

Access Isn't Everything: State Permeability, Class Capacities, and the Formation of U.S. and Canadian Labor Regimes, 1934-1948

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The central political question of “who gets what?” is often seen to come down to the question of political access. This article argues that access isn't everything. Rather, I argue that the structure of state institutions powerfully conditions the relationship between access and social groups' ability to articulate and defend their interests in the political arena. I develop this argument through a comparative case study of the role of the U.S. and Canadian labor movements in the formation of their countries' respective labor regimes between the mid-1930s and late 1940s. While the U.S. labor movement enjoyed vastly greater access to key political decisionmakers, it was the Canadian labor movement that was able to win a stronger, more stable labor regime. I argue that differences in labor regime stability were a result of the different ways in which state institutional structures channeled working class militancy in both countries in the crucial years surrounding World War II. More permeable U.S. state structures incorporated labor into the “pressure politics” system, where it played a critical role in the New Deal coalition. However, by channeling class-based political activity into partisan activity, these structures undermined labor's power and led to a more politicized, less stable labor policy. In contrast, relative state impermeability in Canada significantly delayed the arrival of industrial legality compared to the U.S., but also led to a relatively more stable and less politicized labor regime in the postwar period.

The central political question of “who gets what?” is often seen to come down to the question of access. In such accounts, who gets what usually ends up being a function of who has access to the right decisionmakers, the right agencies, the right resources, etc. This link between access and influence is often so taken for granted that many scholarly studies simply measure access to state policymaking with the

implied assumption that those with greater access wield greater influence.

Practically speaking, the link between access and influence is virtually axiomatic, as evidenced by the thousands of groups from across the political spectrum who employ thousands of people and spend millions of dollars in efforts to “get a seat at the table,” each with greater or lesser degrees of success.

This article argues that access isn't everything. Rather, I argue that the structure of state institutions powerfully conditions the relationship between political access and social groups' ability to articulate and defend their interests in the political arena. I develop this argument through a comparative case study of the role of the U.S. and Canadian labor movements in the formation of their countries' respective labor regimes¹ between the mid-1930s and late 1940s. Although the stronger U.S. labor movement had considerably greater access to state policymakers than its Canadian counterpart, it was ultimately less successful in defending its interests compared to the Canadian labor movement, as evidenced by the formation and development of a relatively weaker, more unstable U.S. labor regime.

In order to understand this seemingly paradoxical outcome, we must examine the conditions under which each country's labor relations regime took shape. More specifically, I argue that differences in labor regime stability were a result of the different ways in which state institutional structures channeled working class militancy in both countries in the crucial years surrounding World War II. In the U.S., a relatively more permeable state allowed the newly-resurgent

¹ Following the work of Kettler, Struthers and Huxley (1990: 168), I use the concept of “labor regime” as a means of referring to a constellation of “institutions that have an irreducible legal component, but which also are shaped in important measure by the non-legal power resources that participants bring into play.”

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U.S. labor movement to become politically incorporated relatively quickly as an interest group within the U.S. system of “pressure politics,” where it gained access to policymakers as a key partner in Roosevelt’s New Deal coalition. The initial result was the passage of the National Labor Relations Act (commonly referred to as the “Wagner Act”), which created a basic framework for legally protected, government regulated union recognition and collective bargaining.

In Canada, a relatively more hostile and impermeable state blocked the possibility of a similar channeling of class conflict into interest group politics. Here, a relatively weaker and politically excluded labor movement struggled unsuccessfully for nearly a decade longer than its U.S. counterparts to win a similar group of political demands. Instead of forging an alliance with the governing coalition, labor only won its political demands when the state acceded in the face of a massive wartime strike wave which threatened the state’s ability to prosecute the war, combined with an insurgent political challenge from the labor-friendly Cooperative Commonwealth Federation (CCF) that threatened the governing Liberal Party from its left flank. Even at this point, the labor policies Canadian labor was able to secure, while based on the U.S. Wagner Act framework, were more restrictive than the U.S. policies. Thus it seems that, in the initial instance, having greater access to political decisionmakers led to a better outcome for U.S. labor relative to their Canadian neighbors.

However, the same conditions that led to these different initial outcomes in the formation of U.S. and Canadian labor regimes also had important consequences for their subsequent development. In the U.S. case, two facets of greater state

permeability led to a postwar labor regime that was less stable and more politicized than its Canadian counterpart. First, in the legislative realm, U.S. labor's position as a key partner within FDR's New Deal coalition granted certain advantages in the specific context of the New Deal. But weak party discipline within the congressional U.S. political system left U.S. labor more dependent on maintaining coalitions with unreliable allies within a fractious Democratic Party to defend its interests. Most immediately, this left them ill-equipped to handle the political backlash following the 1946 postwar strike wave, when the unstable New Deal coalition came apart, and an alliance of Republicans and Southern Democrats dealt labor a major blow by passing the restrictive 1947 Taft-Hartley Act over President Truman's veto. This reliance on unstable alliances within the Democratic Party would continue to hamper labor's efforts at legislative reform throughout the postwar period.

Second, in the administrative realm, the development of U.S. labor policy was largely dependent on how the political appointees in the upper echelons of the Department of Labor (DOL) and the National Labor Relations Board (NLRB) interpreted and implemented it. Furthermore, there was a more porous barrier established between the adjudicatory system for U.S. labor relations and the rest of the judicial system, with NLRB decisions only enforceable by Federal court order and subject to extensive judicial review. This had the effect of encouraging a weak adherence to precedent at the NLRB, along with a more general tendency of undermining the authority and legitimacy of both the DOL and the NLRB, leaving them open to charges of bias and ensuring that their policies and decisions would

remain controversial, unsettled, and politicized, despite U.S. labor's greater opportunities for direct political access.

In contrast, relative state impermeability in Canada significantly delayed the arrival of industrial legality compared to the U.S., but also led to a relatively more stable and less politicized labor regime in the postwar period. In the legislative realm, strong party discipline within Canada's parliamentary political system combined with the insularity of Prime Minister William Lyon Mackenzie King's war cabinet initially ensured Canadian labor's political exclusion, but subsequently protected the Canadian labor regime from a Taft-Hartley-style legislative backlash. At the same time, the developing political alliance between Canadian labor and the CCF created a constrained but nonetheless significant political avenue for labor to articulate its class-based demands.

Meanwhile, in the administrative realm, policy interpretation and development was largely the preserve of career civil servants and tripartite labor boards, with designated representation for labor and management, and a representative of the state serving as an arbiter between the parties. In contrast the American system, the barrier created between the Canadian adjudicatory system for labor relations and the rest of the judicial system was much more clearly defined, granting Canadian labor boards much more autonomy to enforce their own decisions and subjecting them to much more restricted judicial review. These structures served to reinforce the relatively greater legitimacy and stability of the Canadian labor regime over time, even with relatively fewer avenues for Canadian labor to gain political access.

The remainder of the article proceeds as follows. I first briefly discuss existing conceptions of the relation between political access and political influence, focusing especially on how class structure and class conflict condition this relationship. I then proceed to examine the conditions surrounding the formation of the U.S. and Canadian labor regimes in the years surrounding World War II, with a special focus on how the interaction between state structures and class conflict in both countries shaped the formation of their respective labor regimes. I then conclude with a discussion of how the case of U.S. and Canadian labor regime formation allows us better to understand the complex interplay between political access and influence.

Relating Access and Influence

A widely-held view among scholars of politics, particularly in the North American context, contends that there is a powerful and close relationship between political access and political influence (Berry 1984; Truman 1953). Christine DeGregorio, referencing Jeffrey M. Berry's work on the "interest group society," states this view quite succinctly: "what really matters in the struggle for power is *access*—'who gets to see whom'.... [W]hile influence may not increase monotonically with every new contact, advocates who have access to a dozen or more influential leaders must be better off than those who have access to just two or three" (DeGregorio 1997: 87).

This central analytical assumption underlies the work of scholars from a wide array of approaches. Thus, those of a pluralist bent seek to identify the conditions under which groups obtain more or less access to political

decisionmakers (Truman 1953: 250). Indeed, many pluralists focus entirely on examining conditions of political access, with the implied assumption that greater access necessarily translates into greater influence (Langbein 1986). While generally critical of the pluralist analysis of political power, advocates of the “dimensions of power” or what is sometimes known as the “size of political unit” approach still share the pluralists’ assumption of a tight relationship between access and influence when they train their analysis on the scope of political conflict (Bachrach and Baratz 1962; Schattschneider 1960). After all, the scope of political conflict is fundamentally about who is in the political arena—who has access—and who is a spectator. Similarly, analysis of the politics of “non-decisions” and agenda-setting (Baumgartner and Jones 1993; Crenson 1971; Kingdon 1984) focuses on how political actors gain access in order to shape the terms of political debate so as to take their interests into account as a matter of course, often without having to resort to overt lobbying. “Elite” or “instrumentalist” theorists and certain Marxist theorists of the state also assume the linkage between access and influence in their studies of the backgrounds and connections between and among state and business elites (Domhoff 1967; Miliband 1969; Mills 1959).

The primary school of thought that does not explicitly see access as leading to influence is that of structuralist Marxism, associated primarily with the work of Nicos Poulantzas (1969; 1973). For these scholars, the relationship is reversed, with elite access to state decisionmakers serving as a symptom, not a cause, of elite class domination of the state. Thus, Poulantzas writes:

“The relation between the bourgeois class and the state is an objective relation. This means that if the function of the state in a determinate social formation and the interests of the dominant class coincide, it is by reason of the system itself; the direct participation of members of the ruling class in the State apparatus is not the cause but the effect, and moreover a chance and contingent one, of this objective coincidence” (Poulantzas 1969: 73).

What matters in this analysis is therefore not measuring degrees of access and influence of different groups, but rather to define the “objective relations” of the social formation in question, which then shape the manner in which structure-bearing agents will behave.

The key point is that, for all but the structuralist Marxists, the prediction would be that those actors with greater access to political decisionmakers would be those best able to shape policy regimes in their favor. The comparative case of U.S. and Canadian labor regimes challenges this prediction. While U.S. labor had significantly greater access than their Canadian counterparts to political decisionmakers and a more central role in shaping labor policy, it was the Canadians who were able to forge a labor regime that was more stable and better able to defend labor’s interests over time. A structuralist Marxist analysis can help by identifying the institutional factors at work shaping the effect of political access. However, its overly deterministic approach can’t explain why there would be divergence between the U.S. and Canadian cases, and would largely view the question of access to be epiphenomenal to the larger processes of class domination.

State Permeability and Class Capacities

In order to explain the paradoxical outcome of less access leading to greater influence, we must examine the ways in which the institutional context of state access powerfully conditioned the U.S. and Canadian labor movements' respective capacities to influence the formation and development of their countries' labor regimes.

By institutional context, I refer more specifically to the degree of permeability of state structures in both cases, meaning the degree to which non-state actors are able to gain direct access to the policymaking process. The U.S. state structure is famously permeable, with the constitutional separation of powers, weak party discipline, and politicized bureaucracy creating multiple access points for interest groups (Almond 1958: 278). In contrast, Canada's state structure is relatively more impermeable, with a unified legislative and executive branch, stronger party discipline, and a professionalized administrative bureaucracy limiting possible access points for interest groups [CITATIONS].

As I will argue, these differences in state permeability powerfully shape the way in which labor's interests are expressed and processed in the political realm. This process in turn can affect labor's organizational power, or what Erik Olin Wright (1978: 98-102) calls its "class capacity." As I will show, the U.S. labor movement's greater access ultimately undermined its class capacity, as it depended upon assuming partial responsibility for maintaining the New Deal coalition and implementing New Deal policies, even when this effectively undermined labor's own interests. In Canada, what access labor achieved allowed it to retain a higher degree

of class capacity, meaning that it was able to express and defend its interests more effectively.

It is important to underline here the paradoxical and non-linear relationship between the state's overt hostility to labor and the development of class capacities. Although I am arguing that the more arms-length relationship between Canadian labor and the Canadian state led to greater class capacity and a more stable labor regime relative to the U.S., I am certainly not arguing that greater state hostility leads to greater class capacity for labor. We need only examine the extensive and brutal history of state repression of labor in both countries that preceded the establishment of what can rightly be called "industrial legality" in the 1930s and 1940s to see that this is not the case (Archer 2007; Boyer and Morais 1955; Fudge and Tucker 2001; Montgomery 1987; Palmer 1983). Rather, borrowing further from Wright, the key point is to understand the different ways in which U.S. and Canadian state structures channeled class conflict in ways which were more or less reproductive of organizational class capacities (Esping-Andersen, Friedland and Wright 1976: 190-192; Wright 1978: 102-108).

Having framed the problem under examination and clarified the concepts used to examine it, we can now proceed to an analysis of the differing conditions surrounding the formation of the U.S. and Canadian labor regimes in the 1930s and 1940s. After presenting evidence demonstrating U.S. labor's greater access to state decisionmakers relative to Canadian labor, along with U.S. labor's lesser ability to influence the development of labor policy in its favor, I will then provide evidence

showing how an analysis of the interaction between state structures and class conflict in both cases helps to explain the observed outcome.

Understanding the Formation of U.S. and Canadian Labor Regimes

Differing Levels of Access

Prior to the 1930s, neither U.S. nor Canadian labor could be said to have much access to state decisionmakers. To the contrary, labor's encounters with the state in both countries had a decidedly repressive character to them, with government troops and/or police regularly called upon to attack striking workers in both countries (Archer 2007; Kealey 1992). Attempts to influence the political process tended to flounder, with U.S. unionists finding meager gains won in the legislative arena taken away by the judicial branch (Greene 1998; Hattam 1993), and Canadian unionists struggling to be heard as frustrated junior partners in both Liberal and Conservative party coalitions (Heron 1984; Kealey 1980). In both countries small pockets of socialists and labor radicals of various stripes attempted to found independent political parties to advance their interests, but only succeeded in electing a few local officials or state/provincial legislators. In Canada a handful of "labourites" managed to get elected to the federal House of Commons, but were quickly absorbed into the Liberal coalition (Archer 2007; Foner 1984; Heron 1984; Heron 1998; Kealey 1980).

Largely in response to these frustrations in the political realm, both U.S. and Canadian labor unions, at least those associated with the American Federation of Labor (AFL) or the Trades and Labour Congress of Canada (TLC), developed the political philosophy known as "voluntarism." This entailed, as Julie Greene (1998: 3)

puts it, “an approach to politics that oppose[d] most forms of state intervention and perceive[d] government as a negative influence that should remain as limited as possible.” This did not mean that labor abandoned the political field. Rather, it meant that unions privileged workplace-based economic action over political action, and generally limited political action to narrow lobbying towards specific ends (Eidlin 2009; Rogin 1962). In Canada, this lobbying took the ritualized form of what former Canadian Labour Congress President Dennis McDermott (1977) referred to as annual “cap in hand” sessions. Craig Heron (1998: 29) describes the effectiveness of this approach:

In its dealings with the state, the [TLC] confined itself strategically to traditional lobbying methods, eschewing any attempts at mass mobilization to advance its claims. Its officers preferred personal correspondence and private meetings, asserting the urgency of concessions by the state and capital lest rank-and-file militancy escalate beyond union officials’ restraining capacities. Labour’s lobby, however, proved ineffectual. As [Canadian Prime Minister Robert] Borden confided to his diary, the Congress’ annual meetings with the federal cabinet took on an inert ritual of their own. After both the 1914 and 1915 meetings, the prime minister noted that the views expressed by [TLC officers] Watters and Draper were both moderate and sensible, and his own cautious, non-committal response brought an end to their consideration for another year.

Although not as ritualized as the Canadian system of labor lobbying, U.S. unions had similar luck in getting their voice heard in the political realm. A representative example would be labor’s efforts to get exempted from the anti-trust provisions of the Sherman Act of 1890, which employers had used repeatedly to obtain crippling injunctions against labor unions. AFL head Samuel Gompers and

other AFL leaders lobbied hard for the passage of the Clayton Act in 1914, and when it passed Gompers held it up as “labor’s Magna Carta,” as he believed that it successfully removed labor unions from the Sherman Act anti-trust provisions. However, subsequent court interpretations of the Clayton Act proved Gompers wrong, and unions remained vulnerable to injunctions for many years to come (Murray 1966).

This would change in the 1930s, at least in the U.S. Although not initially sympathetic to labor, President Franklin D. Roosevelt came to understand the benefits of granting labor legal recognition through legislation such as the National Industrial Recovery Act (NIRA) and then the National Labor Relations Act (NLRA), especially once the strike waves of 1933 and 1934 began to pose a serious threat to the social order. Furthermore, as business elites abandoned Roosevelt and began resisting New Deal reforms with ever greater obstinacy, he discovered the importance of labor as a political constituency, both as a source of funds and a source of votes (Goldfield 1989; Levine 1988; Milton 1982; Rubin, Griffin and Wallace 1983).

Thus began a new era in the relationship between U.S. labor, the state, and the Democratic Party. While nominally hewing to a “non-partisan” identification, labor substantively shifted from its traditional voluntarist political strategy of “rewarding friends and punishing enemies” to a deeper engagement with the Roosevelt administration and the Democratic Party (Associated Press 1936; Derber and Young 1961; Greenstone 1969; Stark 1936). Key figures like Mine Workers President and CIO founder John L. Lewis, Clothing Workers President Sidney

Hillman, Teamsters President Daniel Tobin, and others gained unprecedented levels of access to key state decisionmakers (Alinsky 1949; Braeman, Bremner and Brody 1975: 110-132; Bruner 1936; Dubofsky and Van Tine 1977; Dubofsky and Van Tine 1987: 185-233; Fraser 1991; New York Times 1936).² Some took direct government or Democratic Party positions, with Hillman serving on the National Industrial Recovery Board and Tobin serving as chair of the Labor Division of the National Democratic Campaign Committee, for example.

Although some left-leaning labor leaders continued to voice support in theory for an independent labor party, the new era of government access during the New Deal dampened that support in practice. With Roosevelt in office, it seemed as if labor truly had a seat at the table for the first time. As Hillman explained to the General Executive Board of his Amalgamated Clothing Workers of America (ACWA) in an April 19, 1936 speech:

The position of our organization is known: that we are for a labor party³.... But in the last two years things have happened.... These things have happened since the coming of the Roosevelt administration. We have participated in making the labor policy of this administration.... We know that the [NIRA] meant the revival of our organization.... We know that the defeat of the Roosevelt Administration means no labor legislation for decades to come. If the Roosevelt Administration is defeated, you will have

² Granted, at the state level there were a few significant efforts at establishing independent labor-based political parties during this time, most notably with the American Labor Party (ALP) in New York and the Farmer-Labor Party (FLP) in Minnesota, which actually succeeded in winning the governorship in that state. However, at the federal level labor's focus was almost entirely on supporting Roosevelt, and at the state level even these limited labor party initiatives were drawn into the Democratic Party within a few years.

³ The ACWA was the primary backer of the New York-based ALP.

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the Republican Party.... The re-election of Roosevelt will not solve all our problems, but it will give us a breathing spell (Hillman 1936).

It didn't take long for such circumspect language about Roosevelt and the Democrats to disappear, as labor assumed its position as a key player in the New Deal coalition. By the time of the U.S.'s entry into World War II in 1941, labor's alliance with the Roosevelt administration and the Democratic Party was firmly solidified. FDR appointed labor leaders to several prominent positions in the wartime administration, most notably Hillman, who served as Associate Director of the wartime Office of Production Management (OPM). He also consulted closely with other labor leaders, including not only AFL and CIO heads William Green and Philip Murray, but also other key figures such as Tobin and future United Auto Workers (UAW) President Walter Reuther, then director of the GM Department and a rising power within that union (Kersten 2006; Lichtenstein 1982).

Equally important was labor's increasingly sophisticated and systematic efforts to mobilize votes and dollars for the Democratic Party. Starting in 1936 with the CIO's Labor Non-Partisan League (LNPL), which was soon replaced by the CIO Political Action Committee (PAC), and mirrored by the AFL's Labor League for Political Education (LLPE), labor quickly established itself as an integral part of the Democrats' campaign operations (Draper 1989; Greenstone 1969: 39-58). So politically entwined were labor and the Democrats, and so influential labor's pull on the Democrats thought to be, that Republicans campaigning in 1944 made PAC in general, and Hillman in particular, a major campaign issue (Fraser 1991: 530; Krock 1944). Their slogan of "Clear it with Sidney" sought to emphasize Democrats'

alleged fealty to labor.⁴ While the Republicans were certainly exaggerating for partisan purposes, the very fact that they felt this was an issue worth emphasizing is indicative of labor's new role as a political power player.

Meanwhile, the situation in Canada was quite different. The economic desperation of the Great Depression combined with the example of their fellow workers south of the border did have a radicalizing effect on Canadian workers and led to an increase in labor militancy. However, unlike in the U.S., this increased militancy did not win concessions from the state (Heron 1996: 65-67). To the contrary, it often provoked a more hostile response from both federal and provincial governments, as police and troops were sent in to break up strikes in logging, mining, paper, auto, textile, and other industries (Fudge and Tucker 2001: 153-227). In Ontario, as workers in several cities engaged in sit-down strikes, Premier Mitchell Hepburn vowed that "invading unions," meaning CIO organizers coming up from the U.S., would be turned away at the border (Abella 1973: 7; Palmer 1983: 219). In Quebec, Premier Maurice Duplessis enacted the infamous "Padlock Law" in 1937, which allowed the state to seize the property—literally padlock the doors—of any group suspected of promoting Communist ideas, which often included unions. And at the federal level, Prime Minister R. B. Bennett used immigration law to deport so-called "undesirables," which tended to include union activists (Fudge and Tucker 2001: 212-13; Petryshyn 1982: 46-47; Whitaker 1986). Provincial and federal governments did respond to some of the more egregious employer abuses of the day by enacting regulatory laws regarding minimum wages and hours of work, but none

⁴ The quote, attributed to Roosevelt, refers specifically to a supposed veto that Hillman had over FDR's choice of running mate in the 1944 election.

came close to the regulation embodied in the U.S. NIRA or NLRA, and none sought in any way to deepen state involvement in collective bargaining (Fudge and Tucker 2001: 153-227; McConnell 1971).

In the political realm, the Cooperative Commonwealth Federation (CCF), a left-wing party formed in 1932, espoused pro-labor views. However, it remained largely a party of intellectuals for much of the 1930s and 40s, establishing only tenuous official ties with the labor movement in the early years (Palmer 1983: 213-15). It also remained relatively marginal, with only a few Members of Parliament at the federal and provincial levels, although the party did begin to gather strength in the 1940s [CITATIONS].

In sum, the Canadian labor movement of the 1930s and early 1940s can best be described as politically marginal. While their American counterparts enjoyed access to the highest echelons of government as key members of Roosevelt's New Deal coalition, Canadian labor leaders remained largely excluded from processes of political decisionmaking, their access generally limited to the same ritualized annual "cap in hand" meetings with Cabinet as in previous years. Similarly, their experience of state intervention continued in the tradition of repression and coercion with which they were long familiar.⁵

Different Levels of Influence: Labor Policy Formation in the U.S. and Canada

Thus far, it should be clear that the U.S. labor movement had far more access to state decisionmakers than their Canadian peers. Up until the early 1940s it would

⁵ This is not at all to suggest that repression and coercion did not continue to be aspects of state intervention in the U.S. However, the introduction of industrial legality in that country with the passage of the NLRA added another dimension to state involvement in U.S. labor relations.

also be safe to say that the U.S. labor movement had far more political influence than their Canadian peers. This however would not hold true by the end of the decade. Over the next few years, Canadian labor would be able to fight for and win a regime of industrial legality that would prove relatively stable. At the same time, U.S. labor, with ever more access to power and increasing stature within the Democratic Party, saw its influence slip, as most clearly evidenced by the 1947 passage of the Taft-Hartley Act, which undermined many of the rights labor had won in 1935 with the Wagner Act. In order to understand how and why this happened, we must examine how state structures channeled class conflict in different ways in each case, thus affecting each labor movement's ability to articulate and defend its class interests, as measured by the relative strength of each country's labor regime.

Industrial Legality Comes to Canada

Unlike in the U.S., where politicians concerned about growing a working class upsurge in the 1930s passed legislation mandating collective bargaining rights (Goldfield 1989), the Canadian government's high-handed attitude towards labor continued well into the prosecution of World War II. Labor, particularly the new industrial unions organizing under the auspices of the CIO-connected Canadian Congress of Labour (CCL), had been pushing for Wagner Act-style reforms since the late 1930s, but to little avail. Similarly, certain provinces had enacted legislation to encourage limited forms of union recognition and collective bargaining, but employers largely ignored such laws (MacDowell 1978). Prime Minister William Lyon Mackenzie King, returned to office in 1935 after a five-year interlude of Tory rule, was personally sympathetic to the idea of collective bargaining, but above all was loath to mandate government intervention in the process. Rather, he clung tightly to the strictly voluntary model of labor-management relations he himself had helped enshrine into law in 1907 as the Industrial Disputes Investigation Act (IDIA), while he was serving as Canada's first deputy minister of labor. Meanwhile, the rest of his cabinet was even less amenable to the idea of union recognition or collective bargaining rights, remaining much more sympathetic to business interests (Fudge and Tucker 2001; MacDowell 1978).

As industrial unrest began to spread during World War II, the Mackenzie King government's response was to ratchet up restrictions on striking. Minister of Munitions and Supply C. D. Howe stated that "Canada cannot afford loss of production resulting from this type of dispute ... an illegal strike, in times such as

these, is almost equivalent of desertion by a man in uniform in the face of an enemy” (quoted in MacFarlane 2005: 619). While paying lip service to collective bargaining rights through measures such as order-in-council PC 2685, which offered a voluntary framework for settling industrial disputes, the overall thrust of Canadian wartime labor was coercive, imposing ever-stricter wage controls and strike prohibitions (Camfield 2002: 158-78; Fudge and Tucker 2001; MacDowell 1978).

Despite government efforts to tamp down labor militancy, the strike wave continued to grow. Between 1942 and 1943, the number of workers involved in strikes nearly doubled from 113,916 to 218,404, the most ever recorded up until that time (Labour Canada 1977: Series E190-197). At the same time, the government’s public role in undermining union efforts to gain employer recognition and collective bargaining rights in high-profile disputes such as the National Steel Car (NASCO) strike in 1941, and especially the Kirkland Lake gold mine strike in 1942, belied whatever pronouncements government officials made in support of collective bargaining, fostered increased disillusionment within the ranks of labor, and stoked the fires of increased industrial unrest (Camfield 2002: 158-78; Fudge and Tucker 2001; Hollander 2001; MacDowell 1978).

Increasingly concerned about the effect that labor militancy was having on wartime production, Mackenzie King convened a National War Labour Board in April 1943 to hear testimony from invited experts and interested parties regarding the deterioration in labor relations and wage/price stability. In order to give the Board a semblance of independence from Cabinet, he appointed noted jurist C. P. McTague to serve as chair. He in turn helped to recruit the remaining Board

members on a representative, tripartite basis, with management attorney J. J. Bench representing employers and labor attorney J. L. Cohen representing workers (Hollander 2001).⁶

The first witnesses called at the first day of hearings on April 15, 1943 were AFL-connected Trades and Labour Congress (TLC) head Percy Bengough and CCL head Aaron Mosher. Bengough wasted no time raising his primary concern—labor’s exclusion from political and administrative decisionmaking: “There is one thing that comes to my mind, and that is the question of labour representation on war production boards, administrative boards. That is a matter which has caused considerable dissatisfaction and unrest throughout Canada with the working people. I was wondering if that matter could be brought up here, because it is...one of the most serious and one which needs rectification.... In view of the...great amount of unrest it has caused, and the great hostility of management towards labour.” Echoing Bengough, Mosher stated that “labour wants to be taken into partnership because labour feels that it has more at stake in this war than any other class in this community, because it realizes that it will suffer most in the event that we should lose the war.” Mosher added that “another thing we think the government might do, instead of passing pious resolutions such as we have in PC 2685, which suggests there should be a certain relationship between employers and workers, is to make it compulsory for some of their own branches to bargain collectively” (National War Labour Board 1943: 4-5).

⁶ Bench would soon be replaced by Montreal corporate attorney Léon Lalande, in order to ensure francophone representation on the Board.

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After hearing weeks of testimony and wrangling over report language for another several months, the NWLB issued two reports in August 1943, a majority report signed by McTague and Lalande, and a minority report signed by Cohen. While differing in some respects, both reports agreed on three fundamental tenets: 1) compulsory collective bargaining; 2) compulsory arbitration of disputes; and 3) labor representation on all administrative bodies dealing with labor, wages, and/or production (Economic Advisory Committee 1943). The testimony and ensuing reports created political pressure for the Cabinet to revise its resolutely voluntarist/abstentionist position with regard to labor relations.

The electoral realm provided an additional stimulus to move towards a comprehensive labor policy. With the governing Liberal Party and the opposition Conservatives both supporting increasingly repressive measures against labor, more working class voters began seeking alternatives to the mainstream parties. After several years on the margins, the CCF began winning more seats in federal and provincial parliaments. In February 1942, the party scored a major coup when its candidate, J. W. Noseworthy, defeated Conservative Party leader and former Prime Minister Arthur Meighen in a by-election in the previously deep Tory blue riding of York South (Granatstein 1967). On August 9, 1943, Liberal candidates went down to defeat in four by-elections. In the Montreal riding of Cartier, open Communist Fred Rose took the seat (McHenry 1949: 376). By the end of 1943, the CCF had risen to become the Official Opposition in the provincial parliaments of British Columbia, Manitoba, Ontario, and Saskatchewan (Willoughby 1951: 107).

The combined pressures of the mounting strike wave, the NWLB hearings and report, and the electoral threat from the left prompted the Liberal government to change course. Writing in his diary on the night of the August 9, 1943 defeats, Mackenzie King blamed his cabinet's anti-labor hostility for the poor showing, noting that "I really feel that [Munitions and Supply minister C. D.] Howe, more than any other Minister, is responsible for the result, he having had so little sympathy with labour. [Finance Minister James] Ilesley also in his unyielding attitude and not helping to make concessions in the right." Continuing, he opined that "it may well be that losses to the CCF and Labour...will cause some of our people to realize that labour has to be dealt with in a considerate way.... What I fear is we will begin to have deflection [sic] from our own ranks in the House to the CCF" (King 1893-1950: August 9, 1943 entry).

Over the next six months King and his cabinet wrangled over an order-in-council enunciating the government's new labor policy. The order, known as PC 1003, was proclaimed on February 17, 1944. Given the anti-labor animus amongst many cabinet members, the policy focused less on explicitly promoting collective bargaining rights, à la Wagner Act, and more on creating mechanisms for ensuring industrial peace. It included several provisions similar to the Wagner Act, most significantly compulsory collective bargaining, exclusive representation rights, enumeration of unfair labor practices, and banning of company-dominated unions. However, in the interest of "balance" and not wanting to appear to favor labor, PC 1003 added some important restrictions on labor not included in the Wagner Act. Notably, the order enumerated unfair labor practices for both labor and

management, imposed compulsory conciliation prior to taking strike votes, and banned strikes and lockouts while a collective bargaining agreement was in effect. Some of these provisions would soon migrate south and find their way into the U.S. Taft-Hartley law of 1947 (Hollander 2001; MacDowell 1978).⁷ While PC 1003 laid much of the groundwork for industrial legality in Canada, two other key elements completed the formation of the Canadian labor regime. The first was the so-called “Rand Formula,” which provided Canadian unions with union security protections similar to those U.S. unions had won earlier in the decade. The formula was part of the settlement of the UAW’s landmark 1945 strike against Ford in Windsor, Ontario, which laid the groundwork for organizing the entire company in Canada. The company and the union agreed to submit their unresolved claims to an arbitrator, Supreme Court Justice Ivan Rand. In his decision, Justice Rand granted the union recognition (the right to act as the workers’ collective bargaining representative with the company), dues checkoff (the right to have the company deduct members’ dues directly from their paychecks and remit it to the union), and maintenance of membership contract language (whereby workers who are members of a union at the time the contract is negotiated must remain members for the duration of the agreement). In exchange, Rand imposed two restrictions on unions: 1) the requirement that any industrial action be ratified by a government-supervised, secret strike ballot; and 2) fulfillment of all duties to the employer, which included

⁷ Not coincidentally, Mackenzie King drew upon the expertise of some U.S.-trained labor relations experts in drafting the order, including his deputy minister of labour, Bryce Stewart, who went on to become the research director for the Rockefeller-backed Industrial Relations Consultants (IRC) in New York, as well as former U.S. NLRB member Gerard Reilly, who would go on to play a key role in drafting the Taft-Hartley Act (Hollander 2001: 318).

policing wildcat (non-leadership authorized) strikes, which had become endemic in the 1946 postwar strike wave. The Rand Formula quickly gained wide acceptance throughout the country, and was soon incorporated into virtually all collective bargaining agreements in Canada (Fudge and Tucker 2001: 284-93; Wells 1995: 149-50).

The second element was the passage in 1948 of the Industrial Relations and Disputes Investigations Act (IRDIA). This act codified the basic provisions of PC 1003 into law, and provided a template upon which provinces could in turn base their own labor legislation, after an October 1946 Dominion-Provincial Conference of Labour Ministers decided to legislate labor relations at the provincial level, with the federal government playing a coordinating role (McInnis 2002: 159).

While the IRDIA and Rand Formula have undergone certain amendments and updates in subsequent years, and provincial legislation varies in certain important respects, their fundamental tenets and protections as outlined above have largely remained intact up through today. It is essential to stress here that, as many scholars have previously pointed out, the settlement embodied in PC 1003/IRDIA and the Rand Formula came at a cost to Canadian labor (Camfield 2002: 368-70; Fudge and Tucker 2001: 302-15; McInnis 2002: 183-93). As Don Wells (1995: 150) articulates it, “this model legitimated and stabilized unions at the cost of confining them in a web of legalistic obligations which limited their members’ ability to engage in militant action.”

Nevertheless, in comparison with the shape of the U.S. postwar labor regime, certain key differences in the nature of the legitimacy and stability granted to labor

within the Canadian regime allowed Canadian labor better to retain its gains and articulate and defend its class interests than its U.S. counterparts, despite having less direct political access. In order to demonstrate this, we now turn to an analysis of the post-Wagner Act erosion of the U.S. labor regime.

Greater Access, Fleeting Influence: The Erosion of the U.S. Labor Regime

The U.S. labor movement that emerged from World War II was dramatically different from the one that entered the war. Numerically stronger by almost half between 1941 and 1945—from 10.2 million to 14.3 million—thanks in part to union security language won in exchange for a pledge by top labor leaders not to strike for the duration of the war, labor was also growing into its role as a sophisticated national political campaign organization, closely allied with the Democrats (Dark 1999; Greenstone 1969: 51; Lichtenstein 1982: 172-77). In this capacity they had the ear of powerful decisionmakers in Washington, from the President on down.

And yet, despite its high levels of political access, U.S. labor proved far less able than Canadian labor to exert the political influence necessary to defend its own interests. In 1943, only six years after the Wagner Act was declared constitutional, labor was hit with the repressive Smith Connally Act, which provided for government takeover of war industries, and sought to curtail union political activity. And in 1947, labor was unsuccessful in its efforts to defeat the Taft-Hartley Act, which created new categories of union-side unfair labor practices, curtailed the right to strike, and allowed individual states to enact so-called “right to work” laws, which prohibit any type of union security language in union contracts. Worse still, labor had the additional problem of judges and other quasi-judicial administrators

developing interpretations of the labor law that narrowed and sometimes outright reversed the law's intent (Gross 1995; Klare 1978; Rogers 1990).

In order to explain this paradoxical outcome, I have argued that we must examine the ways in which differences in the permeability of state structures channeled class conflict in different ways in both countries, so that Canadian labor was left with a relatively greater capacity to defend its own interests. Let us now examine how this happened in greater detail

State Permeability and Class Capacities Revisited

As already elaborated above, state structures in the U.S. are more permeable than in Canada, i.e. there are far more points for social groups to gain access to political decisionmakers. This greater permeability in the U.S. context created greater incentives for labor to seek an alliance with the governing Democratic Party, and allowed them to assume their role as a key player in the New Deal coalition.

As labor took on more of a central role in supporting the New Deal coalition and the Democratic Party, their political and organizational responsibilities broadened to include supporting the party as a whole, not just their own constituency: "the unions' behavior is no longer simply a reflex of their own economic position and constituency; they also consider the entire political constituency that the party seeks to mobilize.... This process moderates labor's demands and broadens labor's political constituency" (Greenstone 1969: 16). More importantly, it had the effect of channeling the real working class mobilization of the 1930s into partisan as opposed to class-based political activity (Greenstone 1969: 70).

Concretely speaking, this meant that labor, as a key player in the New Deal coalition, had to peg its hopes for continued influence not on strengthening its own independent political capacity, but rather on maintaining what was an unstable cross-class coalition made up of disparate interests, some of which weren't necessarily sympathetic to labor. As labor's political support slipped in the aftermath of the 1946 strike wave, the pro-labor legislative coalition weakened, leading most famously to conservative southern Democrats allying with Republicans to pass the anti-labor Taft-Hartley Act over President Truman's veto (Farhang and Katznelson 2005).⁸

In Canada, the more impermeable political structures blocked the possibility of a similar alliance with the governing party. Strong parliamentary party discipline left most questions of policy articulation to the top leadership, limiting possibilities for the emergence of individual "policy entrepreneurs" who could advance a minority agenda within the party—and thus serve as potentially attractive political partners for a new constituency trying to gain political access, such as Canadian labor in the 1930s. This tendency towards centralized authority was only accentuated with the outbreak of World War II, as the passage of the War Powers Act increased the power of the federal government and centralized all political decisionmaking power within Mackenzie King's war cabinet.

⁸ It is important not to over-emphasize the substantive importance of the Taft-Hartley Act as a major reversal of U.S. labor policy. As scholars such as Lichtenstein (1982: 238-41) and Klare (1978) make clear, Taft-Hartley was more a codification of a longer process of "de-radicalization" of the Wagner Act that had been taking place in the administrative realm for several years prior.

The effect of this Canadian political impermeability was to drive Canadian labor towards an alliance with the CCF, which articulated a more explicit class-based politics. As such, Canadian political institutions channeled the class conflict of the 1930s and 1940s into political structures that, while certainly taming possibilities for more radical social change, nevertheless allowed Canadian labor to engage in more class-based political activity relative to the U.S. As illustrated above, this more class-independent activity—rising industrial militancy combined with an increasingly viable left-wing electoral threat—successfully pressured the government to accede to labor's wishes, at least partially, and develop a reformed labor policy, first with PC 1003, then with the IRDIA.

Additionally, once Mackenzie King's government was persuaded to move on labor policy, the very same political impermeability that made labor policy so difficult to achieve for labor in the first place also made it more difficult to roll back compared to the U.S. As such, in 1948, in response to employer demands to implement Taft-Hartley-like provisions in the proposed IRDIA, particularly "right to work" language, Deputy Minister of Labour W. Elliott Wilson was dismissive, saying that "Canada has been fortunate in that it has not gone to extremes...the pendulum has not swung so far in either direction" (Anonymous 1948).

Conclusion

As I hope to have shown through this comparison of U.S. and Canadian labor regime formation, access isn't everything. In attempting to understand the complex relationship between access and influence, it is crucial to understand the powerful mediating role of political structures, class conflict, and their interaction.

By any conventional measure, the U.S. labor movement of the 1930s and 1940s was far more of a political powerhouse than its Canadian counterpart. With millions of members, treasuries in the tens of millions of dollars, a sophisticated political operation, a sympathetic ear at the White House, and powerful friends in Congress, the Democratic Party and the state bureaucracy, U.S. labor was indeed quite powerful. And yet, even though it had enough political clout to influence the Democrats' vice-presidential choice for the 1944 election, labor found itself unable to prevent the steady erosion of the labor regime it had fought so hard to establish in the mid-1930s. Canadian labor, while smaller, poorer, and with far less political access, did have to wait until midway through World War II to win basic labor rights. However, the conditions surrounding the creation of the Canadian labor regime ensured that labor would be better able to defend its interests over time.

The key to understanding this outcome, I have argued, lies in understanding the different ways in which state structures channeled class conflict in each case, and how that in turn affected labor's class capacity in the U.S. and Canada. The more permeable U.S. state, I have argued, allowed U.S. labor earlier and greater access to political decisionmakers, leading to their playing a key role in the New Deal coalition and the Democratic Party. However, that key role led labor to abandon class-based political activity in favor of partisan political activity, which in turn left it poorly positioned to defend its own class interests. In Canada, the more hostile, impermeable state blocked the possibility of an alliance with the governing party, and led to a prolonged struggle for political inclusion. It was only in the face of rising labor militancy combined with an electoral threat from the class-based CCF that led to

industrial legality in Canada. The resulting regime, while limiting labor's actions in important ways, nevertheless allowed Canadian labor to retain a greater degree of class capacity relative to the U.S.

Although this paper has only examined the relationship between access and influence in the initial period of regime formation, further research could examine in greater detail how that relationship developed over time. Also useful would be a comparative study of the different roles that state coercion has played in the formation and development of both regimes.

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