child care and as such it was the 'duty' of the administrators to "investigate carefully the fitness of the applicant" (Ontario Sess. Papers 1922 #89) and "to satisfy itself that the services rendered...are accomplishing what was intended" (Manitoba Sess. Papers 1918 p.5). This approach placed the family firmly under bureaucratic scrutiny. However, in the post-war

period Mothers' Allowance were redefined as a government responsibility cast in the Keynesian language of counter cyclical measures.

"For amongst the first social casualties is that considerable group of families who, under unusually favourable conditions, have barely succeeded in maintaining financial independence, but who are faced with the necessity of applying for assistance in the form of Mothers' Allowances as soon as economic conditions deteriorate" (Ontario Dept. of Public Welfare, Annual Report 1948-49:13).

In accepting as inevitable the lack of fit between family and economy post-war policies removed the moral requirement, as well as the economic necessity for aggressive surveillance of recipients. The role of the case workers was rapidly redefined from that of moral entrepreneur to family advocate.

This new mood of entitlement is found not only in the allocation of resources to the family but also in a new attitude toward the disposition of children. In the first two periods we documented the manner in which the state extended its authority over children whether intervention was due to neglect, death of parents or illegitimacy. In the second period Child Welfare legislation expanded the conditions and circumstances under which a child could be apprehended, while social assistance legislation maintained tight limits on eligibility for support. However, this pattern began to be reversed in the third period. The extension of Mothers' Allowance to unwed mothers, divorced women and foster parents was indicative of a new philosophy--the best way to help children was to help their families. While this philosophy was generously infused with the milk of human kindness it also served to advance the deinstitutionalization policies introduced in the second period. The

second period saw the move of state wards from orphanages and institutions into foster care, the third period emphasized the importance of maintaining a child in its own home wherever possible.

This was the next logical step in the process of deinstitutionalization. It presupposed the extension of support to disadvantaged families so they could care adequately for their children. As these material prerequisites were being put in place in the third period the administering departments and their staff changed their attitudes and goals accordingly. While the measure of success in the second period was the number of children under care the third period measured success by the declining rate of apprehension. Support began to replace suspicion as the predominant approach of case workers to families. An early reflection of the new mood is revealed in the 1946 Manitoba Welfare Report in which it was asserted that "the object of the Welfare Division is to try wherever possible to keep children in their own homes" (Manitoba Dept. of Health and Welfare Annual Report 1946:199). This sentiment of apprehension as a final resort was voiced in the Ontario Welfare Report of 1951-52. "Where adequate preventative services are developed, the child is removed from his home only when all other means of rehabilitation have failed" (Ontario, Dept. of Public Welfare 1951-52:23).

This enthusiasm for the natural family led to a new pattern in welfare reports. Increasingly these reports attempted to highlight reductions in apprehension, regardless of how minimal they might be. "An encouraging trend is noted in connection with committals to wardship. The total number of children committed as permanent wards decreased slightly,

from 1,577 during the previous year to 1,571 during 1950-51" (Ontario, Dept. of Public Welfare 1951-52:23). When numbers were not available strong philosophical statements indicated the honorable intentions of the office. "The inalienable first right of every child is his own home and his own parents and, with this belief in the inviolability of family life, every effort is made to keep the child a part of his own family group" (Manitoba Dept. of Health and Welfare Annual Report 1956:195).

While child welfare workers gave every evidence of support for this new phase of deinstitutionalization the Ontario government sought to reinforce the process with financial incentives. In 1956 the government altered the grant structure to the Children's Aid Societies.

"....a new provincial grant structure has been devised for all societies. These grants will be based upon the amount of time devoted to the prevention and repair of family breakdown which should result in reducing the proportion of the child population in the case (sic) of societies. These grants are intended not only to serve the social interests of the community but, through keeping to a minimum the number of children maintained at public expense, to effect a considerable saving to the tax payer" (Ontario Dept. of Public Welfare 1956-57:56).

The rising birth rate made governments increasingly appreciative of the cost effectiveness of keeping children in their own homes. The restructuring of grants to Children's Aid Societies was seen to produce the desired effect and in 1960 the Ontario government proudly announced that "the proportion of the child population in the care of welfare agencies continued to decrease--45% in ten years" (Ontario Dept. of Public Welfare Annual Report 1959-60:16).

In the third period rising birth rates, increasing social expenditures and the process of deinstitutionalization combined to create



a new more benevolent approach in child welfare. The construction of the modern welfare state created a fiscal as well as a bureaucratic structure in which everyone had something to gain by keeping the family together. This material reality quickly became reflected in the pro-family ideology of the social service experts of the day. However, at the very point in which everyone was becoming so keen on keeping children in the home, women were increasingly working outside of it. As the rising birth rate and increased longevity increased the burden of dependents upon the family the family's major labour resource was exiting into the work force. Thus, in addition to a down-scaling of regulation and an up-scaling of support, during this period the provinces were also called upon to assume some of the functions of the reproductive unit.

Ontario, being the more industrialized province and the first to feel the impact of women's employment, led the way with legislation which provided for personal care services as well as financial support. The introduction of the Homes for the Aged Act (S.O. 1947 c.46), the passage of the Day Nurseries Act (S.O. 1946 c.17) and the Homemakers' and Nurses' Services Act (S.O. 1958 c.37) reflected the growing recognition that financial support was only part of a state program for subsidizing the family. While child care and care of the elderly were provided in the past for orphans or indigents it became an expectation in this period that, even in the presence of able bodied parents and relatives, there was a growing role for the state in the provision of child and elder care.

This new responsibility was most manifest in this period in the provision of personal care homes for the elderly. In fact, it was in this field that the provinces first departed from the means-tested principle.

Prior to 1947 Ontario and Manitoba's only commitment to residential care for the elderly was contained in acts pertaining to charitable institutions. However, in the post-war period both provinces extended their responsibility beyond the limit of "the indigent" in an attempt to meet the demand for institutional care for the elderly. Demographic changes as well as social changes were increasing this demand. The Ontario Department of Public Welfare reported a 172% increase in the elderly population between the years 1911 and 1951 compared to an 82% increase in the total population of the province (Annual Report 1952:15).

Ontario, with the greater population and the greater problem, led the way in 1947 with the Homes for the Aged Act (S.O. 1947 c.46 & 31). While the act in 1947 increased the breadth of provincial responsibility the amendments and consolidation of the Act in 1949 put some real teeth into the legislation (S.O. 1949 c.41). The amended act required every municipality to provide for a home for the aged and it specified provincial responsibility for regulations and funding for the construction and maintenance of these homes. "Under the new programme, admission to a Home for the Aged is based on the need for care and no longer primarily on financial need..." (Ontario Department of Public Welfare Annual Report 1952:15).

The primary thrust of the Ontario legislation was institutional and removal of the means test resulted in a significant expansion of municipally run, provincially financed, old folks' homes. The number of beds increased from 3,000 in 1948 to 14,000 in 1968 and provincial expenditures rose from approximately \$1 million in 1948 to over \$56 million in 1968 (Ontario Department of Public Welfare Report 1968-69:48-

49). Manitoba's response was much slower because population pressures were much less urgent. Nevertheless, they followed suit with the Elderly Person's Housing Act (S.M. c.14) in 1956 and the Elderly and Infirm Persons' Housing Act in 1964 (S.M. c.17).

While the spirit of entitlement directed the provinces away from surveillance of service consumers, the new burden of responsibility increased the provinces' surveillance of service providers. The increasing flow of public monies to social services and the introduction of new, specialized services resulted in a large number of statutes directed to their regulation. In fact, of the 20 new statutes introduced in Ontario, 14 specified new or extended regulation of services and institutions while none added any further capacity to regulate recipients. This was also the case in Manitoba where 6 of the 11 new statutes provided for regulation of agencies or institutions, none added to the regulation of recipients. To call attention to this pattern the regulatory components of the new statutes are underlined in Table III.3, Appendix III.

Through this legislation special care homes and services became subject to very specific rules and licensing procedures. For example, in Ontario in 1948 only 45% of their 164 nurseries in operation were licensed; however, by 1967, 98% of the 441 nurseries were fully supervised and licensed (Ontario, Dept. of Family Services 1968:19). The provinces were still the primary regulative body among the three jurisdictions; however, the focus of their attention on agencies and services rather than recipients resulted in a much more humane atmosphere and much better treatment of recipients.

Because of provincial jurisdictional responsibility for health, education and welfare, the rising expectations of the Canadian electorate were visited first upon provincial treasuries. Provincial involvement in socializing the costs of reproduction escalated steadily throughout the third period. All provincial social expenditures (health, education and welfare) increased from \$27.29 per capita in 1941 to \$802.58 in 1971 (Moscovitch & Albert 1987:21,22). While these increases succeeded in providing more income and services for Canadian families they played havoc with provincial treasuries. Although provincial budgets were expanding rapidly, keeping pace with the growth in GNP, social expenditures were clearly outstripping overall growth.

Table 8.5 demonstrates the dramatic growth in social expenditures in Manitoba in the post-war period. As a percentage of the total provincial budget social expenditures increased from 26% in 1944 to 62% in 1968. Manitoba's social expenditures multiplied 46 times from \$4.7 million in 1944 to \$216.2 million in 1968.

Table 8.5

MANITOBA SOCIAL EXPENDITURES\* FOR SELECTED YEARS  
BY CATEGORY AND AS PERCENTAGE OF TOTAL BUDGET  
(millions)

Year	Education	Health	Welfare	Total Social Expenditures	Social Expenditures: As % of Total Provincial Budget
1944	2.3		2.4	4.7	26%
1948	4.9		3.8	8.7	31%
1952	7.0		8.4	15.4	37%
1956	11.7		12.1	23.8	40%
1960	29.6		20.6	50.2	58%
1964	38.7	20.8	18.8	78.3	60%
1968	109.8	72.7	33.7	216.2	62%

\* Gross Expenditures Including Federal Reimbursements

SOURCE: Manitoba Public Accounts 1944-1968

Table 8.6 demonstrates the equally dramatic growth of social expenditures in Ontario. Ontario as a wealthier province, was in a better position to handle these costs but nevertheless they saw social expenditures move from 34% of their overall budget in 1944 to 49% in 1968. Ontario's social expenditures multiplied 32 times increasing from \$39.1 million in 1944 to \$1.2 billion in 1968.

Table 8.6

ONTARIO SOCIAL EXPENDITURES\* FOR SELECTED YEARS  
BY CATEGORY AND AS PERCENTAGE OF TOTAL BUDGET  
(millions)

Year	Education	Health	Welfare	Total Social Expenditures	Social Expenditures: As % of Total Provincial Budget
1944	15.6	13.3	10.2	39.1	34%
1948	38.9	20.2	11.8	70.9	49%
1952	67.7	44.6	24.6	136.9	44%
1956	100.1	59.3	27.0	186.4	44%
1960	204.4	89.0	44.6	338.0	46%
1964	388.4	126.6	60.6	575.6	51%
1968	732.1	320.7	198.2	1,251.0	49%

\* Gross Expenditures Including Federal Reimbursements

SOURCE: Ontario Public Accounts 1944-1968

From 1948 to 1961 the burden of the welfare state fell most heavily on the provinces (Moscovitch & Albert 1987:30). While education and health placed the largest burden upon provincial treasuries, social welfare costs were also weighty. In 1957 the Ontario Director of Public Welfare drew attention to the heavy share of welfare expenditures absorbed

by the provinces. He reported that 61.9% of direct welfare expenditures were provided by the province, 19.3% by the federal government, and 18.8% by the municipality.

"Beyond relieving municipalities of their costs for welfare services in this direct way, the municipalities collectively received from the Province \$12,693,909 in the form of unconditional grants during the same period." (Ontario Dept. of Public Welfare Annual Report 1956-57:2)

If we include the costs of the municipal grants, in aid of welfare and social services, Ontario's actual share of welfare costs for its residents was 71%.

The outcome of the liberalization of provincial social welfare policies, the baby boom and increased longevity was a powerful fiscal squeeze for the provinces. Their only recourse, in a period in which the populace remained committed to a "better quality of life" was to transfer costs to the federal government. During the third period we witness a remarkable range of provincial behavior in relation to the federal government--accommodating in their ready acceptance of constitutional amendments (for old age pensions) at one moment, aggressive in their pursuit of a national hospital insurance program at another moment, and equally aggressive in their resistance to a national health insurance program a decade later. The one factor which makes sense of the variety of provincial postures on national welfare programs is its impact on provincial treasuries. In the next section we will examine how the provincial fiscal squeeze interacted with electoral pressures to give us the modern welfare state.

The Making Of A National Welfare State

The federal government's response to the new spirit of entitlement was outlined in the Green Book proposals of 1946. In essence they offered to implement all the major national welfare programs (pensions, health, extended UIC and cost-shared social assistance) in return for sole occupancy of three major tax fields. Rejection of the Green Book proposals left the provinces vulnerable to rising social expenditures, which gave the provinces a motive for and interest in national welfare programs. Rejection of the Green Book proposals left the federal government in a vulnerable revenue position as they now had to regularly renew and renegotiate occupancy of the personal, corporate and excise tax fields with the provincial governments.

Throughout the post-war years, provinces with escalating expenditures and restrained revenues confronted a federal government with restrained expenditures and insecure revenues. Tipping the scale of this revenue-expenditure imbalance in favour of the development of a national welfare state was the continued commitment of the electorate to a comprehensive social security system. Thus, the politics of socializing the costs of reproduction in this period followed a dual and for the most part mutually reinforcing cycle. Every four years the federal government confronted the populace at election time and every five years the federal government confronted the provinces at national taxation agreement conferences. Between 1948 and 1968 there were seven federal elections and five taxation agreements, thus, there were very few years in which the pressure was not on the federal government.

When electoral pressure waned, provincial fiscal pressure peaked. In the mid to late fifties, during a period of relatively conservative attitudes on the part of the electorate and declining influence of the CCF and organized labour, fiscal pressure on provincial treasuries served to keep social welfare reform on the federal agenda. In order to understand the fluctuating patterns of pressure which created the modern welfare state, Table III.5 presents a listing of all federal welfare legislation grouped according to the election and taxation agreement cycles.

In the first cycle of federal-provincial negotiations the major social welfare statute to be introduced was the Old Age Security Act (S.C. 1951 c.18) which provided universal pensions to Canadians 70 years of age and over. The adoption of the important principle of universality in this legislation was a function of combined pressure from the public and the provinces on this issue. The election of 1949 had many of the elements of the more volatile mid-forties still in place. There was strong electoral pressure for reform of the old age assistance program, the CCF was still a force to be reckoned with provincially and organized labour mounted a strong lobbying effort to eliminate the means test from old age assistance. As a result reform of old age assistance became a major election promise of all three parties during the 1949 campaign.

In addition to the mounting political pressures, provincial fiscal pressure was critical to the realization of the Act. In order to implement this legislation a constitutional amendment was required. The provinces' co-operation on this matter reflected the fact that they really could not afford to do otherwise. Even the increasingly independent Quebec agreed to the amendment. Although the provinces were only



responsible for 25% of the costs of the former scheme, Ontario reported in 1951 that their old age assistance payments accounted for 42% of their total welfare budget (Ontario Public Welfare Report 1951:53). Other provinces subject to the same demographic pressures were experiencing a similar increase in costs for supporting the elderly.<sup>15</sup>

In the same year the federal government also introduced two companion pieces of legislation, the Old Age Assistance Act (S.C. c.199) and the Blind Persons Act (S.C. c.17), to reaffirm its cost-sharing responsibilities for these two categories previously covered under the former Old Age Assistance Act. These acts provided federal aid to the provinces of 75% of the cost of allowances for the blind and 50% of the cost for assistance to persons aged 65-69, subject to means tests. The last piece of legislation introduced in this cycle was the War Veteran's Allowance Act which extended benefits to veterans.

The provinces' goal of off-loading social welfare expenditures onto the federal treasury was achieved in this cycle largely through the Old Age Security and Old Age Assistance Acts. As a result of their implementation federal expenditures on the elderly leaped from \$76 million in 1951 to \$323 million one year later and by the end of this period reached the level of \$1.5 billion in 1968 (Leacy, 1983:Series C79-91).

In the next cycle of Federal-Provincial negotiation, 1953-1957 the political climate had mellowed, the Liberals received a comfortable majority in the 1953 election, the CCF had suffered political setbacks and organized labour was in the midst of internicine warfare. As a result, the primary pressure for federal welfare legislation came from Provincial Premiers struggling with mounting health, education, and welfare

expenditures. Incremental reforms were introduced in 1953, 1954 and 1956 as the federal government assumed responsibility for education costs of veterans' children (S.C. 1953 c.27) and a heavier cost-sharing role for the disabled (S.C. 1954 c.55), for housing (S.C. 1954 c.23) and for the unemployed (S.C. 1956 c.55). However, the big push from the provinces centered around the Hospital Insurance Act (S.C. 1957 c.28).

While provincial expenditures on all social welfare programs were increasing rapidly, expenditures on health were escalating at an even more alarming rate. All provincial expenditures on health went from \$30 million in 1941 to 7 times that amount, \$214 million in 1951 and increased another 4.5 times to nearly \$4 billion by 1961 (Moscovitch & Albert 1987:22). In the fifties, hospital funding was the primary source of the problem. Hospitals, over time, had come within the sphere of provincial public financing while medical care remained a private service.

British Columbia, Alberta, Saskatchewan, and Newfoundland dealt with the problem by developing provincial hospital insurance programs. Manitoba and Ontario responded by commissioning studies and inquiries. In the early fifties Ontario and Manitoba looked to Royal Commissions as audits of hospital financing and to advise on improved mechanisms for accountability. Despite the fact that both provinces were increasing their funding, hospitals continued to be plagued by deficits. In one year alone, 1951, 72 hospitals in Ontario had deficits amounting to \$3.5 million (Taylor 1978:111). Provinces without a public insurance plan were increasingly involved in deficit financing of hospitals. This upset provincial budget processes and left the provinces with their traditional

relationship to hospitals--limited control and regulatory powers--despite their growing fiscal responsibility.

In addition to the problem of deficit financing there was also the problem of inadequate facilities. In 1951 the Ontario Health Survey Report had set as a minimum requirement, 5.5 active treatment beds per 1,000 population. In 1954 both Ontario and Manitoba were still short of the goal at 4.4 beds per 1,000. In fact, Manitoba had one of the lowest per capita expenditures on health care (Taylor 1978:178).

In 1954, the Premier of Ontario, Mr. Frost, requested a detailed study on hospital financing. This study, the Taylor Report, revealed that the only provinces which were meeting or exceeding the recommended ratio of 5.5 treatment beds per 1,000 were the provinces with hospital insurance plans. Furthermore, the report indicated, while these provinces succeeded in providing near universal coverage and adequate hospital funding, their costs were not rising any faster than the costs in Ontario. Being a political realist Frost saw hospital insurance as inevitable, being a fiscal conservative he was unwilling to absorb the costs without substantial federal assistance. Frost took the Taylor Report to the Federal-Provincial taxation conference in 1955 to lobby for a national hospital insurance plan. The provinces with plans in operation joined Ontario in pressuring the federal government to take some specific action on health insurance (Taylor 1978:131).

The advocates of a National Hospital Insurance Plan included the electorate, the Canadian Congress of Labour, and the premiers of British Columbia, Alberta, Saskatchewan, Ontario and Newfoundland. The opponents of this plan included the Canadian Medical Association, The Canadian

Hospital Association, The Canadian Life Insurance Officers Association and The Canadian Chamber of Commerce. This odd alliance of organized labour, social credit, CCF and conservative provincial governments against important sectors of the business and professional establishment testifies to the compelling fiscal pressure being exerted upon provincial treasuries. In the end, the provinces prevailed and the Hospital Insurance Act was proclaimed in 1957.

While the other legislation during this cycle increased federal cost-sharing it was the Hospital Insurance Act that was most important in extending the principle of entitlement through universality and in achieving a substantial transfer of costs from the provincial to the federal treasury. Federal health expenditures rose from \$62 million in the year prior to the legislation, to \$132 million the year after implementation. Costs continued to rise to over half a billion in 1967 the year prior to the implementation of Medicare (Leacy, 1983:Series H19-34).

The third cycle of federal-provincial negotiations 1958-1963 was less eventful in terms of social welfare activity. In 1957 a Conservative minority government was elected, a year later they received a majority, organized labour was still largely on the defensive and the CCF seemed contained in Saskatchewan. At the Federal-Provincial taxation conferences attention was directed at revenue-sharing rather than expenditures and the first federal offer of joint occupancy of the personal income tax field was made. The federal government did live up to its election promise amending the pension acts of 1951 increasing the universal and the means tested benefits from the original \$40 a month to \$65 by 1962. However,

only one new welfare statute was enacted during these years. The Vocational Rehabilitation Act (S.C. 1961 c.26) providing federal cost-sharing with the provinces for training of the disabled.

During these years there was discussion of extending federal involvement in health care through a national medical insurance program (Walters 1982). However, Diefenbaker adeptly forestalled any difficult decisions by appointing a Royal Commission on Health in 1961. Thus, the Conservatives came to the end of their term in 1963 having played a very limited role in the construction of the welfare state. Perhaps their greatest legacy was the appointment of the Royal Commission on Health which was destined to play a critical role in the realization of the last of the universal programs to be implemented by the federal state.

The fourth cycle, 1963-66 was the decisive period for the implementation of a national welfare state. Within the four years 1963-67, ten new welfare statutes were passed which extended federal cost-sharing in health, education and social welfare, created the first national contributory pension plan and brought in the last universal social program, Medicare. This extraordinary level of legislative activity was a response to the resurgence of social reform pressures in the sixties. The divided labour movement became united (1956) and formally allied with the CCF (1961) in the New Democratic Party. Labour militancy was on the upsurge and pressures for social reform were mounting.

After seven years in opposition the Liberal party read the mood of the electorate and ran on a social welfare platform in the election of 1963. The strategy succeeded in bringing them into power but only as a

minority. Nonetheless, the liberals began their agenda of reform immediately with a number of important but noncontroversial 'housekeeping' acts. The Established Program Financing Act (S.C. 1964 c.54) provided a formula for federal cost-sharing of educational and health expenses that eliminated the conditional grant mechanism.<sup>16</sup> The Canada Assistance Plan (CAP) (S.C. 1964 c.45) provided for 50% cost-sharing for all provincial social welfare costs, consolidating the separate commitments to categorical groups which had accumulated over time. This consolidation extended the coverage to include all social assistance expenditures and replaced the provincial means test with the federal needs test broadening eligibility to the working poor.

In the sixties welfare rolls throughout the country expanded dramatically producing a 129% increase in the number of recipients between 1961 and 1971 (Leman 1980:3). The implementation of CAP in 1966 substantially increased the federal share of these rising expenditures. In 1963 the Ontario Dept. of Public Welfare reported a recovery of \$35 million from the federal government on a budget of \$92 million or a 38% recovery. In 1967-68 the year after implementation of CAP the same department reported a recovery of \$115 million on a budget of \$190 million or a 60% recovery (Ontario Dept. of Public Welfare Annual Report 1963 & 1968).

In addition, in 1964 the federal government passed two acts that attempted to respond to the social, demographic consequences of the baby boom. The Youth Allowances Act (S.C. 1964 c.23) extended family allowances to children up to 18 who remained in school and the Canada

Student Loan Act (S.C. 1964 c.24) provided financial assistance for the first wave of the baby boom pursuing post-secondary education.

In the subsequent two years the federal government undertook to implement the Canada Pension Plan and Medicare without benefit of a majority in the house. However, much like the implementation of the universal pension plan these major pieces of the welfare state were put into place through the combined influence of political pressure and cold hard cash. In the 1965-66 Session the federal government succeeded in enacting the Canada Pension Plan Act (S.C. 1965-66 c.51) and its companion act the Guaranteed Income Supplement (S.C. 1965-66 c.52).

The process of developing a contributory pension plan was begun in 1963 taking three years of tough negotiation between the federal government and the provinces before agreement was reached. Although the provinces have always shown a great interest in the federal government assuming more responsibility for the costs of the elderly the Canada Pension Plan became the focus of some major jurisdictional wrangling.

The federal government took a first stab in presenting a general formulation of a contributory scheme to the federal-provincial conference in July of 1963. It outlined a basic "pay-as-you-go" plan without any federal contributions which would come into full effect after a ten year transition period. In response, Quebec announced that it would develop and administer its own plan while, the other provincial 'heavy weight' at the table, Ontario, was fractious (Bryden 1974:166). A year later the federal government returned to the negotiating table with Bill C-75 which attempted to give more details and accommodate provincial interests. The primary difference in the second offer was an attempt to win provincial

co-operation through the provision of a federal contribution of \$2.5 billion at the end of the ten year transition with the offer that half the contribution would be made to the provinces for investment. At this point, Quebec presented their own detailed plan which was more comprehensive than the federal scheme with a broad range of survivor, death and disability benefits.

While the Ontario government and the Insurance industry tried to provoke resistance, the overwhelming popularity of the plan among the electorate and the promise of greater federal funding eventually silenced detractors (Bryden 1974:162). The final offer put forward by Ottawa resolved jurisdictional problems by advancing the more generous "Quebec" scheme with an opting-in or opting-out provision. Quebec, as announced in 1963, opted for their own provincial scheme, the Quebec Pension Plan. However, all of the other provinces opted-in, attracted by the increased offer of a \$4.5 billion federal contribution all of which would be available for provincial investment.

This scheme did have the indirect effect of reducing future provincial expenditures on the elderly through better overall provisions for the retired. However, it was the direct effect upon provincial treasuries, the \$4.5 billion solution, which clearly won the favour of the provinces. The companion piece of legislation, the Guaranteed Income Supplement, was originally designed as a temporary measure to provide coverage for the elderly during the ten year transition before full benefits from the contributory plan would become payable.<sup>17</sup>

The same year that the pension plan negotiations were concluded the Royal Commission on Health released its report providing the opening



volley in the struggle to implement the last major statute in the Canadian welfare state. In a reversal of the process leading to the implementation of the Hospital Insurance Act, the medicare struggle had the federal government taking the lead with the provinces doing their utmost to block the legislation. This time, the federal government was aligned with the Canadian electorate, organized labour and the NDP against the opposition of the business and professional establishment as well as three provinces -- Ontario, Quebec and Alberta. With the exception of Saskatchewan the other provinces took a wait and see attitude.

The provincial turnabout on Medicare, couched in the rhetoric of free enterprise, was largely an act of fiscal protectionism. All the provinces had assumed some of the costs of medical care for the poor in their province through their social assistance programs. However, that was as far as most provinces wanted to go. They, along with their business and medical allies, favored a national means-tested plan. The provinces' resistance to the federal insistence upon a universal plan was based upon straight-forward cost considerations. With a universal program provincial health care costs would escalate, even with federal cost-sharing because universality would increase accessibility and hence utilization. Whereas provinces were willing in the 1950's to antagonize their traditional conservative constituents in order to transfer provincial hospital costs to the federal government they stood firmly alongside that same constituency to oppose a federal program which would inevitably increase demands on their provincial treasuries.

While the medicare plan lacked the powerful monetary lever wielded in the Pension plan it did have the influential backing of the Royal

Commission on Health which crystallized strong enough public support to sway the balance in its favour. The Health Commission Report provided critical legitimacy and support to a minority government faced with an economic down-turn, well organized opposition and a wavering cabinet on the eve of implementing the largest and the last of the Green Book proposals. As such it occupies a prominent position in Canadian social welfare history and we will briefly review that role.

The irony of Canadian health insurance is that at the most politically auspicious moment for its implementation in 1944 the Liberal government shelved the plan, only to have to revive it twenty years later in the face of one of the most well organized opposition lobbies in Canadian social welfare history. At the time that the Royal Commission on Health was conducting its inquiry, a major polarization was underway across Canada on the issue of health insurance. While it was generally understood and accepted that a federal-provincial health insurance plan was on the political agenda a clear division was developing on what such a plan would look like. In the early sixties three provinces--Ontario, British Columbia, and Alberta--had developed health insurance for the uninsurables, the low income, "poor risk" group rejected by private insurance companies. On the other hand, Saskatchewan had proceeded with a universal provincial plan, and despite the hostile reaction of the medical profession was proving it would work. The question was means-tested versus universal health insurance and the Hall Commission was called upon to advise on the issue.

A further irony is that it was the Canadian Medical Association who had called for the Royal Commission as a means of removing "consideration

of health and health insurance from the hectic arena of political controversy." The C.M.A. maintained that:

"...a heated and emotionally charged election campaign in which contesting parties are faced with the urge to outdo each other in the attractiveness of their projected programs, scarcely provides the ideal atmosphere for dispassionate and objective consideration of the future pattern of health care in this country" (C.M.A. Journal January 14, 1961:116-117).

Under-mounting political pressure Diefenbaker, the Prime Minister at the time, announced the Royal Commission on Health and carefully selected a seven person commission who would be viewed as a credible board of experts capable of the "dispassionate and objective" consideration the issue required. The commission consisted of two prominent doctors, a dentist, a Nursing School administrator, an industrialist, an economist and the prominent conservative, Chief Justice Emmet Hall, as Chairperson. The commission presumably was designed to put the anxieties of the medical profession to rest.

The Hall Commission like the Heagerty Commission before it, undertook extensive research on the status of health services in Canada. Like the findings of the Heagerty Commission the list of unmet needs were still prodigious: "high infant mortality; high incidence of illness; inadequate supply of trained personnel; general lack of insurance and inadequacy of much of it; inequitable distribution of expenditures on health services; and the disparate financial capacities of the provinces to act" (Taylor 1978:353). However, unlike the Heagerty Commission in 1944 or the provincial inquiries in the 1950's the Hall Commission entered the realm of political debate in an extremely public and authoritative way.

The circumstances surrounding the appointment of members and the change of government between formation of the Commission and the tabling of its report accorded the Commission high public credibility and no hint of Liberal political partisanship. It was generally accepted as the most competent and objective body to rule on the capacities of the two competing models of insurance to meet the basic health needs of Canadians. Their ruling in favour of universal health insurance was a serious blow to its opponents.

Buttressed with the Hall Commission report the federal government took their medicare proposal to the federal-provincial conference in 1965. Initial provincial response was low key with only Alberta and Quebec expressing clear opposition to a plan which would be universal, compulsory, publicly administered, and portable. However, in the subsequent months during another federal election campaign the provinces' opposition increased. The Liberals, returned once again as a minority government, moved quickly to bring in their Medical Care Act (S.C. 1966 c.64), which passed third reading in December of 1966. Despite the apparent speed with which the program moved from proposal stage to legislation every inch of the way was marked by opposition and the opposition continued to mount in the two years between enactment and implementation.

The federal government did not require any constitutional amendments; thus, they proceeded to pass the legislation as an enabling act. Provinces could choose to opt in and receive 50% cost-sharing or opt out and receive no cost-sharing. This, of course, put the provinces in the position of providing or denying their citizens a universal health

plan. The combined effect of political pressure and the 50% cost-sharing could not be resisted. Saskatchewan and British Columbia led the way in 1968; Nova Scotia and Manitoba followed in the spring of 1969 with the big three critics, Alberta, Ontario and Quebec, joining in the fall of the same year. By 1972 all the provinces and the two territories were in the federal Medicare plan.

A companion piece of legislation brought in with the Medical Care Act was the Health Resources Fund Act (S.C. 1966 c.42). This legislation established a federal fund to assist the provinces in upgrading health training facilities and research institutions. Finally, two additional acts, the Training Allowance Act (S.C. 1966 c.27) and the Company of Young Canadians Act (S.C. 1966 c.36) completed the welfare agenda of the session.

The provision of universal medical insurance was destined to be the federal government's single largest social welfare expense. Prior to implementation of Medicare federal expenditures on health, in 1967, were half a billion dollars. However, by 1972 when all the provinces had entered the plan costs rose to \$1.6 billion and continued to rise steadily (Leacy, 1983 Series H19-34).

Medicare, the object of the last big struggle over welfare in this period, marked an end to an era of rapidly expanding social programs. Between 1951 and 1968, 20 federal statutes were passed leading to an even greater number of provincial statutes, as much of the welfare state was built on joint federal-provincial programs. Table III.6 in Appendix III lists the pattern of legislative response in Manitoba and Ontario to the federal statutes initiated in this period. By 1968 the legislative

structure was in place for a national welfare state and a decade later the fiscal consequences of that structure became manifest. Between 1946 and 1978, GNP had increased four-fold, total government expenditures increased six-fold and social welfare expenditures increased eighteen-fold (Moscovitch and Albert 1987:31). The costs of mediating production and reproduction had become very high. The necessity of socializing the costs of reproduction on a national scale becomes evident when we compare the fiscal capacities of the provinces to the federal government.

#### Welfare Expenditures

Throughout the third period the federal government had the greatest share of the nation's revenue through their control of the two major tax fields--corporate and personal income tax. Federal resources were so much greater than provincial resources at the beginning of this period that in 1941 federal social expenditures of \$150 per capita used only 8% of their budget while provincial social expenditures of \$27 per capita used up 35% of their budget (Moscovitch & Albert 1987:22-23). The necessity and inevitability of harnessing the federal treasury to the task of socializing the costs of reproduction are indicated by the sheer magnitude of the costs of state intervention in the third period.

Table 8.7 indicates that at the beginning of this period, 1941, the social welfare bill for health, education and welfare for Canada was \$381 million. By 1977, a decade after implementation of the major welfare statutes, the social welfare bill for the country had increased to over \$63 billion. This level of growth was only possible through socializing the costs of reproduction on a national scale. The federal universal

programs and the federal-provincial cost-shared programs reviewed above were the mechanisms for nationalizing these costs.

Table 8.7

SOCIAL EXPENDITURES BY JURISDICTIONS IN  
AMOUNTS AND PROPORTION OF OVERALL SOCIAL EXPENDITURES,  
FOR SELECTED YEARS 1931-1977  
(millions)

YEAR	FEDERAL		PROVINCIAL		MUNICIPAL		TOTAL
	\$	%	\$	%	\$	%	
1931	130	38	61	18	154	45	345
1941	145	38	110	29	126	33	381
1951	949	52	616	34	261	14	1,826
1961	2,238	41	2,338	43	850	10	5,425
1971	8,765	35	11,252	44	5,286	21	25,302
1977	24,357	38	28,330	45	10,704	17	63,391

SOURCES: Allan Moscovitch & Albert, J. The Benevolent State Tables 5, 6 & 7 pages 21, 22 & 23, Garamond Press, 1987.

Nationalization meant centralization; thus, the construction of the welfare state altered the relation between federal and provincial governments, as well as the relation between state and family. "The principal force behind increasing centralization in a number of countries has been the growing relative importance of social expenditures, most of which in most countries tend to be made centrally" (Bird, 1970:171). While Canada has not experienced a 'classic' centralization process (particularly since the agreements in the 1960's provided greater provincial occupancy of the major tax fields) we do see an unambiguous process of increasing federal responsibility for social welfare expenditures.

Regardless of how the federal and provincial governments negotiated access to revenue, the outcomes on the expenditure side have been consistent throughout the third period. All jurisdictions with taxing authority were called upon to allocate more and more of their overall expenditures to social welfare. Both the number of dollars expended and the percentage of each jurisdictional budget allocated to social expenditures increased steadily.

Table 8.8 indicates that social expenditures came to absorb ever greater proportions of the overall expenditures in each jurisdiction. The percentage of the federal budget committed to social expenditures rose from 29% in 1931 to 53% by 1977. The provinces and municipalities experienced a similar process of seeing an ever greater proportion of their overall budget being expended on social services, from 32% and 45% respectively in 1931 to 65% and 51% respectively in 1977.

Table 8.8

PER CENT OF JURISDICTIONAL BUDGET EXPENDED  
ON SOCIAL WELFARE, FOR SELECTED YEARS 1931-1977

YEAR	FEDERAL*	PROVINCIAL*	MUNICIPAL
1931	29%	32%	45%
1941	8%	35%	43%
1951	26%	49%	34%
1961	34%	61%	42%
1971	41%	67%	56%
1977	53%	65%	51%

\* Including transfer payments

SOURCES: Allan Moscovitch & Albert, J. The Benevolent State Tables 5, 6 & 7, pages 21, 22 & 23, Garamond Press, 1987.

Table 8.9 indicates that at the beginning of the third period the federal and provincial government together were spending about \$200 per person on social services, by the end of the period it had increased to



change its taxation and expenditure patterns and alter its relation to the family. The impetus behind these dramatic social and political transitions was the necessity to accommodate reproductive requirements in an economic system inherently and purposefully unresponsive to those requirements. Our measure of the fundamental nature of reproductive relations and their on-going pressures on the system lies in the fact that governments throughout Canada and in other industrialized nations undertook this massive transition in social, jurisdictional and fiscal policy precisely because reproductive requirements had to be met.

#### The End of the Period and The Discovery of Patriarchy

The process of state mediation of production and reproduction in this period involved a major realignment of labour and income flows between the two spheres. The consequences of this strategy were fundamental in terms of the structure of society, the structure of the family and the structure of the labour force. The social and political unrest of the 1960's was both symptom of and harbinger for the new society created by the substantial realignments undertaken in the post-war period. The social reformers demanded the best of the realignment strategy, providing the impetus necessary to complete the social welfare package promised in the 1940's. The rebels of the 1960's identified the worst of the realignment strategy, the injustices and inequities upon which the social compromise of the 1950's was built. In doing so they created the possibility and the context in which patriarchy would be 'discovered' in its social formation.

close to \$2,000 per person and by 1977 it was close to \$4,000 per person.

Table 8.9

PER CAPITA SOCIAL EXPENDITURES BY JURISDICTION  
FOR SELECTED YEARS 1931-1977

YEAR	FEDERAL	PROVINCIAL	TOTAL
1931	43.24	18.38	61.62
1941	157.03	27.29	184.32
1951	260.49	89.79	350.28
1961	360.94	210.13	571.07
1971	991.14	802.58	1,793.72
1977	1,975.92	1,873.98	3,849.90

SOURCES: Moscovitch, A. and Albert J. The Benevolent State Tables 5 & 6 pages 21 & 22, Garamond Press, 1987.

In short, the average government input to an average Canadian family (2-parents, 2-children) in 1977 was \$15,324.76. This same year the average industrial wage was \$13,089.44 (Labour Gazette, Dec 1977:578). This comparison highlights the increasing displacement of reproductive costs from employers to the state and the increasing reliance of the Canadian family upon the social wage. This massive public financing of the private family was the cost of the political and industrial stability which characterized most of the third period.

The process of mediating production and reproduction in the third period led to the development of the modern welfare state. An historic development in Canadian social history which was necessary in order to reallocate billions of dollars of income and services to Canadian families outside of the wage determination process. Absorbing the costs of reproduction on a national scale required the state to reorganize itself,

For twenty years the realignment process involved a massive flow of income into the family and an equally massive flow of female labour into the workplace. All the while this restructuring was underway the dominant ideology extolled the nuclear family ideal, father-breadwinner, mother-homemaker. However, by the mid-sixties even the ideologues could not ignore the evidence of change--the nuclear family was on the verge of becoming a minority, birth rates were down, divorce rates were up, abortion had once again become a central social issue and women were beginning to articulate their anger with a double work load and 50% pay. As women joined the ranks of the rebellious in the labour movement and the student movement, they discovered and challenged the legislation and institutions which restricted their rights and freedoms. They discovered the institutional form of patriarchy, social patriarchy.

In response to this new angry constituency, the federal government appointed the Royal Commission on the Status of Women with a broad mandate "to inquire into legislation, regulations and policies that concern or affect the rights of women" (P.C. 1967-312 Report of the Royal Commission on the Status of Women 1970:vii). Unexpectedly, the Commission tapped into a public sentiment as pervasive and powerful as that which gave rise to the social reform movement at the turn of the century. Much as the Beveridge report became the signal document for the new welfare ideology so the Royal Commission on the Status of Women became the bench mark for the second wave of feminism.

The response to the Royal Commission was overwhelming. The commission received 468 briefs, 1,000 letters, 890 witnesses at public meetings and 40 specially commissioned studies (Report of the Royal

Commission on the Status of Women 1970:ix). The commission had become the mechanism for publicly and formally placing the "women's issue" on the political agenda. As such it was an exhaustive process, fraught with differences and controversy. The seven member commission produced five formally submitted documents; a majority report with 165 recommendations, a Minority report and three separate statements by signators of the majority document identifying specific concerns, primarily around abortion.

The report contained a well documented list of inequities and discrimination against women manifest in the workplace, in the home, in the public institutions of education, law and government and throughout government policies from taxation and child care to immigration and citizenship. For the first time in Canadian history the patriarchal structures and assumptions of our society were examined and presented for public scrutiny. The indictment was powerful, the commission revealed the inequities upon which traditional institutions were built, acknowledged the irreversibility of women's extended role in production and gave clear warning that the consequences of women's new role would be far reaching and fundamental to the structures of our families, our work and our society.

While the Royal Commission on the Status of Women dealt with all the same symptoms of disjuncture between production and reproduction that provoked the Victorian social reform movement the response options available in the 1970's were quite different from those of the 1890's. The centralization of production, and the availability of a global labour market had fundamentally changed the value of women's labour in Canada.

There could be no return to the 'protection' of female labour and the legislative underwriting of the support-service family structure. The recommendations and reforms resulting from the Royal Commission would further erode the legislation and policies which had allocated women's labour to reproduction. It was no longer structurally possible to 'rescue' the family at the expense of women. In the struggle to liberate the individual who had sustained and anchored the family the contradiction of production and reproduction would reappear, in the subsequent period, as a labour crisis in the family and a demographic imbalance in the society as a whole.

The Royal Commission changed the language of Canadian social and legal policy by placing patriarchy on the political agenda. The historic problem of balancing production and reproduction, work and family life, would no longer be limited to the partial expression obtained in the struggle between capital and labour over the wage. The conditions for a comprehensive and direct expression of this conflict was contained in the articulation of women's dual role in our society. Women became the literal as well as the political embodiment of the conflict between production and reproduction, their 'issues' being the issues of balancing the requirements and responsibilities of work and family life. By seriously considering the status of women the Royal Commission exposed the patriarchal premises of state mediation strategies, brought closure to a period of complacency and ushered in a new wave of state intervention. As such it is fitting that this inquiry is the last state activity we consider in our hundred year review of the relation between production, reproduction and the state.

In summary, state mediation in the third period did succeed in securing a temporary moment of balance between production and reproduction, albeit under uniquely auspicious conditions and even then at a very high cost to its treasury and the Canadian family. Thus, the third period ends, much as the previous two did, with the conditions of mediation within the period becoming the conditions of crisis in the next. What is unique about this period is the magnitude of the resources rallied to effect a 'resolution' and the restructuring of reproduction permitted in the process. Events subsequent to this period suggest that the challenge of mediating the two spheres returns in crisis proportions with, however, many fewer options available to the state than in the third period.

#### FOOTNOTES

1. In the post war years more couples were opting for an average of 3 or 4 children and completing their family in a shorter interval. In the depression years, couples were polarized into two groups, the better educated, higher income couples with one or no children and the lower income couples with many children. Although families were somewhat larger in the 1950's, the big difference in fertility was the result of this democratization of procreation. The average number of children born to ever married women changed from 2.6 in the trough of the depression to 3.4 at the peak of the baby boom. (Romaniuc:1984, 16)
2. As the demand for labour continued immigration increased accounting for 26% of the population growth in the 50's and 22% in the 60's. (Clement:1984, 83 in Kealey and Cross, Modern Canada; McClelland & Stewart, Toronto 1984).
3. A particularly thorough review of this process is found in Segmented Work, Divided Workers by Gordon, D., Richard Edwards and Michael Reich, 1982 Cambridge; Cambridge University Press
4. While most of the research on the segmentation process has been done in the United States there are a number of reasons to assume that the American model of Management was closely followed in Canada. First, outcome measures, such as sexual segmentation of labour, wage

and unionization differentials between industries and sectors are similar in both countries. Second, the labour legislation that both workers and management had to deal with was also similar in Canada and the United States (Pentland 1968, 332). Finally, the most compelling argument lies in the interpenetration of the Canadian and American economies which result in many of the same unions, companies and capital interests operating on either side of the border. The direction of influence in this close economic relation is quite clear. In 1948, 43% of manufacturing in Canada was foreign controlled of which 39% was American controlled. Fifteen years later, 60% of Canadian manufacturing was foreign controlled, 46% by American interests (Phillips and Watson: 1984, 34 in Cross and Kealey Modern Canada).

5. For a detailed presentation of their data see Pradeep Kumar Relative Wage Differentials in Canadian Industries, 1974 Industrial Relations Centre, Queens University at Kingston, Canada and C. Aw - Department of Labour Canada Occasional Papers 1980, Queens Printer, Ottawa.
6. The only Canadian study (Boyd and Humphries 1979) which attempted to relate sexual segmentation to core and periphery distinctions found "...men and women are almost equally distributed into the core and into the periphery industrial sectors of the Canadian economy" (Boyd and Humphries 1979:52). These findings, however, were a function of the author's use of Statistics Canada major group classification and not the detailed standard industrial classification code used by Aw and Kumar. When the more discriminating measure is used there is strong evidence of sexual segmentation according to core and periphery distinctions, as presented in tables 8.4 and 8.5 of this study.
7. From Aw's sample of 18 core and 21 periphery industries we chose 10 core and 14 periphery on the basis of their having met all of the criteria for their location over a ten year period (Aw, 1980: 12 & 13). We then examined the distribution of male and female workers in these twenty-four industries to see if Humphries and Boyd's conclusions (no relation between sex and sector) are maintained when working with disaggregated data.
8. A time series analysis by Fox and Fox (1985) looks at general trends in occupational segregation and gender income differences using Canada census data from 1931 to 1981. If labour markets are being restructured to hold down the costs of labour one would expect, as Gordon et. al. (1984) have argued, that the segmentation strategy would be more sophisticated than a simple sexual segregation by sector. Although the evidence is far from conclusive it appears that the deployment of female labour can operate to hold down the costs of labour in two related ways; first, the expansion of low wage female job ghettos (the selection effect) and second, the utilization of female labour in the lower strata of a large number

of occupations (the competition effect) which Fox and Fox have found to have "a depressing effect upon men's wages". Using structural equation models for testing the selection and competition effects Fox and Fox found evidence of both processes in operation.

9. Manitoba and Ontario labour laws continued to specify that where women's employment begins or ends between the hours of 12 a.m. and 6 a.m. free transportation must be provided (Dept. of Labour, annual report of the Women's Bureau 1975:46). The other restriction maintained was the federal and Ontario Mining Act which continued to prohibit female manual work underground (Dept. of Labour, annual report of the Women's Bureau 1973:22).
10.
  - "firing staff for union activities;
  - transferring workers involved in a union in one branch to a different branch;
  - denying promotion to an employee due to union activity;
  - hiring additional workers at a branch in the process of unionizing in order to undermine the majority of union members required to form a union;
  - holding both group and individual meetings during working hours ("captive audience" meetings) to apply pressure to employees to prevent them from unionizing, meetings sometimes attended by high-ranking officers of the bank, who had not been heard of previous to the meetings;
  - requiring workers at unionized branches to make up any cash shortages at the end of the day out of their own pay, while this was not required at non-union branches" (White, 1980:45).
11. One strategy introduced by British Columbia, Newfoundland, and Manitoba was to establish the status of unions as entities that could be sued, leaving uncertainty as to the extent to which unions might turn out to be held liable for unauthorized acts of their members. In addition, Manitoba required government-supervised strike votes and Ontario introduced legislation to regulate the internal affairs of unions (Pentland 1968:333).
12. All of the social welfare commissions and inquiries in this period were health inquiries. Because of the limited number of commissions and their very specific focus we will not present a separate section on Commissions but will discuss them in the context of the legislation they addressed or contributed to.
13. The Ontario Clause was removed in 1950 (S.O.1950 c.66 s.4) and the Manitoba Clause was removed in 1954 (S.M.1954 c.7 s.35).
14. Mothers' Allowances payments were less regularly reported as separate from over all assistance payments in Manitoba. By the early sixties Mothers' Allowances became incorporated in the revised Social Assistance Acts of both provinces, no longer existing as a separate, calculable expenditure.



15. In his analysis of old age pensions, Bryden points out that throughout Canadian history the provinces attitude to federal involvement was always co-operative. "The provinces' response was not to try to reclaim their jurisdiction but to encourage more complete federal involvement. ....Provincial participation in policy making was confined to some supplementation of the benefits paid under federal law and to occasional attempts to persuade the federal government to improve benefits" (Bryden, K. Old Age Pensions and Policy-Making in Canada, McGill-Queens University Press 1974:202). This approach was characteristic of Quebec as well until the sixties.
16. In the third period the relative importance of conditional grants rose from 19% of total federal payments to the provinces in 1955 to 72% a decade later. As their proportional importance grew provinces chafed against the "conditional" nature of the grants. As a result the mid-sixties saw a move away from conditional granting. Two acts were implemented to consolidate and routinize these payments. The first was the Established Programs Financing Act in 1964 which largely covered education and health and later the Canada Assistance Plan Act which largely covered social welfare payments and services. The former was calculated on a per capita formula basis and the latter on a 50% reimbursement basis (Moore, A.M., Perry, J.H., & Beach D. The Financing of Canadian Federation, The Canadian Tax Foundation, Toronto 1966:112).
17. The guaranteed income supplement was deliberately designed as a transitional measure which would ultimately phase itself out when full benefits would become payable under the contributory scheme. No one who had been born after 1910 and thus would reach 65 after 1975 was to be eligible for the GIS. However, the continued need to supplement pensioners' incomes resulted in the removal of this limitation by an amending act in 1970. GIS is still in place today (Bryden, 1974:131).



## CHAPTER 9

### CONCLUSION

This study is located within a feminist theoretical tradition, which has developed over the past two decades in an attempt to incorporate women and reproduction into historical and contemporary analysis. The study was motivated by our interest in understanding the persistence and dynamic of patriarchy in contemporary capitalist societies. It was also informed by the observation that the focus of struggle around patriarchal rules and structures today is the state. Thus we identified a key relation to unravelling the puzzle of patriarchy, as being the relation between the institution structured by patriarchy, the family, and the institution which has become the terrain of dispute over patriarchy, the state. We pursued our inquiry into family-state relations through an analysis of family, labour, and welfare law as they evolved over an eighty-four year period of Canadian history.

In approaching this historical analysis we were acutely aware of the tendency for reproduction to be lost due to the overwhelming dominance of productive interests in capitalist systems. To resist the analytic tendency to economic reductionism, we began our study with a systematic exploration of theories of reproduction. From the growing body of feminist theoretical literature, we identified three themes essential to the development of a theory of reproduction. First, the necessity to

resurrect reproduction from the obscurity of biological determinism or economic reductionism to ensure its centrality in social analysis. Second, there is the problem of accounting for the persistence of patriarchal structures over time. Finally, there is the importance of explaining the variation and change in patriarchy cross-culturally and over time. To begin, therefore, we sought a theoretical model which could address the three considerations of centrality, continuity, and change.

In an attempt to address these three critical dimensions of reproduction and patriarchy we drew together the diverse theoretical threads of anthropology, Marxist theories of production and the state, radical feminist critiques and socialist feminist alternatives to inform our understanding of reproduction. From these theoretical traditions, particularly the debates which focus on the relationship between production and reproduction, we adopted a dual systems theoretical model. This model asserts that production and reproduction are equally fundamental, co-determinative relations which constitute the base or infrastructure of all societies. Within this model production and reproduction are understood to be distinct but interdependent imperatives which give rise to distinct but interdependent modes of organization.

We selected the dual systems model as the best theoretical option for developing a dynamic theory of reproduction and responding to the three considerations of centrality, continuity, and change. We found that the location of reproduction in the base ensured a focus on the centrality of reproduction, as well as an awareness of the continuity of patriarchal structures over time. Further, we found that the analytic focus of this model on the dynamic interchange between production and reproduction

addressed the issues of change without succumbing to economic reductionism.

Working within a dual systems model we outline the distinct character of reproductive relations and propose a theory of different modes of reproduction outlined in our description of communal, familial, and social patriarchy. We maintain that just as class captures the fundamental character of productive relations, so patriarchy captures the fundamental character of reproductive relations. Given the identification of distinct systems of production and reproduction with distinct dynamics, the possibility of conflict or disjuncture between the two systems arises. Diverging from the traditions of socialist and feminist theory we argue that the fundamental contradiction in class societies lies in the contradiction between the modes of production and the modes of reproduction. Specifically, in this study, we maintain that the organization of production around the wage labour system comes into direct conflict with the organization of reproduction around the patriarchal system.

Hence, we locate the pattern of family-state relations within the context of a dynamic and contradictory struggle between these two fundamental processes in our social system. The role of the state, we argue, is to intervene to attempt to achieve some balance between these two essential spheres which are mutually contradictory in structure. The concept of balance utilized in this study is adopted from Meillasoux's (1975) work and refers to the process of coordinating the exchange of labour resources, the product of reproductive relations for subsistence resources, the product of productive relations. It is based on the

assumption that these exchanges are not inherently or inevitably coordinated and therefore, require some form of organization to be achieved. Thus, the concept of balance utilized in our analysis of family-state relations refers to the process of aligning and realigning this exchange in view of the restructuring of production and reproduction which characterize the period under review. As such balance is a verb expressing a process of coordination against a backdrop of tension, flux, and change rather than a noun identifying a state of static equilibrium. Finally, we maintain that state mediation is contained within the parameters of a dual commitment to the wage labour system and patriarchy, thus the process of intervention is best understood as a reformation of the wage labour system and a transformation of the patriarchal system.

The application of a dual systems analysis to our study of family-state relations directed our attention to the macro dynamics of production, reproduction, and state restructuring. Utilizing a historical materialist methodology, our research strategy was to undertake a study broad enough to capture the three processes in transition and specific enough to attend to the particular issues of reproduction and patriarchy. As a result we selected an eighty-four year time frame, three fields of legislative intervention (family, labour and welfare law) and three jurisdictions in which to observe the changing dynamics between production, reproduction, and the state.

The time frame selected covers major processes of restructuring in all three entities. The eighty-four years reviewed permits us to trace the restructuring of production through the ascendancy of the wage labour system, the restructuring of reproduction through the development of

social patriarchy and the restructuring of the state required to keep pace with the increasing necessity of intervention. The combination of a broad time-frame and a specific focus on reproduction reveals two patterns of particular interest to our study of family-state dynamics. First, we see the ongoing tension between production and reproduction reflected in the process of continual displacement of the costs of reproduction away from production onto the family, then the municipality, then the province, and eventually onto the nation state. This process identifies the material basis of the increasing dependence of the family on the state. Second, we see this process of displacement resulting in the increasing centralization of authority over and responsibility for the family within the state. This centralization of authority and support for reproduction captures the essence of the transition from familial to social patriarchy, identifying the material basis of the contiguous development of social patriarchy and the welfare state. As we see the state evolve in its relation to women and children as provider and patriarch we better understand why it has become the focal point of struggle over reproductive and family life issues.

In selecting legislative fields which would reflect the reproductive dynamic as well as the productive dynamic we identified family, labour, and welfare law. These statutes were seen to be particularly revealing of state efforts to mediate production and reproduction because they serve to regulate flows of labour and resources within and between the two spheres. Their function in coordinating this critical exchange identifies these statutes as the best indicators of the pressures and tensions in the intersection of production and reproduction. Further, as primary state

mechanisms for coordination of the two spheres, they clearly express the two tendencies of state intervention--support and regulation.

Our selection of Ontario, Manitoba, and the federal government provided a multijurisdictional vantage point to consider the uneven and combined effects of development and reform in Canada. Given that each province was characterized by different levels and timing of development, and each jurisdiction was characterized by different administrative capacities the most remarkable feature of our multijurisdictional review was the rapidity with which legislative interventions were diffused throughout the country. This discovery speaks, we think, to how fundamental and compelling the dynamics of production and reproduction are, to produce such remarkably uniform responses across a country marked by such diversity. Despite this diversity the crisis of each period and the pattern of state intervention was replicated and resolved in each jurisdiction within the confines of the period.

A final strategy utilized in our analysis of legislation was to divide our review into periods according to changing manifestations of the contradiction between production and reproduction and changing mediation strategies which developed over time. In the determination of the boundaries of each period we identified key indicators of the interaction within and between the two spheres. We selected structural indicators which were our evidence of the source and severity of imbalance between production and reproduction which, we argued, operated as the structural triggers to state intervention. They include: the state of the economy, labour supply as determined by birth rates and immigration rates, the gap between wages and reproductive costs, social and demographic factors



affecting reproductive costs and the degree to which productive relations interrupt or are perceived to interrupt family reproductive patterns as indicated by women's employment rate. A second set of indicators are the conditions and directions of social struggle, specifically class struggle and women's struggle which served to translate the structural pressures into political pressure for state intervention. Finally, we identify the degree of rationalization and centralization of the state as an important indicator of mediation potential, in recognition of the fact that the state capacity to intervene is determined by the structural capacities of the state system itself.

Periodization helped to capture the complexity of the process of changing structural tensions and changing state interventions while permitting us to stay focused on the larger dynamic--state mediation of the restructuring of production and reproduction. In response to the ongoing pressure to commodify labour, endemic to the wage labour system, identifiable patterns of crisis eruption and conflict mediation emerge. Each period presents a distinct manifestation of imbalance in the labour and resource flows between the two spheres resulting in a different state intervention strategy. In the first period, we observe the process of commodification having the dual effect of pulling more family members into the labour force, while visiting the costs of those who could not work onto the municipalities and local charities. State response was largely regulative and served to restrict the use of women and children in production and enforce familial responsibility for support of its members. The state attempted to accommodate the competing demands for labour from production and reproduction through the legislative reinforcement of

separate male and female spheres in the form of the support-service marriage structure.

In the second period, tensions erupt around the cost of living crisis, focusing attention on income rather than labour allocation. The state maintains and elaborates on the regulative features of family and labour law reinforcing the legislative base of the support-service marriage structure. The innovations of this period involve new welfare statutes, new tax laws, and the development of provincial welfare departments as the state becomes increasingly involved in socializing the costs of reproduction. State intervention during this period occurs largely at the provincial level as the state both regulates and underwrites the sexual division of labour and the support-service marriage system.

In the third period, the contradictions between production and reproduction manifest separately as an income shortage at the household level and a labour shortage at the production level. As a result, the central task of the state became one of realignment of income and labour flows between the two spheres and a restructuring of the state itself to accommodate the increasing demand to socialize the costs of reproduction. The consequences of this realignment were the modern welfare state and the erosion of the support-service marriage structure. In each period we see the state's efforts to coordinate the flows of income and labour between the two spheres resulting in the centralization of support for and authority over reproduction within the state itself. Thus, each period traces a major step in the transition from familial to social patriarchy.

Assessing the Outcome

In reflecting on the usefulness of our theoretical model and our methodological procedures, we will consider the extent to which we have been able to move beyond the limits identified by the critics of dual systems theory and how effectively our approach has addressed the questions with which we came to this project. We will also consider the strengths and weaknesses of this study in light of alternative research strategies and the extent to which our approach can inform current, as well as, historic family-state relations.

As stated earlier, we adopted the dual systems model as a strategy to resist the tendency to economic reductionism so endemic to historical materialist analyses. The theory held out the promise of providing the necessary focus on patriarchy because of the equal emphasis upon reproduction and production contained within it. The disadvantage of the theory was that it exists as a model with a longer history of discussion and suggestion as a means of conducting research than actual application to research. Earlier proponents of the model articulated dual systems at a more abstract and theoretical level (O'Brien 1981, Eisenstein 1980, and Delphy 1984). In fact, this study marks a first attempt to apply dual systems theory to a systematic analysis of institutional relations. As such it responds to one of the major criticisms of the model--its limited application.

While dual systems is not a new perspective, it exists, in many regards, as an untested and incomplete theory. As a result, many of the components and dynamics of patriarchy as a system lacked specification within this model (Fox 1988:170). However, given the option of an

incomplete theory or an inappropriate theory we opted for the former. Thus, our first task was to undertake further specification of the components and dynamics of patriarchy, before we could proceed to its application. Our identification of the material basis of the relations of patriarchy in the material necessity of all social systems to manage and control reproduction and our specification of the operation of patriarchy in communal, familial, and social patriarchal modes of reproduction were an essential first step in conducting our study and an attempt to take seriously the critics of the perspective. In doing so, we specifically attempted to respond to the criticisms of Fox (1988) and Randall (1988) who locate the weakness of dual systems theory in its failure to identify the different material bases of the relations of production and patriarchy.

The unavoidable dual focus of our theoretical perspective served to ensure that in the indicators selected and the legislation analyzed we did not lose sight of reproduction. Our indicators of structural change extended beyond the usual political/economic categories of wages, profits, unionization, and monopolization to include birth rates, immigration rates, household economies and long term demographic trends. Our analysis of social struggle, the process of translating the structural pressures into political pressures, was extended beyond the usual parameters of class to include the social reformers of the first period, the social workers of the second period, and the advocates and architects of the social welfare system in the third period.

In providing this focus our perspective led to the inclusion of observations and legislation other perspectives typically overlook.

However, more importantly, the dual systems model drew our attention to the interactive nature of production and reproduction and hence the necessity of an interactive analysis to comprehend the processes which sought to coordinate or control them. It became evident, within this perspective, that the history of family-state relations could not be contained in family law alone. An important sub-theme in this study is the demonstration of the manner in which legislative areas interact to amplify or direct their effect into a single integrated policy thrust. This demonstration suggests that a thorough understanding of the development and impact of one legislative field is often not fully available within the confines of the single legislative area. Typically, studies of law have tended to single out one legislative area for intensive study. However, we would suggest that such singular focus would miss the important interactive effects produced by activity in related legislative fields. For example, there is our documentation in the second period of the proliferation of rules of rights and obligations in family law which had more to do with limiting welfare demands on the state than protecting family members. Furthermore, the fact that enforcement of family law was dependent upon a welfare bureaucracy providing third party plaintiffs to sue for support on behalf of reluctant or unwilling dependents reiterates the importance of an interactive analysis.

Finally, in the specification of the state's mediating role as one of coordinating the income and labour flows between production and reproduction the dual systems model directs our attention to the reproductive content in the seemingly unrelated state activities of taxation agreements, constitutional amendments, and labour legislation.

Our perspective draws our attention to how often constitutional amendments have been initiated by pressure on the federal state to assume responsibility for health and welfare (reproductive) costs and services originally within the exclusive jurisdiction of the province. We view the introduction and extensions of income tax legislation as the inevitable concomitant of welfare legislation, the mechanism for socializing the costs of reproduction. We understand the sixty years (1884 - 1944) of protective labour legislation as sixty years of allocating women's labour to reproduction. We observe how often the issue of labour allocation is, in fact, the issue of women's labour.

In applying the dual systems model we pursued a very specific research strategy, a case study of legislative formation over eighty-four formative years of Canadian history. The selection of this strategy was informed by our theoretical perspective and the specific questions with which we approached this project. Our focus on the macro dynamics of production, reproduction, and the state and our inquiry into these processes from a historical perspective contributed to the strengths as well as the limitations of this project.

The decision to undertake a historical study made us subject to the usual limitations that historical research imposes. We become subject to the decisions of an earlier period concerning what information should be recorded, as well as being subject to the manner and care with which the records are preserved. This has always posed a problem for researchers whose focus is on women, children, and/or household because of the exclusion of these subjects from power and public life and hence their exclusion from much of our recorded history. We became particularly aware

of this problem in dealing with census data which was characterized by considerable gaps in information in the earlier periods of Canadian history.

A major loss in undertaking a historic study is the lack of access to the people making and living the history, particularly in the first and second period, because most key informants would have passed away. However, this loss is counterbalanced in our study by our access to confidential material not available to researchers at the time. The Canadian practice of sealing personal papers and government documents for thirty or forty years, according to the specific rules for storage of confidential material, makes accessible to later generations information denied to contemporaries. This provided us with access to confidential documents concerning government motives and methods in designing and implementing specific legislative interventions. This access was particularly valuable in our analysis of the war years when so much of the history of decision-making involved in the design of social welfare legislation was buried in confidential cabinet minutes, departmental reports, and personal papers. It was in the release of these sealed documents that the 'real' history of family allowances, for example, was uncovered.

In the pursuit of this study, the constraints of historical research have been less severe because we are studying reproduction in its structural form and public manifestation. While the public documents we relied on for evidence of reproduction seldom recorded the personal or subjective aspects of this process they clearly were concerned with and consistently documented the social impact of reproduction, for example,

marriage rates, birth rates, and infant mortality. Further, because we chose to examine the operation of reproductive dynamics through the focus of legislation we benefited from the historic consistency in Canada in recording official government activity and the preservation of those records.

While our focus on the macro dynamics of production, reproduction, and the state reduced some of the information constraints of historical research it leaves a number of issues unaddressed both at the macro and micro level. Not only is there more than one way to research the questions we asked there are also more questions to consider than the ones we posed. These unaddressed questions locate our research, its contributions and limitations within a broad range of research on family, patriarchy, women, and the state.

At the macro level, our selection of a case study 'selected out' important questions which can only be addressed through international comparisons. While case studies are a good means of relating what the state did and why, they miss the issues of what the state could have done (differently or in addition to); issues which come to the forefront in comparative studies. Although this study does not address those issues it does provide a detailed history of one state's intervention patterns as a basis for further comparative research. In addition, it can inform comparative research by adding the particular perspective which dual systems analysis has brought to our project. Specifically it can add an awareness of the value of interactive analysis of legislation as an alternative to single statute analysis and most importantly, it can



suggest indicators, processes, and legislation which will provide a clearer focus on reproduction.

In undertaking a structural analysis of changing dynamics in production, reproduction, and the state we do not address the creative and diverse ways in which women and families respond to these structural constraints. A macro analysis precludes the fine grained, detailed history of women's lives which is accomplished in the work of feminist historians who select a narrower focus either in location or time (Parr 1990; Bradbury 1984; Mitchinson 1979 and Strong-Boag 1981). While this study cannot provide such detail it can provide a useful backdrop to these and similar studies by specifying the structural constraints, legal and bureaucratic, within which women made choices, raised children and accommodated the demands of work and family life.

While our theory and methods have imposed clear limits on what we have researched, it does not limit the application of our findings to a particular theoretical school of thought or a particular unit of analysis. Our findings can inform the very specific, as well as broad comparative studies when the common concern is an analysis of patriarchy, women, the family, or the state.

When assessing the combined effect of our theoretical perspective and our research strategy we identify the strength of this study in the consistency of its focus on women and reproduction. This focus permits us to address the questions concerning the persistence and dynamic of patriarchy with which we approached this project. Within the confines of the history we reviewed our analysis locates the continuity of patriarchy in the ongoing necessity, in Canada as in other countries, of managing and

controlling reproduction in relation to the dynamics and interest of production. Our study suggests that evidence of this necessity is found in the rise and influence of social reform movements at various times in history when the contradictions between production and reproduction seriously undermine the viability of the reproductive unit. We suggest that these social reform movements are the political expression of the reproductive imperative under pressure from production. Examples of this expression were the social reform movement at the turn of the century which pressured the state to institute legislation to protect women and children from production and the social welfare movement in the post war period which sought to subsidize the reproductive unit through massive social expenditure. In short, this general interest in the support and management of reproduction propels the state along a course of socializing the costs and centralizing the authority structures of patriarchy--constructing social patriarchy.

Our analysis suggests that the specificity of patriarchy in Canada today lies in the intersection of this general interest with the state's specific interest in limiting its responsibility for the costs of reproduction. This specific interest is achieved through the maintenance of the structures and traditions which privatize the process, the labour, and much of the costs of reproduction--familial patriarchy. While our immediate research goal was to document the changing form and function of patriarchy manifest in the history of family-state relations our larger goal was to use this information to better understand the dynamics of patriarchy today. Thus, a measure of the usefulness of this study is the

extent to which it can inform our understanding of contemporary patriarchal structures.

Three areas of contemporary research on patriarchy and/or the state in which we can situate our project are; studies of the dynamics of social patriarchy in contemporary welfare states (Sassoon 1987, Hernes 1984 and Borchorst and Siim 1987); cross national studies of welfare state regimes (Esping-Andersen 1989 and O'Connor 1989); and the current debate within the feminist literature on the impact of state intervention on feminist issues--the advent of 'state feminism' (Randall 1988, Dahlerup 1987 and Currie 1990).

The first research area focuses on the status of women in welfare state societies. It poses the question of what have women gained and lost in the transition from 'private to public dependence' (Hernes 1984:26) and it identifies contradictions within the welfare state in its treatment of women (Sassoon 1987:158). This literature raises questions about the particular puzzle of social patriarchy which is characterized by the state's dual and contradictory tendencies to structure women's collective subordination while championing individual rights to equality (Borchorst and Siim 1987). What all of these authors identify is "the need for concrete studies of historical and national specificities ... which discuss questions about the welfare state from a feminist perspective" (Sassoon 1987: 25).

Our research relates to this literature most directly as a 'concrete study of historical and national specificity.' In the process of undertaking such a study we have been able to identify some of the costs and benefits for Canadian women in the transition from private dependence

to public dependence. We have traced the competing pressures within the wage labour system for women's productive and reproductive labour and the impact this has had on women's lives over time. We have identified the intensification of women's labour in the third period when these competing pressures are no longer separated through the means of a support-service marriage structure but converge, one might say collide, in the lives and labour of individual women. Our study also provides some insight into the evolution of the state's dual and contradictory tendencies to structure women's collective subordination while championing individual rights to equality. We locate the dynamics of this contradictory treatment in the concurrent processes, characteristic of the Canadian welfare state, of decentralizing the control of women's productive labour onto the market place while centralizing the support and authority relations which structure women's reproductive labour within the state. In addressing these processes in a specific historical context we have been able to provide some insight into the dynamics of contemporary social patriarchy.

A second literature of interest to our project is the comparative studies of welfare state regimes. This literature seeks to move beyond quantitative and linear comparisons of more or less expenditure, or power, or industrialization to understand welfare states as clusters of regime-types whose development must be explained interactively (Esping-Andersen 1989). In pursuit of this conceptualization Esping-Andersen identifies three core features of welfare state's, with particular characteristics, which serve to delineate distinct welfare regimes. These three components are:

"...first and foremost the granting of social rights. This mainly entails a de-comodification of the status of

individuals vis-a-vis the market. Secondly, social citizenship involves social stratification; one's status as a citizen will compete with, or even replace, one's class position. Thirdly, the welfare state must be understood in terms of the interface between the market, the family, and the state" (Esping-Andersen 1989:20).

From these characteristics Esping-Andersen identifies three distinct regimes: liberal welfare regimes found in Canada, the United States and Australia, corporatist regimes associated with Austria, France, Germany, and Italy, and social democratic regimes located in Norway, Sweden, Denmark, and Finland. These distinctions provide a useful categorization of state intervention patterns which could reveal both the continuity and the specificity of social patriarchal dynamics in modern welfare states. The work of comparative theorists (Jenson 1989, Esping-Andersen 1989 and O'Connor 1989) provide the critical comparative component lacking in our study.

While our study would be enriched by the benefit of cross national comparisons our research can also contribute to this literature. As a very specific study of the evolution of a particular welfare regime, our study can provide a useful comparison for other national case studies. We are concerned that within Esping-Andersen's work, the third component, the interface of family, state and market place, remains notably underspecified. Our study provides greater elaboration on these relations through the identification of indicators, processes, and legislation which are sensitive to this interface.

In situating our historical study in terms of contemporary debates on the state the best fit is with the current 'strategic' debate on the impact of state intervention on feminist issues (Randall 1988, Dahlerup

1987, Currie 1990). The debate, as it is currently framed, presents two views on state intervention. On the one hand, there are those who emphasize the cooptive consequences of state intervention (Barnsley 1988, Snider 1990 and Currie 1990), while the other perspective suggests that state intervention can, under certain circumstances, contribute to progressive reform, that is, be in women's interest (Franzway, Court and Connell 1989). The debate centers around different assessments of the patriarchal content and intent of the state.

Our specification of the different dynamics of familial and social patriarchy and the shifting and contradictory relation of the state to these dynamics speaks directly to this debate. Our history documents times of convergence of women's and state's interest in the dismantling of laws and practices of an old patriarchal order which were initiated to better accommodate productive and reproductive relations. This history suggests that the possibility of a convergence of interest between women and the state can be located in the state's mandate to coordinate the competing pressures from production and reproduction. Our study also indicates that within each strategy of accommodation there are progressive and regressive elements. Thus, the circumstances in which state intervention is most likely to contribute to progressive rather than cooptive reform are those circumstances in which the state is involved in dismantling practices which are vestiges of the old patriarchal order, for example, family violence and wife abuse (Ursel 1990), or those circumstances in which the state is facilitating women's entry into the labour force. These situations capture the more progressive or supportive aspects of state mediation and suggest that the use of the state as a

force for change is a reasonable and progressive strategy in such cases. To cite such instances and pursue such reforms, however, does not deny that there are other circumstances in which state mediation strategies are clearly at the expense of women. The best example of this thrust is the move to reprivatize the costs of reproduction (Binney & Estes 1988).

Our study provides some criteria for assessing the patriarchal content and intent of the state. It identifies the changing and dynamic character of patriarchal structures within the state and in doing so identifies those areas of convergence as well as divergence of state and women's interest. Our model of co-determinative but contradictory relations between production and reproduction has provided us with a much more dynamic perspective on family-state relations. The dynamic concept of reproduction contained within a dual systems analysis provides a more sensitive theoretical tool for the analysis of contemporary struggles around reproduction, work and family life, and the future of the welfare state which are central political events as we near the end of this century. While this model has identified the importance of reproductive relations in an economic system built upon their violation, it has also left some questions unresolved and points the way to future theoretical and empirical projects.

#### The State and the Future of Patriarchy

The questions that remain upon completion of our historical review of family-state relations in Canada, center around the changing patterns of state mediation and social patriarchal functions. At the opening of this study we asserted that the state has a vested interest in supporting

and sustaining patriarchal structures because patriarchy is the means of organizing and controlling reproduction in class societies. Our review of state-family relations through all three periods documented the transition from a familial patriarchal system to a social patriarchal system as a means of maintaining patriarchal family structures and hence "managed" reproduction within a wage labour system. We maintained that as the dynamic of the wage labour system eroded traditional patriarchal functioning the state intervened to assume regulatory and supportive functions previously performed by the familial patriarch.

Key to the operation of patriarchy, as a set of social relations for controlling reproduction, has been its ability to control women and hence their reproductive capacity by structuring women's access to a means of livelihood contingent upon conforming to particular reproductive policies. In wage labour systems this amounted to keeping women economically dependent upon men so that marriage and presumably procreation would be the predominant "career choice" for women. The development of the support-service family structure, in which the growing division between production and reproduction was accommodated and reflected in the sexual division of labour between the male-breadwinner and the female-homemaker, marked the period of most complementary functioning of familial and social patriarchy. This was achieved through state control of the allocation of women's labour, state regulation of the disposition of children and property within families and state support of the increasingly vulnerable reproductive unit.

In the third period, however, the state's ability to control the allocation of women's labour was lost as a result of the global



restructuring of production. The global organization of production created a global labour supply (Coporaso 1987, Kolko 1988). The existence of a vast, cheap labour supply in the third world altered the significance of women's reproductive labour within industrialized countries. Employers no longer needed to be bound by pro-natalist restrictions on female labour within a particular nation state in order to secure an adequate labour supply. The preferred option of the third and subsequent periods involved the movement of capital to the most abundant and cheapest sources of labour (Cox 1987). This led to a kind of global division of reproductive labour. First world women produced low quantity-high cost--expensive, highly skilled, educated labour--and third world women operating within a familial patriarchal mode of reproduction produced high quantity-low cost--cheap, unskilled, uneducated labour (Meillasoux 1981:138). The cost of labour was still effected by supply, however, supply was now measured globally and no longer domestically.

From a state perspective, capital's labour supply strategies outgrew the boundaries of state control. While the state still played an important role in controlling the supply of labour within the nation state, through immigration policies, and labour law, the largest labour supply issues were resolved outside of state control, through multinational corporations' pursuit of third world labour. Within the industrialized nation state previous strategies of promoting domestic labour supplies, through the allocation of women's labour to reproduction, became untenable. In the face of this reality the state abandoned this regulatory function. The social patriarchal function of controlling

women's labour devolved, in large part, from the state to the market place.

Questions concerning the continued connection between the state and patriarchy centre around the outcomes of the devolution of control over women's labour from the state to the market place. We have documented the manner in which this process served to erode the support-service family structure. Women's employment erodes male-female economic interdependency and in keeping with Levi Strauss' (1971) analysis, we would expect it to erode the material imperative to heterosexuality, marriage and procreation. Procreation, the primary product of patriarchal families becomes increasingly optional in industrialized nations as major labour supply issues are resolved globally. If the primary mechanism of maintaining control of reproduction is eroded and the primary product of that control becomes replaceable by third world labour wherein lies the state's interest in patriarchy?

Evidence of the state's changing commitment to patriarchy begins in the third period as the state abandoned legislation restricting the use of female labour in production. As the state lost control over the allocation of women's labour it abandoned many of its former pro-natalist statutes. By the end of the third period we see further dismantling of patriarchal legislation with the liberalization of divorce and abortion statutes and the legalization of birth control.

While the restructuring of production required the state to abandon its control of women's labour it did not require and indeed benefited from the conscious patriarchal structuring of the labour market (Armstrong & Armstrong 1984). Our review of labour legislation in the third period

suggests that the state was complicit in the perpetuation of discriminatory hiring and remuneration policies. While patriarchal practices proliferated in the market place, during the third period, the Royal Commission on the Status of Women signalled the fact that state complicity would not continue to go unchallenged. Thus, further evidence of the state's ambiguous commitment to patriarchy is seen in its response to the emergence of the women's movement as a major political force in the fourth period.

During the 1970's and 1980's the state is subject to pressure from national women's organizations to dismantle sexually discriminatory laws, policies and practices and to develop programs to compensate for structurally entrenched biases in a broad range of public institutions. The invocation of the state's legal apparatus to undo sexual injustices it previously reinforced and sanctioned is dramatic evidence of the changing relation of the state to patriarchy. Changes in labour, criminal, constitutional and family law in the 1970's and 1980's has repositioned the state from the role of benevolent patriarch in the 1950's to the self-professed champion of sexual equality in the 1980's. This new social expectation is thorough going, not only does recent legislation provide for monitoring and prosecution in cases of sexual discrimination it also requires the implementation of compensatory programs. Affirmative action programs, pay equity and employment equity legislation are the most recent examples of this thrust (Findley 1990).

The turnabout of the state on sexual equality issues was not automatic or easy. Each area of legislative change from family law reform to the inclusion of sexual equality in the charter of rights was hard

fought for by women's groups across the country. While we do not claim that these changes have been completely successful in achieving the goals intended, they do exist as compelling evidence that the state has been subject to mounting political pressure to undo and reverse its relation to a broad range of social patriarchal operations.

However, in the face of these dramatic changes there exists some equally compelling evidence of a continued interest of the state in patriarchal relations. This evidence lies in the fact that the patriarchal family remains as the sole means of keeping the costs of reproduction largely privatized. Familial patriarchy legitimates the fact that the primary costs of generationally reproducing the labour force should lie within the family. At the same time that the patriarchal family is dependent upon state subsidization, it also defines the limits to which reproductive costs are socialized by supplying free reproductive (female) labour (Finch and Groves 1983). As the fiscal consequences of the welfare state became apparent and overwhelming during the economic recession of the 1970's we see attempts on the part of the state to reduce its commitment to subsidizing the reproductive unit. We witness in the 1980's a reversal of the process we documented in the first three periods. The pressure to displace the costs of reproduction onto ever larger resource bases met its limit in the economic recession and the political reaction of the late seventies. The state now seeks to off-load its increasingly weighty responsibilities for reproductive costs (Moscovitch & Albert 1987:40).

The contraction of state responsibility for subsidizing reproduction is synonymous with privatization and correlated with expansions in

regulatory legislation. During the 1970's we see significant expansion of family legislation, a key feature of which is the reassertion of the principle of the primacy of familial obligation. The erosion of the support-service marriage structure resulted in increasing divorce rates, while the disadvantaged position of women in the labour force led to the feminization of poverty. Family law reforms, fought for by women's organizations, aimed at increasing women's claim to family assets and improving the procedures for maintenance enforcement. These feminist goals dovetailed with the state's growing concern with rising social expenditures and its interest in reasserting the principle of privatizing reproductive costs.

The recent aggressive pursuit of maintenance enforcement has been a major privatizing strategy of the state in the face of the feminization of poverty. It is unambiguously a process of state policing of family obligations for reproductive costs. While its individual impact is undeniably beneficial for women and children who are economically dependent, the social impact harkens back to the state use of family law in the 1920's. While it seems just that husbands and fathers should behave in an economically responsible way to their family after separation and that if necessary the power of the state be invoked to ensure that they do, there is a concern that within a privatizing strategy individual males will be held responsible to compensate for the consequences of a structurally biased social system (Foote 1990). The problem with this possibility is less moral than practical, that is, few men are in a position to be able to maintain a former family unit in a manner that corrects and compensates for the structured economic barriers to women's

economic independence. Thus, in light of intensified state interest in reprivatization there is the concern that maintenance enforcement not be used to permit or justify cutbacks in social expenditures. In addition, there is the concern that maintenance enforcement not be pursued against the wishes of the dependents as a precondition to access to social benefits. These are not outlandish scenarios; these were the consequences of regulatory family law focused on privatization which we documented in the second period.

Further privatizing strategies are evident in recent federal and provincial initiatives, invariably couched in progressive rhetoric but consistently adopted as cost cutting measures. Deinstitutionalization initiatives move towards the reprivatization of the care of the handicapped and infirm, displacing the costs of their care from the state to the family. Similarly, other cost cutting measures, reducing hospital stays, slowing the growth rate of personal care homes, cutting back on homemaker services, and meals on wheels all result in returning the care of the sick and elderly to private family income or labour resources (Aronson 1986). Attempts at deindexing the pension and de-universalizing Family Allowance have the unabashed goal of reducing state responsibility for reproductive costs. The success of all of these privatizing strategies is dependent upon the continued functioning of a patriarchal family in which free reproductive labour is an accepted and enforced social convention.

The restructuring of state fiscal and jurisdictional relations, particularly as it was proposed in the Meech Lake Accord serve to cap federal responsibility and revisit health and welfare costs upon the

provinces. The provinces caught, as usual, in the fiscal-jurisdictional squeeze, seek to reprivatize reproductive costs wherever possible. This contraction of state support points to its sustained interest in and support of the patriarchal family structure. Where else and how else will it succeed, even in part, in the reprivatization of reproductive costs unless there is a family structure in which free reproductive labour is an accepted and enforced social convention?

The evidence on the nature of the state's relation to patriarchy is mixed, to say the least. Conditions have changed dramatically since 1884 when we began our chronicle of state mediation in support of the patriarchal family. The one factor which does, however, remain unchanged is the contradictory structuring of production and reproduction and the continued necessity of state mediation. We suspect that the current confused pattern of state policies on family and patriarchy reflects the consequences of earlier mediation strategies. Specifically, we suggest that as the state attempted to contain the contradiction between production and reproduction by absorbing their costs and consequences, the state also absorbed the contradictions. Thus, while the productive-reproductive dynamic has become polarized globally the costs and consequences of this polarization remain and reverberate within our nation. As a result the relation between the family and the state, familial and social patriarchy becomes increasingly contradictory.

These contradictions provide some scope for further dismantling of patriarchal structures, as well as some disturbing possibilities for reprivatization. The theoretical and empirical questions generated by this study centre around these dual possibilities. What are the limits

to which the state can be pushed to dismantle sexual discrimination within the system? What are the limits to which the state can pursue a policy of reprivatizing reproductive costs and how will this interact with the state's public stance as champion of sexual equality?

As the contradiction between production and reproduction now becomes manifest in negative population growth, dependency ratio problems (on a national, rather than familial scale) and state fiscal crises, how will patriarchy and the family fit into state mediating strategies? Given the combined problems of a shrinking adult productive population and the high cost of producing them domestically, we anticipate a two prong response on the part of the state: first, the immigration of adult productive labour, and second, the reprivatization of a significant portion of the costs of domestically produced labour. In short, state mediation strategy of the fourth period amounts to a displacement of the costs of reproduction, a process we have traced for the past one hundred years. The federal state, like families and provinces before them, seeks to off-load its responsibility for reproductive costs. However, displacement of the costs of reproduction from the vantage point of the nation state moves in two directions. In the first instance, the case of immigration, reproductive costs are displaced onto the donor state, whose social investment in the production of labour is exploited by the recipient state. In the second instance, the case of reprivatization, reproductive costs are simply revisited upon the Canadian family. Both options seem to imply a continued role for patriarchy, to produce the large quantities of third world labour and provide the family ideology and structure



necessary to the reprivatization of reproductive costs and services in Canada.

The countervailing pressures at work in Canada today, the demand for women in production and the reprivatization of reproductive costs, are bringing the contradiction between production and reproduction to the forefront of contemporary political and social debates. While the issues around state intervention differ dramatically from the past, the model of the state mediating the contradictory but co-determinative relations between production and reproduction is a useful approach for addressing contemporary questions of family-state relations.



## APPENDICES



## FOREWARD TO APPENDICES

### A Note on the Process of My Research

This study grew out of my interest in the fact that the state, its legal system and its bureaucracy has become the critical terrain on which women's rights are contested. The location of feminist struggle suggested a strong connection between the state and patriarchy. The variable outcomes of these struggles suggested a complex, perhaps contradictory, relation between the state and patriarchy. My motivation in undertaking this study was political, as well as scholarly. I wanted to understand the nature of the state's connection to patriarchy in order to develop strategies which would maximize women's gains and minimize women's losses in their struggle with the state. From the beginning my approach was shaped by the important linkage I perceive between theory - research-policy - and practice. I wanted to inform my practice through a better theoretical understanding of the connection between the state and patriarchy and more evidence on how that connection operated over time. Therefore, I undertook to study the relation between the institution structured by patriarchy, the family and the institution which has become the terrain of struggle over patriarchy, the state.

The immediate problem I faced was the selection of a theory which would provide the focus I needed to address my concerns. In the review of the literature I indicated all of the theories I had explored and all of the reasons I had rejected the mainstream models. In making my choice,

I was led by two very specific concerns; the necessity of maintaining a central focus on reproduction and the necessity of the model to speak to the linkages between theory-research-policy-practice, since my motive was grounded in the intersection of my political and my academic interests. I required a theory sufficiently grounded in material reality to make explicit the political interests and policy implications of the processes I studied.

I was aware of the need to break out of old problematics. I wanted strong theoretical direction in order to resist the tendency to economic reductionism endemic to historical materialist analyses. I selected dual systems theory because it met my requirements of being materially grounded and maintaining a central focus on reproduction. It also met my requirement of keeping policy issues at the forefront of analysis, because it is a theory which identifies a very specific reproductive mandate for the state. While the basic premise of dual systems theory is simple and straight forward, its focus on production and reproduction as the base of society, the application of dual systems is not simple.

Dual systems is a demanding model not only because it introduces many more variables and indicators to be considered but because it draws our attention to new relationships and dynamics. Dual systems provides a critical focus (reproduction) for breaking out of old problematics. Every draft analysis which did succumb to economic reductionism, which lost sight of reproduction was so obviously short of the mark it stood out, much as a wrong note in a melody can't be missed. The outcome was a searching reconsideration of the historical materials and innumerable rewrites and reanalyses of each period. This project proceeded as a

series of successive approximations until reproduction came into focus. I was conscious at all stages of the interplay between theory, research, and analysis.

Given the dual focus on production and reproduction, my first step was to read the separate histories of these two processes in Canada. I read the history of production through studies of Canadian industrialization, labour force formation, unionization, monopolization, and class struggle. I read the more fragmented history of reproduction in demographic studies, histories of the women's movement, the reform movement and analyses of family law, and the formation of the welfare state. Through these sources I was able to map out parallel histories, key events in each sphere, and key indicators of change within each sphere. Through this process I was able to identify the key structural and social indicators of change necessary for my analysis. I was also able to identify time frames in which enough changes were occurring within each sphere to provide some evidence of impact or intersection between the two spheres.

With a rough idea of time frame and critical indicators, I began a review of state activities which spoke to or were seen to speak to these changes. I began with the broadest possible search, looking at house debates, a wide range of legislation, all available inquiries, government departmental reports and private papers. From this very wide search which I conducted at the national archives, in order to have access to federal and provincial papers, I began to narrow the search using three criteria: 1) What could be done in a reasonable period of time, 2) Which government activities best captured the intersection between production and

reproduction, 3) Which government activities had a sufficient frequency of occurrence and/or change to provide an adequate number of observations.

The first criterion directed me to select specific jurisdictions rather than attempt to do a study of all of Canada. My selection was informed by both practical and academic considerations. The three jurisdictions I chose made practical sense because they were accessible in language and location and had good records throughout the eighty-four years under review. The specific selection of Ontario and Manitoba was made with the idea that I might capture some interesting information about the flow of legislative influence between a more and a less developed, industrialized province. The inclusion of the federal government was necessary because of the location of welfare legislation during the third period.

The second criterion, derived from my theoretical perspective led us to select state activities which dealt most directly with intersections between production and reproduction, specifically with regard to the regulation of labour and resource flows within and between the two spheres. As a result, a large number of statutes included in our preliminary investigation, such as legislation concerning education, immigration, and juvenile delinquency were not included in our more detailed analysis. While all of these statutes had some impact on reproduction or production, they did not meet our criteria of being good measures of the intersection between the two spheres.

The third criterion led me to select areas in which there was enough state activity to provide a sufficient number of observations. My decision not to focus on federal legislation regulating marriage, divorce,



birth control, and abortion was made largely because activity in these areas was sporadic, often fifty or sixty years would pass without any new legislation or any significant amendments. Thus, while I began with a large collection of statutes, I was able to focus in on three areas, family, labour, and welfare law, which best measured the intersection between production and reproduction and were characterized by fairly continuous activity over the eighty-four years studied.

Having decided on the legislative focus of my study, the next task was to add this information to the parallel histories of production and reproduction. At this stage I was still working with the larger events rather than the details of changes within the three entities; production, reproduction, and the state. For example, I had collected all new statutes in the three legislative areas, but I had yet to research amendments, inquiries, and bureaucracies. Putting the history of production, reproduction, and legislation, literally, side by side I traced the sequence of major events in all three spheres. Through this process patterns began to emerge. These patterns suggested to me that the ongoing 'misfit' between production and reproduction was manifest in quite different ways over the eighty-four years I reviewed. From these observations I decided to periodize my analysis to provide a better focus on the key events occurring over the large, initially undifferentiated time frame under consideration.

Periodization gave form to the task as well as order to the content. I proceeded to structure my research by period. Because each period appeared to deal with a different manifest problem and a different intervention strategy this knowledge helped to guide me to the most

relevant primary materials I would need. I began my research of a period by immersing myself in all secondary sources which dealt with the major events of the period. I felt it was necessary to have a good grounding in the history of each period. Because the history of reproduction is often buried in unlikely places and with the idea of intersections between production and reproduction being unfamiliar, I began with the assumption that useful data could be found almost anywhere.

After a broad general reading of the history of the period, I began a process of researching primary materials to flesh out the details of events mentioned in passing in the secondary sources. At this stage I was seeking more information on the structural and social indicators of change within production and reproduction. For example, I spent time researching labour newspapers to get further information on labour's attitude to women's employment. The labour newspaper "The Voice" was a valuable source of information on this topic during the first women's strike called in Winnipeg, at the turn of the century. Other important primary sources were the reports of charitable organizations which housed destitute women and abandoned children in the first two periods.

From this detailed reading of the primary and secondary materials, I identified indicators of the manifest tension between production and reproduction and the social or political articulation of these tensions within each period. Against this political-economic-demographic backdrop I then began to collect evidence of state intervention. The major sources of information were inquiries, statutes, and departmental reports. While I presented these events in the chronological order of their occurrence in my analysis, I began the research with the statutes. The statutes are

the best starting point because they identify what the government did, in fact, do; saving me from the distraction of researching a whole variety of policies and plans which never reached fruition. I began with what the government did and then went backward to the inquiries and commissions to research why the government acted on these issues, then forward to the departmental reports to research how the government enforced the legislation.

Once I began the exhaustive search of enactments and amendments it became evident that the sheer volume of activity was prohibitive. Labour and child welfare legislation which began as a few acts, with a few sections, and perhaps half a dozen clauses became ever more complex over time filling fifty pages of the statute book, involving dozens of sections and hundreds of clauses. It became clear that my goal of following the sequence of change over time could only be achieved through further selection within each legislative field.

In narrowing my focus to specific sections and clauses of family, labour, and welfare law two criteria were used. First, I wanted to focus on those acts or clauses which captured the process of centralization of authority and responsibility (for production and/or reproduction) within the state. Second, I also wanted to focus on those acts or clauses which identified the state's role in mediating labour and resource allocations between production and reproduction. In the case of family law, the first criterion was most relevant and directed my attention to the acts or clauses which dealt with the disposition of property and children. In the case of labour law, statutes which specified distinctions between male and female labour or protected labour's wage rights (minimum wage) were

selected as good measures of the state's mediation of labour and resource allocations between the two spheres. Later, in the third period the Labour Relations Act served as a good indicator of the centralization of responsibility within the state. Finally, in the case of welfare law, two types of acts or clauses were selected because of their relevance to the two criteria. Child welfare law provided a good measure of the centralization of authority over the family, within the state, while redistributive statutes (for example, Old Age Pension Act or the Mothers Allowances Act) spoke both to the issues of centralized responsibility and the reallocation of resources.

While I undertook the research of each period as a discrete project and I researched each period in roughly the same sequence - a general search of secondary materials, followed by a search of primary materials, concluding with a search of government documents, there was, nevertheless, much back and forth between the periods and research stages as the analysis proceeded. The analysis process, which I described as a series of successive approximations, meant frequent returns to primary and secondary materials for more information on the reproductive issues/dynamic of a period. The appearance of major anomalies or big gaps in information as I researched the statutes led me back to primary and secondary sources for further clues or led me to broaden my search to include a wide range of, seemingly unrelated, government activities. Thus, while I organized myself with a specific research schedule there was, in fact, a great deal of fluidity between the periods and stages of collecting and interpreting the information because of the challenges presented by the data.

Two particular problems I encountered, the suspension of dower in Western Canada and the introduction of family allowances, illustrate the actual fluidity in the research process. The case of the suspension of dower claims in western Canada presented an anomaly which demanded explanation. While most of eastern Canada was systematically strengthening women's dower rights all of the western Canada was suspending them. The explanation lay in the interest of government and large landholders in eliminating any encumbrances on land claims when a new land claim system (the Torrens system) was being introduced. However, discovering the connection between a land claim system and dower rights was truly a challenge because their connection was legislatively obscure.

At the time of its repeal, 1885, dower did not exist as a specific act but rather as a number of clauses reflecting British common law, which would be found in various acts regarding inheritance. The reason for its sudden repeal from all acts concerning inheritance was not at all evident in any developments in the areas of family, labour, or welfare law. Having exhausted all sources of information in these three legislative fields I began a detailed review of primary and secondary sources to see if there were any clues to this development. Having come up empty handed, I then undertook a complete reading of Hansard for the years 1884 and 1885. I discovered one sentence by one member of the House which alluded to a connection between Torrens and dower. This was the first good lead I had.

With the suggestion of a link between Torrens and dower, I returned to secondary sources to discover that the Torrens land claim system was found only in western Canada and not in eastern Canada. With further

digging through land registry reports, I discovered that the Torrens system guaranteed, upon issue of land titles, uncontested ownership of property. The new system required the government registry department to settle all claims before issue of title. Thus, anticipating and following the Real Property Act (S.M. 1885), which established the Torrens system, a whole series of enactments and repeals of legislation occurred to clarify and often eliminate claims based on old laws and agreements. Dower rights, which constituted a major encumbrance upon clarifying land claims, were, therefore, repealed.

This research experience reinforced my notion that you may find important pieces of the history of reproduction in the most unlikely places, land registry departments had not been at the top of my research list. It also illustrates how much work was sometimes required for a very few facts. Explaining the anomaly of dower suspension in western Canada took two months of intensive research to produce a two paragraph explanation in this dissertation.

Another research puzzle was presented by the unusual history of family allowance legislation in Canada. The statute books indicated its enactment in 1944, however, when I went to the national archives to research its development, there was no evidence of it in the records of the Department of Health and Welfare. After reading all of their official documents from 1942 to 1944 and coming up empty handed, I began a search of materials relating to labour or family law. Within the labour materials, it appeared again as a suggestion contained within the majority report of the Inquiry into the War Labour Board. However, there was no recorded discussion of the issue arising in the public hearings, nor any

explanation offered about why it would become the subject matter of the Labour Board Review. Having no success with these documents, I then turned to the private papers of Ian Mackenzie, the Minister of the Department of Health and Welfare, and the diary of Mackenzie King, the Prime Minister at the time.

Most of the papers in Ian Mackenzie's file revealed his intense interest in a National Health Plan, only one small note had any reference to Family Allowances. The Minister had made a note (undated) to remind himself to talk to the Deputy Minister of Finance about 'all this talk about family allowances.' This reference to the Department of Finance led me to their files as well as the files of the Economic Advisory Council of which the Deputy Minister of Finance was a member. It was in these, somewhat unlikely sources, that the history of the design and planning of the Family Allowances Act, as well as the political motivations for implementing it were to be found. The Mackenzie King diaries provided further information on the political process of convincing cabinet of the necessity of family allowances and the strategy for presenting the legislation to the public.

These two examples, dower and family allowances, illustrate the necessity of undertaking a broad search of materials and the importance of using multiple sources of information. The latent functions of certain legislation are not usually identified in official inquiries or government reports. The more sensitive the material the more likely its history is sealed in confidential government documents. The history of the Family Allowance Act is an excellent case in point.

While collecting the data presented some special problems, analyzing the data was often the more difficult task. It was at this point that theoretical direction was essential and cross period comparisons helpful in maintaining a focus on reproduction. Some periods were much easier to analyze than others. For example, in the first period, it was easier to focus on reproductive issues because the social reform movement was preoccupied with birth rates and infant mortality and government documents were filled with long commentaries on the negative impact of industrialization and women's employment on birth rates. Reproductive concerns dominated public discourse and public documents. In fact, as long as the state was involved in supporting the support-service marriage structure it was fairly easy to discern the reproductive component in state activities.

In contrast, the third period, particularly the post war years, involved a real struggle to keep my focus on reproduction. During this period reproduction disappeared from public discourse, the state abandoned its support of the support-service marriage structure and the usual sequence of state intervention changed. Ironically, at the point in time in which the Canadian state was launching its largest schemes to socialize the costs of reproduction the issue of reproduction was disappearing from public documents and public discourse. While the social reform movement of the first period was unambiguously oriented to reproduction, the welfare philosophy of the third period was not consciously familistic. The pervasive demand for state intervention to provide income security and social services, in the post war years, was not expressed or experienced as a specifically reproductive or familial issue. The demands for social



reform in this period were expressed in general humanitarian terms that obscured the reproductive origins of those demands.

Throughout the history I reviewed, it appears that public consciousness about reproduction is directly related to the degree to which it is embattled or in crisis. The concurrence of the post war baby boom and the economic boom obscured any awareness of conflict between production and reproduction. In addition, my study suggests that people tend to define as reproductive those matters which are private and familial. Thus, as the costs and some of the functions of reproduction became socialized public awareness of these costs or functions as reproductive tended to diminish. The language of reform of the post war period was that of 'universal risk' and 'income security', a language remote from the day to day experience of family life.

In addition to the fact that the language and consciousness of social reformers obscured the issue of reproduction, the actual processes of state intervention were opaque. The withdrawal of state support for the support-service marriage structure required the state to cease to intervene, to let the market process proceed without interruption. This became a much more difficult measurement problem than documenting intervention. The state's prior involvement in supporting the old marriage structure generated a large paper trail of documentation, inquiries, legislation, and bureaucratic reports all of which identified the nature of the state's concerns and the anticipated effect of intervention. To identify what the state ceased to do left no paper trail at all. Thus, the dismantling of the support-service marriage structure appears to occur independent of state activity or interest.

Finally, in the post war period the actual sequence of state intervention changed. In each previous period my analysis began with the documentation of a rising tension or crisis between production and reproduction and the identification of the options pursued by the state to ameliorate the crisis. The post war period began with fifteen years of uninterrupted growth in production, reproduction, and state development. However, in the absence of all the usual measures of crisis the state was on a course of increasing intervention, particularly through the Labour Relations Act and welfare legislation. It was difficult to explain galloping state intervention without a crisis and with a booming economy and rising birth rates.

This was the period in which I most thoroughly succumbed to economic reductionism. Over and over, I produced draft analyses which did not get beyond the economics of the welfare state. It was at this point that my theoretical perspective was most valuable and most frustrating, as it revealed each draft as so evidently inadequate. Through a labourious process of rereading primary and secondary sources, through lining up and comparing the events of the first and second period with the third, and through rethinking the implications of the erosion of the support-service marriage structure, I began to locate the reproductive issues. Perhaps the single most useful document in this process was the report of the Royal Commission on the Status of Women (1968) which brought me back in touch with the contradictions between production and reproduction.

Focusing on the consequences of the state's new mediating strategy I began to work backward, tracing the origins of the mid-sixties crisis, which provoked the Royal Commission on the Status of Women, back to the

legislation and activities of the state in the fifties and early sixties. The contradictions between production and reproduction were still there --covered by economic prosperity and buried beneath layers of bureaucratic management. The manifestation of the contradiction had changed, its new expression was to be found in the cross sphere intensification of women's labour. I began to reread the post war period as; a crisis forestalled by the incredible economic growth and vast reallocations of income (welfare), a crisis emerging in the increased intensification of women's labour and a crisis expressed in the pages of the Royal Commission on the Status of Women. The Commission's report documented declining birth rates, rising demands for abortion, a rising cost of living, and the feminization of poverty. Going from the collision of work and family responsibilities in the lives of women in the late sixties, I was able to reconstruct the reproductive issues of the third period, as well as the processes and pressures which contributed to its obscurity.

In outlining the process of my research it is apparent that it was a lengthy and time consuming project. However, in concluding I would like to suggest that it was a good process for learning about the nature of the relationship between the family and the state and more specifically about the operation of patriarchy in the state. Since my initial interest in the study was political as well as academic, the critical test for me was how well this research informed my practice. Having worked for five years within the state I had to put my knowledge to work in very pragmatic ways, largely working in the area of wife abuse. I have found my seemingly remote historical studies, to be a very practical source of information as I undertook my struggles within and with the state. Identifying the

different dynamics of patriarchy made me aware of the contradictions in the operation of patriarchy in the state. Seeing social patriarchy as complex and contradictory rather than undifferentiated and monolithic has permitted me to identify where contradictions can be located and/or cultivated in order to promote women's interests. I can refer to a past in which the state actively participated in the dismantling of particular familial patriarchal practices as a guide to determining where this might occur again.

APPENDIX I  
PERIOD I 1884-1913

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## Federal Royal Commissions 1884-1913

- 1884 - #32 Commission on the State of the Manufacturing Industries of Ontario and Quebec, on the recommendation of the Minister of Finance.
- 1884 - #34 Commission on the Manufacturing Industries of Certain Sections of the Maritime Provinces, on the recommendation of the Minister of Finance.
- 1886 - #45 Royal Commission to Inquire into and Report on the Subject Labour, Its Relation to Capital, The Hours of Labour and the Earnings of Labouring Men and Women, on the recommendation of the Prime Minister.
- 1895 - #62 Commission to Investigate Whether, And If So, To What Extent, The Sweating System is Practised in the Various Industrial Centers of the Dominion, on the recommendation of the Secretary of State.
- 1898 - #82 Commission to Inquire into Charges of Unjust Treatment of Persons Engaged in the Construction of the Crow's Nest Pass Railway, on the recommendation of the Minister of the Interior.
- 1899 - #83 Commission to Inquire into the Grievances of the Workmen on the Crows Nest Pass Railway, and into the Circumstances Attending the Deaths of Two of the Said Employees, Charles P. MacDonald and E.M. Fraser, at or near Pincher Creek, on the recommendation of the Minister of Justice.
- 1899 - #91 Commission Relating to Unrest and Discontent Among Miners and Mine-Owners in the Province of British Columbia, on the recommendation of the Minister of Justice.
- 1901 - #103 Commission to Inquire into the Circumstances Attending the Death of Dieudonne St. Michael in the Ship Yard at Sorel, on the recommendation of the Minister of Public Works.
- 1903 - #112 Commission to Investigate Industrial Disputes in the Province of British Columbia, on the recommendation of the Minister of Labour.
- 1903 - #113 Commission to Investigate and Report Upon Certain Claims for Labour, in Connection with the Section of the Atlantic and Lake Superior Railway Between Caplin and

Paspebiac, on the recommendation of the Minister of Railways and Canals.

- 1903 - #119 Commission to Inquire into and Report upon Certain Claims for Wages of Persons Employed on the Subsidized Line of Railway From Duncan Lake Towards Arrow Lake, on the recommendation of the Minister of Railways and Canals.
- 1904 - #123 Royal Commission to Investigate Alleged Employment of Aliens in Connection with the Surveys of the Proposed Grand Trunk Pacific Railway, on the recommendation of the Minister of Labour.
- 1904 - #124 Royal Commission to Inquire into the Immigration of Italian Labourers to Montreal and the Alleged Fraudulent Practices of Unemployment Agencies, on the recommendation of the Minister of Labour.
- 1904 - #128 Royal Commission to Investigate Alleged Employment of Aliens by the Pere Marquette Railway Company of Canada, on the recommendation of the Minister of Labour.
- 1907 - #139 Royal Commission Regarding the Dispute Respecting Hours of Employment Between the Bell Telephone Company of Canada Limited and Operators at Toronto, Ontario, on the recommendation of the Minister of Labour.
- 1907 - #144 Royal Commission to Investigate Methods by which Oriental Labourers have been Induced to Come to Canada, on the recommendation of the Secretary of State.
- 1908 - #146 Royal Commission to Investigate Industrial Disputes in the Cotton Factories of the Province of Quebec, on the recommendation of the Minister of Labour.
- 1910 - #151 Royal Commission on Industrial Training and Technical Education, on the recommendation of the Minister of Labour.
- 1913 - #173 Commission to Investigate Relations Between Employers and Employees in Industries in Port Arthur and Fort William, on the recommendation of the Minister of Labour.
- 1913 - #174 Royal Commission to Investigate Coal Mining Disputes on Vancouver Island, on the recommendation of the Minister of Labour.
- 1913 - #178 Commission to Investigate the Increase in the Cost of Living in Canada and into the Causes which have Occasioned or Contributed to Such Result, on the recommendation of the Prime Minister.



## APPENDIX I.B

## Provincial Commissions and Inquiries: Ontario

- 1890 - Royal Commission on the Prison and Reformatory System in Ontario.
- 1898 - Special Report on the Immigration of British Children, Prepared by the Superintendent of Neglected Children.
- 1900 - Order of the House requesting a report on the system of Government Inspection Factories are now under, stating hours of work of women employees in factories, minimum wages of women employees and existence of separate sanitary conveniences.
- 1907 - Special Committee appointed by the Legislature to report on the condition of the Feeble Minded in Ontario.
- 1907 - Special Committee appointed by the Legislature to report on Child Labour Conditions.
- 1909 - Special Committee appointed by the Legislature to report on the Problem of Infant Mortality.
- 1909 - Royal Commission appointed to Enquire into the Production, Care and Distribution of Milk.
- 1910 - Royal Commission on Laws Relating to the Liability of Employers to Make Compensation to their Employees for Injuries Received in the Course of their Employment.
- 1912 - Special Committee appointed by the Legislature to Inquire into the Hours of Labour of Underground Workmen in the Mines of Ontario.

TABLE I.1

PROTECTIVE LABOUR LEGISLATION PERIOD I 1884-1913

ONTARIO		MANITOBA
1884	S.O. c.39	Factories Act-provides for health and safety regulations & restrictions on female & child labour
1885	S.O. c.29	Wages Act-regulated wages, profit sharing and "truck system" in certain cases
1886	S.O. c.28	Workmen's Compensation Act-provided some compensation to workers in case of injury
1888	S.O. c.33	Shops Act-standards for women and children, hours, safety and sanitation
		S.M. c.32 Shops Act-standards for women and children, hours, safety and sanitation
1889	S.O. c.32	Steam Threshing Engines Act-provided some safety regulations
1890	S.O. c.10	Mines Act-provided safety regulations and restrictions on youth labour & exclusion of female and child labour
1891	S.O. c.22	Woodmen's Lien for Wages Act-first restrictions on "truck" in logging
	S.O. c.31	Stationery Engineers Act-provided some safety regulations

1893			S.M. c.39	Workmen's Compensation Act-provided some compensation to workers in case of injury
1894	S.O. c.42	Trades Disputes Arbitration Act-disputes to be referred to arbitration board (purely voluntary)		
1897	S.O. c.11	Alien Labour Act-ban on importation of U.S. railway workers, coolie labour & strike breakers	S.M. c.17	Mines Act-provided safety regulations
1900			S.M. c.13	Factories Act-provides for health and safety regulations & restrictions on female and child labour
1905	S.O. c.31	Railway and Municipal Board Act-provides for compulsory investigation and conciliation in rail and street rail disputes		
1909			S.M. c.2	Act Respecting Wages & Salaries-limits conditions for garnishing wages
1910	S.O. c.98	Steam Boilers Act-provides safety regulations		
1911	S.O. c.71	Building Trades Protection Act-some safety reg.		
1913			S.M. c.19	Act to Prevent Employment of Female Labour in Certain Capacities-prohibition of oriental's employment of white women

TABLE I.2

ONTARIO LEGISLATION: CHANGES IN THE REGULATION OF FEMALE AND CHILD WAGE LABOUR  
1884-1913

Legislation	Exclusions	Restrictions	Protections
Prior to 1884	None	None	None
1884 Factories Act	Boys 12, girls 14 cannot be employed in factories	Boys 12-14, girls 14-18 need parental approval for employment in factories operation  Children & women may work no more than 10 hrs/day or 60 hrs/week	Women cannot clean machinery with moving parts during machine operation  Children & women must have 1 hr/day for meals
1888 Shops Act		Boys 14 & girls 16 may work no more than 74 hrs/week: 12 hrs/day: 14 hrs/Saturday	Women must be provided with seats or chairs
1889 Factories Act		Women and children no more than 36 days of overtime per year	
1890 Mines Act	All women, boys less than 15 yrs cannot be employed in mines	Males between 15 & 17 yrs of age cannot be below ground more than 8 hrs/day, 48 hrs/week	

			Males under 20 cannot be in charge of transportation machinery in mine, restriction is 16 yrs of age if machinery is animal driven
1895	Factories Act	Government may exclude boys 16, girls 18 from dangerous or unwholesome employment	
1897	Shops Act	Children under 10 cannot be employed in shops	Children & women cannot be employed before 7 A.M. or after 6 P.M.
		Women and children employed full-time in factories cannot be employed in shops	
	Mines Act		Males between 15 & 17 yrs cannot be employed underground on Sundays
1908	Shops Act	Children 12 & under cannot be employed in shops	No children of school age or attending school may work during school hours without a certificate of permission
	Factories Act		Youth category of males between 14 & 16 yrs introduced. All restriction and protections for women & children apply to youths
	Mines Act	Exclusions of women and girls waived for mica trimming operations	
1912	Mines Act	Boys less than 14 cannot be employed in mines. Girls & women can be employed as stenographers & bookkeepers mining companies	Males less than 17 cannot be employed underground Males less than 18 cannot be in charge of hoisting apparatus in mines

TABLE I.3

DISPOSITION OF MARITAL PROPERTY PERIOD I 1884-1913

		ONTARIO		MANITOBA
1859	S.U.C.	c.73 - Married Women's Property Act married women to be capable of <u>holding property</u> as "femme sole"		
	S.U.C.	c.28 - Dower Act - reaffirming women's dower rights		
1871	S.O.	c.24 - Act Respecting Conveyance of Real Estate by Married Woman - - entitles married woman to <u>convey real estate</u> - provides for court examination of woman to insure she does so of her own will	S.M.	c.8 - Act Relating to Deeds by Married Women - entitles married women to <u>convey real estate</u> with husbands concurrence
1872	S.O.	c.16 - M.W.P.A. - married woman capable of holding property as "femme sole" including <u>wages and earnings</u> - husbands claim to <u>curtsey abolished</u>		
1875			S.M.	c.25 - M.W.P.A. - married woman capable of holding property as "femme sole" - right to own wages available only through an order of protection

1877 S.O.	c.125 - M.W.P.A. - right to obtain order of protection to secure <u>children's</u> earnings		
1885		S.M.	c.28 - Real Property Act - <u>Dower rights abolished</u> <u>Curtsey abolished</u>
1888 S.O.	c.23 - Maintenance of Deserted Wives - <u>husbands liable for support</u> of deserted wife (Adultery clause)		
1891		S.M.	c.95 M.W.P.A. - married woman capable of holding property including <u>wages and earnings</u> as "femme sole"
1900		S.M.	c.27 M.W.P.A. - women now liable for maintenance of child
		S.M.	c.28 - Married Women's Protection Act - upon order of protection - husband liable to maintain estranged wife - husband liable to maintain child in custody of the wife (Adultery clause)
1902		S.M.	c. 106 - M.W.P.A. under order of protection right to secure <u>children's</u> earnings

TABLE I.4

LEGISLATION OF PARENTAL CUSTODY RIGHTS & RESPONSIBILITIES PERIOD I 1884-1913

ONTARIO

MANITOBA

- 1855 S.U.C. c.126 Custody of Infants Act -  
 mothers married separately  
 domiciled may petition court for  
 custody of child less than 12 yrs.  
 of age  
 - subject to adultery clause
- 1859 S.U.C. c.77 Support of Illegitimate  
 Children Act - woman may sue  
 father of illegitimate child for  
 financial support
- 1877 S.O. c.125 M.W.P.A. - mother may file  
 for order of protection to secure  
 children's earnings
- S.O. c.130 Custody of Infants Act -  
 mother can be appointed guardian  
 of child less than 12 yrs.  
 contrary to father's will.  
 - subject to adultery clause



1878

S.M.

c.7 Infants Act - mother may petition court for custody of child under 12 yrs. - mother may petition court to appoint a guardian other than one appointed by father's will.  
- subject to adultery clause

1887 S.O.

c.137 Custody of Infants Act - mother may petition court for guardianship of child older than 12 - mother acquired equal right with father to appoint guardians in case of death  
- subject to adultery clause

1900

S.M.

c.27 M.W.P.A. - mother now liable for maintenance of child

S.M.

c.28 Married Women's Protection Act - under order of protection mother can petition court for custody of children under 16 yrs.  
- subject to adultery clause

S.M.

c.106 M.W.P.A. - under order of protection mother can petition court to secure children's earnings

S.M.

c.29 Illegitimate Children's Act - woman may sue father of illegitimate child for financial support

TABLE I.5

ONTARIO FAMILY LEGISLATION: PERIOD I  
 REDUCTIONS IN PATRIARCHAL AUTHORITY OVER FAMILY PROPERTY,  
 AND GUARDIANSHIP AND INCREASED RESPONSIBILITY FOR MAINTENANCE

Year	Legislation	Property	Guardianship of Children	Maintenance
Prior to 1867		Dower right Curtsey		
	Custody of Infants (1855)		Mothers, married, separately domiciled may petition court for guardianship of child less than 12 years old	Father may be sued for the maintenance of his children in mother's custody
	Support of illegitimate Children (1859)			Woman may sue father of illegitimate child for financial support
1872	Married Women's Property	Married Women have rights to ownership of property, wages and inheritance, just as if unmarried		

		Curtsey revoked	
1873	Amendment	Married women can convey real estate with Husband's consent	
1877	Amendment	Married women may get an order of protection to secure children's earnings	
<hr/>			
1887	Infants (formerly) Custody of Infants)	Mother...may petition for guardianship of child older than 12 years	
		Mother can appoint guardians for her children via wills	
1888	Married woman's Property (Amendment)	Married women can convey real estate without husband's consent if husband is insane, imprisoned or separated	
	Maintenance of Deserted Wives		Husband must support wife living apart for just cause



APPENDIX II  
PERIOD II 1914-1939

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## APPENDIX II.A

## Federal Royal Commissions 1913-1939

- 1913 - #178 Commission to Investigate the Increase in the Cost of Living in Canada and into the Causes which have Occassioned or contributed to Such Result, on the recommendation of the Prime Minister.
- 1916 - #195 Commission to Investigate into and Report upon Unrest in Certain Industries of Toronto and Hamilton (Munitions Industry Inquiry) on the recommendation of the Minister of Labour.
- 1916 - #199 Commission to Inquire into and Report upon the Cause of Unrest in the Asbestos Mining Industry in the District of Thetford Mines on the recommendation of the Minister of Labour.
- 1916 - #200 Commission to Inquire into and Report upon the Unrest in the Mining Industry at Cobalt, in the Province of Ontario on the recommendation of the Minister of Labour.
- 1916 - #203 Commission to Inquire into the Prices of Food, Clothing and Fuel in the Coal Mining district of Fernie, Lethbridge and Calgary on the recommendation of the Minister of Labour.
- 1917 - #205 Commission to Investigate the Disputes between the Dominion Coal Co. Ltd. and employees at Glace Bay and Springfield and the Nova Scotia Steel and Coal Co. and Employee's at Sydney Mills on the recommendation of the Minister of Labour.
- 1917 - #210 Commission to Inquire into the Wholesale and Retail Cost of Necessities of Life for Use by Miners in District 18, British Columbia and Alberta on the recommendation of the Minister of Labour.
- 1917 - #212 Commission to Inquire into and Report upon the Nature and Causes of the Unrest Among the Employees of the Consolidated Mining and Smelting Co. of Trail, B.C. on the recommendation of the Minister of Labour.
- 1917 - #213 Commission to Investigate and Report upon the Differences concerning Wages between the Municipal Corporation of the City of Edmonton and its Street Car Employees on the recommendation of the Minister of Labour.
- 1918 - #216 Commision to Investigate into Unrest in the Ship Building Industry in British Columbia, on the recommendation of the Minister of Labour.
- 1918 - #218 Commission to Investigate the unrest in the Steel Making, Coal Mining and Ship Building Industries in Nova Scotia on the recommendation of the Minister of Labour.

- 1918 - #220 Commission to Inquire into and Report upon the Grave Friction and Unrest Existing between Various Employers in the City of Winnipeg and Their Workmen, on the recommendation of the Minister of Labour.
- 1918 - #221 Commission of Inquiry into Ship Yards in Vancouver on the recommendation of the Minister of Labour.
- 1918 - #222 Commission to Inquire into the Alleged Unrest Existing in the Ship Building Industry in the Province of Quebec on the recommendation of the Minister of Labour.
- 1919 - #226 Commission to Investigate Changes in the Cost of Living in the Coal Mining Localities of the Island of Vancouver on the recommendation of the Minister of Labour.
- 1919 - #228 Commission to Investigate into and Report Concerning the Relations between the Firm of J. Coughlan and Sons and its Employees on the recommendation of the Minister of Labour.
- 1919 - #229 Commission to Inquire into and Report upon Industrial Relations in Canada (The Mather's Commission) on the recommendation of the Minister of Labour.
- 1920 - #234 Commission to Investigate and Report upon the Lockout at Guillet and Sons, Marieville, Quebec on the recommendation of the Minister of Labour.
- 1920 - #235 Commission to Inquire into and report on a Dispute Concerning the International Brotherhood of Teamsters in the City of Vancouver as to Wage Rates and Other Conditions of Employment on the recommendation of the Minister of Labour.
- 1920 - #236 Commission to Investigate the Uniformity of Laws Relating to Industrial Work in Canada, on the recommendation of the Minister of Labour.
- 1922 - #246 Commission on Pensions and Re-establishment on the recommendation of the Dept. of Soldiers' Civil Re-establishment.
- 1923 - #255 Commission to Inquire into Industrial Unrest Among the Steel Workers at Sydney, Nova Scotia, on the recommendation of the Minister of Labour.
- 1934 - #290 Commission on Price Spreads on the recommendation of the Prime Minister.
- 1935 - #296 Commission to Investigate and report on all complaints in Reference to the Management of the Relief Camps for Single Homeless Men in the Province of British Columbia on the recommendation of the Minister of National Defense.

- 1935 - #298 Commission to Inquire into the Industrial Dispute Involving the Shipping Federation of B.C. Ltd. and the Long Shore Workers at Van. B.C. on the recommendation of the Minister of Labour.
- 1937 - #304 Commission on Dominion-Provincial Relations on the recommendation of the Prime Minister.
- 1938 - #305 Commission to Inquire into the Dispute at Cornwall, Ontario between Certain Members of the Canadian Seamen's Union and Certain Shipping Co's on the recommendation of the Minister of Labour.



**Manitoba Royal Commissions 1913-1939**

- 1918 - #15 Commission on the Workmen's Compensation Board.
- 1919 - #16 Commission to Inquire into and Report upon the Causes and Effects of the General Strike which recently existed the City of Winnipeg.
- 1919 - #17 Commission on the Status and Salaries of Teachers.
- 1920 - #18 Commission on Public Welfare in Manitoba.
- 1928 - #24 Commission to Inquire into the Administration of the Child Welfare Division of the Dept. of Health and Public Welfare (The Whitton Commission).
- 1931 - #28 Commission to Inquire into all matters Appertaining to the Welfare of Blind Persons within the Provinces of Manitoba and Saskatchewan.

**Ontario Commissions & Inquiries 1913-1939**

- 1914 - Commission on Unemployment
- 1917 - Inquiry into the Ontario School for the Blind
- 1919 - Report on the Care and Control of the Mentally Defective in Ontario
- 1929 - Royal Commission on Public Welfare
- 1932 - Report on the Workmen's Compensation Act
- 1938 - Inquiry into the Mental Hospitals Act

TABLE II.1

NEW LABOUR LAWS PERIOD II 1914-1939

ONTARIO

MANITOBA

ONTARIO	MANITOBA
1914 S.O. c.38 Employment Agencies Act-requires licensing of employment agencies and empowers Lt. Gov. to make regulations.	S.M. c.12 Building Trades Protection Act-outlines safety regulations for building trades.
1915 S.O. c.25 Workmen's Compensation Insurance Act-rewritten on the basis of collective liability and established administrative board.	S.M. c.6 The Bureau of Labour Act-established a bureau attached to Dept. of Public Works to collect statistics on employment and wages.
1916 S.O. c.13 Trades and Labour Branch Act-responsible for collecting statistics and administration labour leg.	S.M. c.21 Fair Wages Act-est. board to determine min. wages max. hours for workmen employed on Public Works. S.M. c. 125 Workmen's Compensation Act-same as Ont. (S.O.1915 c.25)
1918	S.M. c.38 Minimum Wage Act-est. a board to determine min. wages standards of hours and working conditions for women and youth. S.M. c.25 Employment Bureau Act-est. bureaus throughout province.
1919	S.M. c.43 Industrial Conditions Act-est. joint council of industry to investigate conditions of industry and labour.
1920 S.O. c.87 Minimum Wage Act-same as Man. (S.M. c.38 1918)	
1922 S.O. c.93 One Days Rest in Seven-requires one day's rest for all full-time employees.	

- 1927 S.O. c.27 Labour Dept. Act-est. dept. of labour with same mandate as labour branch.
- 1928 S.O. c.25 Apprenticeship Act-provides an inspector to inspect and regulate conditions and contracts for apprentices. S.M. c. 45 One Days Rest in Seven-same as Ont. (S.O. c.93, 1922)
- 1929 S.O. c.71 Silicosis Act-requires medical certificate for employees in high risk areas and protective equipment and appliances for workers.
- 1931 S.O. c.38 Blind Workmen's Compensation-insures coverage under Workmen's Comp. Act and empowers C.N.I.B. to determine proper placement of blind workers.
- 1932 S.O. c.20 Industrial Disputes Investigation Act-adopts fed. I.D.I.A. to apply to province. S.O. c.23 Operating Engineers Act-safety req. for engineers. S.O. c.27 Ontario Municipal Board Act-empowers board to mediate in strikes and walkouts.
- 1934 S.O. c.66 Woodmen's Employment Act-regulation of wages hours and conditions of labour in forestry industry.
- 1935 S.O. c.28 Industrial Standards Act-provides for app't of officers to establish industrial codes and min. wages.
- 1936 S.O. c.26 Government Contracts Hours and Wages Act-provides regulation of min. wage and max. hours for workers in public works. S.M. c.50 Wages Recovery Act-replaces Master and Servant act provides for enforcing payment of wages due.
- 1937 S.M. c.40 Strikes and Lockouts Prevention Act-Minister of Labour to app't board to arbitrate industrial disputes within the prov. jurisdiction.
- 1938 S.O. c.42 Teacher's Boards of Reference Act-app't board to handle disputes between teachers&school boards, esp.cases of dismissal.

TABLE II.2

ONTARIO LABOUR LEGISLATION: Changes In The Regulation of  
Female and Child Labour 1914-1939

Legislation	Exclusions	Restrictions	Protection
1914 c.229 Factories, Shops & Office Bldg.	s.6 persons under 18 cannot operate or control elevators.	s.3 Max. hrs. for child in canning factory 8 formerly 10. s.2 Chinese cannot employ or supervise white women.	
1918 c.44 Factories, Shops & Office Bldg.	s.9 no child to be employed in any factory (including canning factories)	s.10 no woman to be employed in any factory later 6:30 p.m.	s.12 when 35 women employed, employer must provide dressing & eating rooms & matron to attend rooms.
1919 c.12 Mines Act	s.157 males less than 16 not to be employed in or about mines (formerly 14 years). s.158 males less than 18 not to be employed underground(formerly 17).		
1919 c.64 Factories Shops and Office Bldg.			s.2 extends provisions of this act to camp employment of women. Minister can regulate seasons & hrs. women's employment & supervise physical & social protection of women.

1920 c. 87 Minimum Wage Act

1921 c.76 Factories, Shops & Office Bldg.

1922 c.91 Minimum Wage Act

1932 c.35 Factories Shops & Office Bldg.

1937 c.43 Minimum Wage

1939 c.47 Factory Shops & Office Bldg.

s.3 no persons under 14 to be employed in shops (formerly 12 yrs)  
s.5 no employment of youths in contravention of Adolescent School Attendance Act

s.27 no person under 16 to be employed without certificate from school permitting absence

s.3 established a board of 5 persons & minimum of 2 women to determine minimum wages for girls, women & youths by trade and locality.  
s.4 seats must be provided for all employed women if work can be done seated.

s.2 board empowered to investigate wages for women and youths and set penalties for violations.  
s.41 one closet for each 15 female employees(formerly 25)

s.2 minimum wage extended to men, board stipulated higher minimum wage for men than for women  
s.10 protections & restrictions provided by this act extended to include small shops.

TABLE II. 3

## GOVERNMENT BUREAUCRACIES RESULTING FROM NEW LABOUR LEGISLATION PERIOD II 1914-1939

		ONTARIO	MANITOBA
1914	S. O. c. 38	Employment Bureau	
1915	S. O. c. 25	Workmen's Compensation Board	S. M. c. 6 Labour Bureau
1916	S. O. c. 13	Trades & Labour Branch	S. M. c. 121 Fair Wages Board S. M. c. 125 Workmen's Compensation Board
1918			S. M. c. 38 Minimum Wage Board S. M. c. 25 Employment Bureau
1919			S. M. c. 43 Joint Council of Industry
1920	S. O. c. 87	Minimum Wage Board	
1927	S. O. c. 27	Labour Department	
1932	S. O. c. 20 S. O. c. 27 S. O. c. 44	Industrial Disputes Board Ontario Municipal Board Apprenticeship Board	
1937			S. M. c. 40 Industrial Disputes Board
1938		Dept. of Labour consolidated the administration of Industrial standards Act, the apprenticeship Act & Minimum Wage Act in the formation of the <u>Industry &amp; Labour Board</u>	

TABLE II.4

NEW FAMILY LEGISLATION PERIOD II 1914-1939

ONTARIO		MANITOBA
1912		S.M. c.26 Dower Act-entrenches women's dower rights
1920		S.M. c.72 Legitimation Act-asserts right of child born out of wedlock, whose parents have subsequently married to be deemed legitimate with all the rights of a child born in lawful wedlock.
1921	S.O. c.52 Parents Maintenance Act - asserts legal obligation of adult children to support their elderly dependent parents. S.O. c.53 Legitimation Act - same as Manitoba. S.O. c.54 Child of Unmarried Parents Act - provides for the position of 'Provincial Officer' to keep record of children born out of wedlock, oversee their family situation and enforce the act dealing with filiation orders, maintenance, etc. S.O. c.55 Adoption Act - outlines the necessary conditions & procedures for legal adoptions.	
1922	S.O. c.57 Deserted Wives and Children's Maintenance Act - repealed and superceded the Maintenance of Deserted Wives Act and added children's maintenance claims.	
1929	S.O. 47 Dependents Relief Fund-empowers judge to alter provisions of parents will when child deemed inadequately provided for.	
1931	S.O. c.34 Children's Maintenance Act-asserts obligation of every parent for maintenance & education of child under 16, provides penalty of 3 months imprisonment for parent in default.	
1933		S.M. c.31 Parents Maintenance Act - same as Ont.

TABLE II.5

FAMILY LAW PERIOD II: Clarification of Familial Rights and Obligations 1914-1939

ONTARIO

MANITOBA

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1921	<p>S.O. c.52 Parents Maintenance Act-asserts legal <u>obligation children</u> to support their elderly dependent parents.</p> <p>S.O. c.53 Legitimation Act-asserts <u>right of child</u> born out of wedlock, whose parents have subsequently married to be deemed legitimate with all the rights of a child born in lawful wedlock.</p> <p>S.O. c.54 Child of Unmarried Parents Act-provides for the position(s) of "Provincial Officer" to keep record of children born out of wedlock, oversee their family situation and otherwise enforce the act which stipulates sec.9-mother of such child has the <u>right</u> to apply to 'Provincial Officer' for advice and protection. sec.10-<u>Officer</u> has the <u>right</u> to be appointed guardian either alone or jointly with the mother-negates common law assumption of mother's legal guardianship of child born out of wedlock. sec.18-<u>father liable</u> for support of child. sec.18(2)-<u>Mother liable</u> for support of child even if deemed not worthy of custody. <u>Note</u> - sec.18(2) establishes principle of equity of parental liability in cases of child born out of wedlock.</p>	<p>S.M. c.31 Parents Maintenance Act (1933)</p> <p>S.M. c.72 Legitimation Act (1920).</p> <p>S.M. c.2 Child Welfare Act (1922)-Part IV Children Whose Parents Have Not Been Legally Married to Each Other - sec. 28-71.</p> <p>S.M. c.4 Child Welfare Act (1926 Amend) sec.12 Where mother does not attempt to get maintenance from putative fther, state can take custody &amp; require maintenance from mother.</p>
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- S.O. c.55 Adoption Act-outlines necessary conditions and procedures for adoption, which must be adhered to, in order to be recognized as a legal adoption bestowing all the rights & obligations of a legitimate parent-child relation. Note - asserts state authority over parental wish or community tradition.
- 1922 S.O. c.57 Deserted Wives and Children's Maintenance Act - repealed and superceded the Maintenance of Deserted Wives Act. Elaborated husband/father's liability and added childrens right to maintenance.
- 1923 S.O. c.33 Infants Act (Amend)-asserts mother's right to be equally entitled to the custody, control & education of children. Note - the adultery clause previously used to disqualify mother petitioning for custody dropped as principle of equity established. Father still only parent stipulated by law as liable for maintenance.
- 1929 S.O. c.47 Dependents Relief Fund-asserts child's right to adequate maintenance and empowers judge to alter provisions of parents will.
- 1931 S.O. c.34 Children's Maintenance Act-asserts obligation of every parent for maintenance and education of child under 16, provides penalty of 3 months imprisonment for parents in default. Note - established principle of equity, mothers equally liable for maintenance.
- S.M. c.2 Child Welfare Act (1922) - Part IX Adoption-sec.113-121.
- S.M. c.206 Wives & Children's Maintenance & Protection Act (1913).
- S.M. c.2 Child Welfare Act (1922) - Part X Guardianship of Children-sec. 122-147.
- S.M. c.2 Child Welfare Act (1924 amend.) - Part III Bereaved & Dependent Children-sec. 19-28.
- S.M. c.27 Married Women's Property Act (1900) Mother equally liable for maintenance of child. Note: Man. has no directly equivalent law for imprisoning parents in default.

TABLE II.6


WELFARE LEGISLATION ENACTED IN PERIOD II 1914-1939

MANITOBA

ONTARIO

1916 S.M.	c.69 Mother's Allowance-provides monthly allowances for mothers without economic support due to death or permanent incapacitation of their husbands-established a board to process claims and administer funds.	
1916 S.M.	c.81 Old Folks Home Act-provides some provincial funds and regulations for homes for the elderly.	
1917 S.M.	c.69 Public and Other Institutions Act - provides for a commission to investigate & report on institutions and systematize prov. expenditures on public institutions.	
1918 S.M.	c.6 Blind Persons Support and Maintenance Act-routinizes prov. support & education of blind persons & their transportation to out of province schools or institutions.	
1919 S.M.	c.42 Manitoba Housing Act-permits utilization of federal funding for prov. housing projects.	S.O. c.54 Ontario Housing Act-permits utilization of federal funding for provincial housing.
S.M.	c.112 Act Respecting Welfare Supervision-appoints a board to investigate existing programs & recommend new programs.	
1920		S.O. c.89 Mother's Allowance - same as Man. except it stipulates only mothers of 2 or more dependent children can qualify.





1931 S.M. c.53 Unemployment Relief Act (re-enacted every year till '40 in force till '42) authorizes the implementation of Fed. Relief Act (S.C. 1931 c.58)

1932 S.M. c.41 St. Boniface Home for Aged & Infirm Act-brings St. Boniface home under the terms of the Aged & Infirm act.

1935 S.M. c.33 Pensions for Blind Persons Act-extends Old Age Pension provisions to certain blind persons.

1939

S.O. c.51 Industrial Training Schools Act - consolidated industrial training schools act and provided for one administration board.

1922 S.M. c.2 Child Welfare Act-a major consolidation of old welfare and family laws into a new and comprehensive statute concerning all matter of state involvement in child welfare.

1924 S.M. c.85 Home for the Aged and Infirm Act-consolidation of existing acts concerning both aged and infirm.

1927

S.O. c.92 Boy's Welfare Act-estb. a board to estb. homes for dependent & neglected boys.

1928 S.M. c.21 Health and Public Welfare Act-establishes a Dept. of Health & Welfare responsible for administering all Health and Welfare statutes.

S.M. c.44 Old Age Pension Act-includes Man. in federal Old Age Pension Program & provides for Workmen's Comp. Brd. to process claims and administer funds.

1929

S.O. c.73 Old Age Pension Act - same as Man. except it provides for separate commission to administer Act.

S.O. c.5 Department of Public Welfare-establishes a separate dept. to execute the provisions of all acts dealing with public welfare.

S.O. c.60 Industrial Training School Act-establishes an advisory board to take place of inspector repeals and supercedes Boy's Welfare Act (1927c.92).

S.O. c.80 Inspector of Public Institutions Act-appoints an inspector(s) to oversee management & operation of Penal & Reformative Institutions.



TABLE II.7

## GOVERNMENT BUREAUCRACIES RESULTING FROM NEW WELFARE LEGISLATION PERIOD II 1914-1939

MANITOBA		ONTARIO
1916	S.M. c.69 - Mother's Allowance Commission	
1917	S.M. c.69 - Public Institutions Commission	
1919	S.M. c.42 - Manitoba Housing Commission S.M. c.112 - Welfare Supervision Board	S.O. c.34 - Ontario Housing Commission
1920		S.O. c.89 - Mother's Allowance Commission
1922	S.M. c.2 - Child Welfare Bureau	
1927		S.O. c.92 - Boys Welfare Board
1928	S.M. c.21 - Dept. of Health and Public Welfare S.M. c.44 - Workmen's Compensation Board expanded to administer Old Age Pension Act	
1929		S.O. c.73 - Old Age Pension Commission
1931		S.O. c.5 - Dept. of Public Welfare S.O. c.60 - Industrial Schools Advisory Board

## TABLE II.8

## NEW FEDERAL WELFARE LEGISLATION PERIOD II 1914-1939

- 
- 1914 c.8 (2nd sess.) Canadian Fund Act - established a corporation to collect, and administer funds for assistance of wives and dependents of men in active service during the war.
- 1917 c.38 War Charities Act - set out regulations for and required registration of any nonreligious fundraising association for the relief of soldiers or their families.
- 1917 c.21 The Soldier Settlement Act - provides crown land and loans for returning soldiers, established the soldier settlement board to administer Act. (advanced 25 million to soldiers in 1919 Appropriation Act #3c.35)
- 1918 c.42 Dept. of Soldiers Civil Re-establishment Act - creates a federal dept. to provide necessary and economic services for returning soldiers and/or their dependents.
- 1919 c.43 The Pension Act - established the Board of Pension Commissioners of Canada to provide pensions to war disabled or their dependents (3.5 million disbursed in first year of operation 1919 Appropriation Act #2c.34)
- 1919 c.24 The Department of Health Act - established a separate department of health to administer all federal public health acts.
- 1920 c.54 The Returned Soldiers Insurance Act - empowers the Minister of Finance to set up special insurance programs for returned soldiers.
- 1927 c.35 Old Age Pension Act - provides means tested pensions for Canadian citizens over seventy years of age in conjunction with provinces who enter in agreement, provides for federal funding of 50% of the program.
- 1928 c.39 Dept. of Pensions and National Health Act - repeals and supercedes the Dept of Health Act and the Dept of Soldiers Civil Re-establishment Act.
- 1930 c.48 War Veterans Allowances Act - established a committee to hear claims and grant allowances to veterans sixty years of age or more, who by virtue of physical and/or mental disability are unemployable.
- 1931 c.58 The Unemployment and Farm Relief Act - empowers the Governor General to pay out of consolidated revenue monies for unemployment and farm relief.



- 1932 c.36 The Relief Act - empowers the Governor General to enter in agreements with the provinces respecting relief measures and financial assistance to provinces with relief debts in order to protect the credit and financial position of the Dominion or any province. (Renewed annually till 1939)
- 1935 c.58 Dominion Housing Act - provides low interest loans for house building.
- 1935 c.38 Employment and Social Insurance Act - established an Employment and Social Insurance Commission to provide for a national employment service, for insurance against unemployment, for aid to the unemployed and for other forms of Social insurance and security. (RULED 'ULTRA VIRES' 1935)
- 1936 c.47 The Veterans Assistance Commission Act - established a commission to assist towards the employment of former members of the forces.
- 1936 c.7 National Employment Commission Act - established a commission to conduct national registration and classification of persons on relief, mobilize agencies for relief, develop public works and supervise relief expenditures.
- 1937 c.13 Old Age Pension Act - amended to include persons over forty years of age with income less than 640 per annum.
- 1938 c.49 National Housing Act - repeals and supercedes Dominion Housing Act - provides federal funds for local low rental housing projects (up to 30 million)



APPENDIX III  
PERIOD III 1940-1968

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## APPENDIX III.A

## PRIVY COUNCIL ORDERS PERTAINING TO LABOUR DURING WORLD WAR II

<u>Date</u>	<u>Order</u>	<u>Content</u>
June 19, 1940	P.C.2685	War Labour Policy - declared right to form unions and bargain collectively banned strikes/lockouts
Dec. 16, 1940	P.C.7440	Wage freeze in War Industries
March 10, 1941	P.C.1708	Extend Industrial Disputes Investigation Act (SC.1907) to War Industries
June 6, 1941	P.C.4020	Est. 2-stage conciliation, I.D.I. Commission to report on anti-union discrimination
June, 1941	P.C.4643	Restrict Cost of Living bonus
June 24, 1941	P.C.552	Est. National Labour Supply Council (advisory only)
July 2, 1941	P.C.4844	Strike ban, reinstatement orders by federal Labour Minister
Sept. 16, 1941	P.C.7307	Compulsory strike vote
Oct. 24, 1941	P.C.8253	2nd wage freeze - Established National & Regional W.L.B.
Nov. 13, 1941	P.C.8821	Representation vote by all employees affected
Dec. 5, 1941	P.C.9514	Est. 9 regional W.L.B. subject to 12-man national W.L.B.
May 27, 1942	P.C.26/ 4430	Provides consultation with Labour on Wage Policy
July 10, 1942	P.C.5963	Relaxed wage freeze slightly
Dec. 1, 1942	P.C.10802	Est. right to organize in Crown Corporations excluded C.B.C. and National Harbours Board
Jan. 19, 1943	P.C.496	I.D.I. Commission may be established in "any threat to war effort"
Feb. 11, 1943	P.C.1141	N.W.L.B. disbanned replaced by McTague Commission
May 20, 1943	P.C.4175	Criminal offence to disobey Ministers Order
Dec. 9, 1943	P.C.9384	3rd Wage order includes Cost of Living bonus in basic wage. See P.310
Feb. 17, 1944	P.C.1003	Wartime Labour Relations Regulations est. Collective bargaining and "unfair" practices law.
Mar. 13, 1944	P.C.1727	Re-establish N.W.L.B. - lifts restrictions of Cost of Living bonus.

## APPENDIX III.B

## FEDERAL ROYAL COMMISSIONS AND INQUIRIES 1940-1947

- 1940 #310 - Commissions to inquire into the Cost of Living Bonus to be Paid to the Employees of the Coal Mine Operators of Alberta and British Columbia.
- 1940 #312 - Commission to inquire into the Industrial Dispute at the Plant of Courtaulds (Canada) Limited, Cornwall, Ontario.
- 1941 #314 - Commission to inquire into the Disputes or into any matters or circumstances connected with the Dominion Coal Company, Limited.
- 1941 #315 - Commission to inquire into the Labour Dispute at the Windsor Plant of the Chrysler Corporation of Canada.
- 1941 #316 - Commission to Inquire into the Strike at the Plant of the Scholfield Wollen Company, Limited, Oshawa, Ontario.
- 1941 #318 - Commission to determine the amounts, if any, to be paid by way of Cost of Living Bonus to the Employees of the Coal Mine Operators of the Estevan-Bienfait District, Saskatchewan.
- 1941 #317 - Royal Commission to inquire into the events which occurred at Arvida, Quebec, in July, 1941.
- 1942 #322 - Royal Commission to Investigates Wage Rates in Steel Plants at Sault Ste. Marie, Ontario and Sydney, Nova Scotia.
- 1943 #325 - Royal Commission to Investigate the Demands of the Coal Miners of Western Canada.
- 1945 #332 - Royal Commission on Veterans' Qualifications.

## APPENDIX III.C

## FEDERAL WELFARE LEGISLATION 1940-47

- 1940 S.C. c.44 - Unemployment Insurance Act - provided for a compulsory contributory unemployment insurance program at the national level, and for the establishment of a national employment service to function in conjunction with the unemployment insurance operation
- 1942 S.C. c.33 - Veterans' Land Act - provided for provisions of lands and financial support to encourage veterans to seek rehabilitation in agricultural industry
- 1944 S.C. c.22 - The Department of National Health & Welfare Act - establish a national Dept. of Health & Welfare and repealed the Dept. of Pensions and National Health Act.
- 1944 S.C. c.19 - The Department of Veterans' Affairs - established a separate Dept. of Veterans' Affairs and repealed Part 1 of the Dept. of Pensions & National Health Act.
- 1944 S.C. c.40 - The Family Allowances Act - provided for the payment by the federal government of allowances in respect of every child under 16 years of age born in Canada or resident for three years.
- 1944 S.C. C.46 - The National Housing Act - provided funds for persons wishing to build or repair their own homes, tends to aid slum clearance projects, and funds to stimulate building of low-rent housing units.
- 1944 S.C. c.49 - Veterans' Insurance Act - provides for a federal government life insurance program for Veterans of World War II.
- 1945 S.C. c.35 - The Veterans' Rehabilitation Act - provides allowances for veterans who are temporarily incapacitated, out of work, awaiting returns from a business, pursuing courses of training.
- 1946 S.C. c.43 - The Civilian War Pensions and Allowances Act - provided for pensions and allowances to Canadian nationals serving in specified essential occupations and who suffered disability as a result of World War II.
- 1946 S.C. c.52 - The Fire Fighters War Service Benefits Act - extends all veterans' benefits to Canadian fire fighters in the United Kingdom & entitles them to a gratuity.

- 1946 S.C. c.36 - Allied Veterans' Benefits Act - extends veterans' benefits to individuals in service with allied armies who within 2 years of discharge come to be a resident in Canada.
- 1946 S.C. c.66 - Supervisors War Service Benefits Act - extends all veterans' benefits to representatives from religious and social organizations who were attached to Canadian Armed forces.
- 1946 S.C. c.75 - War Veterans' Allowance Act - Repealed and replaced the War Veterans' Allowance Act 1930.

TABLE III.1

NEW LABOUR LAWS PERIOD III 1940-1968

ONTARIO

MANITOBA

1943	S.O. c.4 Collective Bargaining Act-established a labour court to adjudicate collective bargaining agreements, appeals, etc. (repealed 1944 c.29)	
1944	S.O. c.29 Labour Relations Act-established a provincial board to enforce Federal Wartime Labour Regulations	S.M. c.48 Manitoba Wartime Labour Relations Act established a provincial board to enforce Federal Wartime Labour Regulations.
	S.O. c.26 Hours of Work and Vacations with pay Act empowers labour board to enforce 8 hr. day 48 hr. week and 1 week paid vacation for every working year.	S.M. c.1 The Apprenticeship Act-creates a provincial board to regulate training and use of apprentices in trades.
	S.O. c.54 Rights of Labour Act-exempts unions from restraint of trade charges.	
1947		S.M. c.62 Vacations With Pay Act-legally requires employers to provide annual vacation with pay.
1948	S.O. c.51 Labour Relations Act-adopts a labour relations code modeled on P.C. 1003.	S.M. c.27 Manitoba Labour Relations Act-adopts a labour relations code modeled on P.C. 1003. S.M. c.58 Stream Pressure Plants Act-provides safety regulations and calls for regular inspections.
1950	S.O. c.34 Labour Relations Amendment Act-a completely new provincial act provides for 2 stage conciliation under ministers control (as in IRDA), Labour board restricted to certificates & rulings on 'illegal' strikes or lockouts.	S.M. c.15 Employment Services Act-an act to regulate license employment agencies-prohibits them supply-labour under conditions of strike.



1951 S.O. c.24 Fair Employment Practices Act-prohibits discrimination against men and women in employment because of race, creed or color, does not stipulate discrimination by sex. Applied to all employers with 5 or more employees and to trade unions.

S.O. c.26 Fair Remuneration to Female Employees Act-prohibits pay discrimination on basis of sex. Establishes Fair Employment Practices Branch of the Dept. of Labour.

1953 S.O. c.33 Elevators and Lifts Act-safety regulations for operation of elevators and lifts provoked by Lakehead grain explosion.

1954 S.O. c.99 Trench Excavators Protection Act-provided safety regulations (following subway cave in)

1956

1957

1958 S.O. c.70 Anti-Discrimination Commission Act-establishes Ontario Anti-discrimination Commission in the Dept. of Labour to administer Fair Employment Practices Act (1951 c.24), Fair Remuneration Act (1951 c.26), and the Fair Accommodation Act (1954).

1960-61 S.O. c.11 Construction Hoists Act-provides safety regulations.

1961-62 S.O. c.18 Construction Safety Act-provides safety regulations for construction workers, provides inspectors from Dept. of Labour.

1962-63 S.O. c.103 Pension Benefits Act-establishes Pension Commission of Ontario to regulate private pensions plans.

S.O. c.121 Public Works Creditors Payments Act-repeals and supercedes Public & Other Works Wages Act, provides procedures for workers to claim wages from contractors.

1963 S.O. c.83 An Act to Amend the Minimum Wage Act - sets a single provincial minimum wage for men and women workers.

1964 S.O. c.45 Industrial Safety Act-consolidation of Factory and Shop & Office Building Acts.

1965 S.O. c.48 Hospital Labour Dispute Arbitration Act-granted collective bargaining rights but refused right to strike.

1965 S.O. c.131 Toronto Hydro Electric Employees' Union Dispute Act: back to work law and compulsory arbitration.

1966 S.O. c.3 Age Discrimination Act-prohibits employers trade unions from refusing to hire or discriminate against persons between ages 40-65.

1968 S.O. c.86 Labour Management Arbitration Commission estb. Commission of full & part-time paid arbitrators to handle dispute cases.

S.M. c.18 Fair Employment Practices Act-very similar to Ontario's act S.O. 1951 C.24.

S.M. c.18 Equal Pay Act-prohibits pay discrimination on the basis of sex.

S.M. c.20 Employment Standards Act-a major consolidation of labour law, provides regulations on Hours, Wages and Conditions of Work. Repealed Factories Act, Hours and Conditions of Work Act and Minimum Wage Act.

S.M. c.9 Construction Industry Wages Act-provides wages and hours of work regulations repeals Fair Wages.

S.M. c.24 Employment Safety Act-provides safety rules for employees especially in construction.

Table III.2

## LABOUR LEGISLATION AND STATUTORY ORDERS FACILITATING THE EMPLOYMENT OF WOMEN PERIOD III 1940-1968

Date	Jurisdiction	Statute, Amendment or Order
1951	Ontario	S.O. c.26 Fair Remuneration to Female Employees Act - prohibits pay discrimination on basis of sex. Establishes Fair Employment Practices Branch of the Dept. of labour. <u>Exclusion</u> - Civil Servants not covered by the provisions of this act.
1955	Federal	S.O.R.55/406 Public Service Act Regulations - removed regulations against employment of married women in Fed. Civil Service.
1956	Federal	S.C. c.38 Female Employees Equal Pay Act - calls for equal pay for identical work for employees in crown corporations & other undertakings under federal jurisdiction. <u>Exclusion</u> - employees of Public Service of Canada not covered.
	Manitoba	S.M. c.18 Equal Pay Act - prohibits pay discrimination on the basis of sex. <u>Exclusion</u> - provincial civil servants.
1958	Federal	S.O.R.58/232 Public Service Act Regulations - provided maternity leave clause for Fed. Civil Servants. <u>Exclusion</u> - unmarried women would not be covered.
1960	Manitoba	M.R. 30/60 Minimum Wage Regulation - established single minimum wage for men and women workers.
1962	Federal	S.O.R. 62/121 Public Service Act Regulations - extended maternity leave to all women regardless of marital status.
1963	Ontario	S.O. c.83 An Act to Amend the Minimum Wage Act - sets a single minimum wage for men and women workers.
1964 -65	Federal	S.C. c.38 Canada Labour (Standards) Code - Part II section II sets a single minimum wage for men and women and single maximum work hours (40) per week for men and women.
1965	Ontario	S.O. c.85 S.3 Human Rights Code - amended stipulates that all crown employees (including civil servants) are covered under the provisions of this act.
1967	Federal	S.O.R. 67/78 Public Service Pension Regulation - removed clause requiring women to retire from the Fed. Civil Service upon marriage.
1970	Ontario	S.O. c.33 Women's Equal Employment Opportunity Act - prohibits discrimination on basis of sex or marital status. Establishes Ontario Women's Bureau and provides for maternity leave.
	Manitoba	S.M. c.H175 Human Rights Act - includes prohibition of discrimination on the basis of sex or marital status.
1971	Federal	S.C. c.48 Unemployment Insurance Act Amendment - part VII s.140 prohibits discrimination on basis of sex or marital status for job referrals.
1972	Manitoba	S.M. c.E110 Employment Standards Act - amended to provide maternity leave.
1973	Federal	S.O.R.73/278 Fair Wages and Hours of Labour Regulations - all government contracts must include clause prohibiting discrimination including sex and marital status.
1973	Ontario	S.O. c.112 Employment Standards Act - amended to extend equal pay and maternity provisions to Civil Servants.
1976	Manitoba	S.M. cE65 Employment Standards Act - amended to extend all provisions of this act to Civil Servants.
	Federal	S.C. c.33 Human Rights Act - amended to extend all provisions of this act to Civil Servants.

Table III.3 - NEW PROVINCIAL WELFARE LEGISLATION PERIOD III 1940-1968

ONTARIO	MANITOBA
1946 S.O. c.17 Day Nurseries Act - empowers municipalities to pass by-laws to establish daycare centers, establishes <u>regulations</u> and provides 50% provincial funding for such center.	S.M. c.2 Blind Persons and Deaf Person's Maintenance Act - extended the same benefits to the deaf as were available to the blind. (S.M. 1918c6)
1947 S.O. c.46 Homes for the Aged Act. S.O. c.31 District Homes for the Aged Act - repeals and supercedes Houses of Refuge Act and District Houses of Refuge Act (1937 C385-C386)	
1948 S.O. c.98 Welfare Units Act - provides for the establishment of municipal and district administrative units. The province through the Department of Public Welfare will provide the personnel and <u>regulations</u> for such units.	
1949 S.O. c.41 Homes for the Aged Act - consolidation of c.46 and c.31 above, provides <u>regulations</u> and provincial funding for the construction and maintenance of Homes for the elderly, requires every municipality to provide for a home for the aged.	S.M. c. 55 Social Assistance Act - provides for provincial granting of aid to municipalities for social assistance. <u>Outlines regulations</u> and procedures for such grants.
1954 S.O. c.8 Child Welfare Act - a consolidation and revision of the Children's Protection Act, the Children of Unmarried Parents Act and the Adoption Act.	S.M. c.23 Old Age Pension Debt Cancellation Act - cancels all debts owed to the crowns resulting from pensions improperly paid due to nondisclosure of facts or false representation.
S.O. c.50 Mental Health Act - provides for a director and staff of mental health in the Department of Health to <u>regulate</u> and inspect facilities and programs for the mentally ill.	
1955 S.O. c.33 Indian Welfare Services Act - provides for provincial delivery of general welfare services to Native Canadians covered by the Indian Act upon reaching cost sharing agreements with relevant federal agency.	
1956 S.O. c.31 Hospital Services Commission Act - establishes a commission to <u>inspect, supervise</u> and approve hospital services in the province.	S.M. c.5 Charities Endorsement Act - requires <u>provincial authorization of all public and private</u> charities involved in fund raising activities.
	S.M. c.14 Elderly Persons Housing Act - provides provincial funding for housing developments for the elderly.
1957 S.O. c.11 Children's Boarding Homes Act - provides for <u>provincial regulations and inspection of homes</u> containing five or more children under 16 years of age who are not related to caretakers.	

Table III.4

AMENDMENTS TO MOTHERS ALLOWANCE DURING THE THIRD PERIOD  
1940-1968

ONTARIO	MANITOBA
1947	Mothers' Allowance amended to include families with one child.
1948	Amendment provided
-	medical hospital coverage
-	payment for disabled dependent husband
-	special fuel allowance
-	time for establishing desertion reduced from three years to one year.
1951	Divorced women deemed eligible for Mothers' Allowance
1952	- includes desertion as an eligible category - extends allowance for children up to 17 yrs if attending school.
1953	- residence requirements reduced to 1 year - support for children extended to 18 years if attending school.
1955/56	- extended benefits to unmarried mothers and permanently unemployed fathers caring for dependent children.
1959	- repealed as a separate act and incorporated in the General Welfare Assistance Act.
1964	- removed from the Child Welfare Act, included in the new Social Allowances Act, provides - broader eligibility - full range of medical benefits.

Table III.5 FEDERAL SOCIAL WELFARE LEGISLATION BY  
TAXATION AGREEMENT & ELECTION CYCLES PERIOD III 1940-1968

Taxation Agreement Cycle	Election Cycle	Federal Response
1947-1952 TAX RENTAL Federal Government maintained exclusive occupancy of personal tax. Ont. & Quebec occupied 9% corporate and 50% excise tax field	1949 Liberal - majority	<u>1951</u> S.C. c.18 Old Age Security Act S.C. c.199 Old Age Assistance Act S.C. c.17 Blind Persons Act <u>1952</u> S.C. c.54 War Veterans Allowance Act
1953-1957 TAX RENTAL Federal Government maintained exclusive occupancy of personal tax. Ont. & Quebec occupied 9% corporate and 50% excise tax field	1953 Liberal - majority	<u>1953</u> S.C. c.27 Children of the War Dead Act <u>1954</u> S.C. c.55 Disabled Persons Act S.C. c.23 National Housing Act <u>1956</u> S.C. c.26 Unemployment Assistance Act <u>1957</u> S.C. c.28 Hospital Insurance Act
1957-1962 TAX SHARING Federal Government offered a 10 - 9 - 50 formula personal-corporate-excise Quebec occupied all 3 fields Ont. occupied corporate & excise. Other 8 provinces opted to rent their fields to Ottawa	1957 Conservative - minority  1958 Conservative - majority	<u>1961</u> S.C. c.26 Vocational Rehabilitation Act Royal Commission on Health
1962-1967 TAX SHARING Federal Government offered a 20 - 9 - 50 formula. Quebec Ont. Manitoba and Sask. chose occupancy. Other provinces chose rental.	1963 Liberal - minority  1965 Liberal - minority  1968 Liberal - majority	<u>1964</u> S.C. c.54 Established Program Financing S.C. c.45 Canada Assistance Plan S.C. c.23 Youth Allowance Act S.C. c.24 Canada Students Loans Act <u>1965</u> S.C. c. Guaranteed Income Supplement S.C. c.51 Canada Pension Plan <u>1966-67</u> S.C. c.64 Medical Care Act S.C. c.42 Health Resources Fund Act S.C. c.27 Training Allowance Act S.C. c.36 Company of Young Canadians <u>1967</u> Royal Commission on the Status of Women

Table III.6 JOINT FEDERAL-PROVINCIAL WELFARE LEGISLATION PERIOD III 1940-1968

Federal Initiative		Provincial Response	
1944	S.C. c.46 The National Housing Act - provided funds to build low-rent housing, slum clearance and household repair. (superceded by The National Housing Act 1954c.23)	1946 S.M. c.23 The Housing Act 1948 S.O. c.44 The Housing Development Act 1952 S.O. c.27 Elderly Persons Housing Aid Act S.O. c.92 Rural Housing Assistance Act 1956 S.M. c.14 Elderly Persons Housing Act	
1951	S.C. c.38 The Blind Persons Act - provided federal aid to the provinces of 75% of the cost of allowances for the blind, aged 21 yrs. & over repealed s.8A of the Old Age Pension Act, 1927 which previously provided pensions for needy blind.	1951 S.O. c.1 Blind Persons Act 1952 S.M. c.5 Blind Persons Act	
1951	S.C. c.55 The Old Age Assistance Act - provided for federal aid to the provinces of 50% for assistance to persons aged 65-69, subject to means test.	1951 S.O. c.2 The Old Age Assistance Act 1952 S.M. c.46 The Old Age Assistance Act	
1954	S.C. c.55 The Disable Persons Act - provided for federal aid to the provinces of 50% of the cost of allowances to permanently disabled persons over 18 yrs., subject to a means test.	1955 S.O. c.17 The Disabled Persons Act S.M. c.13 The Disabled Persons Act	
1956	S.C. c.26 The Unemployment Assistance Act - provided for federal reimbursement to any province entering into an agreement of 50% of amount spent by provinces/municipalities on needy unemployed.	1958 S.O. c.33 General Welfare Assistance Act 1959 S.M. c.57 Social Allowance Act - sec. 12 provides for Minister to enter into agreements with the federal government for cost sharing arrangement	
1957	S.C. c.28 The Hospital Insurance and Diagnostic Services Act - Authorized contributions by federal gov't for programs administered by the provinces, providing hospital insurance & diagnostic services.	1958 S.M. c.24 Hospital Services Insurance Act 1957 S.O. c.46 Hospital Services Commission Act - amended Act (1955c.46) to include a hospital care insurance plan in cooperation with the federal legislation	
1961	S.C. c.26 The Vocational Rehabilitation of Disabled Persons Act - provided for federal sharing of costs incurred by the provinces in programs of vocational rehabilitation for disabled persons.	1966 S.O. c.159 The Vocational Rehabilitation of Disabled Persons Act 1967 S.M. c.58 Social Allowances Act - amended to include rehabilitation services	
1964-65	S.C. c.51 The Canada Assistance Plan - provided federal aid to provinces of 50% of amount spent on assistance to persons in need. Effective July 1966 consolidated all previous cost-shared social assistance programs.	1966 S.O. c.54 Family Benefits Act - consolidated all provincial social assistance programs	
1966	S.C. c.64 The Medical Care Insurance Act - provides federal contributions of 50% of costs of insured medical care services incurred by provinces which must be comprehensive, nonprofit plans. Effective July 1968.	1967 S.M. c.36 Manitoba Medical Services Insurance Act 1968-S.O. c.43 Health Services Insurance Act 1969	
1966-67	S.C. c.42 Health Resource Act - establishes a federal fund to assist provinces in the acquisition, construction & renovation of health training facilities and research institutions.		



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