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Volume 4, 1979

URI : <https://id.erudit.org/iderudit/llt4art01>

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Éditeur(s)

Canadian Committee on Labour History

ISSN

0700-3862 (imprimé)

1911-4842 (numérique)

[Découvrir la revue](#)

Citer cet article

Pentland, H. (1979). The Canadian Industrial Relations System: Some Formative Factors. *Labour/Le Travailleur*, 4, 9–23.

ARTICLES

THE CANADIAN INDUSTRIAL RELATIONS SYSTEM:

Some Formative Factors

H.C. Pentland

BY AN industrial relations system I mean the whole pattern of rules and relationships which have been developed by a society to get its work done. Such a system exists to deal with those basic "labour" problems that any society must solve reasonably well if it is going to survive. These are the problems of getting and keeping a labour force, of training it in appropriate skills, of organizing it efficiently and motivating it effectively. These requirements amount to the same basic problems as the economic theorist's: the allocation of scarce resources among possible uses in such a way as to maximize some conception of income or welfare. The industrial relations approach is more operational than the economist's, however, in the sense that it points towards the complex of human groups and group interests that are involved rather than impersonal forces.

An important component of an industrial relations system is the relevant legal system — the laws and the way that courts apply them. However, an industrial relations system must be understood to include much more than this. As well as laws it is governed by customs, and the attitudes and habitual behaviour of various categories of workers, of employers or managers, and of those who administer government policy. By the same token, the letter of the law can give a thoroughly false conception, since it is notoriously subject to great differences in interpretation and enforcement, depending on public and judicial opinion.

Though the concept of an industrial relations system is applicable to any kind of society, it was devised essentially (about 15 years ago by some American scholars) as a means of viewing and comparing contemporary industrialized countries. Thus, since the technical requirements of industrial production are much the same in the United States and the Soviet Union, and the life styles and outlooks to which the industrial labour forces are conditioned must therefore also be similar, the two countries are forced to have far more in common because of their industrial relations systems than differences because of their ideologies. Personally, I do not find this view very convincing. I do think it valid, however, to compare the industrial relations systems of Canada, the United States, and Britain, in view of the large amount of common background.

Thus, the first of the formative factors to be pursued in this paper is the British (chiefly English) heritage of laws, customs, and attitudes governing the relationships between employer and employed. This is a heritage which, of course, is shared by Britain, the United States, and also Australia. Subsequently, various other factors are discussed, particularly to show how the Canadian industrial relations system has been differentiated from those of the other countries mentioned.

An obviously important part of the Canadian industrial relations system consists in the laws and judicial attitudes that affect it. And these, basically, are a heritage from Britain. However, the heritage is by no means clear-cut and simple. Rather, it includes two rather contradictory elements. One descends from the legal and judicial provisions of feudal and pre-industrial times, designed to deal with the employment problems of that age. The second element has developed as legislators and judges have sought to provide for the relationships of industrial capitalism. But the later approach has not entirely displaced the earlier. Here I will endeavour to explain the evolution of both approaches, in order to show why and how they affect present-day industrial relations.

In contrast to the formal equality before the law of each individual in the industrial capitalist age, the law and courts in pre-industrial society were designed quite openly to compel workers on behalf of employers. This is evident both in the judge-made law of the common law courts of England, and in statutes — notably the Master and Servant law.

A prime task of the new common (i.e. national, non-local) law and of the royal courts that dispensed it was to carry out the so-called "feudal reaction" of the twelfth century. Status in Saxon England had been loose, and obligations vague, to the annoyance of the businesslike Normans; and they set out to establish in England a much more inclusive, precise and severe *serfdom* than hitherto. In this, the common law courts helped greatly by ignoring the peasant rights allowed by local custom, by holding generally that a peasant was a *serf* unless he could prove otherwise and that payment of rent by labour services was a proof of *serfdom*, and by denying *serfs* (in contrast to free men) the right to bring actions in the common law courts. The common law was launched, then, as an agency for compelling peasants to work on the terms dictated by their employing lords.¹

The Master and Servant Act originated with the Statute of Labourers, 1349, again designed to force men to work whether they liked it or not at pre-Black Death wages. It was also an attempt "to fit this new contractual relationship (wage labour) into the still prevalent pattern of unfree *serf* labour."² Through

¹ A.E. Kominsky, *Studies in the Agrarian History of England in the Thirteenth Century* (Oxford 1956), 328-352.

² Daphne Simon, "Master and Servant" in J. Saville (ed.), *Democracy and the Labour Movement* (London 1954), 195.

all its versions down to 1875 the Master and Servant law prescribed imprisonment for workers who left or neglected their employment; whereas penalties for employers who broke their contracts — when any were provided — consisted in mild fines. It was, in fact, a law that assumed that employers were reliable but employees typically irresponsible, and that workers should be made to mind their betters both as a matter of social propriety and to maintain the nation's industrial output. Its social context was neatly illustrated by a case heard as late as 1846 in the egalitarian industrial city of Birmingham. It involved some highly-skilled glass workers who refused to continue their employment because the employer had redefined the piece-work unit of the trade in such a way as to lower their wages by a third. The employer's lawyer conceded that the employer's definition was *not* the one current in the trade. Nevertheless, the magistrate found the artisans guilty, and gave them the usual choice of going back to work on the employer's terms or going to jail. Their offence was serious not so much because they had violated the law, "but because they had called into question the fundamental assumptions underlying the culture. They had had the temerity to dispute the right of the master to interpret a contract with his servants."³

It should not be supposed that the tenderness for employers and suspicion of employees expressed in such law has entirely disappeared in present-day Canada. It survives, for instance, in the legal view that those rights not explicitly allocated in a contract of employment ("residual rights") do not remain for subsequent allocation between the parties, but are the exclusive property of the employer. Other examples are provided by the extreme reluctance of most governments in Canada to prosecute employers even for very blatant unfair practices and refusals to bargain, and by the antagonism of the influential people of Brandon, and of an investigating judge, towards the workers who dared to contest *their* contract of employment with their employer in the Brandon Packers' Strike.⁴ A more recent and pointed example was the jailing of officers of the United Fishermen's Union for refusing to *order* the union members back to work, as a judge demanded.

Past and present attempts to compel labour do not arise purely out of desire to keep the lower classes in subjection: there were also practical reasons. The fact is that, until the nineteenth century, labour was chronically scarce relative to demand. Moreover, unskilled wage-earners were often slothful, and irresponsible about work they did consent to perform. The more so because, by prevailing custom and opportunity, energetic and responsible men would be self-employed farmers or artisans — masters, not servants. The servant population, indeed, was largely made up of teen-age children, whose relationship to their masters was a paternal one, somewhat like that between masters and their own

³ T.R. Tholfsen, "The Artisan and the Culture of Early Victorian Birmingham", *University of Birmingham Historical Journal* (1954), 154.

⁴ George McDowell, *The Brandon Packers Strike* (Toronto 1971).

children. Men who were servants all their lives were taken to lack drive and ability and, as dependants, to deserve no voice in government and a subdued voice in courts. Especially since, far from the servant being considered to benefit his master much, the master was held to confer a boon on the servant by providing him with a livelihood. And enough unemployed indigents starved by the roadside to give this view some practical support. Two further circumstances reinforced this belief in the proper subjection of servants to masters. First, many small enterprises were in a vulnerable position most of the time, and might be forced into bankruptcy if the employees left, went on strike, or were very irregular in attendance. Compulsion of labour was therefore considered appropriate, presumably in the interest of the national economy. It was precisely for the benefit of small and weak firms, Simon tells us (large firms having long since ceased to have any need for it) that a one-sided Master and Servant law was preserved in Britain right up to 1875.⁵ A second reason for the discriminatory attitude of society and the law was the frequently substantial difference between the level of reliability and capacity of employers, on one-hand and wage-earners (unskilled especially) on the other. Variations in this gap, and their consequences, are discussed later in this paper.

In Canada, too, a paternalistic climate of employment hung on very late. It was fostered not only by the British legal heritage, but also by the vulnerability of many small and old-style firms, and by the decided gap in eastern Canada between the attainments of employers and those of unlettered and often child-like workers. This gap was the more crucial because many early employments, such as the fur trade, featured severely restricted labour markets in which there were neither alternative jobs nor alternative workers. Employers had therefore to demonstrate true capacity to lead and manage their employees by persuasion, for discipline imposed by threat of dismissal was not really practical. This system was gradually dissolved by the rise of a well-supplied capitalistic labour market in the cities. It was only driven out of the eastern Canadian lumber industry, however, by rapacious employers interested only in quick profits, about 1900. And in not a few small manufacturing firms, it hung on longer than that, especially when encouraged by the climate of rural areas and small towns, and the mutual anxiety for protection from outside competition. It should not be surprising, then, that some signs of the system are still with us.

An industrial capitalist society, increasingly dominated by large-scale enterprises, has been around — even in Canada — for well over a century. So has the rationalized capitalistic labour market in which an employer can be confident at almost any time of getting the workers he wants; hence, can afford to treat labour impersonally and discard it at his convenience. It has therefore been appropriate that the law and the judiciary should revise their viewpoints to admit a formal equality of employer and employee before the law, matching their formal equality in the market. Indeed, long before the unequal law of

⁵ Simon, "Master and Servant," 190-195.

Master and Servant was abandoned, large industrial firms made little use of it, since they possessed the more powerful and immediate sanction of being able to fire and replace at will. Similarly, the courts — though they will come within an inch — have been reluctant in recent times to enforce an unequivocal involuntary servitude on workers.

However, this liberalism developed in relation to a situation in which the employee — unless he had a most unusual individual bargaining power — was weaker than the employer and had no practical alternative to accepting the employer's terms. Again, by another route, the employee was dependent on the employer. This inequality can be overcome in greater or lesser degree by concerted action of the employees. But the liberalism of the industrial capitalist age becomes greatly restricted when the prospect of effective collective action by employees appears. The fact has been, indeed, that employers and the courts have sought laws and practices that will accomplish in the industrial age what the Master and Servant Act did in an earlier one: namely to confine sharply attempts by workers to challenge the authority or interrupt the operations of their employers. This restrictive attitude is especially apparent when the employees in question are unskilled, have not previously enjoyed rights of collective bargaining, and are employed in small cities where a paternalistic conception of employment relationships is still strong.

The hostility of the common law to unions was a late (seventeenth century) development following from the objections which the courts of that period discovered to any "conspiracy in restraint of trade." Both before and after, the artisan was accepted as a person of some status, a possessor of property (his craft, if not a shop), more reliable and deserving than the labourer. In the Middle Ages artisans were allowed guilds (as labourers were not) and later, as industrial capitalism developed, there was not very strong opposition to the formation of trades unions. Thus, London employers bargained collectively with various trade unions all through the period of the Combination Acts (1799-1824) which put into statute the common law view that unions were illegal bodies. Similarly, although the legality of unions in Canada was certainly doubtful before 1872, when the Trade Unions Act was passed, various unions carried on for decades before that without legal disturbance. Then and later, craft unions seem to have been at least as acceptable to Canadian employers as to those of the United States and Britain.

On the other hand, when semi-skilled workers organized into unions (necessarily of an industrial form) in the 1880s and 1890s in both Britain and the United States, they were violently opposed by employers in both countries. It was made apparent that employers, though they might tolerate unionization of craftsmen, were determined to preserve the dependency of the lower strata of wage-earners, notwithstanding that the paternalism which had once given it meaning had largely gone. And, both in Britain and the United States, employer resistance to an extension of unionism received important support from the courts. The crucial contribution of the American courts was the labour

injunction. Following its invention in 1888, it rapidly became a kind of *carte blanche* by which almost any American employer could enlist the public authorities to break the strike — and, therefore, the union — of his employees.⁶ In Britain, rising hostility of the courts towards unions culminated in the Taff Vale decision of 1902, which held a union to be a legal entity liable to suit, and therefore exposed to the levy of potentially unlimited damages for actions alleged to have been performed by the union's members.⁷

While opposition to industrial unionism was later and less systematic in Canada, it has been strongly maintained almost to the present day. In Britain, the Taff Vale decision was reversed by statute after a few years. In Canada, however, though the legal status of unions remained rather uncertain for a long time, unions by statute are nowadays legal entities for most purposes. The instincts of the courts in these matters were demonstrated rather amusingly by a series of decisions of the Manitoba courts in the late 1950s and early 1960s. In these, the courts ruled with perfect consistency and partiality. Whenever a union brought a legal action against an employer, the judge ruled that a union was not a legal entity, and hence could not advance its suit. Whenever an employer brought an action against a union, however, it was held that the union was indeed a legal entity and could be sued. When to maintain this record, one judge had to reverse the position he had taken in a previous case, he did exactly that, ruling that he had been in error the first time.

Canada has also experienced extensive use of the labour injunction. This device, by facilitating the use of strikebreakers and hampering or prohibiting boycotts, recaptures the old anxiety about letting an employer do what he will with his own, and ensuring opportunity to continue production. Nor have Canadian employers ever relented much in their opposition to industrial unionism, even though this was the only basis on which resource industries and an increasing list of manufacturing industries could be organized. Right down to PC 1003 of 1944 — the first statute that required Canadian employers to bargain with unions chosen by their employees — employers were most reluctant to recognize the right of workers to be represented by unions — as were governments also. And, even now, there are not many employers who accept unionism gladly and regard it as a positive advantage.

Some reasons for this reluctance may be suggested. There are still a good many firms in Canada that consider themselves competitively weak compared with firms in other regions or countries, and believe that they should have a free hand to compensate for their other weaknesses by providing poorer wages and working conditions. That unions would interfere with such arrangements is likely enough. Next to consider are American subsidiary firms, typically large, which have dominated a number of Canadian industries since at least 1910. In

⁶ A.G. Taylor, *Labor Problems and Labor Law* (New York 1950), 484-5.

⁷ John Saville, "Trade Unions and Free Labour: The Background of the Taff Vale Decision" in A. Briggs and J. Saville (eds.), *Essays in Labour History* (London 1947).

their case, objection to unionism was usually based not in a sense of weakness, but in the philosophy of welfare capitalism and company unionism that was long prominent in the United States. However, both these bases of objection might have withered sooner had it not been for a third and more powerful force: the influence of chronic large-scale unemployment. There have been few years in the past century when unemployment was not substantial in Canada; and the steadily enormous unemployment of the 1930s seemed to have a greater impact on employers than the occasional good years. Employers have therefore tended to conduct their industrial relations in terms of large surpluses of labour seeking employment, and to find little advantage in cultivating their labour force or the unions that represent it. The result is a perpetuation of the ancient concern to minimize the rights and maximize the subordination of employees. A current illustration is the fierce opposition mounted by employers to implementation of the Freedman Report, which merely proposed that employers be required to negotiate substantial technological changes with the workers who would be affected by them.

Though Canada shares a tradition of law and outlook with Britain and the United States, the fact is that these countries have diverged in various ways, with some striking consequences for Canada.

The labour movements and industrial relations of these countries evolved in similar ways up to the 1880s — allowing some lag for the less mature Canada. Moreover, in and about the 1880s they experienced a similar challenge. Hitherto, unionism had been largely confined to the crafts. However, there was a rapidly expanding army of semi-skilled non-craft workers in mining, railways, shipping, and in manufactures developing mass production techniques. Moreover, these workers were a great deal more literate and informed than their fathers had been. Already in the 1870s these workers had made some vigorous attempts at unionization, though without much permanent success. They tried again in the 1880s and 1890s and, as has been noted, met fierce opposition from employers and the courts both in Britain and the United States. In other respects, however, the records diverge very significantly. The leaders of the new unionism were more realistic and effective in Britain than in the United States. The British craft unions were, to be sure, suspicious of this upstart industrial unionism that depended on mass action and was led by socialists. However, the new unionists avoided conflict with the older craft unions and sincerely appealed for labour unity. Moreover, their constant reminders that technology was destroying the value of craft skills and reducing all workers to mere providers of muscle contained all too much truth, and convinced many artisans that there should be a common front of labour against capitalists, and not a common front of the establishment of capitalists and skilled workers against the lower orders. The Taff Vale decision consolidated this sentiment, both on the union front and on the political front.⁸

⁸ E. J. Hobsbawm, "The Labour Aristocracy," in *Labouring Men: Studies in the History of Labour* (London 1968).

Things turned out very differently in the United States. There the chief vehicle for unionization of the semi-skilled in the 1880s became the Knights of Labor, which had a very inclusive structure facilitating industrial (even heterogeneous), as well as craft unionism. It also had a backward-looking, if pleasantly uplifting, social philosophy, which proposed to abolish the "wage system" peacefully by substituting producer co-operatives in place of profit-seeking firms, and tended to regard strikes as a pointless interruption to this great design. This philosophy was not without advantages: it appealed powerfully to American (and Canadian) workers in the period of transition to large-scale industrial capitalism. Unfortunately, however, in the heady days of 1886 when the Order had inadvertently won some strikes and was overrun with applicants for membership, the leaders of the Knights proposed to take over and dissolve the craft unions, distributing the members among the heterogeneous geographic units that were calculated to bring about the co-operative society. The effect of this, naturally, was to antagonize mightily the craft union leaders who that year formed the American Federation of Labor. The AFL became about as interested as the American capitalists in bringing about the demise of the Knights which, in fact, was accomplished in the United States (not Canada) by the early 1890s. The AFL displayed much the same hostility to every subsequent attempt at rival ("dual") and, especially, industrial unionism.

Even if the 1886 episode had not occurred, it is likely that the American craft unions would have developed their narrow, intolerant, and immediate attitudes. For the crafts shared with other important elements of American society that belief in the survival of the fittest, and ruthless pursuit of self-interest in total disregard of others, that became especially prominent in the period following the Civil War. This philosophy, with its concomitant hostility towards state intervention on behalf of the common welfare, already differentiated American attitudes from those of Britain, with its tradition of the paternal father-state, and Canada, where the father-state conception was still stronger. So, while 1886 helps to explain the AFL devotion to autonomous craft unionism, and its opposition to either state action or idealistic philosophy, the perpetuation of these attitudes owes much to "Social Darwinism." So, perhaps, does the AFL hostility to socialists and to intellectuals; but reason for these could be found in the peculiarly divisive socialism which the Socialist Labor Party made prominent in the United States. Whatever the precise origins, the essential point is that here was a dominant labour movement that went off in a different direction from the movements of Britain, of Canada, or, indeed, of any other country in the world. In particular, here was a unionism that would neither organize the army of non-craft wage-earners itself, nor let anybody else do it.

Canadian labour, when left to itself, developed neither the British nor the American situation. There seemed little hostility between craft unions and such industrial unions as developed in Canada in the nineteenth century. The weak-

ness of every type of unionism probably played a part in this — internal strife could not be afforded. Canadian unionists, when not interfered with, have almost always showed a strong preference for labour unity and the accommodations required to maintain it. Canada was also distinguished in the nineteenth century by *not* having much of the systematic employer hostility to unionism that appeared in Britain and the United States. A prime reason for this was the employer interest in retaining labour support for tariff protection.

But Canadian labour was not left to itself: rather, it was influenced by the British labour movement, and still more by the American. From Britain, Canada got many staunch union members and leaders. They contributed, among other things, much of that balance or wholesomeness, and of that constructive and not-too-doctrinaire socialism that characterized Britain. They also strengthened the Canadian propensities to value state action and to engage in labour politics. From the United States came both western radicalism and eastern conservatism. The latter involved a most important and traumatic experience: in 1902 the AFL forcefully took control of the Trades and Labour Congress of Canada (which it retained for the next fifty years) and used it as a base for enforcing AFL conceptions on Canada.

From 1897, when both prosperity and unionism began distinctly to rise in Canada, until the culmination of the western labour revolt in 1919, the expansion and militancy of unionism in Canada's four western provinces had a powerful influence on the development of Canadian industrial relations.

In this period eastern Canada, like eastern United States, still retained many small firms, manned by docile workers, preserving a paternal atmosphere, and typically in protected manufacturing industries. The west was quite different, both in Canada and the United States. What predominated here was the large-scale capitalism of railway companies, mining companies, and timber companies, often marked by an absentee ownership interested only in quick and large profits. The workers who came west were also different: strong, ambitious, self-confident, and probably equipped with the highest level of education and information of any labour force in the world at that time. Not infrequently, labour also was scarce relative to expanding demand. Hence, western workers enjoyed higher wages than others and wished to preserve them, and had both more cause and more opportunity to form industrial unions of the non-craft workers. Conditions also fostered the spread of socialist ideas, which the isolated and ingrown character of many western towns pushed in a syndicalist direction.

In these circumstances, the western provinces which had 11 per cent of the Canadian population in 1901 already had at that time about 20 per cent of all the union locals in Canada. In the following decade, union membership grew about as much in the west as in the whole of the east. Hence, by 1911, when 24 per cent of the Canadian population was in the western provinces, they harboured a third of Canada's union membership. Nor was this a very subdued third. It fought titanic battles with anti-union employers, and it was quite pre-

pared to educate the backward unionists of the east: especially on the point that obsolete craft unionism should be superseded by the more efficient industrial form. It was on this issue of structure, in fact, that the western unionists withdrew from the Trades and Labour Congress and formed the One Big Union in March 1919, on the eve of the Winnipeg General Strike.

After the breaking of the General Strike (and, temporarily, of industrial unionism), the exhaustion of western labour, along with the unpropitious climate of the 1920s and 1930s, decreed that western unionism would be both less militant and less influential. Nevertheless the effect on industrial relations of this remarkable labour movement has been very substantial. Some of the contributions, such as a tradition of militancy and solidarity — perhaps especially in resource employments — and a strong bent for labour and socialist political action, even the promotion of industrial unionism which was eventually widely accepted in the east, can only be stated in general terms. The impact on Canadian labour legislation, on the other hand, was quite direct.

Until 1944, the only legislation governing industrial relations in the Canadian federal jurisdiction — and, pretty much, in any jurisdiction — was the 1907 Industrial Disputes Investigation Act and its unused predecessor, the 1903 Railway Labour Disputes Act. Both of these works of Mackenzie King and the Laurier government grew directly out of western labour disputes, in which King became involved as deputy minister and conciliator. The earlier of these acts was inspired particularly by a 1901 strike of the CPR trackmen (maintenance of way employees). What made it practically impossible to settle this dispute (and many others of the time) was a refusal of the company "on principle" to deal with the union (it would only deal with *trades* unions). King thereupon in 1902 introduced into Parliament a Railway Labour Disputes Act which prescribed compulsory conciliation and, if that failed, compulsory arbitration. Hence, an employer would have to acknowledge the union of his employees *de facto*. However, it was the craft union leaders of the United States, railway and otherwise, who raised a furious campaign against the bill — especially compulsory arbitration — and induced its withdrawal. The 1903 Act retained compulsory conciliation but dropped the arbitration feature.

The 1907 Industrial Disputes Investigation Act also developed out of a western labour dispute, this time a strike of Lethbridge coal miners that threatened the winter coal supplies of western residents. It applied to a wide range of what were considered essential industries, including a number now held to be within provincial jurisdictions. It prescribed what has become the distinctive Canadian formula: compulsory conciliation first by a conciliation officer and then by a tripartite board which reports its recommended terms of settlement: prohibition of strike or lockout during the period of conciliation but freedom after the report has been made to strike or lockout. This arrangement provided the only means of resolving disputes until 1944, and is still a part of Canada's labour relations acts.

A further point can be made about the contribution of western militancy to

the Canadian industrial relations system. It is sad but true that Canadian employers as a group — and Canadian governments — have never taken a forward step in industrial relations by intelligent choice, but have always had to be battered into it. Thus, PC 1003 of 1944, which finally introduced compulsory union recognition and collective bargaining into Canada, was not a product of government or employer enlightenment. Rather, it was forced out of a most unwilling government and set of employers by the terrifying rise in time lost by industrial disputes in 1943. Similarly, it was the militancy of western labour, nothing else, that produced the legislation described above. Perhaps the IDIA was a modest thing, but it did force the parties to acknowledge each other and, in slightly different circumstances, it could have been a system of compulsory arbitration, such as Australia established about the same time. The great upsurge of western labour militancy in 1918-1919 also provided a great stimulus to employers, who began to talk in remarkably enlightened terms about the desirability of unemployment insurance, pension systems, employee representation plans, even unions. In this case labour was crushed, not accommodated. Nevertheless, a few of the alleviations talked of in 1919 were actually retained to ease the employer dictatorship of the 1920s.

Before 1900 there was virtually unrestricted movement across the Canada - United States border, so that the two countries in effect constituted a single labour market. It was therefore "natural" that many Canadian union locals should affiliate with the more numerous locals of the same trade in the United States to produce "international" unions. There is nothing to indicate a suspicion of Canadian unionists that they were on the road to American control of their union activities. The Knights of Labor, which was immensely popular in Canada in the 1880s, remained important there for 15 or 20 years after its demise in the United States. It therefore demonstrated that, though a union body originated in the United States, it could be totally controlled in Canada. The Trades and Labour Congress of Canada was at least as old as the AFL. And its 1901 discussions were certainly based on the assumption that Canadians would go on running their own affairs. Indeed, warmed by the solicitousness of the Laurier government for the views of labour, Canadian unionists felt that a new era was opening. And so it was. In 1902 the AFL unions took control of the TLC, kicked everybody else out, made the TLC a pensioner of the AFL (at \$500 a year), and retained this domination thereafter — tightening the noose once in awhile when the Canadians showed signs of restlessness. At least three vital questions follow. Why did the AFL want this control? How did they get it? Why did Canadians let them keep it?

At the 1901 convention the president of the TLC attacked the AFL (perhaps unknowingly) in its most sensitive spot: he proposed that the union dues which many Canadian unionists paid directly to the AFL unions ought to be paid to the TLC, so that it could promote union organization under Canadian auspices. But that was not all. The TLC voted in favour of compulsory arbitration of industrial disputes, which Canadian unionists had been advocating for many years,

although what they often had in mind was conciliation. Recall that Mackenzie King took the TLC at its word, and included compulsory arbitration in his 1902 Railway Labour Disputes Act. American craft union leaders, who had an objection amounting to an obsession to government intervention in labour matters, feared that this Canadian example would be taken up in the United States, and so pressed the Canadian government to give up compulsory arbitration — which it did. Besides, the AFL was irritated by the tolerant inclusiveness of the TLC, which admitted “dual” industrial and Knights of Labor unionists. It was too much for Samuel Gompers and — not a squeamish man — he changed it.

The professional AFL organizers lacked many things, but not businesslike methods: they were, *par excellence*, the organization men of labour. More than most, they took the trouble to affiliate with the TLC and attend its conventions. And less than 10 per cent of Canada's unionists were affiliated to the TLC in 1901 — that is, while non-AFL unionists were devoted unionists, not many of them were systematic or interested enough to maintain affiliation with the TLC. It was, therefore, rather easy for the AFL machine to ensure a majority of its people at the 1902 convention, to expel all others, make the TLC's policies those of the AFL, and ensure that there was no more talk of the TLC becoming an independent and equal national body.

It can be reiterated that the AFL organizers were the efficient “business” unionists who produced, not ultimate ends, but groceries now. And this practicality recommended them to many Canadians. The more so because weak and defensive Canadian employers who wanted to save themselves by paying low wages waxed suspiciously loud against foreign union interference. The more so, again, because American firms (often more efficient than their old-fashioned Canadian competitors) were at that time taking over a number of Canadian industries; and the belief existed that American unions would be better able than strictly Canadian ones to deal effectively with American owners. Moreover, the AFL unionists neutralized Canadian opposition by putting up with some Canadian idiosyncracies that they found objectionable but not serious. Thus, provincial labour bodies could support labour parties if they wanted to; once compulsory arbitration was dropped, the crafts were willing to put up with compulsory conciliation for others; and there was no strident opposition to the tariff. Finally, but not least important, the AFL group could and did fight in their usual no-holds-barred style, when enough was at stake. Thus, in 1919 they put more energy into defeating the Winnipeg General Strike and the threat of industrial unionism than they had ever devoted to organizing the unorganized. Nor did AFL power and purpose wither: in 1939 the AFL was able to force the TLC to expel the CIO unions, and in 1948 to expel the Canadian Seamen's Union — in both cases, against the strong preferences of most of the TLC members.

One consequence, of course, was that Americans had control of the main Canadian labour movement. If we accept the view of the main historian of industrial unionism in Canada, that American control of Canada's CIO unions

became "irreversible" in the 1940s,⁹ then Canada never enjoyed an autonomous labour congress until formation of the Canadian Labour Congress in 1956 — if then.

A second consequence was the discouragement of Canadian government intervention in industrial relations, and particularly of compulsory arbitration. From at least the 1870s, Canadians (including unionists) seem to have had a frequent preference for compulsory arbitration as a means of settling disputes. In contrast to American consciousness of strength and suspicion of the state, Canadians have been drawn to arbitration both by their feeling that the economy is fragile and cannot stand unlimited industrial warfare, and by their faith in the father-state. This leaning found some pale expression in compulsory conciliation. More recently, it has appeared in the Canadian provision for compulsory arbitration of disputes over the interpretation of contracts, and for compulsory arbitration in settling contracts of various groups of public service employees. However, it might easily have had earlier and wider application if Canadian sentiment alone had been involved.

The discouragement of government intervention had another, broader, consequence. Canada avoided extensive legislation, foregoing a government-operated system of industrial relations in order to keep the way open for a voluntary system. But, in contrast to Britain and Scandinavia, where reasonably effective voluntary systems were achieved, the AFL failed to establish (indeed, to try for) a voluntary system in Canada that would affect any substantial proportion of workers — just as it failed in its own country, the United States. Canadian workers were therefore left for several decades without either a meaningful state system, or a meaningful voluntary system. In effect, there was no system, except the ancient prescription of master and unquestioning servant.

A further consequence of 1902, not unrelated to the one just described, was the long delay in achieving a generally effective, industrial unionism in Canada. It has to be said that the western unionists (and some in the east) tried. But it has also to be said that they were defeated, so setting back industrial unionism and industrial relations by 20 years or more. For that matter, the inappropriate forms and divisions of American unionism in Canada still remain a substantial obstacle to efficient union organization and more sophisticated industrial relations.

Finally, the 1902 take-over — and an earlier AFL take-over of the Montreal Labour Council — must bear substantial responsibility for the alienation of French-Canadian workers from the main body of Canadian labour. The Knights of Labor, with its idealistic outlook and inclusive structure, had had an enormous appeal for French-Canadians. When it was driven out, many of these French-Canadians remained apart, eventually developing their own French,

⁹I.M. Abella, "The CIO, the Communist Party and the Formation of the Canadian Congress of Labour, 1936-1941," *Historical Papers*, Canadian Historical Association, 1969.

Catholic and "Canadian" congress. They thus accepted and intensified the separateness which they felt had been thrust upon them.

Much more could be added, but this paper will be brought to an end with an hypothesis. It is the proposition that industrial tension and conflict have waxed and waned, depending on whether the differential in capacity between employer and employed is narrow or wide.

It was pointed out that pre-industrial law and custom was based on the expectation, very frequently realized, that the master would be capable and reliable, the servant unreliable and "dependent" in the exact sense. The gap in capacity and authority, probably already wide, must have been widened in England following an educational revolution in the sixteenth century. Thereafter, the propertied classes had a grammar school level of education — as they still mostly had in the nineteenth century.

With some notable exceptions, the employers of the Industrial Revolution were pretty mediocre men. The skilled workers, however, increased markedly in numbers, and also in intelligence. Dozens of them, in fact, were better men than the masters. No wonder, then, that there was much industrial conflict, and some really tremendous labour movements. Partly at fault was the law, which had transformed a medieval title of status (an earned degree) into a modern and unearned right of property. Hence the owner, no matter how incompetent, had the legal right to exercise authority over the employees.

The great upsurge of industrial unionism in the 1880s and 1890s, and the conflicts that followed, had much to do with the fact that semi-skilled workers had advanced mightily in information and competence, while owners had scarcely advanced since the 16th century. Similarly, as has been noted, the early twentieth century confrontations of the Canadian (and American) west, had much to do with a very high level of competence of employees, matched against a dubious capacity of many owners and managers. Still, the increasing presence of managers probably helped to keep the competence gap (the title to authority by capacity) open.

The gap in question had been a visible one in most eastern Canadian employments, facilitating a ready acceptance of employer authority and a generally peaceful (unrebellious) industrial relations. Since 1920, western Canada has also shifted towards this situation, as the average level of schooling and information of workers declines, while that of the increasingly ubiquitous managers appears to have increased. These changes invited, if they did not establish, the lack of questioning and initiative of workers in the 1920s.

The depressed 1930s involved ample misery, but, by enforcing unlimited spare time for millions, they opened the way for a great expansion of reading and discussion to produce a vast, if unofficial, adult education movement and a generation of self-educated workers. This was an important background of the vigorous unionism of the late 1930s and the high calibre of both leaders and members which made it possible. The harried employers of this period, on the other hand, seemed even more than their predecessors to suffer from shrivelled

vision. The outcome was that, again, the competence gap between employers (managers) and workers had narrowed very dangerously, inviting conflict between self-confident workers and defensive, unimaginative, employers. The union leadership created in this period — which, for many years, employers often said was too smart for them — remained in office almost to the present day.

The managerial side of this balance was rectified shortly after 1945: through the 1950s there became increasingly visible a new generation of highly educated and highly sophisticated business officers, who handled labour much more intelligently than hitherto both at the individual and the group (union) levels. It is not implausible that this change had something to do with the limitation of industrial conflict in the 1950s, and even with the stagnation of union growth in that period. The more so, since the revival of substantial conflict in the mid-1960s (and of significant union growth) seems to bear a relationship to the high level of schooling and sophistication of young workers coming on the market at that time, while any advance in the capacity of management remains difficult to discern. If the sophistication of employees goes on increasing faster than that of employers, it is conceivable that a traditional basis of employer authority will be undermined altogether.