

CHAPTER EIGHT:

UNIONS AND THE STATE IN THE TWENTY-FIRST CENTURY

Introduction

In this concluding chapter I offer general observations on two important issues that I feel were raised by the present research. First, I offer some speculative comments on why the broadly similar labor law projects of the Thatcher and Reagan administrations had markedly different effects on union strike effectiveness in their respective countries. I contend that the differences across the two cases can only be understood in light of each nation's distinctive industrial relations history. These different histories had not only produced differing institutional relationships between the state and organized labor in the two countries, but they also strongly influenced the strategic actions of both state actors and unions in Great Britain and the United States during the 1980s. The second issue I address returns us to themes initially raised in Chapter One. Specifically, I offer some broad comments, grounded in the empirical findings and theoretical observations presented throughout this research, on the purportedly

"convergent" decline of unions occurring in Western capitalist democracies.

Organized Labor and the State in Great Britain and the United States

A Tale of Two Crises

Recall that at the end of Chapter Seven, I maintained that the organized labor movements of Great Britain and the United States could be characterized as each experiencing qualitatively distinct crises during the 1980s. In the case of Great Britain, the political manipulation of collective labor law by the Thatcher administration was a central force in exacerbating union decline, at least in terms of union strike effectiveness, as the decade progressed. Hence, the role of political, specifically legal, factors could be deemed an integral facet of the crisis of British unions. In the United States, in contrast, the Reagan administration's efforts at manipulating collective labor law appear to have had little relevance to union strike effectiveness, and indeed may have had the unintended consequence of fostering striker solidarity by politicizing industrial conflict. Hence, I concluded that political,

specifically legal, factors were not central to the crisis of U. S. unions during the 1980s.

Given this conclusion, two broader questions might be raised regarding the crises of unions in Great Britain and the United States during the 1980s. First, would British unions have experienced a decline absent the effects of the Thatcher labor law project? Clearly, I can only speculate on such a scenario. As I discussed in Chapter One, a wide array of factors other than politics have been found to undermine the power of organized labor in Western capitalist democracies, including structural and cyclical economic variables, cultural and attitudinal changes, and practices by employers and unions themselves. Would any of these factors alone or in concert have pushed British unions into crisis during the 1980s? Perhaps, but I doubt that they would be sufficient alone. Organized labor in Britain was arguable at the pinnacle of its power in 1979, even though structural economic change, shifts in public opinion, and increased employer opposition were already under way earlier in that decade. I would argue that the addition of Thatcher's restrictive labor legislation to the mix in the early 1980s was the straw necessary to break the union's backs. Without this political intervention, the situation of organized labor in Great Britain by decade's end may have been weakened, but probably would not be one of "crisis".

A second general question concerns the crisis of unions in the United States. Specifically, if the Reagan labor law project was not a significant factor in the decline of American unions, what then accounts for their crisis? Again, I can only offer speculative observations here. At a broad level, it should be recognized that while the crisis of American unions became more salient during the 1980s, organized labor had been gradually declining, at least in terms of density levels, since the mid-1950s. The reasons for this longer decline return us again to the array of relevant variables delineated in Chapter One: the shift from manufacturing to services, the globalization of American capital, the practice of business unionism, the dominant ideology of individualism, and so on. At a more specific level, the 1980s did represent an acceleration of this decline. While I found no significant impact of the Reagan labor law project on union strike effectiveness, it is possible that other facets of state labor law policy may have had an effect in exacerbating the crisis of unions in the United States. I specifically have in mind substantive legal changes regarding employer conduct during union representation elections and administrative delays by the NLRB in holding such elections. The effect of the Reagan administration's handling of the PATCO strike in spurring employer anti-unionism in general, as opposed to the use of replacements in particular, is also an

area of potential impact. Unfortunately, these were dimensions of the Reagan labor law project not researched in the present study.

Human Agency and Institutional Contexts

I turn now to a discussion on why the Thatcher and Reagan labor law projects, similar in their neo-liberal intent to undermine the influence of organized labor on labor markets and processes of production, played divergent roles in the crises of unions in their respective countries. My main argument is that the different institutional contexts for industrial relations in the two countries serve as key factors for understanding why the two state projects had different effects on union decline across countries during the 1980s. These different institutional contexts not only influenced the structure or form taken by each state labor law project, but they also affected how unions strategically responded to the state and the law.

At one level, I feel that the divergence between Great Britain and the United States with respect to the successful manipulation of labor law as a way to facilitate or exacerbate union crisis is largely attributable to the differing forms taken by each state project. As I described in Chapter Four, the Thatcher administration's collective labor law project

primarily took the form of a sweeping legislative restructuring of industrial relations, with new labor laws being introduced incrementally, yet systematically, every two years. The labor law project of the Reagan administration, in contrast, was implemented within an already established legislative framework. It thus took on an administrative, or quasi-judicial, form that relied primarily on interpretive transformations of labor law doctrine.²²⁸

The differing forms taken by the Thatcher and Reagan administrations' respective labor law projects is understood only within the broader sweep of industrial relations history in the two countries. "Voluntaristic" industrial relations²²⁹, whereby capital and labor regulate their own industrial affairs relatively free of politically established rights and regulations, disappeared sooner within the United States than it did in Great Britain. In particular, a comprehensive legal framework regulating organized labor and its activities was initially instituted in the United States in 1935 with the National Labor Relations Act. This statutory framework was further elaborated in 1947 by the

²²⁸ I am hesitant to characterize the Reagan collective labor law project solely as "judicial" because, despite the systematic reviewing of previous case law by the Dotson Board, the NLRB is fundamentally a political, and technically not a legal, body.

²²⁹ On voluntarism in Great Britain, see Kahn-Freund (1954). On voluntarism in the United States, see Forbath (1991: 1-36).

Taft-Hartley Act, and again in 1959 by the Landrum-Griffin Act (e. g. Falcone, 1962; Tomlins, 1985).

Of course, the existence of a long-established legal framework and its accompanying institutional mechanisms did not necessarily preclude a political effort to legislatively restructure industrial relations. There was, however, a more immediate constraint that influenced the form taken by the Reagan administration's collective labor law project. Specifically, Reagan's election to office came on the heels of a bitter political battle over labor law reform in the late 1970s. The attempt was propelled by organized labor and supported by Carter's Democratic administration. This effort at legislative reform was ultimately thwarted by business leaders and Republican Party members, who maintained that the existing labor law system was fine as it was and hence needed no major changes (Gross, 1995: 242-246). Clearly, it would have been politically difficult for the Reagan administration to propose extensive legislative reform, whatever the specific content, just a few short years after this episode.²³⁰

In contrast to the United States, Great Britain's voluntaristic system persisted well into the twentieth century. However, the system

²³⁰ It should also be noted that even if the Reagan administration was set on the legislative restructuring of industrial relations during its first term in office, it would still have to get the legislation passed by a congress controlled by the Democratic Party.

began to unravel in the late 1960s and the early 1970s. This process is evidenced in part by the 1968 report of the Donovan Commission, sponsored by the Labour Party, which called for modest government intervention to "formalize" British industrial relations (e. g. Clark and Wedderburn, 1983: 132-133; Davies and Freedland, 1993: 258). The Heath administration's enactment, albeit only temporarily, of sweeping industrial relations legislation in 1971 also foreshadowed the breakdown of voluntarism. Importantly, the experiences of this earlier Conservative administration with labor legislation provided many practical lessons for the Thatcher administration's own labor law project, particularly with respect to the need to introduce legislative reforms step-by-step rather than all at once.

The Thatcher administration thus took power in a specific historical juncture whereby efforts at the legislative control of industrial relations had already been attempted, and were likely to continue regardless of the political party in office. In some respects, then, the Thatcher administration was in the right place at the right time to successfully realize a collective labor law project that was primarily legislative in nature. Importantly, that is what many Conservative Party members wanted to do, and other contextual factors facilitated the success of their legislative project. Specifically, the latter part of the 1970s saw widespread union strikes and militancy, against a Labour

government no less, and public opinion had begun to markedly turn against organized labor after the "Winter of Discontent" in 1978-79. The fact that not even the Labour Party could control the unions arguably propelled Thatcher and the Conservative Party to a decisive electoral victory in 1979, giving the new government a green-light for its labor law proposals in particular and its economic policies in general.

Of course, I do not wish to imply that it is simply the form taken by a specific state project that alone accounts for whether or not it is successful in producing the desired effects. In understanding why the collective labor law policies of the Thatcher administration were central to the crisis of British unions and those of the Reagan administration were of less relevance to the crisis of organized labor in the United States, a number of other factors can be considered as well. For example, in the six strikes that I examined in this research, one potentially relevant factor that comes to mind pertains to the strategies that unions adopted vis-a-vis labor law and the state.

In the three U. S. cases, the coal strike in particular but also in the other two disputes, unions simultaneously worked "within" and "outside" the law. They used it to their advantage when possible, and ignored it or openly struggled against it when deemed necessary for strike objectives. This two-pronged strategy used by U. S. unions with respect to the legal intricacies of strike activity was learned from decades

of industrial conflict experience within a relatively stable labor law framework. In effect, despite the substantive legal changes made by the Reagan labor law project, the general relationship of organized labor to the state did not change substantially during the 1980s. They had dealt with the same institutional context for a number of decades and had become fairly well-versed in U. S. labor law's empowering and constraining dimensions.

In the three British cases, however, the unions primarily ignored the new labor laws, and often times, law in general. The results were typically antithetical to strike objectives and union interests. I would contend that many British unions in the 1980s had not yet learned the lessons that law is simultaneously "enabling and confining" (Forbath, 1991: 7). Even the Thatcher administration's labor legislation had contradictions that could be used to strategic advantage by organized labor.²³¹ The unions' response is somewhat understandable, given that the 1980s marked a qualitative change in the nature of the relationship between organized labor and the state. Unions had been placed in a new legal and institutional context, and new strategies and tactics would clearly be necessary. Unfortunately, throughout most of the 1980s British unions relied primarily on the strategies that they had used in

²³¹ For example, the results of union strike ballots can have much tactical value in generating rank-and-file solidarity and public support for industrial action (e. g. Smith et al., 1993). See the discussion in the next section.

the 1970s and earlier: namely, militant confrontation with employers and the state with little regard for the law. Ultimately, what was successful in one historical and institutional context proved exceedingly detrimental to union goals in another.

The Dialectics of State Projects

In the previous section I addressed the character of the Thatcher and Reagan collective labor law projects in terms of why each project took the form that it did and why unions in Great Britain and the United States responded differently to state-enacted legal changes. That discussion was primarily concerned with shedding light on why the two labor law projects played different roles in the crises of unions in the two countries. The discussion in this section is more concerned with some of the theoretical issues raised in Chapter Two, namely the problematic nature of state agency. In effect, I want to return to some of the theoretical ideas raised earlier and flesh them out a bit using empirical examples uncovered in this research. Overall, the discussion is best characterized as a selective and speculative precursor to future theoretical development and empirical research.

As I noted in Chapter Two, strategic political action originates within, and takes place on, a historically-structured terrain of institutional forms and practices. State projects, as a type of strategic political action, are thus invariably marked by contingency, contradiction, and conflict. Indeed, extremely infrequent in history are those instances where, such as with the Social Democrats' establishment of a Ghent-like unemployment system in Sweden during the 1930s, political interventions in industrial relations go relatively as planned and generally have the expected effects (Rothstein, 1992: 52). To gauge just how awry state projects can go, take for example the experience of the Socialist Party with the "Auroux laws" implemented during the early 1980s in France. Intended to "strengthen trade unions", the 1982-83 labor legislation unexpectedly created workplace alternatives to union representation and facilitated decentralized, firm-level bargaining, effects that ultimately undermined the power of the French organized labor movement (Howell, 1992: 166-168; also see Smith, 1987).

The Thatcher and Reagan labor law projects obviously fit somewhere between the Swedish and French examples in terms of attaining intended objectives. Recall that I effectively answered this question when I offered a general assessment of the roles that each project played in union decline in their respective countries. In the case of Great Britain, I concluded that the Thatcher administration's

collective labor law policies were important factors that contributed to the crisis experienced by the British organized labor movement in the 1980s. In the case of the United States, I concluded that the impact of the Reagan administration's collective labor law project was less central to the crisis of American unions. On these grounds, since both projects were conducted with an eye toward undermining the power of organized labor, I characterized the Thatcher labor law program as more 'successful' than that of the Reagan administration.

But talking about 'success' and comparing the two state projects in this way greatly oversimplifies and misrepresents the matter. It not only assumes that political intentions are static and coherent entities, it also conveys that political outcomes can be mechanistically traced back to a singular causal agent. In effect, characterizing the Thatcher administration as 'more successful' in terms of labor law policy than that of the Reagan administration obscures important points of contingency, contradiction, and conflict within the two state projects.

In the case of Great Britain, for example, it might seem readily apparent that the legislative restructuring of industrial relations undertaken by three successive Thatcher administrations was one of those rare historical moments wherein an essentially pre-planned political project is systematically implemented and generally has the anticipated consequences. Indeed, I have provided support for such a

position in various places throughout this research. In Chapter Four, for example, I described how much of the Thatcher labor law project was outlined in policy papers circulated while the Conservative Party was in opposition in the latter part of the 1970s. I also asserted that its gradual and incremental 'step-by-step' character was influenced by the Heath administration's earlier experiences with the Industrial Relations Act in 1971. And I have argued throughout this research that the broad purpose of Thatcher's sweeping legislative program was to restrict the power of organized labor and that, at least in terms of my analysis of strike effectiveness, it did just that.

Yet there are those that characterize the situation differently. Marsh (1992: 64), for example, asserts that "[t]he Conservatives clearly didn't have a coherent industrial relations policy in opposition which they carried through in power." Auerbach (1993: 38) concurs, stating that "[l]ittle of the framework of labour law at the end of the 1980s was, before 1979, either predicted or...predictable." In effect, the Thatcher labor law project is deemed not to really be a "project" at all, but more as a series of unplanned, primarily reactive, measures. As Auerbach (1993: 47) puts it, with each new labor law, the Thatcher government was essentially "legislating for the last dispute."

What accounts for these divergent interpretations about the general character of the Thatcher labor law project? Specifically, why do

some view the Thatcher administration's labor law policies as the product of a "coherent masterplan" (Miller and Steele, 1993 227), while others see the legislative assault as a fundamentally ad hoc and fragmented enterprise? I feel that these conflicting depictions of the Thatcher administration's labor law project can be partially reconciled if it is recognized that, in light of the problematic nature of state agency, the character of the state project changed over time. Recall that in Chapter Two I argued that the processes by which political actors and their institutions come to achieve the 'state effect' (Jessop, 1990: 9; also see Mitchell, 1999), wherein "the state" takes on the appearance of a unitary and willful subject, is an on-going social accomplishment subject to historical variability. Importantly, the objectives or goals of any state project, inextricably intertwined as they are with a changing confluence of actors, institutions and other state projects, are also subject to historical variability. As March and Olsen (1989: 65-66) counsel, desired objectives cannot be assumed to be:

...clear, fixed, and unitary. Understanding the transformation of political institutions requires recognizing that there are frequently multiple, not necessarily consistent, intentions, that intentions are often ambiguous...[and that social actors] redefine goals while making decisions and adapting to environmental pressures, and initial intent can be lost.

Bearing the above in mind, I maintain that part of the reason for conflicting assessments regarding the character of the Thatcher

administration's collective labor law project stem from the simple mistake of selecting particular historical moments and generalizing them to the 1980s as a whole. Specifically, arguments that the legislative program lacked 'coherence' (e. g. Marsh, 1992: 54-58) or was not 'predictable' (e. g. Auerbach, 1993: 38) are based primarily on observations selected from the latter half of the 1980s. What needs to be explicitly recognized, however, is that the Thatcher labor law project changed over time, moving from a relatively systematic and premeditated effort at the start of the decade, to a relatively unplanned and reactive effort by decade's end. Undy et al. (1996: 75) captured this historical variation in the Thatcher labor law project as follows:

The Conservatives began with a coherent 'step-by-step' introduction of reforms which degenerated after 1984 into a haphazard insertion of fragments of a neo-Hayekian anti-union ideology in response to various industrial disputes and initiatives from interested parties...Thatcher began her programme...carefully...[but] grew considerably less careful in the later 1980s and 1990s.

Why this eventual fragmentation of the Thatcher administration's collective labor law project after 1984? There are several relevant factors that I will briefly mention here. As I argued in Chapters Three and Four, the bulk of the substantive legal changes that the Thatcher government hoped to implement, embodied in Conservative Party policy papers that had circulated in the late 1970s (Johnson, 1993: 217-226), were largely realized in

the 1980, 1982, and 1984 legislation. Indeed, it has been my contention throughout this research that this essentially constituted the 'core' of the Thatcher labor law project. The context and motivations for the legislation that followed in 1988 and 1990, however, differed significantly from that of the three earlier acts. The Thatcher administration's re-election to a third term in 1987, prefaced by the government's decisive victory in the 1984-85 miners' strike, led to legislation that was less methodical and more politically exuberant in nature. One element influential here was that the Thatcher administration's primary attention had eventually turned more toward achieving monetarist economic objectives regarding unemployment and job training (Johnson, 1993: 222). Labor law policy thus became of less import during this period, perhaps because it had already been essentially addressed earlier in the decade.

Another factor contributing to the shift in the character of the Thatcher labor law project was the eventual recognition that parts of the earlier legislation were not having the effects intended by the government. For example, the balloting provisions of the Trade Union Act of 1984, which required in particular that the rank and file vote on industrial action, were based on the assumption that it was union leaders, not union members, who

were the cause of labor militancy (Dunn and Metcalf, 1996: 83-84; also see Smith et al., 1993). Yet many union strike votes in the latter 1980s often showed widespread membership support for industrial action,²³² and thus the official ballots gave many strikes added legitimacy and reinforced rank-and-file solidarity.²³³ In response, the Thatcher administration used the Employment Acts of 1988 and 1990 to add piecemeal amendments that made balloting procedures more cumbersome and difficult for unions (Smith et al, 1993: 367-368; Undy et al., 1996: 106-110).

Were it a goal of this research, I could also chart historical variations in the coherence, intentions, and priorities of the Reagan administration's collective labor law project as well. However, my primary aim here is simply to provide preliminary insights, using examples uncovered in previous chapters, into what I would characterize as the "dialectics of state projects". Importantly, aside from examining these dialectics at a diachronic angle, as I did above in looking at historical transformations in the

²³² Of the 1023 ballots on industrial action occurring between 1985 and 1989, 908 were in favor of striking (Dunn and Metcalf, 1996: 84).

²³³ In this context, Justice Davies' legally unusual prohibition of a national strike ballot by the NUS during the 1988 dispute with P&O Ferries takes on added significance. The ballot results would likely have been of great strategic importance to the union, whether it followed through on the potentially illegal national strike or not.

Thatcher administration's collective labor law project, the problematic nature of state agency can also be examined from a synchronic angle. For instance, one might look at various points of conflict, whether at the level of individuals, groups, and/or institutions, in a particular state project. One might also highlight various inconsistencies or contradictions in terms of state rhetoric and practice.

Let me briefly illustrate what I mean by the latter idea with some examples from the Reagan administration's collective labor law project. Recall that in describing the project in Chapter Four, I pointed to five case reversals by the National Labor Relations Board (NLRB) that pertained to union strike activity. The Dotson Board's primary justification for these and many other reversals was that the NLRB wanted to reestablish the rights of individual workers, as opposed to the collective rights of unions and employers, within the existing framework of labor law (Gross, 1995: 253). Regardless of their specific legal content, however, a closer look at all five of these cases reveals broad points of contradiction or antagonistic tension that mark the Reagan labor law project as a whole. Take the case of Meyers Industries (268 NLRB 456), for instance, which found that a single worker who strikes because of unsafe working conditions is not legally protected. It becomes evident here that

while the NLRB venerates the rights of individual workers in theory, it does not do so in practice if it hampers the process of production.

Of course, in *Neufeld Porsche-Audi* (270 NLRB 1330) the Dotson Board did increase the rights of individual workers, but only in relationship to their unions, not in relationship to their employers. Recall that in this case the NLRB exhibited a marked departure from legal precedent when it ruled that individual members can resign from unions at will, even during a strike and even in violation of union rules they voluntarily agreed to uphold. The inconsistency reflected in *Neufeld Porsche-Audi*, whereby a proudly neo-liberal administration, elected to office on a promise of "getting government off the backs of the people", intervenes in and circumvents the internal workings of an essentially private and voluntary organization, is patently obvious. As Weiler (1990: 19) describes in his general assessment of all the Dotson Board's case reversals:

Most of these rulings removed legal constraints on management power that had been established earlier. Lifting such constraints might have been justified as no more than an antiregulation, *laissez-faire* stance toward labor law, except that the same Reagan Board was simultaneously developing and expanding a number of intrusive regulatory constraints on union action under the same NLRA.

The contradiction unravels, however, when one considers the primary purpose of such neo-liberal interventions: "the Reagan Board came down in favor of expanding rather than contracting the scope of labor law regulation...only when to do so would contain union and not management power" (Weiler, 1990: 19; emphasis in original).

The class bias of the Reagan administration's collective labor law project is revealed further in the other three case reversals discussed in Chapter Four. As I mentioned then, for example, the cases of *Butterworth-Manning-Ashmore Mortuary* (270 NLRB 1014) and *Indianapolis Power and Light Company* (272 NLRB 1715) are useful to compare to gain insight into the different standards to which the NLRB held unions and employers. In the former case, the Dotson Board had ruled that an employer retains the right to permanently replace sympathy strikers, even if the collective bargaining contract states that workers cannot be fired or punished for such action. In the latter case, the NLRB ruled that a union tacitly waives its right to sympathetic action if it signs an agreement that contains a no-strike clause with a primary employer. Thus, in terms of the NLRB's interpretation of contract language, employers implicitly retain their statutory rights unless they explicitly waive them, while unions implicitly waive their statutory rights unless they explicitly retain them.

The inconsistency revealed by the fifth and final case, Clear Pine Mouldings (268 NLRB 1044), becomes visible only in contrast with other NLRB rulings. Recall that Clear Pine Mouldings allowed employers to fire union strikers for verbal misconduct on the picket line, a ruling which represented "a major departure from Board precedent and policy concerning strike conduct and subsequent reinstatement" (Gross, 1995: 263). Reagan appointees to the NLRB concluded that the right of free speech on the picket line was relegated only to "the nonthreatening expression of opinion" (268 NLRB 1047). According to the Dotson Board's interpretation of the law, speech that could be construed as coercive, intimidating, or threatening, previously tolerated given the context of industrial conflict, was no longer protected activity.

This ruling restricting the parameters of acceptable speech by striking union members comes from a political body that at the same time expanded the speech rights of employers. Specifically, during the Dotson era the NLRB also found that employer questioning of individual employees about their union sympathies was not an unfair labor practice, and the Board lessened restrictions on what employers could legally say during a union representation campaign (Gross, 1995: 257-258). Overall, Gross (1995: 263-264) summarize this particular inconsistency in the Reagan labor law project as follows:

The Board's intensified regulation of the speech of union strikers and picketers because other employees were presumed to be intimidated by it did not jibe with the same Board's deregulation of employer speech in representation campaigns because employees in those situations were presumed...to be mature, intelligent adults immune to their employer's anti-union rhetoric, veiled threats, or misrepresentations.

In effect, the Dotson Board in particular, and the Reagan administration in general, apparently felt there was a greater need for "protecting employees from their fellow workers than from [the] employers" who controlled their livelihoods (Gross, 1995: 263).

The Futures of Organized Labor in Capitalist Democracies

Convergence and Union Decline

To conclude, I return now to the topic that originally gave impetus to this lengthy research project: the decline of labor unions in Western capitalist democracies during the 1980s. This widespread crisis, manifested not just as a decline in union membership and density levels, but also as losses in bargaining power, political clout, and popular legitimacy, continued throughout the 1990s, albeit in a somewhat more

uneven and less precipitous fashion. For example, of the six major Western OECD nations that I gave cursory attention to in Chapter One, France, Germany, Great Britain and the United States each saw union density levels decrease further in the 1990s. Density levels in Italy remained relatively stagnant, while Canada saw a slight increase in union density (OECD, 1997: 71).

Not surprisingly, however, the widespread and ongoing character of union decline has spurred a number of "theories of convergence", both in terms of the future of organized labor movements and in terms of the broader political economies of capitalist democracies. Regini (2000: 6) summarizes the underlying logic of these metanarratives as follows:

At the basis of all convergence theories is the idea that the modernization of advanced economies and societies must follow established paths, essentially dictated by exogenous factors. Although preexisting institutions and "loser" groups may raise resistance, all that they are able to do is delay the course of history.

Such grand stories are nothing novel, particularly within the areas of political (e. g. Lipset, 1959; Parsons, 1969) and industrial sociology (e. g. Dunlop, 1958; Kerr et al 1960). The primary problem, however, is that such theories have invariably "been confuted in their empirical evidence or the logic of their arguments, or else they simply have been contradicted by subsequent events" (Regini, 2000: 6).

With respect to union decline, theories of convergence take varying forms. For example, some emphasize the importance of the transition to post-industrialism and assert that organized labor is becoming historically obsolete in the service-based economies of contemporary capitalist democracies (e. g. Troy, 1992). Others point to a structurally-determined employer opposition to unions, which over time produces a convergent outcome across countries (e. g. Freeman, 1995). Still others cast the story at the broader level of ubiquitous global markets, the effects of which are manifested along a variety of more particular economic dimensions, but all of which eventually undermine the national position of organized labor (e. g. Kochan, et al, 1986).

What the above examples share in common is a one-sided emphasis on the role of economic factors in producing a convergence in union decline across the capitalist democracies. Yet, it is not a narrowly economic focus that only leads to convergence arguments. For example, I feel that some of the more explicitly multidimensional approaches to union decline, often depicting themselves as a form of "new institutionalism", also posit a convergence in union decline across nations. I will briefly illustrate this point by looking more closely at Western's (1997) "institutional sociology" of labor markets, a well-received and ambitious study, which attempts to account for both union growth and decline in eighteen OECD nations.

Western is explicit in his contention that unionization is the product of both economic factors and institutional factors.²³⁴ Western (1997: 3) summarizes his main argument, for which he provides a good deal of empirical support, as: "[l]abor movements grow where they are institutionally insulated from the market forces that drive up competition among workers." Importantly for purposes here, Western (1997: 143-176) also addresses the crisis of unions in the 1980s. Western's (1997: 153) general theme is that since "similar [economic] structural trends can have widely different effects on unionization depending on the institutional context", union decline, like growth, is likely to vary across countries. Indeed, he emphasizes that there are in fact "alternative paths to working-class disorganization" (Western, 1997: 144).

I agree with Western's argument to a certain extent. In emphasizing that the differential articulation of economic and institutional factors create 'alternative paths' to union decline, he appears to give needed recognition to the fact that multiple, and qualitatively distinct, "crises" of labor unions took place during the 1980s (and, by extension, are still taking place now). This is a point that

²³⁴ Western singles out three institutional factors in particular that are relevant to variability in national unionization levels: degree of labor market centralization, the political party in office, and the involvement of organized labor in administering unemployment compensation (i. e. the Ghent systems of Belgium, Denmark, Finland, and Sweden).

I stressed in the last chapter. In particular, I argued that because of the differing impacts of state labor law projects in the two countries, unions in Great Britain and in the United States could be said to be experiencing fundamentally different crises.

However, though Western recognizes important particularities and divergences in union decline across nations, he also implies that decline has occurred, and is going to continue to occur, in most, if not all, Western capitalist democracies. In particular, Western (1997: 176-177) traces all union crises back to one transcendent process purportedly affecting all nations in more or less the same way: the globalization of economic markets. In effect, Western's institutional sociology portrays national institutional configurations as merely mediating or filtering the more fundamental forces of the global economy. Hence, embedded within Western's institutional sociology lies yet another theory of convergence: the organized labor movements of different countries may follow their own 'alternative paths', but all paths lead to the same destination.

Union Strategies and the State

Whether constructed on a narrowly economic foundation or on a broader base that encompasses both markets and other institutions, I reject any and all arguments that declare the inevitability of universal union decline as the only possible future. I do so on two grounds, each of which emanate from the dialectical conception of social life that provides the ontological footing for this research. First, at the broadest level, in developing their grand metanarratives, theories of convergence tend to reify socially-produced economic structures and processes. Indeed, economic factors are given undue priority in shaping human affairs, with processes such as the 'shift to postindustrialism', 'universal employer opposition', and 'increasing globalization' being intellectually transformed into non-human, master trends that all peoples, institutions, and nations must eventually submit to. In effect, theorists of convergence appear to forget that markets, economic structures, and global capitalism are all ultimately human creations whose existence and character are contingent upon human agency.

Second, at a more specific level, many theories of convergence often utilize simplistic conceptions of institutions when it comes to explaining union decline and industrial relations. Indeed, national institutions are often portrayed as merely mechanistic "filter[s] or

intervening variable[s] between external pressures and the responses to them" (Regini, 2000: 8). This is evidenced in the study by Western (1997) addressed above, as well as in the work by Turner (1991) discussed in Chapter One. Yet recent efforts, emanating specifically out of the historical institutionalist project, have made great strides in overcoming this one-sided view of institutions. Thelen and Kume (1999), for example, describe how traditional industrial relations institutions in Germany and Japan continue to persist in the face of global market pressure because of worker and employer interests in maintaining them. This "institutional stickiness" is not a "residual outcome" that will eventually wither away in the face of transcendent globalization, as convergence theorists would have it, but is rather the product of human agency and interest in maintaining particular institutional formations (Thelen and Kume, 1999: 500).

Thus, a more dialectical conception of institutional structures and practices, as posited by the historical institutionalist variant of the "new institutionalism" (e. g. Thelen and Steinmo, 1992; Rothstein, 1992) helps to preclude untenable arguments about convergence in union decline. Specifically, it is recognized that a particular country's political and economic institutions do more than just react to and mediate between internal domestic forces and the external demands of global economies. These same institutions are also active in creating these same forces and

demands that come back and impinge upon them. In effect, national institutions play important roles in shaping the forms taken by both endogenous industrial actors and exogenous economic constraints. The result is that such factors as employer or employee interests, as well as globalization, take on different meanings and have different effects in different countries. Overall, then, national institutions are not just 'filters', but important constitutive mechanisms as well.

If union decline is not a convergent or inevitable phenomenon, then Western organized labor movements have many possible futures that are likely to vary both within and across countries. Of course, any and all outcomes will be highly dependent on the actions and strategies of union leaders and their members as they struggle within and upon their particular institutional terrains. What advice or instruction can be gleaned from the present research to aid in this struggle? I think there are two broad lessons that are of most importance. First, in light of the problematic nature of state agency, I think it is important that those involved in the organized labor movement recognize that "the state" is not a coherent "thing" that has a unified or static relationship vis-a-vis working people. As a complex and variably integrated institutional ensemble, certain parts of the state may or may not be open to working class and union demands, and certain political opportunities may or may not present themselves. And depending on historical

circumstances, these opportunities may change more slowly or more rapidly. Thus, those in the organized labor movement need to adopt many strategic stances toward political institutions and the state, and they need to recognize that these strategies will necessarily have to be modified over time.

A second lesson pertains to organized labor's strategies directed at law and legal institutions. As with their broader relationships to the state, unions' need to adopt multifaceted and flexible legal strategies. Like "the state", "the law" does not have a singular and static relationship to the interests and goals of organized labor. Labor laws in particular, and the law more generally, can simultaneously constrain or enable organized labor. Sometimes the law may have to be openly violated to attain worker objectives. Sometimes unions may be able to work within the law to further their goals. Overall, it is up to union leaders, their members, and their supporters to figure out what strategies are necessary and appropriate during a particular industrial conflict given its particular institutional setting and its particular historical context.