NORTH AMERICAN INDUSTRIAL RELATIONS: DIVERGENT TRENDS IN CANADA AND THE UNITED STATES

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One of the most widely heralded books on labour topics in the United States in the past few years was entitled The Transformation of American industrial relations. Its authors argued that the cumulative effect of recent developments had been to introduce fundamental changes in the American industrial relations system.

To the foreign observer the labour relations systems in Canada and the United States often look very much alike, and in fact not without reason. American-based companies and trade unions operate in both countries; the two economies have close links and share a similar labour policy framework known as the Wagner model. Since the United States economy is ten times larger than Canada's, it dominates economic relations between the two countries. Hence one might be inclined to conclude that if American industrial relations have been transformed then surely a similar development must have occurred in Canada. That conclusion, however, would be wrong.

During and just after the Second World War trade unions, employers and governments in both Canada and the United States reached certain implicit understandings about their roles in the industrial relations system. Taken as a whole these understandings, which had very similar characteristics in the two countries, have been referred to as the "Labour Accord".

The Labour Accord

The 1930s and 1940s were decades in which trade unions and collective bargaining grew rapidly throughout North America. Labour legislation, and in particular the Wagner Act that had been passed in the United States in 1935 and inspired the model of that name, provided the impetus. It became United States labour policy for the first time to encourage unions and collective bargaining. A policy similar to the one embodied in the Wagner
Act was adopted in Canada in the mid-1940s under pressure from the growing labour movement and the Cooperative Commonwealth Federation, a social democratic party formed in the 1930s. Although employers in both countries at first opposed the expansion of unionism, the combined leverage of militant unions, determined governments and public opinion sympathetic to unions and collective bargaining apparently convinced them of the need to reach an accommodation with organised labour. The following were perhaps the most important aspects of the Accord reached during this period.

1. Good faith dealing. Unionised employers, especially large companies in manufacturing, mining and transportation, would accept the legitimacy of the unions as the representatives of their members. They would no longer attempt to undermine, defeat or destroy unions as they had done before the war.

2. Hard bargaining. While recognising the union's right to exist and represent its members, management insisted on defending vigorously its right to manage. This meant that it would only give in to new union demands reluctantly and after hard negotiations. It also meant that management had no intention of inviting the unions to participate in the making of strategic decisions. For the most part organised labour accepted the principle that management had the exclusive right to take decisions on such matters as product design, pricing and plant location, in return for collective agreements providing some assurance that workers would participate in company prosperity and would enjoy reasonable job security and protection against arbitrary or capricious action by management. In practice this led to the development of seniority schemes, job descriptions and regular as opposed to fluctuating wages, a system referred to in its totality as "job control."
3. Legality. The Wagner model established a clear dichotomy between union and non-union firms. In contrast with Europe where unions are generally recognised on a broad industry or national basis, in North America recognition and state certification procedures function at the plant or even department level. As a result there are some companies in which most of the employees are represented by unions, others in which unions are absent and still others in which perhaps only a few plants or departments are unionised.

The parties to the Labour Accord generally accepted that non-union employers would attempt to manage their enterprises in such a way that, according to a phrase common in management circles, "unions would be unnecessary". This line of reasoning assumes that if the employer treats his employees fairly and equitably and pays them wages and benefits equivalent to those in unionised firms, there is no reason for the employees to engage in collective bargaining.

This assumption is supported by the dominant academic theory of the unionisation process in the United States, which holds that employees will attempt to unionise only if they are dissatisfied with their conditions of employment. A corollary is the proposition that an attempt by employees to establish collective bargaining is an indication that management has failed to satisfy the legitimate wants and needs of employees. And the logical conclusion to be drawn from this line of argument is that in the best of all possible worlds an all-wise management would unilaterally establish conditions considered by employees to be perfectly satisfactory and thus no collective bargaining and no unions would be necessary.

That conclusion is wholly contrary to the almost universally accepted proposition that unions and collective bargaining are necessary components
of modern democratic political systems. Since collective bargaining is virtually the only form of independent employee representation in North America, the proposition that unions are unnecessary where employers "do right willingly" is also contrary to the widely held view that employee-citizens in a democratic nation should be able to participate in the making of decisions that critically affect their working lives. Despite the logical inconsistencies, these contrary views are held simultaneously by many of the actors in the North American industrial relations systems.

These cross-currents led to an understanding that non-union employers would "naturally" and legitimately attempt to remain non-union but that they would do so without resorting to coercion and in accordance with the law.

4. The State as guarantor. The role adopted by the State in the field of industrial relations in the post-war period was essentially that of guarantor of the understandings reached between labour and management. It undertook to ensure that unorganised employees could choose to unionise free from coercion and that employers and certified unions would bargain in good faith with each other. Furthermore, it was understood that the State would attempt to maintain a balance between labour and management so that neither side dominated the bilateral relationship.

Thus, to recapitulate, the Labour Accord implied that unions would accept the right of management to manage within the bounds set by law and collective agreements; management would accept the right of unions to exist and to negotiate agreements providing their members with security, dignity and economic benefits consistent with the market position of the firm, but reserved the right peacefully and legally to resist unionisation where collective bargaining had not yet been established. The State undertook to
ensure that individual employees could choose collective bargaining free from threats or coercion and also to guarantee that unions and companies would negotiate in good faith with a view to signing collective agreements covering wages and conditions of employment.

These understandings continue to be fundamental pillars of Canadian industrial relations. In the United States, however, they all appear to be crumbling.

The demise of good faith dealing

Instead of dealing in good faith with the unions, many partially unionised companies have adopted an explicit policy of de-unionisation. To escape from their commitment to collective bargaining they are closing old unionised plants and opening new, non-union ones. The author of a book telling employers how to avoid an "unwanted union" describes the range of tactics that can be used:

Plants may be located in such a way as to minimise the serious attentions of labour organisations. The work organisation can be structured and rules adopted to impede the introduction and easy flow of union information. A bargaining unit strategy can be adopted that makes it difficult or impossible for a union to organise the plant. Employees can be selected in such a way as to minimise the chances of acquiring union supporters and potential union supporters. The entire personnel and compensation function can serve to minimise those sources of discontent that are seeds of union interest among employees. When done properly and in combination, such measures will all but eliminate the chances of a serious organising drive getting under way.
It is clear that such an employer strategy is contrary to the spirit (and no doubt in some respects to the letter) of United States labour policy, which continues to aim in principle at encouraging collective bargaining. Nevertheless, in recent years more employers have come out vigorously and publicly in favour of strategies of this kind than at any time since before the Great Depression of the 1930s.

In Canada no such pattern can be detected. There have always been a few employers, such as IBM, Michelin and Dofasco Steel, who have followed policies of union avoidance. There are also cases of long-unionised companies that have recently opted for de-unionisation. However, in neither instance has there been a major, widespread change in employer behaviour. There is no evidence that non-union employers as a whole have become notably more determined or open in their pursuit of a "union-free" environment. Nor is there evidence of a large increase in the pursuit of de-unionisation by partially unionised employers. 8

Hard bargaining v. the new "co-operativism"

In both Canada and the United States the difficult environment of the 1980s has resulted in the introduction of innovative clauses in collective agreements. Both countries have seen the advent of the two-tier wage systems, lump-sum payments in lieu of regular wage increases, the roll-back of benefits (e.g. reduced entitlement to vacations and holidays), wage freezes, profit- (or gain-) sharing, the restructuring of jobs and the relaxation of work rules to allow management more flexibility in the deployment of the workforce. These "concessions" by unions seem to have been more widespread in the United States, however. 9 Led by the Canadian
Labour Congress, many Canadian unions have successfully adopted a position of "no concessions".

For example, during contract negotiations with the major automobile firms in the 1980s the United Auto Workers (UAW) in the United States agreed to relinquish a long-established wage formula providing for a cost-of-living increase plus an "annual improvement factor", in return for a profit-sharing programme proposed by the management along with improved job guarantees.³ The Canadian branch of the UAW refused to accept the profit-sharing scheme and, in 1984, went on strike to defend the principle of predictable rather than fluctuating income. This action led to a serious dispute within the UAW which eventually caused the Canadian section to withdraw and establish a new Canadian Auto Workers' Union. The Canadians were successful, however, in rejecting the management demand for concessions.¹⁰ Recent research suggests that this example is the rule rather than the exception in Canada.⁸

At any rate concessions, although unusual in the post-war period, are by no means new. They have occurred before, in one form or another, especially during recessions.¹¹ Thus concession bargaining does not itself contravene the Accord, which implies that both sides will try to negotiate the best deal in each bargaining round.

A more serious gap between the two countries has opened up as a result of management initiatives in the United States to change the fundamental nature of the union-management relationship. In some bargaining situations management has asked the union to give up its "job control" strategy entirely -- a strategy which presupposes an adversarial relationship -- in favour of a new "high trust" or "co-operative" relationship. The shift may best be illustrated by briefly describing the opposite ends of the spectrum.
In the traditional manufacturing plant the following organisational pattern was widely adopted in the 1940s and 1950s: (a) jobs were carefully defined so that workers would know what was expected of them and management could rationally divide the work to be done; (b) a wage rate (or rate range), varying according to skill, effort, responsibility and working conditions, was attached to each job rather than to the individual filling the job; (c) employees pursued careers within the company along defined job paths, and promotions were based at least in part on seniority; (d) employers could hire whomever they liked and could lay off as many employees as they chose, but seniority was a major determinant of who was laid off; and (e) employers had the right to discipline employees for "just cause". Disputes over specific actions could be submitted in the last instance to a neutral arbitrator for a binding decision.

During the day-to-day operation of this system it was the management's job to organise and direct work, the employees' role to follow instructions, and the union's role to ensure that management carried out its function in accordance with the negotiated rules.

The high trust, co-operative pattern of work organisation, which owes much of its momentum to Japanese practice, has the following characteristics ideally: (a) instead of carefully defining jobs, a cluster of tasks is defined and a team of employees is assigned to carry out those tasks; (b) wage rates adhere to individuals rather than to jobs and often vary according to company, enterprise or department performance; (c) employees advance in their careers by learning more of the skills in the overall cluster; wages increase as skills increase; (d) employers are free to hire whom they like but "core" employees are guaranteed "lifetime employment"; a peripheral group of non-permanent employees may be laid off at will by the
employer; and (e) individual employment disputes are settled in an informal fashion.

The first system assumes that employees have no responsibility for efficiency or productivity. In the second employees are typically expected to participate in schemes such as quality control (QC) or zero defect groups in order to pool their knowledge with a view to improving efficiency and productivity. Under this system the union is generally consulted about a wide range of strategic policy decisions, whereas under the first it is, as a rule, consulted only about a limited range of issues (e.g. the introduction of technological change) or not at all.

Although high trust schemes constitute a radical departure from traditional North American practice, some -- of varying scope -- have begun to be negotiated on the initiative of managements in the United States. Perhaps the most widely publicised one is the Saturn project in General Motors. As described by Harry Katz, it will have the following characteristics:

On the shop-floor will be work units made up of six to 15 workers. There will be few distinct job classifications, and the plan is to have workers perform a variety of tasks in their work area and also some of the planning and control tasks traditionally carried out by supervisors. At the top level of Saturn a "strategic advisory committee" will engage in long-run business planning and will include an adviser from the UAW. [Between the top level and the shop-floor there will be] a number of committees, each of which will include worker or union representation.
All employees will be paid on a salary basis. Production workers are to receive base wages that are 80 per cent of the average wage received by other GM employees and auto workers in a set of comparison firms. Workers also can receive a bonus to reflect their work group's performance and the economic performance of the overall Saturn Corporation, among other things.

Eighty per cent of the Saturn workforce are protected by a pledge that layoffs will not occur "except in situations arising from unforeseen or catastrophic events or severe economic conditions". The remaining 20 per cent of the workforce will be "associate members" and not receive this protection.

The Saturn agreement also pledges to resolve labour-management disagreements through "consensus" and to allow for renegotiation of the terms of any labour-management agreement at any time the parties so desire.

In Canada, although similar approaches are found in some non-union companies, they are very rare within the collective bargaining system. Most unions are skeptical about management's reasons for proposing such schemes and have as a result opposed their introduction. While certain aspects of these schemes, such as multi-skilling, broader-based job duties, pay for skill and QC circles, can be found, in most cases they have been introduced in a context of mature adversarialism. The union continues to act as vigilant overseer and management to insist on its right and duty to
organise and lead the work effort.\textsuperscript{14} This is so despite the fact that co-operation has been a major concern of government officials, as well as of some management and labour spokesmen, for several decades.\textsuperscript{15} At the industry and national levels there have in fact been notable shifts towards greater labour-management-government co-operation in Canada. At the level of the firm, however, respectful, arms-length adversarialism remains the dominant mode of labour-management relations.

It should be noted that despite general union opposition, some trade unionists, in both Canada and the United States, have become convinced that more flexible production systems and worker participation in strategic decisions are in the best interests of both companies and employees. Nevertheless, where such systems have been introduced, it has always been done on the initiative of the management. Ten years ago North American unions were almost universally satisfied with "job control" unionism. They were also unwilling to participate in strategic decision-making because they did not want to be held responsible for possible bad results of policies in which they had concurred. Where unions have moved from those positions they have done so as a result of some combination of the force of management's arguments and the strength of employer bargaining power. There are virtually no instances in either country of unions taking the initiative on these issues.

Legal compliance

A third major difference between Canada and the United States has to do with the behaviour of employers with regard to the law. During the past few decades an increasing number of non-union employers in the United States have begun to deliberately flout the law in order to avoid collective
bargaining. To defeat union efforts, activists are often fired illegally. Indeed management consulting firms are now doing a thriving business counselling employers in this illegal activity. Paul Weiler of Harvard University has estimated that one employee in every 20 who take part in unionisation drives is illegally dismissed. Employers can get away with this behaviour because the penalties against it are light. And because it is so widely practised ethical sanctions against it, in turn, have become increasingly weaker.

Moreover, although United States law requires employers to bargain "in good faith" with unions certified by the National Labor Relations Board (NLRB), less than one-half of newly certified unions are able to win collective agreements against increasingly intransigent employers.

These problems also exist in Canada, but to a smaller extent. Canadian research has shown that although the incidence of unfair labour practices is on the rise, the increase is substantially less than it is in the United States. Although examples of consulting firms counselling illegal action are found in Canada, they are much less common. Winning a first contract is difficult for Canadian unions but not as difficult as for their American counterparts.

The role of the State

The efforts made by employers in the United States to escape from the pressures of unions and collective bargaining have been quite successful. Between the mid-1950s and the mid-1970s employers made modest "progress" in pushing back the tide of collective bargaining. Over the past decade, however, industrial democracy in America has been in rapid rather than
merely slow retreat. At the high watermark of collective bargaining in the
1940s about 40 per cent of American workers were covered by collective
agreements; today the figure is perhaps only 20 per cent. In Canada, by
contrast, the coverage of collective bargaining made fairly steady progress
in the post-war period before levelling off in the 1980s at about 45 per
cent of the labour force.

Researchers in the United States have argued that American employers
were prompted to follow the non-union road in part because rising
competitive pressures compelled them to seek flexible employment practices
difficult to achieve under collective bargaining.1 While that argument
carries weight in the case of the United States, it is less convincing in
the Canadian case. Competitive pressures have also been severe in Canada
but Canadian employers have been able to address them successfully by means
of wage moderation, layoffs and the loosening of rigid work rules through
negotiation. Canadian employers have had some advantages over their
counterparts in the United States owing to a depreciation of the Canadian
dollar relative to the American dollar and to a slower pace of
deregulation.8 However, these differences do not appear to be sufficient to
explain the major differences in employer behaviour in the two countries.
Moreover, the degree of union avoidance in the United States has risen
continually over the past 25 years, though more steeply in the 1980s. Thus,
although the deteriorating competitive environment may partly account for
the recent upswing, it cannot explain the long-term pattern.

Another reason why employers have not forcefully sought to escape from
commitments undertaken in the 1940s is because of the strength and militancy
of the unions. For the past two decades the Canadian labour movement has
been growing stronger and more confident in itself. Its membership has
expanded as has its willingness to strike. In the United States by contrast union membership has fallen drastically as has union militancy. During most of the twentieth century Canadian unions looked to the United States for leadership but that no longer seems to be the case. Instead, during the past two decades many Canadian sections of international unions, such as the Autoworkers, have withdrawn in order to establish separate Canadian unions.

The differences in both employer behaviour and union fortunes in the two countries may be explained to a large extent by reference to labour policy. In the United States the State has gradually drawn back from its commitment to guarantee the Labour Accord whereas the State's commitment in Canada has deepened.

When the Wagner Act was passed in the United States there was a clear understanding that its purpose was to encourage the practice of collective bargaining; and the NLRB took that mandate seriously. For example, during the early years of the operation of the Wagner Act "it was taken for granted that whatever an employer said to his men against unionism was a violation". Because of the authority exercised by employers over their employees all such statements were held to be coercive. Employers, however, protested that they had a constitutional "right of free speech". Eventually that "right" was upheld in a court case and in 1947 it was embodied in the Taft-Hartley Act, which amended the Wagner Act. In other ways, too, the Taft-Hartley Act introduced more "balance" in American labour policy. The Wagner Act had dealt with employer unfair labour practices; Taft-Hartley added union unfair practices. The Wagner Act had spoken of the right of
workers to engage in collective bargaining; Taft-Hartley affirmed the right of employees to refrain from engaging in collective bargaining.

These changes, as James Gross has shown, led to confusion about the purpose of United States labour policy. Under the Wagner Act, the Government was clearly committed to encourage collective bargaining and language to that effect was retained in the Taft-Hartley Act. However, the numerous substantive changes introduced by the latter, as well as a new policy statement referring to the need to eliminate certain union practices that were "burdening or obstructing commerce", led to a new interpretation of United States policy to the effect that "the amended Act . . . was meant to be a neutral guarantor of equal rights or, at least, of reasonably balanced rights". As Gross notes:

The concept of government as a neutral guarantor of some equal or reasonably balanced rights of labour and management and as a neutral guarantor of employee free choice between individual or collective action is clearly inconsistent with the Wagner Act's concept of a government partial to the practice of collective bargaining; yet the Taft-Hartley Act contains both conceptions of government.

The concept of neutral guarantor allowed employers to oppose collective bargaining more openly than previously. Union avoidance became a legitimate and ethical activity.

Although most large unionised employers continued to respect the Accord after the passage of the Taft-Hartley Act, many non-union employers began to explore how far they could go in defending their right to manage
During the 1950s and 1960s they continually tested the resolve of the Government to live up to its commitment to promote collective bargaining and often found it to be wanting. For example, the Wagner model envisages the following process of union recognition: If a union recruits a majority of the employees of a given employer it is supposed to contact the employer and request negotiations. The employer is then supposed to examine the evidence of membership and, if satisfied that the union does indeed represent a majority, to enter into negotiations as requested. However, that chain of events is practically never completed because employers learned during the 1950s and 1960s that the longer they could delay the recognition process the greater were their chances of avoiding collective bargaining. Hence it became standard employer policy to refuse the initial union request for recognition, thus forcing the union to seek the aid of the NLRB. \(^4\) At the Board's hearings management lawyers would raise a long list of technical objections designed to slow down the process. While the hearings dragged on the employer would launch a campaign designed to convince the employees that collective bargaining was not in their interests. Such campaigns commonly stressed that unionisation and collective bargaining might well lead to strikes and economic difficulties for the firm and thus threaten job security. Although under the Wagner model threats and coercion were forbidden, "predictions" of difficult times ahead became common. American researchers have found that these campaigns were often successful, especially in cases where the employer violated the law. \(^2\) 

Although employer campaigns against unionisation ran wholly counter to the proposition that collective bargaining was in the public interest, the conflicting purposes of the Taft-Hartley Act allowed them to proliferate.
Employer spokesmen, moreover, continued to develop philosophical arguments in their support. By the late 1940s the NLRB had taken the position that whenever employers refused to accept evidence of union membership, it would conduct an election to ascertain the wishes of the employees. Employers argued that an election for union representation was like a political election campaign and that employees would be able to make a better choice if they heard both sides of the case. Not only did employers have the right to present the case against collective bargaining but by doing so they would enhance the public welfare just as political parties did by bringing into focus the two sides of any policy issue. That argument won many converts in the United States.

During the period from the late 1940s to the mid-1970s these tactics were continually refined and a gradually expanding number of employers became less hesitant to cross the bounds between legal and illegal behaviour when they found the State unwilling to take effective action against them. During this time non-union employers also began to perfect the practice of human resource (or personnel) management. By rationalising pay and benefit schemes and managerial practices and by introducing formal and informal complaints procedures they hoped to convince employees that there was nothing a union could achieve on their behalf.

In the 1970s the employer offensive against unionisation became more intense. A mild labour reform Bill was proposed by the Carter Administration. Basically, if adopted, it would have moved the administration of United States labour policy back towards what it had been in the 1940s by, for example, speeding up election procedures. American employers launched a massive lobbying campaign to defeat the Bill. Even large unionised employers who had until then continued to respect the Accord
assisted or acquiesced in the campaign. When the Bill was defeated in 1977 industrial relations in the United States entered a new phase. Many large employers who had previously accepted the Accord began to pursue a strategy of de-unionisation by closing down union plants and vigorously pursuing union avoidance in new ones. The incidence of illegal behaviour increased and the profession of management consulting on how to achieve a "union-free" environment expanded. The recession of the early 1980s undercut the unions' bargaining power and made it difficult for them effectively to resist the onslaught. In 1981 Ronald Reagan, the first President of the United States to have been an active union leader, fired 11,500 striking air traffic controllers. That action was widely considered to be symbolic of the government's continuing retreat from commitment to collective bargaining.

The development of labour policy in Canada since 1940 is a very different story. From a weak initial commitment to collective bargaining, government support has grown stronger over the years. When the Wagner Act was passed in the United States in 1935 Canadian unions, many of them branches of American parents, began to lobby for similar legislation in Canada. Most provinces passed "little Wagner Acts" superficially similar to the American law, but all of these Acts failed to provide for an administrative agency similar to the United States NLRB and hence were not very effective. It was only in the 1940s, as a result of mounting pressure applied by the expanding unions and by the Cooperative Commonwealth Federation, that first Ontario and then the federal Government introduced a Wagner-style policy with effective implementation procedures. By the early 1950s Wagner-style legislation had been enacted in every Canadian province except tiny Prince Edward Island.
Initially the federal legislation, which served as a model for the provincial Acts, did not contain a clause, like that in the Wagner Act, firmly committing the Government to encourage collective bargaining. Pragmatism, rather than deeply held conviction, was the wellspring of Canadian policy. Indeed, the federal Liberal Government of MacKenzie King had long refused to introduce a Wagner-style policy and did so in the end only as a result of political pressure. Nevertheless, when the federal Government appointed a working party (the Woods Task Force) in 1966 to investigate Canadian labour relations during a period of increasing strike activity, growing inflationary pressures and mounting criticism of unions, it gave collective bargaining a firm vote of confidence. Its 1968 report stated:

We continue to endorse the present industrial relations system not only because of its virtues... but also because we see no alternative that is compatible with the heritage of Western values and institutions... In order to encourage and ensure recognition of the social purpose of collective bargaining legislation as an instrument for the advancement of fundamental freedoms in our industrial society, we recommend that the legislation contain a preamble that would replace the neutral tone of the present statute with a positive commitment to the collective bargaining system.\(25\)

When federal legislation was revised in the early 1970s; the recommended preamble was added to the Act. During the 1970s several provincial jurisdictions made similar amendments to their legislation.
In 1985 the State's commitment was reaffirmed by the Royal Commission on the Economic Union and Development Prospects for Canada (The Macdonald Commission), which recommended in its report that "all Canadian governments provide a supportive legislative environment for the labour movement and for collective bargaining".  

In Canada the technical administration of the law also developed in ways that were more favourable to collective bargaining than the procedures applied in the United States. During the 1940s the labour boards in both countries were empowered to certify trade unions as the bargaining representatives of employees on the basis either of a vote of the workers concerned or of the presentation by the union of evidence that more than 50 per cent of them desired representation. This was usually done by presenting signed membership cards or signed bargaining authorisation cards. By the 1950s certification on the basis of "cards" had become standard practice in Canada whereas voting had become universal in the United States.  

Although in several Canadian provinces employers are permitted to state their views in a manner similar to that allowed in the United States, the card certification process makes the right less operative. Even in cases where a vote is held (as in Nova Scotia and British Columbia), the period between the application for union certification and the vote is typically much shorter than in the United States, allowing less leeway for anti-union campaigning. Finally, the Canadian intellectual climate has grown more supportive of collective bargaining during the past 30 years. Consequently, the ethical justification that it is in the public interest for employees to have the benefit of both employer and union views regarding the need to organise is not widely accepted. Instead, collective bargaining is more
often seen to be a process whereby employees achieve "industrial citizenship". According to the Woods Task Force, "the curbing or elimination of arbitrary authority in the hands of management has been one of the greatest contributions of unions and collective bargaining". Such a climate makes it more difficult for employers to engage in the type of conduct that has become common in the United States, but this has not prevented much critical comment in recent years on the failure of the Wagner model to bring about universal industrial citizenship.

Despite an environment that is more propitious to collective bargaining, problems similar to those found in the United States began to arise in Canada in the 1970s and 1980s. As noted above, American unions have had difficulty in winning first collective agreements and American policy-makers have done little to counter that obstacle. In Canada, however, when the same problem began to arise, several jurisdictions revised their labour Acts to permit labour relations boards to impose first collective agreements. In other cases labour boards assessed much more severe penalties than those applied in the United States against employers unwilling to bargain in good faith with newly certified unions.

In the United States a growing number of states passed "right to work" laws in the 1940s, 1950s and 1960s, which forbade unions to negotiate clauses compelling non-union members of bargaining units to become union members or to pay union dues and research has shown that union density is substantially lower in right-to-work states than it is in those with no such prohibition. Not only is Canada free of such laws but several provinces followed the recommendation of the Woods Task Force and introduced legislative amendments in the 1970s and 1980s that require employers to
deduct union dues from the pay cheques of all employees in bargaining units, whether union members or not, and remit them to the certified union at its request.\textsuperscript{32}

Canadian legislation is also more favourable than United States law with regard to public sector workers. As a result of changes which took place in the 1960s and early 1970s the federal government and all of the provinces extended the right to bargain collectively to the great majority of public employees. Almost all of those who were accorded the right took up the opportunity to bargain and today the public sector is the most highly organized Canadian industry. Policy in the United States with respect to the public sector was also liberalized during the 1960s and 1970s but not to the same extent as in Canada. Many states, for example, continued to withhold the right to bargain from some or all of their employees. Even when bargaining was permitted in many cases issues as critical as wages were set by law beyond the reach of collective negotiations. In general far fewer restrictions were placed in Canada on the negotiable issues. As a result of these differences bargaining today is practiced more extensively in the Canadian public sector than it is in the United States.\textsuperscript{32a}

In the 1970s Quebec introduced legislation forbidding employers to hire strikebreakers and in the 1980s Ontario and Manitoba outlawed firms providing strikebreaking services. In contrast, the use of strike replacements in the United States has grown substantially during the past two decades.

Canadian policy has not, however, been all "pro-union". Indeed the quest for industrial peace has long been the dominant concern of Canadian policy-makers, who have been appalled during the past decade by statistics showing Canada to be among the world leaders in days lost annually due to
strikes. To counter that trend both federal and provincial governments have increasingly resorted to wage controls, ad hoc back-to-work legislation to end strikes and the revision of statutes making it difficult or illegal for unions, especially those representing workers in essential services, to strike. In most of these cases, however, some form of arbitration has been made available in lieu of strike action.33

In the western provinces of British Columbia, Saskatchewan and Alberta conservative, market-oriented governments have recently introduced general revisions of their labour codes that are considered by the unions to be very much against their interests. In Alberta, for example, unions may now be certified only after an election, opening up the possibility of union-management confrontation on the American pattern.

Why the Difference?

Despite these qualifications the general pattern is clear. In the United States employers have, with government indulgence, retreated from their commitment to collective bargaining whereas Canadian employers, under government pressure, have continued to respect theirs. The weakened labour movement in the United States has been persuaded or compelled by some unionised employers to forgo the bargaining principles it had developed in the 1940s in favour of new, more flexible "high trust" systems. In Canada, however, the labour movement has, to a greater degree, held fast to "job control" unionism, although substantive changes are certainly occurring within the traditional framework of bargaining.

It has often been observed that managers everywhere would prefer to manage without restraint. Thus it is not surprising that management in the
United States has tried to escape from the fetters of collective bargaining. Some Canadian employers have also tried to do so but, largely because of the strong support given by governments to collective bargaining, there has been no great movement in that direction. Why then have Canadian governments acted so differently from those across the border?

The answer certainly is not that Canada is a more liberal nation than the United States. Students of politics have, on the contrary, long argued that Canada is the more conservative and slower to discard traditional ways of doing things. The reason for the more liberal nature of Canadian labour policy seems instead to lie in the different nature of the two political systems and, in particular, in the existence in Canada of a viable partisan political strategy by labour.

In the United States trade unions have since the 1930s aligned themselves mainly with the Democratic Party. That party, while generally more progressive and liberal than its major opponent, the Republican Party, has a conservative wing in the South that has opposed labour law reform throughout the post-war era. Since party discipline is very weak in the United States, the combined resistance of the Republican Party and the Southern Democrats has been sufficient to impede reform and thereby permit the deterioration of government labour policy.

In Canada, on the other hand, the social democratic party formed during the 1930s (originally called the Cooperative Commonwealth Federation and now known as the New Democratic Party (NDP)) has drawn steady support of between 10 and 20 per cent of the electorate in federal elections since the Second World War. It has also formed governments in British Columbia, Saskatchewan and Manitoba and is a major force in Ontario where it has formed the official opposition several times. Peter Bruce has recently shown that most
liberal changes in labour policy in Canada were introduced either when the NDP was in office or when its power as a minority was strong and on the rise. During the latter periods the party in office (the Liberal and Conservative Parties are the dominant parties at the national level although others exist at the provincial level) took over the popular aspects of the NDP plank and passed them into law. Unlike the situation in the United States, strong party discipline in Canada permits the parties in office to move firmly on issues to which many of their sitting members may be personally opposed.

Seymour Lipset, the prominent American sociologist, has recently argued that these political differences are in turn the product of deep-seated differences in national values. "As compared to her more populous neighbour," he writes, "Canada is a more elitist, communitarian, statist and particularistic (group-oriented) society", and as in many European countries the conservative emphasis on "elitism and statism" produced a "leftist collectivist" response. Whatever the underlying reason, it is evident that the mainstream of the present-day labour movement in Canada has political characteristics that are more similar to European "leftist collectivist" movements than to the labour movement in the United States. The major union federation -- the Canadian Labour Congress (CLC) -- has close ties with the NDP and is more strongly and formally committed to social unionism than is the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) in the United States. This commitment is however relatively recent. Prior to the 1940s Canadian unions followed a political strategy very similar to that of their American counterparts. In the early 1940s, however, the newly developing industrial unions gave their
support to the Cooperative Commonwealth Federation and the CLC took a major part in the reorganisation of that party into the NDP in 1960. Since then the CLC has been closely allied to the New Democrats. The slowness with which Canadian labour adopted a political strategy of social unionism is due, at least in part, to the influence of pure and simple "business union" ideas transmitted across the border by American-based international unions. Indeed, most international craft unions operating in Canada today still adhere to the non-partisan idea of unionism. Most of them left the CLC in 1981 and established the apolitical Canadian Federation of Labour, partly as a result of political differences.35

It is interesting to note that as the Canadian labour movement has moved more firmly in the direction of a socially active, partisan political strategy the political environment has continually improved. The AFL-CIO, on the contrary, despite its support for the expansion of social legislation that has taken place during the past four decades, continues to operate without an articulated social philosophy and without a reliable political arm. It has been dogma in the United States for most of the twentieth century that unions had to adopt this pragmatic, non-ideological approach in order to survive in an individualistic society hostile to socialistic ideas. That dogma is now beginning to be challenged. Some commentators are arguing that the thoroughness with which the unions expelled leftists during the McCarthy era of the 1950s has left the movement bereft of idealism and passion. They hold that, for the movement to survive and prosper in future, it must find a new social purpose and must convince American society that it stands for more than maximising the economic interests of its members.36 Whether such a move is necessary or indeed possible is likely to remain...
controversial. On the other hand, it is difficult to foresee anything but a continuing decline in collective bargaining in the United States unless labour makes some substantial changes.

Summary

During the past twenty years industrial relations in the United States and Canada have moved in much different directions. In the United States three new trends have become well established. First, there is a trend toward deunionization even of large companies where collective bargaining had been previously well established. Second, there is a trend towards casual illegality by employers seeking to remain free of the rigors of collective bargaining and third, there is a trend among some large unionized firms to reform the labour-management relationship from one of adversarialism to one of cooperation. It has been argued that these three trends amount to a transformation of the industrial relations system.37 In Canada, however, these trends are much weaker or non-existent. The concept of transformation is almost entirely absent from contemporary Canadian discourse. While experts agree that change is occurring, the basic pillars of the system remain firmly in place.

If there has been a transformation of American industrial relations it has been brought about by the initiatives of management and the acquiescence of government to those initiatives. In Canada employers have been reticent to follow the U.S. lead in part because they have had less need to; in part because of tougher union opposition; but primarily because of the insistence by government that the "rules of the game" that were developed in the 1940s
be honoured. Canadian governments have been compelled to behave as they have largely because of pressure brought to bear as a result of the partisan political strategy of the Canadian labour movement. In the United States pressures brought by groups hostile to collective bargaining have exceeded those which labour has been able to muster with the result that government support for the Labour Accord has become increasingly weaker.

Notes


5 L.E. Stepina and J. Fiorito: "Toward a comprehensive theory of union growth and decline", in Industrial Relations (Berkeley), Fall 1986.


7 Kilgour, op. cit., p. 320.

8 M.E. Thompson and A. Verma: Managerial strategies in industrial relations in the 1980s: The Canadian experience, Paper presented at the


10 D. Benedict: "The 1984 GM agreement in Canada: Significance and consequence", in Relations Industrielles (Quebec), 1985, Vol. 40, No. 1. The union argued that the total wage bill was less in Canada than in the United States and therefore concessions similar to those made in the United States were not necessary in Canada.


12 Thompson and Verma, op. cit.; Kumar and Slobodin, op. cit.

13 P. Kumar: Recent labour-management relations approaches in Canada: Will they endure?, Queen’s Papers in Industrial Relations (Kingston, Ontario, Queen’s University, 1987).


18 Chaison and Rose, op. cit.; Weiler, op. cit.


21 J.J. Lawler: *Unionization and deunionization: Strategy, tactics, outcomes* (Urbana-Champaign, University of Illinois, Institute of Labor and Industrial Relations, 1988), Unpublished manuscript.


and not of the federal Government as it is in the United States, although federal Government initiatives have often prompted similar changes at the provincial level. During the past decade or so, however, the provinces have been taking a more independent stance.


27 Peter Bruce: *Political parties and the evolution of labor law in the US and Canada* (Cambridge, Massachusetts, MIT Political Science Department), Ph.D. thesis in preparation.


29 Woods et al., op. cit., p. 97.

30 B. Adell: "Establishing a collective employee voice in the workplace: How can the obstacles be lowered?", in G. England (ed.): *Essays in labour relations law* (Don Mills, Ontario, CCH Canadian Ltd., 1986); D.M. Beatty: *Putting the charter to work. designing a constitutional labour code* (Kingston and Montreal, McGill-Queen's Press, 1987); R.J. Adams: "Two policy approaches to labour-management decision making at the level of the enterprise", in C. Riddell (ed.): *Labour-management cooperation in Canada* (Toronto, University of Toronto Press, 1986).


32 G. Adams, op. cit.


36 M. Mittelstaedt: "The state of the unions", in *Report on Business Magazine*, Toronto, June 1988. Although there has been a great deal of soul-searching within the American labour movement about the reasons for its decline and what may be done to bring about a reversal, there is no
consensus about the need for a fundamentally new philosophical approach. For example, in 1985 the AFL-CIO's Committee on the Evolution of Work produced "an evolutionary blueprint for the AFL-CIO to reshape a Federation of 91 unions into a structure capable of dealing with a rapidly changing workplace". The "blueprint" called for better co-ordinated organising activities and the provision of new services, such as reduced-cost credit cards, especially to members not covered by collective bargaining. However, "it did not attempt to fashion an ideology for the AFL-CIO; it did not prescribe a legislative, political, or social agenda". C.J. McDonald: "The AFL-CIO's blueprint for the future -- A progress report", in Proceedings of the 39th Annual Meeting of the Industrial Relations Research Association, (Madison, WI, Industrial Relations Research Association, 1986).

37 The transformation thesis is not universally accepted in the U.S. Some argue that the changes have not been universal and that they may be understood as natural reactions to a changed environment given fundamental American values such as individualism. See, e.g., R.N. Block, "American industrial relations in the 1980s: transformation or evolution?" paper presented at a conference on "The transformation of United States Industrial Relations" Purdue University, May 6-8, 1988.


