Industrial Relations and the Economic Crisis: Canada Moves Towards Europe*

By

R.J. ADAMS, PH.D.
Professor of Industrial Relations

*I would like to express my deep appreciation to Joe Rose, Mark Thompson, Peter Doyle and Noah Meltz for their comments on an earlier version of this paper. A version of this paper will appear in the 1985 research volume of the Industrial Relations Research Association edited by Hervey Juris and Mark Thompson.

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Introduction

The industrial relations systems of Canada and the U.S. share much in common. "International" unions represent both Canadians and Americans. Since World War II Canada and the U.S. have implemented similar labour policy frameworks and the practice of collective bargaining in the two countries is similar. Indeed, because of such outstanding similarities, foreign observers sometimes have concluded that Canada and the U.S. may be considered parts of a coherent North American IR system (Ross & Hartman). Twenty years ago, that observation was more accurate than it is today. As a result of the economic shocks which commenced in the latter half of the 1960's the two systems have been evolving in quite dissimilar directions. In Canada, movement has been towards more cooperation by labour, management and government in search of consensus and the expansion of workers' participation by right. Contrarily, large numbers of employers and intellectuals in the U.S. have abandoned their committment to unions and collective bargaining as the preferred instruments of industrial democracy in favour of management controlled and initiated participation schemes. (See Barbash; Kochan and Piore). Instead of being embraced as a social partner organized labour finds itself to be the object of the most forceful assault on its integrity in more than a half century. Although many labour leaders would be prepared to participate in cooperative, consensus seeking exercises, government and business, by and large, are uninterested.[1]

This essay is divided into four parts. In part one the main attributes of the Canadian IR system as it stood in the early 1960's are outlined. In part two the primary economic shocks as they manifested themselves in Canada are documented. In part three the emergence and course of tripartism - labour, management and government cooperation in regard to public policy -

is reviewed. The fourth section is devoted largely to a discussion of the emergence in Canada of two enterprise level institutions designed to provide universal equity and participation at the enterprise level - work councils and labour courts. In the final section a model is presented which appears to be the likely destination towards which the Canadian system is evolving and the direction of movement in Canada is compared with that in the U.S.

The Traditional System

By the early 1960's the Canadian IR system had settled into a distinctive pattern[2]. Although The major labour federation - the Canadian Labour Congress - officially supported the moderately socialist New Democratic Party (NDP), on a day to day basis unions behaved very much as Selig Perlman, the apologist for North American unionism, would suggest (Perlman). Via negotiations with employers they sought to protect and enhance the terms and conditions of employment of their members. Radical rhetoric, although by no means absent, was a minority phenomenon. Bread and butter today rather than pie in the sky tomorrow was the primary strategy of unions in practice. The labour movement had little direct influence on government policy. Under certain circumstances it could muster sufficient support to block the passage of onerous legislation but it had little capacity to achieve policy objectives opposed by influential interest groups (Kwavnick).[3]

Canadian employers, unlike those in most European countries, were fragmented in their approach to organized labour. Many associations, some organized on an industrial, some on a provincial and some on a national basis, did exist. Not infrequently these associations would take a leadership role in representing the point of view of their members in regard to employment issues. There was, however, no common strategy for dealing

with unions; nor was there any generally recognized national organization which could authoritatively express the business viewpoint on employment issues.

Because of the general unwillingness of employers to bargain collectively unless forced to do so relations between labour and management were, in general, strained and distant. The actors were adversaries, not social partners as their counterparts were sometimes referred to in Europe. The job of the union was to negotiate the best conditions possible for its members to the practical exclusion of other concerns. The role which management had assumed in industrial relations was to bargain hard with certified unions while attempting to defend, as best it could, its ability to make unfettered decisions. To employers beyond the pale of collective bargaining remaining "non-union" had become a generally accepted personnel policy.

The government considered its primary role to be that of protecting the public from the disruptions which could result from industrial conflict (Woods). The fundamental philosophy of Canadian governments was voluntarism. Labour and management should be allowed to work out their own arragements, but only so long as the public was left in peace. In practice the concern with conflict led to a good deal of intervention.

Unlike the U.S., labour law in Canada is primarily a provincial responsibility. Nevertheless after World War II a labour policy model very similar to the U.S. Wagner model was adopted in all Canadian jurisdictions. Under that model if a union sought to bargain with an employer who refused to cooperate it could, if it had majority support of the employees involved, compel the employer to negotiate by acquiring certification from a labour relations board. It could not, however, strike for "recognition". This

policy model, which initially was introduced with strong union support, had the unplanned effect of exacerbating adversarialism because it condoned employer opposition to unions so long as the employer did not blatantly attempt intimidation or coercion. (Arthurs, Carter and Glasbeek).

Government intervention also extended to the collective bargaining relationship. Contrary to the U.S. version of the Wagner model, in Canada the parties could negotiate essentially any issue. However, the ultimate union recourse to a management refusal to agree was, as in the U.S., the strike. That aspect of the model insured that only key wage and benefit issues would be included in collective agreements. Many issues - not considered to be strike issues - "fell off the table" and thus remained within the ambit of management's reserved rights. It was the rare agreement which contained stipulations on issues such as training, occupational health and safety, the introduction of technological change and the criteria for plant shutdowns (Adams, 1984a). To the outside observer such issues might appear to be very important to employees but, in general, they were not strike issues and therefore could be kept by management within its domain of unilateral discretion.

Should union-management negotiations reach impasse Canadian jurisdictions required the parties to postpone conflict while government-appointed conciliators attempted to find an acceptable solution to the dispute. When an agreement was reached it had to last for a specified period of time, usually for at least a year. During the life of a contract strikes were made illegal. Contrary to U.S. practice, disputes over the interpretation of a collective agreement were required by legislation (rather than by contract) to be submitted to binding arbitration for resolution. The arbitration process was, however, under the control of

labour and management instead of government for two reasons. First, labour and management jointly choose the single arbitrator or arbitration board. Second, the mandate of the arbitrator was to resolve disputes over the interpretation of a written collective agreement freely concluded by labour and management.

By 1960 approximately 32% of Canadian employees were in trade unions a rate almost identical to that in the U.S. (See Table 5). As in the U.S., blue collar workers in the private sector - manufacturing, construction and transportation in particular - were much more highly organized than the average. In most of the public sector governments as employers had avoided Wagner style bargaining. Instead consultation took place between government representatives and employee associations with impasses resolved unilaterally by the employer. That system, however, was nearing the end of its time. Government employees, dissatisfied with consultation, were demanding the same rights as private sector workers and legislation towards that end was about to be introduced in several jurisdictions (Ponak).

The government did not limit itself entirely to facilitating labour management relations. Ideally, if collective bargaining had become universal in scope, the parties would have worked out their own tailor-made substantive agreements in each case. However, in practice, collective bargaining was restricted. Despite its rapid spread during the 1930's and 1940's, most Canadian paid workers remained (and continue to remain) beyond the orbit of collective bargaining (Adams, 1984b). In order to reduce the disparity in the conditions of work of the organized and the unorganized Canadian governments, like governments in all Western countries, established in law general minimum requirements regarding issues such as income protection in the event of unemployment, injury and superannuation. Maximum

hours, minimum wages, job safety standards and (like most of the industrial world but unlike the U.S.) universal paid holidays and vacations were also legislated (Christie). Those initiatives were, however, considered to be subsidiary to the primary policy of encouraging full collective bargaining.

In the early 1960's this system appeared to be reasonably stable. After much turmoil in the 1930's and 1940's relations between labour and management had settled into a pattern of ritualistic normality. Industrial conflict was at a low level compared to what it had been in the preceeding decades. But the system was about to be placed under a great deal of strain because of events originating outside of the borders of Canada.

Shock Waves

The "traditional" IR system, outlined above, was shaken by the waves of change which shocked the world political economy between the 1960's and the 1980's. The key events are well known. The war in Vietnam precipitated a trend towards rising prices which was accellerated by massive oil price increases in the 1970's. The transfer of wealth from the oil consuming to the oil producing countries led to a reduction in the pace of economic growth and, combined with demographic developments, an increase in the rate of unemployment. After the second oil shock in 1979 very stringent fiscal and monetary policies designed to bring inflation under control produced the worst economic downturn since the 1930's. The increasing competitiveness of goods from Japan and other countries of the pacific rim placed additional pressures[3] on the western economic system (Zoeteweij).

Canada's situation in contrast to the U.S. and the major OECD countries is illustrated by data in table 1. In most respects Canadian developments followed those in the other countries. However, a few aspects of the Canadian experience are notable. First, employment growth from 1966 to 1982

was more than double that of the seven major OECD countries as a group. This growth was due in part to the coming of age of a "baby boom" generation born in the two decades following World War II and in part to a large increase in the proportion of adult women participating in the labour force. The increase in the size of the Canadian labour force put tremendous pressure on government to create jobs - a challenge which it met with only partial success. As indicated by the data in the table 1 although employment increased at notable rates unemployment in Canada was, and continues to be, considerably higher than in the major OECD nations.

A second outstanding Canadian development has to do with the reaction of the economy to the recent recession. In the U.S. and the OECD big seven countries as a whole the economic downturn of 1981 - 1982 was relatively shallow compared to Canada where the economy contracted by 4.4% in 1982. Not until 1984 did Canadian economic activity return to the level it had reached in 1981. However, by 1984 the Canadian economy was growing at a substantially faster rate than were the countries of Western Europe and the unemployment rate was falling (OECD Economic Outlook, July 1984).

Inflation unsettled the relationship between wages and prices in all of the countries of the west. Attempting to keep up with price increases labour demanded higher wages and backed its demand with a willingness to resort to open conflict. In Canada, time lost due to industrial conflict as a percent of estimated working time doubled in 1966 over 1965 and remained at very high levels until the great recession of 1981 - 1982. Table 2 presents two indicators of the level of labour militancy. The data on percent of working time lost to strikes is sensitive to the number of collective agreements negotiated each year. The second series - percent of large unit settlements involving a work stoppage - overcomes that problem.

The two series are, however, consistent in the story they tell. Except for 1977 and 1978 - years in which mandatory controls on wages and prices were in effect - industrial conflict in Canada was at high levels continually between 1966 and 1982. During the 1970's Canada had the highest strike volume in the western world except for Italy (see table 3). The Canadian rate was more than double that of the U.S., a reversal of experience in earlier decades.[4]

The high level of militancy contributed to wage settlements from the late 1960's to the mid 1970's which substantially exceeded the rate of inflation (see table 4). This development led some serious economists, many quasi-economists and a gaggle of pundits to conclude that prices of goods and services were being pushed up by excessive wage increases. Organized labour generally claimed that it was merely trying to 1) make up for past losses, 2) insulate its members against price increases expected to occur during the life of the collective agreement and 3) to make sure its members got a fair share of the increasing economic product.

Whatever the truth of the matter, the high level of industrial conflict and the wage-price spiral associated with it in the private and institutional mind became a prime focus of debate and policy during the 1970's and early 1980's. Several approaches were tried by governments to deal with this wage-price-conflict nexus. First, attempts were made to control or influence the the outcomes of collective bargaining. In 1969-70 a wage-price guideline policy was tried; in 1975-78 mandatory general wage-price controls were in effect and in 1982-83 public sector compensation was controlled by law in the federal and several provincial jurisdictions (Wood and Kumar, 1976; Swimmer). The unilateral imposition of controls on wages and prices in 1975 gave rise to a good deal of opposition from both labour

and management. As a result the federal government entered into a series of discussions with representatives of labour and business in hopes of achieving a voluntary, tripartite agreement on restraint. Although no agreement could be reached in the 1975-78 period, the process of consultation in search of consensus would be used with increasing frequency.

In addition to mandatory controls and consultation in search of consensus another approach to the nexus was to seek ways to make the bargaining process work better. A good deal of debate focused on broader based bargaining. Experiments with factfinding, choice of procedures, first contract arbitration, grievance mediation, and bargaining by objectives were also tried (Craig).

A fourth approach was to address the conditions which were believed to give rise to labour discontent. A great deal of new legislation was passed in order to improve substantive conditions of work (Christie). Occupational health and safety was a major focus. Human rights codes forbidding discrimination for a growing list of reasons were introduced in all Canadian jurisdictions (Jain). New standards were developed in regard to plant shutdowns and group terminations (Adams, 1983). In order that employees be able to participate in the making of decisions concerning these and other important employment issues a new institutional form began to take shape in Canada - the works council. These institutions - while common in Europe - had generally been considered inappropriate and unnecessary in North America. Their appearance came, therefore, as a surprise to many.

As collective bargaining matured and expanded the process designed to resolve disputed interpretations of collective agreements became more complex and the basis of strife. Grievance arbitration as a system was predicated on values of speed, low cost and informality. By the advent of

the 1970's the process (especially in Ontario) had become slower, more expensive and increasingly legalistic (Weiler, 1980). Labour demanded reform. Coupled with the problem of integrating disputes procedures regarding occupational health and safety, employment standards, and human rights with grievance arbitration the result was a trend towards the European institution of labour courts.

Militant unions apparently able to win substantial improvements at the bargaining table and through the political process became attractive to many previously unorganized workers during this period. Unlike the U.S., trade union density in Canada increased substantially during the turbulent 1960's and 1970's (see Table 5).

As in all industrialized countries, the deep recession of 1981-82 had significant effects on the dynamics of Canadian industrial relations. Union membership growth slowed and the volume of industrial conflict was reduced. Employers, as in the U.S., adopted a tougher stance at the bargaining table. They did not, however, embrace as vigorously as their U.S. counterparts, the "non-union alternative". Moreover, Canadian unions resisted more effectively demands for "givebacks" and "concessions" even in industries such as Auto's where the U.S. branch of The United Auto Workers Union felt compelled to given up its long-term strategy. Whereas in the U.S. as many as three or four agreements in ten contained concessions, in Canada the rate during 1982 and 1983 was probably no more than one in ten.[5] The Canadian system was not, however, inflexible in the face of economic pressures. Wage and price increases slowed significantly during 1983 and by early 1984 wages and prices were advancing at the slowest rate in two decades. (Wood & Kumar, 1984).

It is impossible to do justice to all of these issues in an essay of modest proportions. Instead of trying to do so I will concentrate on a few topics which illustrate the proposition that Canadian industrial relations are evolving towards forms and patterns common in Europe and away from U.S. practice with which it has been associated historically.

Table 1
OECD Economic Indicators 1966-83

	1966	66-73	74-82	81	82	83
Growth in Real GNE or GDP						
Canada	7.0	5.5	2.1	3.4	-4.4	3.0
U.S.	6.0	3.9	1.9	2.6	-1.9	3.4
OECD-Seven major countries[1]	5.7	5.4	2.2	1.9	-0.3	2.4
Consumer Price Inflation						
Canada	3.7	4.3	9.0	12.5	10.8	5.9
U.S.	2.9	4.4	9.8	10.3	6.1	3.2
OECD - 7	3.2	4.7	9.6	10.0	6.9	4.4
Unemployment Rate						
Canada	3.3	4.8	7.7	7.6	11.0	11.9
U.S.	3.6	4.5	7.3	7.6	9.7	9.6
OECD - 7	2.6	3.2	5.7	6.5	8.1	8.2
Employment Growth						
Canada	4.1	2.9	2.1	2.6	-3.3	0.7
U.S.	3.0	2.3	1.8	1.1	-0.9	1.3
OECD - 7	1.5	1.4	1.0	0.5	-0.7	0.6

Source 1966: OECD Economic Outlook, Historical Statistics 1960 - 1980
1983: OECD Economic Outlook, July, 1984.
Other years: The Canadian Economy in Recovery
Canada Department of Finance, February, 1984

1. The seven major OECD countries are: Great Britain, France, U.S., West Germany, Italy, Japan and Canada.

Table 2
Indicators of Labour Militancy

	Strikes and Lockouts as Percent of Estimated Working Time (1)	Percent of Large Unit Settlements Involving a Work Stoppage (2)
1963	0.07	N/A
64	0.11	N/A
65	0.17	10.4
66	0.34	12.0
67	0.25	12.6
68	0.32	14.0
69	0.46	11.7
70	0.39	10.9
71	0.16	14.4
72	0.43	13.0
73	0.30	18.3
74	0.46	15.6
75	0.53	12.7
76	0.55	13.5
77	0.15	5.5
78	0.34	6.3
79	0.34	11.2
80	0.38	12.3
81	0.37	13.9
82	0.25	6.1
83	0.19	7.1

1) 1963 - 1980: Strikes and Lockouts in Canada, Ottawa: Labour Canada, annual.
1981 - 1983: Work Stoppages December 1983, Ottawa: Labour Canada, 1984.

2) 1963 - 1980: Collective Bargaining Review, Ottawa: Labour Canada, annual.
1981 - 1983: Work Stoppages December 1983, Ottawa: Labour Canada, 1984.

Large unit settlements refer to bargaining units with 500 or more employees.

Table 3
Days Lost Per 1000 Employees
1971 - 81 annual average

Canada	906
France	215
Germany	50
Italy	1199
Japan	116
Sweden	142
U.K.	551
U.S.	442

Source: W. D. Wood and P. Kumar (eds.) The Current Industrial Relations Scene in Canada, 1983, Kingston: Queen's University IR Center, 1983, p. 398.

Table 4
Settlements in Major Collective
Agreements and Inflation
1967 - 1983

	Wage Settlements (1) Ave. % Change	CPI (2) Ave. % Change
1967	8.3	3.6
68	7.9	4.0
69	7.7	4.6
70	8.6	3.3
71	7.8	2.9
72	8.8	4.8
73	10.9	7.5
74	14.7	10.9
75	19.2	10.8
76	10.9	7.5
77	7.9	8.0
78	7.2	9.0
79	8.7	9.1
80	11.1	10.1
81	13.3	12.5
82	10.0	10.8
83	5.9	5.8

1) Data refer to wage settlements in collective agreements covering 500 or more employees which do not contain a cost of living adjustment clause. Data were collected by Labour Canada and are reported in Economic Review, Ottawa: Canada Department of Finance, annual.

2) CPI = Consumer price index. Data from Consumer Price Index, Ottawa: Statistics Canada, annual.

Table 5

Union Membership as a Percent of Non-Agricultural Employment, 1956-1980

	U.S.[1]		Canada
1956	33.4		33.3
60	31.4		32.3
64	28.9		29.4
68	27.8		33.1
72	26.4		34.6
76	24.7	(29.1)	37.3
78	23.6	(26.2)	39.0
80	N/A	(24.6)	37.6

Source: Rose and Chaison; U.S. data from U.S. Department of Labor, Handbook of Labor Statistics and Canadian data from Canada Department of Labour, Directory of Labour Organizations in Canada.

1. Figures in brackets include membership in employee associations which prior to 1976 were not considered to be trade unions. In Canada employeee association membership was assimilated into the statistics during the 1970's as those associations began to take up collective bargaining.

Tripartism

The term tripartism is generally used to refer to formal or quasi-formal decision-making structures in which representatives of labour, business and government attempt to reach consensus on policy issues of mutual concern (Giles). Although examples of tripartite efforts may be found scattered throughout Canadian 20th century history, the latest episode began in the early 1970's (Waldie). Two factors gave rise to government initiatives to involve labour and management in socio-economic decisions: labour militancy and the wage price spiral believed to stem from it.

In the fall of 1974 the federal liberal government began to develop a control program despite an election pledge contrary to controls. Opinion polls indicated that the public wanted forceful action and that controls would be accepted. However, instead of immediately imposing the program the federal Minister of Finance - John Turner - approached representatives of labour and business and sought to achieve a voluntary tripartite agreement on restraint. Turner's initiative was very unusual and caught both labour and management unprepared (Lang). No agreement was reached and in October of 1975 the federal government imposed controls over the objection of both business and labour. This action led to responses which changed the nature of Canadian industrial relations.

The most prominent and numerically dominant labour organization in Canada is the Canadian Labour Congress. The CLC came into being in 1956 - the result of a merger between a federation composed largely of traditional craft unions which had close ties to the American Federation of Labour and a federation composed primarily of industrial unions associated with the Congress of the Industrial Organizations in the U.S. Like the AFL - CIO, the Canadian Labour Congress was a very loose and very weak federation. The

power in the Canadian labour movement rested with the sovereign national and international unions and in varying degrees at the local union level. The primary function of the CLC was to look after labour's interest at the national level. Research suggested that it could under certain circumstances block negative legislation but that it rarely had the power to compel legislation over the opposition of other consequential groups (Kwavnick).

The federal liberal decision to impose controls gave the CLC, as an institution in its own right, an opportunity to expand its role in the IR system. Controls had the effect of shifting the focus of decision-making away from local bargaining to the national level.

The initial reaction of the CLC was to demand immediate withdrawal of controls. Towards that end a national anti-controls campaign was put into effect. The top leadership of Congress was not opposed to tripartism in principle. Some of the top officers - including president Joe Morris - had considerable European experience. Morris believed that a strategy of pure protest against controls would be ineffective as well as contrary to the long range interests of the labour movement. Instead, influenced by the European experience, he and a few others believed that it was crucial for the labour movement to formulate a positive set of proposals and to demand a say in government decisions. Decentralized collective bargaining had become - as they saw it - less efficacious because of the increasing intervention of government. Minor changes in fiscal and monetary policies could completely - without labour's consent or participation - undermine the results of collective bargaining. In order to effectively represent its members organized labour had to develop a capacity effectively to influence government policy (Lang).

The principal response was the production of a document entitled Labour's Manifesto for Canada which was approved by the CLC convention in the summer of 1976. In that document, and in subsidary papers fleshing it out, the CLC called for the establishment of a tripartite National Council for Social and Economic Planning which would have on its agenda all of the following policy issues: investment, housing, manpower planning, income distribution, industrial development, transportation, social security and health services. Under the council there would be boards and agencies which would carry out "administrative and planning functions for which the council had responsibility as set out in the terms of reference". (Position Paper on the Practical Application of Labour's Manifesto for Canada).

For example, a Labour Market Board was envisioned which "must have authority for forecasting, training and retraining, mobility grants, immigration and unemployment insurance". The job of the board would be to ensure full employment. Towards that end it "must have the power and authority to channel investment finds... "(Position Paper, etc.). In essense the Labour Market Board would have made redundant the Department of Employment and Immigration and the Unemployment Insurance Commission.

The Social and Economic Planning Council apparently was modeled on a scheme existent in Holland. The Labour Market Board proposal was similar to institutions in West Germany and Sweden (Adams, 1982a). The proposal was quite different from anything existing or contemplated seriously in the U.S. National labor-management advisory committees were not unknown in the U.S. but they had far less power and influence than the institutions envisioned in the CLC proposal (Moye).

The federal government did not reject the proposal out of hand. It did, however, express serious reservations. Key government leaders wanted

to establish a system of consultation which might lead to consensus. They also were impressed by the intensity of labour opposition to controls. But they were very reticent to cede to labour the degree of power which it demanded in the Manifesto and related documents.

In order to back its demands for the immediate withdrawal of controls the CLC developed an action plan which had at its core a proposal for a "national day of protest" - a one day national work stoppage. This technique, which is commonly employed in Italy to influence government policy, had never before been used as a calculated national strategy in North America. On October 14, 1976 approximately one million working people failed to show up for work as a gesture of protest against the controls program. At the time approximately two million employees belonged to unions affiliated to the CLC. The Day of Protest was judged to be neither a great success nor a total failure. It indicated to the government that the CLC could mobilize a demonstration of considerable proportions. On the other hand it illustrated the inability of the CLC to move as a single undivided entity.

As a result of these developments the government continued to talk to representatives of the CLC. Alternate proposals for a policy forum were discussed but no agreement was reached.

The unilateral imposition by government of controls also had a major impact on business. For some time prior to the controls era business leaders had discussed, on and off, the possibility of forming a national organization capable of representing their perspective to government (MacLaren). The imposition of controls despite opposition of most corporate leaders illustrated the weakness of industry's fragmented structure. Statements by the prime minister that the free market could no longer be

relied upon and that the government would have to intervene move vigorously in the economy speeded up the process of institution formation (Giles).

During 1976 the chief executive officers of major corporations formed a loose organization which officially became the Business Council on National Issues in the spring of 1977. The BCNI quickly attracted the CEO's of most major corporations as well as the top executives of the Chamber of Commerce and the Canadian Manufacturers Association. This organization, despite modest protestations that it was only one of many business associations, quickly became the most influential business actor at the national level (Archbold, Waldie).

In the spring and summer of 1976 a number of talks were held between the BCNI and the CLC, between government and the CLC, between government and the BCNI and between all three. All of the parties were agreed that it would be useful to establish a forum in which policy issues could be discussed on a regular basis but beyond that there was no consensus. Both the BCNI and the CLC wanted controls removed immediately but neither party was willing to commit its constituents to the voluntary restraint demanded by government as the quid pro quo. The BCNI and the government preferred a consultative multipartite forum with groups such as consumers, farmers, and professionals represented instead of the tripartite, decision making council proposed by the CLC (Giles). In the summer of 1977 negotiations broke down and in 1978 the government unilaterally dismantled its controls program.

During 1977 internal opposition within the CLC to the tripartite initiative began to grow. There were several reasons for it. First, Marxists within the labour movement considered tripartism to be consorting with the enemy and unacceptable for that reason. Other unionists opposed tripartism because they saw in it a shift in power from the rank and file

worker at the shop floor to a distant centralized bureaucracy. To many unionists control by the rank and file of collective bargaining was a sacred tenet of the North American labour movement. The tripartists countered with the argument that rank and file control was an illusion. Because of the impact of government policies labour needed influence at both levels.

Another basis of labour opposition was the claim that, because it lacked resources, the CLC would be a weak sister in any tripartite set up. The tripartist's response was that labour could effectively participate if it had sufficient input into the structure and process of decision making.

A fourth basis of opposition had to do with the relationship between the CLC and the moderately socialist New Democratic Party. At the national level the NDP was a small third party which occasionally held the balance of power between the Liberal and Conservative parties. Many unionists considered the NDP to be the political voice of labour and it was CLC policy to support the NDP. Strong NDPers within the ranks of labour generally felt that the unions should focus primarily on collective bargaining with employers. Many considered the CLC initiative to be inappropriately competitive with the NDP.

Finally, some unionists equated tripartism with the corporatist political structures which existed under the totalitarian fascist regimes of Europe. From that perspective corporatism was anti-democratic. It undercut the sovereignty of parliament and placed the future of democracy in jeopardy. That argument acquired many followers not only within the ranks of labour but also from among business leaders, government officials and the general public. Theoretically it was persuasive. It overlooked, however, the widespread existence of tripartite decision making in the thriving democracies of Western Europe.

At the CLC convention in 1978 the anti-tripartists carried the day. The Manifesto was discarded as CLC policy and, with that development, many commentators concluded that tripartism was dead (e.g. Craig). They were wrong, however. Although the term is no longer in favor the practice has continued to develop.

In 1977 the federal Department of Industry, Trade and Commerce decided to set up 23 task forces to look at the problems and prospects of 23 industries. At first there were no labour representatives on these committees but when the CLC protested trade unionists were added to each of them. The task forces - known as tier I committees - published 23 reports which were reviewed by a tier II committee composed of equal numbers of labour and business representatives. The tier II committee published its own report recommending several government initiatives. On many issues labour representatives and business delegates were able to agree. Traditionally contentions issues (e.g., union recognition and certification) were, however, put off for consideration at a later date (Waldie).

Another example of tripartism subsequent to the controls era was the Major Projects Task Force. This agency developed out of the tier I construction task force. Its job was to develop a comprehensive strategy for implementing major construction projects. Like the tier II committee it was composed of equal numbers of labour and business representatives. At its peak it had a staff numbering more than 20 mostly loaned from corporations and unions (Waldie). In June of 1981 it issued a consensus report containing some 50 recommendations. Unfortunately the report coincided with the onset of the severe recession of 1981 - 82 which resulted in megaproject development being placed on the far back burner. Nevertheless, the exercise demonstrated a capacity by business and labour

successfully to address an important policy issue of mutual concern in a non-adversarial, cooperative manner.

In 1984 a National Labour Market and Productivity center came into existence. This agency may be traced back to the Labour Market Board proposal originally put forth by the CLC (Adams, 1982a). The inception of this agency is an indication of the continuing vitality in Canada of the concept of tripartism. When the tripartite talks of 1977 collapsed and especially after the Manifesto was abandoned by the CLC convention in 1978 it appeared that the Labour Market Board was a dead issue. However, the tripartists in the CLC continued to embrace the idea. In the course of the tier I and II talks of 1978 and 1979 and the megaprojects task force the CLC leadership convinced the BCNI to support a joint proposal for a labour market board structured, like the tier II and megaprojects committees, with equal labor and management participation. The CLC withdrew its initial Manifesto-era demand that the board have administrative decision making functions and accepted a consultative model. The BCNI, in turn, dropped its original stance regarding a multipartite structure. The government, however, continued to hold out for a multipartite forum, agreeing to the joint labour - management request only in 1983.

In the early 1980's productivity entered the political arena as a key political issue in Canada just as it did in many countries. During the 1970's Canada's productivity performance was dreadful See Table 6. The recession of 1981 - 82 moved the issue up the list of policy priorities.

Table 6
Growth of Productivity
Annual Percent Change

	1966 - '73	1974 - '82
Canada	2.5	0.0
U.S.	1.5	0.1
Japan	9.3	3.2
Germany	4.3	2.3
France	4.8	2.3
United Kingdom	3.1	1.2
Italy	5.6	1.3
Seven Major OECD Countries	3.9	1.2

Source The Canadian Economy in Recovery

Ottawa: Department of Finance, February, 1984

Noting the success of national productivity centers in Europe and Japan, the federal government put forth a similar proposal in 1983 (Walkom, Feb. 3, 1983). Instead of two centers representatives from the CLC, the BCNI and the federal government worked out a structure for melding together the productivity and labour market agencies (Waldie). The new center will have 50 - 50 representation from labour and business. It will be only advisory in nature but it will have a substantial budget and staff with financing coming from government. How much influence this new agency will have is impossible to say at this point in time. Its birth, however, is a clear indicator that tripartism continues to develop in Canada. Rumors of its death in 1978 and 1979 have proven to be baseless.

The road to tripartism has not been a smooth one. Nor is its future guaranteed. It has suffered two recent setbacks. First, in 1982 the federal government unilaterally and against the opposition of the CLC imposed a new wage control program (Swimmer). Instead of general controls on the economy as a whole, a cap of 6% in 1982 and 5% in 1983 was placed on the remuneration of federal government employees. The objective of this initiative was to demonstrate the committment which the government had to controlling its own costs so that the private sector would be prompted to do the same. The federal government strongly urged provincial governments to follow suit which most of them did. It also set up a private sector committee with a prominent BCNI member as its head to cajole corporations to use moderation ("Canadian Business leaders endorse program").

Although no in depth research into BCNI - CLC - Government relations in regard to "6 + 5" has been reported it is clear that despite labour's opposition the BCNI (and some other business groups) favored the initiative. Indeed "6 + 5" was a positive government response to a proposal made public

by the BCNI in 1982 (Adams, 1982a). While the CLC vigorously condemned the government action, it said little about the support of business for the program. Presumably, it did not want to upset the progress of labour - business cooperation. The relatively quiet response of the CLC also may have been a reflection of disagreements within Congress between public and private sector unions. Although firmly opposed to legislative controls overriding free collective bargaining, many private sector unionists were not deeply chagrined by the substance of the controls program. Initially, the "6 and 5" decision removed, to some extent, coercive pressure from private sector negotiations. By 1983, however, it began to appear that the controls decision had produced a perverse effect as wage increases in the public sector led those in private industry.

The future of tripartism would seem to be dependent, in part, on business practicing discretion in regard to stances considered to be inimical to the fundamental interests of organized labour. Indeed one of the landmark developments of the past decade has been the much greater acceptance by business that organized labour has a legitimate and positive role to play in society. The calculative strategy of law breaking in order to defeat employee efforts to establish collective bargaining is much less prevalent in Canada than it is in the U.S. Moreover, heavy - handed attempts by U.S. based firms to export illicit tactics to Canada have been dealt with firmly by Canadian Labour Relations Boards (Meltz; Weiler, 1980). The long term vitality of tripartism would seem to be dependent on Canadian business refraining from following U.S. practice.

The second present threat to tripartism in Canada is the action of certain provincial governments, particularly very conservative governments in western Canada. In addition to acceptance of labour by business the

success of tripartism would seem to be contingent even more critically upon the willingness of government to accept and indeed foster a strong and confident labour movement. Trade union organizations which consider themselves to be victims of right wing assaults on their integrity are not too likely to be receptive to pleas that they be cooperative in the public interest. During the past few years some governments, in western Canada particularly, have pursued policies which had both the intent and effect of weakening the labour movement.

In British Columbia, for example, a right wing Social Credit government was reelected in 1983 and shortly thereafter introduced a massive reform program with the formal objective of reducing spending and increasing government efficiency. The package included proposals which would provide government with the unilateral right to dismiss employees without cause and without reference to seniority provisions in collective agreements. Government as employer would also be given sole discretion to make decisions regarding promotion, reclassification and relocation. Wages and salaries would be controlled by legislation indefinitely. Human rights and tenants rights legislation would be revised significantly contrary to the interests of minority groups and tenants. There would be large reductions in the education and welfare budgets. The government announced its intention to reduce the size of the civil service by 25% (Errington and Finn; Thompson).

In response the B.C. Federation of Labour took the initiative to set up a coalition of unions and social groups called Operation Solidarity. The coalition held big rallies throughout the summer and fall culminating in an escalating strike. On November 1 some 35,000 civil servants struck. They were joined a week later by teachers and education support staff. On November 10 employees of crown corporations joined the strike.

The plan called for all public sector (and perhaps some private sector) employees eventually to stop work but a settlement was reached on November 13. The government agreed to respect seniority provisions and to set up investigatory commissions to look into various aspects of its overall scheme. It did not, however, agree to scrap its general master plan.

Opinion polls suggest that the general objective of reducing government expenditures has considerable public support. However, there is widespread suspicion that the B.C. government's goal is not simply restraint but rather a major reduction in the power and influence of the B.C. labour movement. During the 1970's the powerful Employers Council of British Columbia actively sought accomodation with organized labour. During the 1983 crisis, however, it condemned the union strategy and made no effort to defend cooperation in search of consensus (Thompson, 1984).

These developments have truncated what appeared to be a definite trend away from the tradition of suspicious adversialism in B.C. toward more cooperative labour relations. They may also have seriously weakened the resolve of those B.C. union leaders who previously had been willing to experiment with concensus at the federal level.

Developments in other provinces have not been so dramatic. Nevertheless, in Saskatchewan for example, a newly elected conservative government revised the Labour Relations Act over the opposition of the labour movement (Sass). Most of the changes were, however, marginal in contrast to the dramatic direction of policy in British Columbia.

Because of such counter trends it is too soon to say that tripartism has become a permanent feature of Canadian industrial relations. It is unlikely, however, that there will be a complete reversion to the bellicose anarcho-syndicalism of the past. Most prominent federal politicians from

all parties continue to argue for the need to firmly establish regular systems for achieving consensus. During the past decade the federal government has increased enormously its consultation with labour and business and there is reason to believe that these efforts will continue.

Despite reservations by many unionists about Neo - Corporatism the CLC has increased its efforts and has refined its techniques for influencing the government. Intervention by government in the economy has increased requiring a labour response. The principal choices would seem to be quiet acquiescense, pure protest or tripartite participation. In practice the CLC has chosen to pursue participation.

The development of tripartism has altered the character of business in the system substantially. The BCNI has maintained a fairly low profile with the result that many Canadians have never heard of the organization or are only vaguely aware of it. Nevertheless, from the perspective of labour and government, the BCNI has emerged as the dominant if not the only voice of the business community.[6] Its policy has been and continues to be cooperation with labour and government. While it is opposed to the grandiose scheme outlined in the CLC manifesto it is in favor of efforts to reach consensus on "carefully defined issues..." (Frazee and d'Aquino, p. iii).

The development of Canadian tripartism has been somewhat ironic. The initial impetus was a desire by government to get control of a wage - price - conflict helix. No agreement could be reached on wage or price moderation by labour and business or on government action to be taken in return for restraint. Nevertheless, in the process of trying the parties discovered issues on which they could fruitfully cooperate in search of a solution.

Most likely they also have come to understand the perspective of each other to a greater degree.

Works Councils and Labour Courts:
Institutional Change at the Enterprise Level

The wave of industrial conflict which engulfed Canada from the late 1960's caused Canadian governments to re-think many of their labour policies. At the federal level the Department of Labour developed a wide ranging program of reform which became widely known as Munro's 14 points after the Minister of Labour John Munro (Waldie). The program provides a useful starting point to illustrate the range of government initiative during the period. Although the program was specifically a federal one, many of the issues embodied in it were also addressed simultaneously in several of the provinces.

First, the program contained measures designed to improve collective bargaining. To reduce disputes over data a collective bargaining information centre was proposed and eventually created. It would be a central agency available to both sides. Presumably if both parties could agree to use the same data base it would be easier for them to reach accord on collective agreement terms. The education and training of union officials was to be supported both as a matter of equity (trade unionists argued that government historically supported management education but not labour education) and on the theory that well trained unionists would carry out their duties in a more professional and responsible manner. New initiatives were to be undertaken to provide more and better trained mediators, conciliators and arbitrators.

In order to reduce the opportunity for conflict broader based bargaining was to be encouraged. Throughout the 1970's broader bargaining

and how to achieve it was to be a major focus of debate (Craig). In some jurisdictions (e.g. Ontario and Quebec) broad based bargaining was to be compelled by law in the very conflict prone construction industry (Rose, 1984). In British Columbia the labour relations board was given the power to impose new bargaining units where it considered that action to be advisable. In most provinces labour laws permitted councils of unions and associations of employers to become certified bargaining agents of their constituents (Weiler, 1980). However, after more than a decade of debate and action broader based bargaining outside of construction was still more of an idea than a reality. Data on bargaining units showed very little change (see Table 7). Indeed, subsequent to the great recession of '81-'82 notable broad based units in the railway industry and in meat packing began to break up (List, August 7, 1984). In meatpacking employers insisted on negotiating decentralized agreements which would reflect regional economic differences.

Labour Canada was also the federal department where the logic of tripartism first began to be worked out. In the summer of 1976 the department sponsored a tripartite Canadian Labour Relations Council whose mission it was to investigate ways of improving labour-management relations. However, when the government refused to remove controls the CLC withdrew from the council. Because of the development of BCNI - CLC relations the CLRC was not revived.

Although not mentioned in the Labour Canada program a few other initiatives designed to remove irritants giving rise to conflict deserve mention. In a few jurisdictions (e.g. Ontario, Quebec, British Columbia) professional strikebreakers were outlawed because of the animosity and

Table 7
Percentage Distribution of
Negotiating Units,
Selected Years, 1966 - 1981

Type of Unit	1966	1971	1976	1981
- Single employer, single establishment, single union	55	45	51	48
- Single establishment, multi-union	1	2	2	2
- Multi-establishment, single union	30	39	30	40
- Multi-establishment, multi-union	a	1	2	1
- Multi-employer, single union	4	6	4	3
multi union	a	1	1	a
- Employer Association single union	8	7	9	6
multi-union	a	a	1	1
N	181	322	525	410

Source: A.W.J. Craig The System of Industrial Relations in Canada Scarborough, Ontario: Prentice-Hall, 1983, p. 152. Data are from Labour Canada's monthly publication Collective Bargaining Review which reports on bargaining in both public and private sector units with 500 or more employees. The construction industry is not included.

a = Less than 0.5%

conflict frequently resulting from their use (List, June 13, 1983). Several jurisdictions also introduced provisions which required employers at the union's request to deduct union dues from the pay cheques of all employees in the bargaining unit and to remit them to their unions. This provision, known in Canada as the Rand formula and in the U.S. as the agency shop, was often included in collective agreements. However, in cases where employers refused to agree to such clauses very emotional and destructive strikes often ensued (Craig).

Because of the propensity of some employers vigorously to oppose collective bargaining conflict and unrest often accompanied negotiations immediately following the employee decision to unionize. In hopes of achieving a solution to this problem several Canadian jurisdictions introduced provisions calling for binding arbitration of first contracts where employers failed to bargain fairly and in good faith (Craig, Weiler, 1980).

In addition to having the intention of improving the structure and process of union management relations the Munro program also set out to improve the substantive conditions of work for employees whether or not they engaged in formal collective bargaining. Unorganized workers in the federal jurisdiction were to be provided with the legal right to be dismissed only for just cause, a right which most unionized employees enjoyed because of the widespread existence of contract clauses to that effect. By the early 80's three Canadian jurisdictions (federal, Quebec and Nova Scotia) had introduced such a right (Adams, 1983).

Labour Canada also set out to improve the satisfaction of employees with their work by encouraging enterprises to experiment with a variety of new forms of work organization referred to generally as quality of worklife (QWL) programs (Srinivas). Similar efforts were made within some of the

provincial jurisdictions. In Ontario, for example, a Quality of Worklife Centre reporting to a tripartite board was established.[7]

Other substantive issues included on the the Labour Canada agenda were occupational health and safety, paid educational leave and pensions. Each of these issues would be debated extensively. Paid educational leave and the broader issue of labour market training and retraining were to be the subject of several public inquiries as well as major policy revisions. Pensions also were the subject of several in depth studies (Stone and Meltz).

Two substantive issues not mentioned in the Labour Canada program which were to be of major significance during the 1970's and 1980's were human rights and redundancy. Human rights at work became an increasingly salient issue due in large part to the increased participation of women in the labour force. By the end of the 1970's all jurisdictions had well developed human rights statutes and programs which forbade discrimination on the basis of many attributes considered to be repugnant and largely irrelevant with regard to job performance (Jain). By the latter 1970's layoffs and redundancies became key issues resulting in new statutes making it more difficult for employers to discard employees at will (Stone and Meltz).

Many of these issues - concern for occupational health and safety, human rights, job and income security, training and the quality of worklife in particular - were not unique to Canada. Instead they elicited debate and action in several countries. Although Canada developed somewhat unique approaches to each of these issues, Canadian solutions were not so remarkable as to warrant extended discussion here. Two additional developments do require close consideration because they were more clearly indicative of the

transition of Canadian IR away from the general North American pattern towards European practice.

In many European countries there is legislation which requires that works councils, with representatives chosen by employees, be established in each enterprise which meets specified criteria (Cordova). The councils, in most countries, initially had only a consultative role. Employers were required to provide councellors with information about the nature of key decisions which would impact employees and to solicit employee views before taking major decisions. During the 1970's the councils in many countries were provided with enhanced powers. On some issues they were provided with the power of co-decision. Employers were precluded from taking decisions unless approval of councellors could be acquired. Deadlocks in such cases were usually required to be settled by a form of binding arbitration.

Works councils have generally been considered by North American industrial relations experts to be irrelevant to the North American scene (Adams, 1984a). Decentralized plant by plant bargaining was considered to be analogous to and generally superior to decision making via works councils. Historical research on the councils suggested that they generally had little real power. Too often they were or seemed to be co-opted by employers but, because of them, genuine free unions seemed to have a more difficult time achieving influence at the plant level. North American style collective bargaining appeared to be far superior in its ability to provide rank and file employees with the capacity to participate in decisions which critically affected their working lives.

However, as the '70's and '80's progressed, it became increasingly clear that Wagner style collective bargaining had serious flaws. First, despite several decades of experience with it the majority of relevant

employees did not engage in collective bargaining largely because the model required them to take the initiative to establish bargaining against the almost certain disapproval of their employers (Weiler, 1983). Second, although the parties theoretically could negotiate over any issue of mutual concern in reality collective agreements addressed only those issues over which employees were prepared to stop work and thereby forego income. Collective agreements were usually silent in regard to several of the key issues of the '70's and '80's such as occupational health and safety, human rights, training, and technological change (Adams, 1984a).

As a result Canadian governments began to search for new ways to ensure participation on such issues. The result was the emergence of an approach similar to European practice. The basic parameters of the emerging Canadian system are these (Adams, 1984a):

1. Joint employer - employee committees are to be set up in all enterprises above a certain size.
2. Each committee will have a mandate to look at a specific issue such as health and safety, redundancy, technological change, profit sharing, pension management, training and human rights.
3. If a union already holds bargaining rights for the relevant employees it designates worker members. If employees are not represented by a union they elect representatives to the joint committee.
4. Committee impasses are to be settled by reference to some form (e.g. med-arb, final offer selection) of binding arbitration.

This model (with some variation of the key elements) has already been put in place in several jurisdictions with regard to occupational health and safety and in the federal jurisdiction with respect to mass layoffs and

plant shutdowns. It has been proposed for use in regard to technological change, profit sharing, pension management, training and employment equity (Adams, 1984a; Abella). There is little reason to believe that it will not continue to make progress. Only a modest amount of research has been carried out on its functioning but, in general, the results have been positive. With regard to occupational health and safety committees the parties have been able to fashion solutions to important problems in a cooperative and productive manner. Few of the feared negative consequences have occurred.

A second remarkable Canadian development has to do with the evolution of disputes procedures during the 1970's and early 1980's. In the traditional North American collective bargaining system if the parties disagreed about the interpretation of the written collective agreement they would submit their dispute to an arbitrator. The arbitrator (or three person arbitration board) was chosen jointly by the parties. His job was to interpret the collective agreement. Although most arbitrators had legal training the arbitration hearing was supposed to be conducted in an informal manner. This process, it was believed, would be faster, cheaper and more responsive to the realities of the labour-management relationship than a court procedure would be with its centuries old paraphenalia of legal custom and tradition. Arbitration was also a procedure controlled by the parties rather than by the State and most observers considered that attribute to be a positive one. It was one aspect of industrial self government as opposed to State regulation of industry (Weiler, 1980).

According to many assessments of the grievance arbitration process made in the 1950's and 1960's North American arbitration was a great success. Nevertheless, it was not problem free. Labour and management were very

careful to select arbitrators who had proven records and it became difficult for newcomers to break in. The "demand" for proven arbitrators was very high. Often the parties would be willing to wait three to six months for a seasoned hand rather than trust a potentially precedent setting issue to an untried rookie. As the demand for a small number of arbitrators went up so did their bills. Instead of cheap and quick, arbitration became longer and more expensive (Weiler, 1980).

There also developed, over time, a body of arbitral jurisprudence. Arbitration awards were collected, published and referred to in subsequent cases. Employers hired lawyers to represent their cases and unions were often required to do the same. Although arbitrators were not compelled by law to follow precedent they did so nevertheless and a body of custom, tradition and procedure nearly as complex as common law began to accumulate. As a result the process no longer met the standards of infomality and responsiveness to shop floor realities in many cases. These problems appeared to be most acute in Ontario where about 30% of the unionized work force was to be found (Weiler, 1980).

By the late 1970's a new problem began to surface. Legislation with regard to issues such as occupational health and safety, human rights at work, and new employment standards such as the right to return to work after maternity leave all provided for dispute resolution procedures (Christie, Tarnopolsky). As the pace of redundancies picked up in the late 70's more and more executives, professionals and others decided to take their employers to court to sue for wrongful dismissal (Adams, 1983). Unlike U.S., but like British practice, Canadian common law requires employers to provide redundant employees with notice or pay in lieu of notice.

The relationship between each of these disputes procedures and grievance arbitration became increasingly complex. For example, if a woman subsequent to a maternity leave were to be refused her old job back, what should she do? Should she complain to the employment standards administration that a statutory right of hers was being infringed? Should she ask her union to file a grievance? Should she complain to the human rights agency that she was being discriminated against because of her sex? Could she use more than one procedure simultaneously or in some specified order? To date questions such as these have produced an expanding body of ad hoc administrative rules but no unifying legal theory has yet emerged. Nevertheless, from out of the chaos one may dimly perceive the development of a coherent model which is more similar to European than to American practice.

It is common in Europe for disputes over all employment standards, whether based in law or contract, to be submitted to a labour court (Aaron). Statutory works councils commonly have a mandate to oversee the application of both relevant statutes and collective agreement terms. Canadian practice appears to be evolving towards a similar model.

As long ago as 1963 British Columbia introduced a statutory provision that permitted either labour or management to submit a contract grievance to the Labour Relations Board. In most cases the Board attempted to mediate the problem. If unsuccessful it usually referred it back to the parties although it could arbitrate a solution if it deemed that course to be advisable. The procedure did not, necessarily, override the voluntary, self-government aspects of grievance arbitration because the parties to any collective agreement could legally agree not to be bound by the statutory provisions (Weiler, 1980).

In the mid - 1970's Ontario went further down the road towards a labour court. It revised its labour relations statutes to permit expedited arbitration of grievances in the construction industry. Despite provisions in the collective agreement either party could submit a grievance to the Labour Relations Board for binding resolution. The Board had to set up a hearing within 14 days of receiving a request. It charged a very modest fee for its services.

In 1979 Ontario extended this approach to all of the private sector with a few modifications. As with the construction industry process either party may initiate expedited arbitration. Any clause to the contrary in the collective agreement is null and void. Instead of decision by the Labour Board, the Minister of Labour appoints a single arbitrator from a list maintained by an agency of the Labour Ministry called the Office of Arbitration. The Office develops and applies standards regarding qualifications. The arbitrator must hold a hearing within 21 days of his appointment and must hand down a decision as quickly as possible although there are no specific time limits. In the period between the date when a request is received and the date when the arbitration hearing is held the Minister may appoint a mediator to help the parties find a mutually acceptable solution to their dispute (Carter). These developments have re-established the standards of speed and economy. In the process, however, arbitration has become less of a private and more of a public institution.

The public nature of grievance arbitration also is becoming more evident as the result of administrative, court and other legislative decisions. For example, arbitral jurisprudence long held that disputes over the application of laws such as employment standards statutes were beyond the mandate of arbitrators. Such disputes should be settled by the courts or by

special purpose public tribunals. If arbitration was no more than an element of private self government its existence should be irrelevant to the settlement of disputes over rights based in statute. However, in Ontario the administrators of employment standards decided not to entertain complaints from unionized employees if the collective agreement contained a clause which would permit the employee (or more precisely his agent, the union) to submit the dispute to arbitration (Hess). The regulation implicitly defines arbitration as an alternative to (and presumably equivalent of) the public procedure available without restriction to those beyond collective bargaining.

A 1975 Supreme Court of Canada decision would seem to carry the same implication with regard to the resolution of disputes over dismissal. In that decision, the court held that common law rights do not survive the advent of collective bargaining. Thus, unionized employees apparently may not have wrongful dismissal allegations settled by the courts (Handman; Bourne v. Otis Elevator). Instead, if they allege that wrongful dismissal has taken place their only recourse is arbitration. However, unlike the employment standards regulation mentioned above, the unionized employee is barred from the courts whether or not the collective agreement contains a clause regarding dismissal. Most Canadian agreements do, however, contain such clauses.

Another recent court decision also had the effect of expanding the role of the arbitrator from reader of a private agreement to adjudicator of the law. The court held that if a law impinges upon a collective agreement not only may the arbitrator make reference to it, indeed he must do so (McLeod v. Egan). In effect, that decision requires arbitrators, in certain situations, to resolve legal disputes.

In British Columbia, the legislature recently passed a law leaving no doubt about the public nature of arbitration. The legislation has the effect of incorporating substantive employment standards into collective agreements. As a result all employment standards disputes which arise in unionized settings must be settled by reference to binding arbitration. The legislation also has the effect of requiring the union to act as a legislative compliance committee very much like works councils in Europe. This development raises the possibility that eventually unions will be asked to oversee the implementation of all relevant statutes and that arbitrators (or Labour Boards) will be required to resolve all disputes arising from either law or contract.

The slow transformation of arbitration from private to public process has been lamented by some as a decline in industrial self government (Weiler, 1980). On the other hand overlaps and redundancies resulting from the proliferation of dispute resolution procedures demanded rationalization. In fact, the process of rationalization has only just begun. If current trends persist it is likely that the final product will be a system more similar to European labour courts than to private arbitration in the U.S.

Parting Ways?

In 1960 Canada and the U.S. could be referred to as single system and few observers on either side of the border would disagree. During recent decades, however, the two countries have moved in much different directions.

If dominant trends continue a Canadian system with the following attributes may emerge:[8]

1. In unionized companies the union will have co-decision powers with management in regard to a list of specified issues. Arbitration

will be available to resolve disputes over those issues. In non-union enterprises statutory committees will have the same power to co-decide specific issues with arbitration available to resolve impasses. The following are likely candidates for co-determination issues: occupational health and safety, mass terminations, training, the pace and consequences of technological change, pension management, profit sharing and human rights at work.

2. In unionized companies the union will be responsible not only for overseeing the application of the collective agreement but also for the entire range of employment law. Disputes over the implementation of either law or contract will be arbitrable. In non-union companies a statutory committee will be responsible for ensuring the proper application of all aspects of employment law and it will be able to submit disputes to a neutral and binding procedure similar to grievance arbitration. Thus in each enterprise there will be an employee representative agency responsible for ensuring the implementation of statutory rights and standards.

3. Only unions will be able to negotiate wage issues and only unions will be legally permitted to strike. However, some form of arbitration will be available to settle impasses occurring during any bargaining round not solely the first round.[9]

4. Prior to initiating policies which impact the critical interests of the parties governments will consult fully with representatives of labour and management. So long as the results are not seen to be seriously detrimental to the public, governments will not

pursue policies vigorously opposed by management or labour. So long as the results are seen to be advantageous to the public as a whole, policies agreed to by labour and management will be put into effect.

There is little reason to believe that any of these attributes will become characteristic of the U.S. IR system in the foreseeable future. Instead of becoming more democratic in character the U.S. system is, contrary to international trends, becoming less so. Whereas collective bargaining is expanding in Canada, it is declining in the U.S. (Rose and Chaison, Meltz). Nor have new initiatives been taken to involve employees by right in enterprise level decisions.[10] Instead, since the failure of labour to achieve legislative reform in 1977, much of the business community has been actively pursuing a union free (and therefore collective bargaining free) policy (Weiler, 1983). The free enterprise philosophy of the Reagan administration, as well as its destruction of the air traffic controllers union, has encouraged rather than discouraged that trend (Barbash).

The progression of Canadian industrial relations towards the model outlined above is by no means certain. Since the recession of 1981 - 1982 counter-trends more in line with U.S. developments have emerged. Conservative provincial governments, especially in western Canada, have pursued policies strongly resisted by organized labour and have, therefore, exacerbated adversarialism. By legislating limits to the wage progression of federal employees instead of negotiating wage restraint the federal government has raised serious questions about its committment to collective bargaining. It has also provoked the ire of the unions and in doing so has substantially reduced their enthusiasm to be cooperative. Despite the conciliatory attitude of the BCNI some employers have begun to pursue

substantially reduced their enthusiasm to be cooperative. Despite the conciliatory attitude of the BCNI some employers have begun to pursue policies contrary to the fundamental interests of the unions. For example, double breasting (a phenomenon whereby unionized employers set up non-union companies in order to pay lower pay rates) which first appeared in the U.S. in the mid - 1970's has begun to occur in Canada since the recession.

These developments may be minor deviations from the general trend towards participatory cooperation or they may be ominous signs that Canada is about to follow the authoritarian non-union road pursued by the U.S. in recent years. I hope the former is the case because the experience of many countries in the West makes it quite clear that the attempted suppression of the democratic right of working people to participate in employment related decisions will surely produce conflict and misery for the entire population. After a decade and more of expanding rights, employee - citizens are unlikely to tolerate for long exclusion from policy making at the enterprise and political level. Suppression of participatory mechanisms now is almost certain to produce violent conflict in future.

The authoritarian, non-union strategy is generally justified on the basis that it is more efficient economically than is democratic participation by right. There is, however, little objective evidence to support that proposition. Indeed, a great deal of recent research on Wagner - style collective bargaining suggests that it is not detrimental to economic efficiency (Freeman and Medoff). Available research on the new participation procedures introduced in Canada during the past decade also indicates generally positive results. At the national level labour and management have demonstrated an ability constructively to address important policy issues.

There is also an ethical issue involved in the choice. Most North Americans place very high intrinsic value on democracy. They would not trade political democracy even if it could be demonstrated that an authoritarian system would be more economically efficient. Historically the relationship between economic and political democracy has been ambiguous. Many zealots for political democracy have accepted the anomaly of authoritarian decision-making in economic life. During the past few decades, however, the inconsistency between political democracy and economic authoritarianism has become increasingly obvious. From the perspective of the democrat the issue can never be efficiency at the cost of democracy. Instead it can only be the pursuit of efficiency within the context of democracy. From the democratic perspective the authoritarian strategy is unacceptable not only because it is unnecessary and likely to provoke strife but also and more fundamentally because it is ethically repugnant.

Notes

1. After surveying the attitudes of business and labour elites in the U.S. and Canada, Meltz and Maital came to the conclusion that prospects for a "social contract" were much better in Canada. In the U.S. while labour was in favour of a seeking consensus management was opposed. Both management and labour in Canada were skeptical about achieving a social contract but "while both labour and management opposed it, they are close to being balanced in their views. Only a small shift is required among those who disapprove to achieve a favourable view".

2. Canada is a large country, geographically, and it has a federal form of government. As a result, there is a considerable amount of internal variation. British Columbia, for example, has a history (not unlike that of California) of broad swings politically from left to right and a tendency toward tumultuous labour-management relations. In Quebec the french heritage has produced a sense of separate identity which has had significant effects on industrial relations practices. For example, a separate union federation grounded in french Quebecois culture (Confederation des syndicats nationaux) has posed a serious challenge throughout most of the 20th century to the mainstream labour movement. A comprehensive review of Canadian industrial relations would have to pay considerable attention to such internal variation. My objective in this essay, however, is to produce an exhaustive treatment neither of the Canadian system nor of the myriad of changes which have occurred to the system during the past two decades. Instead of focusing on internal variation I have tried to abstract critical IR dimensions common to most Canadian jurisdictions. Instead of attempting a comprehensive review of IR developments I have selected a few for analysis which seem to me to be likely to have the most dramatic and enduring results.

3. Pressure generated by the NDP is generally considered to have been instrumental in the adoption of the Wagner-model policy framework in Canada (a goal sought by unions) and in the development of a widespread social welfare net. For example, universal health care was first introduced by a government in Saskatchewan controlled by the Cooperative Commonwealth Federation the predecessor to the NDP.

4. Analysis of the composition of industrial conflict in Canada indicates that strikes occur much more frequently than in some countries (e.g. Sweden, Holland, West Germany) but much less frequently than in others (e.g. Italy, France). However, strike volume in Canada tops the charts because Canadian strikes last, on average, longer than in any other major country. See Adams, 1982b.

5. On the U.S. see Kochan and Piore, p. 185. In order to make an estimate for Canada I reviewed all of the Collective agreements reported in Labour Canada's publication Collective Bargaining Review during the months of March, June, September and December of 1982 and 1983. Agreements covering 500 or more employees are reported in the Review. In 1982 only 4 of 183 agreements contained a negotiated deferred increase or a wage freeze or a wage deduction. In 7 of the agreements there was a temporary wage reduction required by statute. The concession rate increased somewhat in 1983. Of 206 collective agreements

reviewed 22 (11%) contained wage concessions. Construction industry agreements were not included in the 1982 survey but were added in 1983.

6. The BCNI has not tried to play precisely the same role in the system as that taken on by the powerful employer federations in continental Europe. General organizations such as the Chamber of Commerce, the Canadian Manufacturers Association and the Canadian Federation of Independent Business (the most outspoken voice of small business) as well as important associations representing employer interests in banking, mining, construction and retail to name only a few all vie, more or less successfully, for the attention of governments. Thus, while the BCNI cannot be regarded as the uncontested voice of business, nevertheless, as an organization composed of Chief Executive Officers whose organizations control over 50% of all private sector economic activity in Canada it is certainly the most influential of the lot.

7. Many unionists, it should be noted, did not approve of the participation of organized labour in this centre. At the convention of the Ontario Federation of Labour in November, 1984 the delegates passed a resolution to withdraw.

8. By constructing this model I am not attempting to predict the future. Rather, the model will be, it seems to me, the likely result if current trends continue. I realize that trends do change. It is still useful, nevertheless, to know where we are likely to wind up provided that we don't get waylayed or hi-jacked or change our minds and decide to go somewhere else.

9. During the summer of 1984 the Government of Manitoba put forth such a proposal in a discussion paper on labour law reform. Although the Government decided against proceeding with the proposal, the fact that it was put forth for discussion suggests that it has moved beyond the realm of academic speculation into the arena of serious policy debate (see Dolan).

10. There has been a considerable movement, typically initiated unilaterally by management, to involve employees in decisions at the workplace level. This expansion of quality of worklife programs may be laudable but it should not be obfuscated with collective bargaining or other mechanisms designed to bring about a form of democracy in industry. Typically QWL programs owe their continued existence to the benevolence of management. Employees do not participate by right as do citizens of democracies. QWL is better thought of as a management technique than as a form of industrial democracy.

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