

**A HISTORICAL INSTITUTIONAL ANALYSIS OF
VOLUNTARY SECTOR/GOVERNMENT RELATIONS IN CANADA**

by

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**A thesis submitted in conformity with the requirements
for the degree of Doctor of Philosophy
Department of Adult Education and Counselling Psychology
Ontario Institute for Studies in Education of the
University of Toronto**

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Peter René Elson

**Department of Adult Education and Counselling Psychology
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Abstract

Governments and the voluntary sector in Canada have had a long-standing and complex relationship which incorporates statutory, relational, and funding policies and practices. This thesis explores how key historical developments or critical junctures continue to have an impact on the nature of voluntary sector/government relations. Because these critical junctures form the basis of how the institutional relationship between the two sectors have involved, historical institutionalism has been selected as a research framework. Historical institutionalism assumes that institutions are shaped by history and that this history is important when trying to understanding both contemporary policy and institutional change.

Three critical junctures in Canada continue to have an impact on voluntary sector/government relations: the 1930 amendment to the *Income War Tax Act*; regulatory changes to permissible political activities in 1987 and 2003; and the transition in the mid 1990s from citizenship-based programs to service-based contracts. Beyond the identification of these critical junctures and their contemporary impact, the influence of voluntary sector institutional regime type on these policy outcomes was also explored.

The degree to which on-going voluntary sector representation is organized as a formal regime appears to influence the extent to which policy outcomes are favourable to the voluntary sector and are positively reinforced. The non-formal regime type which has

characterized the voluntary sector in Canada has resulted in policies that undermine its financial sustainability, limit its capacity to advocate, and raise questions about its relevance to leading societal issues. This difference is highlighted in a comparative case involving a formal regime type in the United Kingdom. Led by a Government Relations Working Group and the National Council of Voluntary Organizations, the voluntary sector signed and worked to ensure the political and financial reinforcement of the *Compact on relations between government and the voluntary and community sector*.

This research has brought the history of voluntary sector/government relations in Canada into focus in a way which provides a clearer and deeper understanding and presents new insights into the benefits of using historical institutionalism to frame this important on-going relationship.

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First and foremost I would like to acknowledge the support, encouragement and insight of Jack Quarter - supervisor, mentor, and friend. Jack always gave me enough rope to exercise my academic freedom and enough timely tugs to keep me on track. Thank you. To my committee members Susan Phillips and Larry LeDuc, thank you for your unwavering interest in my work and insightful comments from start to finish. Susan - it's been an honour to have you associated with my research work, questioning my assumptions, pushing my analysis, and making the whole effort clearer and more focused. Larry - thank you for your introduction to historical institutionalism and your initial guidance as I made my transition from student to researcher.

This journey has been one in which fellow graduate students under Jacks' tutelage have come and gone, but our monthly thesis group meetings have been a steadfast and constant source of inspiration, dialogue and feedback. To all those who have walked and continue to walk this particular path including Laurie, Sherida, John, Kunle, Bill, Jorge, Suzanne, Brenda, Clement, Nancy, and Antony - thank you for the memories and the collaborative space.

One collective source of inspiration which has never left me is the tremendous value of the all the research and all the researchers who have, and continue to contribute to my understanding of the voluntary sector. Without those dedicated researchers I would have had no foundation on which to build, no place on which to stand, and no space to call my own.

As a student who has embarked on this journey later in life than most, it takes a special person to provide support and encouragement when doubts would have their way. That special person in my life is my wife, Linda, who has been with me from the start, when neither of us really knew what lay beyond the next turn in the road. To Linda, my deepest love and thanks.

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Dedication

To Linda

without whom this journey
would have been a long and lonely road

Chapter One

Introduction

*I saw a beggar leaning on his wooden crutch
He said to me "You must not ask for so much"
And a pretty woman leaning on her darkened door
She cried to me "Hey, why not ask for more"*

Leonard Cohen, Bird on the Wire. (Cohen, L., 1993)
Stranger Music: Selected Poems and Songs, Pg. 144.

As a perennial community and associational volunteer and professional voluntary sector executive, the journey from citizen to practitioner to researcher has been exhilarating and, at moments, intimidating. I have had the good fortune to have been blessed by wonderful mentors throughout this journey who have provided an abundance of encouragement as well as periodic and timely critiques. As a citizen I have joined with local residents in common causes to make a diverse urban neighbourhood healthy and interconnected. As a voluntary sector executive, I focused by necessity on immediate and crucial associational concerns, and only sporadically took a glimpse at the broader picture of voluntary sector policy and governance. It was through my fortunate exposure to a number of stimulating academic opportunities, and a growing passion for research, that my perspective broadened to embrace the full tenor and fabric of the voluntary sector in Canada and its place relative to other countries.

It was from this broader perspective that I started to ask myself some recurring questions about the voluntary sector in Canada. First, why does the relationship between the voluntary sector and the federal government take the shape that it does? There appears to be no lack of effort on the part of the voluntary sector to make changes. From

1995 to 2005, and even earlier in the 1970s, an effort was made by national organizations and other representatives to change voluntary sector/government relations for the overall benefit of the sector (K. L. Brock, 2005; Elson, 2004 2007; Phillips, 2001a 2003a). Yet the net consequence of these collective efforts has been limited.

Why, I then asked myself, does the voluntary sector in Canada continue to engage in government-centered policy processes when there appears to be so few consequential changes? By 'consequential', I mean changes which last well beyond the next election, changes in the governing party, or the presence or absence of a majority parliament. This is a question which is important if one is to understanding the bilateral nature of voluntary sector/government relations; the limits of existing voluntary sector/government theories; and the capacity of the voluntary sector to influence public policy. The positive relationship the voluntary sector has with citizens across Canada appears to be significantly at odds with the generally poor relationship the voluntary sector often has with federal governments (M. H. Hall, de Witt, Lasby, & McIver, 2004; Ipsos-Reid, 2006; K. Scott, 2003). The purpose of my research is to make a contribution to the theory, policy, and practice of voluntary sector/government relations in Canada and propose ways in which it could be more effective and productive.

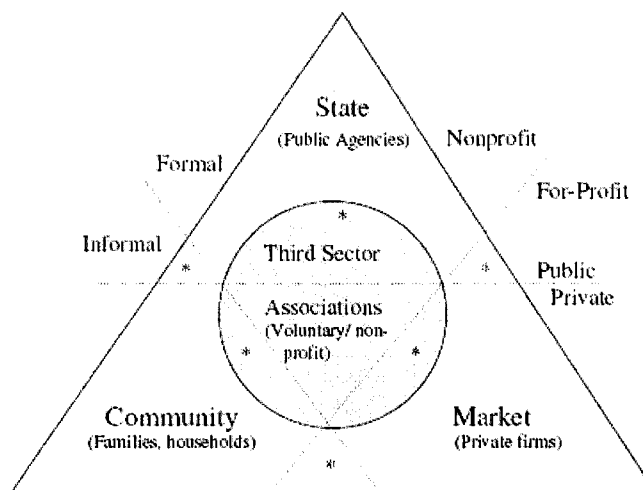
Defining the Voluntary Sector

For the purpose of this research I adopt the operational definition of the Voluntary or Third Sector as presented by Adalbert Evers and Jean-Louis Laville (2004), and adapted by Vaillancourt and colleagues (2004). In this context the Third Sector holds an intermediary space between the state (public agencies), the community (households/families), and the market (private firms). Evers and Laville's Third Sector model defines

the voluntary sector within a broad socio-political context (Evers & Laville, 2004; Vaillancourt, Aubry, Kearney, Th  reault, & Tremblay, 2004). Within this domain I limit my definition of the voluntary sector to the collective of representative organizations which are incorporated, separate from government, voluntary, non-profit distributing, self-governing; and public-benefit driven. I exclude from my analysis mutual aid associations that serve a membership, including co-operatives. I also exclude quasi-governmental organizations such as colleges and hospitals. A conceptual diagram of the voluntary sector developed by Evers and Laville (2004) is presented in Figure 1. Due to the extensive amount of convergence and blurring of sector boundaries, the term ‘‘sector’’ is presented here as an artificial construct, not an institutional reality (Kramer, 2004).

Figure 1

A Conceptual Diagram of the Voluntary Sector



* Mixed organizations/institutions
Source: (Evers & Laville, 2004)

Themes in the Analysis of Voluntary Sector/Government Relations

In the 1970s several governments in the industrialized world initiated voluntary sector commissions to review the role and functions of voluntary organizations. Foremost among these national commissions and their related voluntary sector research was the National Advisory Council on Voluntary Action in Canada (1977); the Wolfenden Committee in the UK (1978); and the Filer Commission in the US (1976) (Van Til, 2000).

These reports revealed both the substantial lack of detailed statistical information about the size and scope of the voluntary sector and fostered a mutual desire between governments and representative voluntary sector organizations to establish a basis on which an on-going partnership could be established (National Advisory Council on Voluntary Action, 1977; Van Til, 2000; Wolch, 1990). Another legacy of these commissions was that regardless of the statistical gaps which were identified, enough information and interest were generated to create a sense that a collective voluntary sector actually existed (Brooks, 2001). Researchers who have explored the voluntary sector from a historical, legal, and policy perspective have each contributed to a better understanding of this complex relationship (Brooks, 1983 2001; S. A. Martin, 1985; Pal, 1993).

Much of the research pertaining to the history of the voluntary sector in Canada chronicles the contribution of independent voluntary efforts to the early development and collaborative nature of Canadian society (Canadian Policy Research Networks & Canadian Centre for Philanthropy, 1998; Glenn, 1997; Lautenschlager, 1992; Thomas, 2005). Canada's volunteering history has been largely profiled in isolation of its relationship to government and dominated by a cultural focus as waves of new

immigrants created independent mutual support networks and agencies (M. H. Hall, Barr, Easwaramoorthy, Sokolowski, & Salamon, 2005; Lautenschlager, 1992; S. A. Martin, 1985). Samuel Martin's book, *An Essential Grace*, stands out as the first historical profile of the voluntary sector in Canada which is set against the ratio of charitable giving to fully funded public service delivery (S. A. Martin, 1985).

This research primarily views the voluntary sector as instrumental, focused on the service dimension of government relations (Armitage, 1988; Guest, 1997; Maurutto, 2005; Moscovitch & Drover, 1987). When the political and civic engagement dimension of voluntary sector/government relations has been addressed, policy analysis frameworks have tended to focus on contemporary policy processes (K.L. Brock, 2001; Brooks, 2001; Pal, 1993; Phillips, 1995 2001b)

In a theoretical context, Salamon's (1987) interdependence model, Gidron, Kramer and Salamon's (1992) dominance/functional model, and Young's (2000) complementary/supplementary/ adversarial model is each based on assumptions of rational choice economic decision making. As such, these theoretical models of voluntary sector/government relations reflect, rather than critique, the political systems in which they operate. As argued by Evers and Laville (2004), and earlier by Kuhnle and Selle (1992), rational choice economic theories are limited because they omit the importance of capturing the historical and broad social, legal and public policy context in which voluntary sectors exist. Kuhnle and Selle attempt to address this omission by arguing that a simultaneous understanding of *both* government and the voluntary sector are required to understand their relational dynamic. According to Kuhnle and Selle, this instrumental

dynamic is a product of its relative economic dependence and functional proximity (Kuhnle & Selle, 1992).

In general, rational choice theory dominates this and other voluntary sector/government relations theories. This orientation addresses one dimension of voluntary sector/government relationships; but it does not: 1) address change and how or why it occurs; 2) government or the voluntary sector as institutions, rather than a monolithic unit; and 3) the relationships which exist beyond the instrumental.

The two broad research questions I pose are: what could account for the type of relationship which exists between the government and the voluntary sector; and what are the consequences of key historical developments on contemporary voluntary sector/government relations? Until these two key questions are addressed, voluntary sector/government relations will continue to be guided by a rational choice paradigm in isolation of a broader and sustained historical and institutional orientation. I now turn to the methodology I will use to address these two questions.

Research Framework: Historical Institutionalism

The themes of historical change and institutions, not just history generally, need to be explored to fully address 1) the question of why have these relationships unfolded as they have and 2) the consequences of critical junctures for contemporary voluntary sector/government relations. Because voluntary sector/government relations are complex and include relational, regulatory, and funding policies, each of these dimensions need to be examined. Thelen, Putnam, Pearson and others have noted that “history matters”, institutions are shaped by history, and that a historical perspective of institutions is critical to understanding contemporary policy shifts and drifts as well as the nature of

institutional change (Hacker, 2005; Pierson, 2000a; Putnam, 1993; Streeck & Thelen, 2005; Thelen, 2003).

Pierson and Skocpol (2002) identify three important features of historical institutionalism which establish its relevance to this research. Historical institutionalism addresses big, substantive questions which are of interest to both scholars and the general public. In order to develop explanatory arguments about important outcomes, time is taken seriously, specifying sequences of transformations and processes. Macro contexts are analyzed in order to hypothesize about the combined effects of institutions and processes, rather than examining just one institution or process at a time. Historical institutionalism is a middle range policy analysis framework, standing above political actors yet below wider societal forces such as the impact of class structure or international economies on politics (Bell, 2002; Thelen & Steinmo, 2002). The area of investigation this research explores fits this middle range level of policy analysis.

Historical institutionalism makes the assumption that institutions, rather than being the instruments of key actors, constrain and shape the actions of actors and ultimately, policy outcomes. Institutions are inherently historical and emerge from, and are sustained by, features of a larger political and social context (Thelen, 1999). Thus historical institutionalism is used to identify and verify factors which influence policy development and sustained policy implementation¹. The interest by historical

¹ There are two schools of Institutionalism - Classical Institutionalism and New Institutionalism. Historical Institutionalism is one branch of the New Institutionalism while Rational Choice Institutionalism and Sociological Institutionalism are others (Bell, 2002; Steinmo, 2001).

institutionalists in these reinforcement mechanisms is driven by their primary interest in explaining a particular real world policy outcome (Steinmo, 2001).

Historical institutionalism makes two primary assumptions: institutions shape politics and institutions are shaped by history (Putnam, 1993). The rules and operating procedures which make up institutions influence political outcomes by structuring actors' identities, power and strategies. Institutions embody both historical trajectories and the sustained impact of key turning points or critical junctures (P. A. Hall & Taylor, 1996; Pierson, 2000a; Putnam, 1993).

Historical institutionalism embraces the idea that individuals act within institutional arrangements, the structure and function of which are only partially understood when the historical perspective is absent. The institutional organization is the principal factor which structures collective behaviour and generates distinctive outcomes (P. A. Hall & Taylor, 1996; Kay, 2005). This concept contains a number of underlying definitions and assumptions which I will address in turn.

Peter A. Hall profiles four dominant features of the field of historical institutionalism: 1) it encompasses relationships between institutions and individual behaviour which are conceptualized in relatively broad terms; 2) it emphasizes the asymmetries of power which are associated with the operation and development of institutions; 3) it explores the impact of path dependencies and unintended consequences; and 4) it integrates institutional analysis with the impact of other factors, such as ideas, on political outcomes (P. A. Hall & Taylor, 1996). I will now define a number of key ideas associated with historical institutionalism as they apply to my research theme.

Institutions as social regimes

Wolfgang Streeck and Kathleen Thelen, two leading historical institutionalism scholars, define institutions as “*building-blocks of social order*: they represent socially sanctioned, that is, collectively enforced expectations with respect to the behaviour of specific categories of actors or to the performance of certain activities” (Streeck & Thelen, 2005, 9). This is the operational definition of institutions that I have adopted for my research. An institution is not necessarily a formal organization (Jepperson, 1991). Voting, for example, is an institution but it is not a formal organization. This example reinforces the importance of looking beyond the explicit organizational structure to examine the reinforced expectations of behaviour or performance.

Streeck and Thelen establish that institutions also involve mutual rights and obligations for policy actors and are a formalized presence in a political economy. These rights and obligations include sanctions for non-compliance and clear expectations for compliance, regardless of an actor’s volition. Furthermore, these expectations are not only held by the actors involved but are also enforced and legitimized by a third party or ‘society’ as a whole (Streeck & Thelen, 2005). For example, it is widely believed by the public that the voluntary sector is trustworthy and operates for a wide variety of public benefits (Ipsos-Reid, 2004). Examples of fraud within the voluntary sector contravene these institutionalized [public] expectations and are often highlighted in the media and elsewhere, well beyond the profile a similar private sector misdemeanour would be given (Cheney, 2006).

According to Streeck and Thelen, it is this [public] third party enforcement which establishes the legitimacy of [institutional] rules. If the breach of a rule is worked out among the actors involved, this is voluntary social convention, not a reflection of an

institutional form. Only when a third party predictably and reliably comes to the support of actors whose legitimate institutionalized expectations have been breached, is one dealing with an institution (Streeck & Thelen, 2005).

The concept of institution as a social regime with stipulated rules of behaviour places an emphasis on issues related to authority, obligation and enforcement. Thus policy agreements are institutionalized only when their continuation is reinforced by a third party who acts in a broad 'public interest' and not by the self-interested behaviour of those directly involved (Streeck & Thelen, 2005).

Streeck and Thelen conclude that this definition of institution as a social regime has three advantages:

The emphasis of enforcement as a social process allows for the possibility that "institutional change may be generated *as a result of the everyday implementation and enactment of an institution*" and clearly distinguishes it from the voluntary 'rational choice' approach (Streeck & Thelen, 2005, 11).

Theories of institutional change may also be theories of policy change, but this depends on the nature of the policy. Policies (e.g., limitations on advocacy by charities) are institutionalized only to the extent to which they constitute rules for actors other than the policy makers themselves – rules that are implemented and enforced by agents acting on behalf of society as a whole (Streeck & Thelen, 2005).

Legitimate rules of behaviour define an institution, not simply the existence of a specific category of organizations. These sets of rules define both acceptable and unacceptable behaviour. The social dimension of this legitimacy is critical. According to Streeck and Thelen, this expected behaviour needs to be publicly guaranteed and

privileged, backed by both societal norms and corresponding enforcement mechanisms (Streeck & Thelen, 2005). This public enforcement mechanism is echoed in the work of sociologist Howard Becker. Becker identifies four stages of enforcement; 1) active engagement in rule enforcement; 2) third party or public exposure of the infraction; 3) personal interest associated with enforcement; and 4) enforcement variance with complexity of enforcement circumstances (Becker, 1963).

The relationship between the government of Québec and their voluntary and community sector is a case in point. The government of Québec policy on independent community action legitimizes (and thus institutionalizes) the role of the sector in service delivery and civil society, particularly in relation to grassroots community action, democratic participation and political or social engagement (White, 2006).

The basic premise of historical institutionalism is that policy choices made when an institution is being formed, or when a policy is being implemented, will have a continuing and deterministic impact over the policy in the future (Peters, 2005). When a particular policy is chosen, alternatives fall by the wayside and the regime adjusts to accommodate and reinforce this new policy, unless or until some other force or choice point moves the regime to make new policy choices (Peters, 2005). This is what is known as path dependency. To only analyze policies in a contemporary context is to dismiss the impact of earlier policy choices and the reinforcement mechanisms which have been established.

Institutional regime types

A regime, according to Streeck and Thelen (2005) is:

A set of rules stipulating expected behaviour and 'ruling out' behaviour deemed to be undesirable. A regime is legitimate in the sense and to the extent to which

the expectations it represents are enforced by the society in which it is embedded (p. 12-13).

This concept of institutions as regimes not only makes institutions accessible to empirical research, as political actors can be identified; but also creates the opportunity to identify gaps between rules and their enforcement. This scheme, outlined in Table 1, differentiates institutional regime types into three categories: formal, non-formal and informal. I have outlined the key features and provided a contextual example for each type. The formal regime type, typically associated with government policy representative regimes is characterized by an established and sanctioned representational and reporting protocol which is transferable across time and issues. The non-formal institutional regime type features a transitory representational and reporting system which is non-transferable across time and issues. The informal institutional regime type reflects an ad hoc representational and reporting protocol which is also non-transferable across time and issues.

This scheme is an extension of an accepted differentiation between formal and informal regime types (Lawson, 1993; Streeck & Thelen, 2005). Political economies are governed by politics and controlled by formalized norms and sanctions whereas mores and customs are considered informal (Streeck & Thelen, 2005). In this study, regime formality is a reflection of the degree to which representational norms and sanctions are formalized and reinforced over time and circumstance.

The purpose of this scheme is to reflect the influence of policy deliberations between different or similar regime types on policy outcomes. These three regime types are not absolutely distinct from each other and could be portrayed on a continuum. Based on an analysis of voluntary sector representations to a wide variety of policy deliberation

forums, this classification scheme represents the three most common institutional regime types.

Table 1

Institutional Regime Type

Regime Type	Features	Example
Formal	Well established and sanctioned representational and reporting protocol which is transferable across time and issues.	A government department enforces clear reporting protocols for their representatives which are consistent from issue to issue.
Non-formal	Transitory representational and reporting protocol which is non-transferable across time and issues	A group of voluntary sector representatives make deputations to government on an issue; but there is no consistency in representation or reporting across issues.
Informal	Ad hoc representational and reporting protocol which is non-transferable across time and issues	Independent representation by voluntary sector organizations to government committees where there is no co-ordination of representation

Critical junctures and increasing returns

According to Pierson, path dependence occurs when preceding steps in a particular direction increase the probability of further movement in the same direction.²

In an increasing returns process, the probability of further steps down that same path increases with each move down that path because the *relative* benefits of the current

² Sociologist Howard Becker profiled a similar reinforcement process to explain how certain behaviours are characterized as behaviour (Becker, 1963).

activity, compared with other possible options, increase over time (Pierson, 2000a). This means that path dependent processes are inherently historical, as it is only through a historical analysis that path dependence can be discerned (Pierson, 2000b).

Characteristics of path dependency

Pierson identifies three characteristics of path dependency processes which enrich the examination of institutional change. First, history counts because path dependent processes and positive feedback mechanisms can be highly influential at the early stages of development, with long-term consequences. Only through an historical perspective can these early stages be identified. Second, relatively small developments early on in a change process may have a big impact, while large developments at a later stage may have much less influence because of the investment in the established norms of behaviour (Pierson, 2000b).

It is not just *what* occurs but *when* a particular development occurs which determines its impact. Third, the relative openness of the early stages in a sequence, compared with the relatively closed nature of later stages, is a critical feature of path dependency. Positive feedback mechanisms diminish the viability of choosing viable alternatives at a later stage. The openness of these early stages means that a number of potential outcomes are possible. However, once a path gets established, self-reinforcement processes lead to its institutionalization.

A critical juncture is defined as the actual developments which trigger path dependency (Pierson, 2000b). Two examples of critical junctures are the Québec Act of 1774, which led to two hundred years of dominance by the Roman Catholic Church in the provision of health, education and social services in Québec; and the 'Quiet Revolution'

in the early 1960s, also in Québec, which resulted in the secularization of many of these same institutions (Elson, 2007).

Because different institutions rest on different foundations, the analysis of the reinforcing or feedback mechanisms provide insight into what aspects of the institution are negotiable and under what conditions (Thelen, 2003). Mahoney recommends that developments which precede a proposed critical juncture need to be examined to determine the beginning of a self-reinforcing sequence. If the conditions preceding the critical juncture *can* predict or explain the results of the critical juncture, then the sequence should not be considered path-dependent. If the outcome of the critical juncture *cannot* be predicted by the preceding developments, then the sequence can be considered path dependent (Mahoney, 2000). Another reason that developments preceding a proposed critical juncture need to be explored is because there can be a time lag between the critical juncture and the establishment of a path dependency process (Pierson, 2000b).

Pierson reminds us that a critical juncture is not defined by the scale or the dramatics of a particular development but by its capacity to trigger a process of positive feedback. This is referred to as the stickiness criteria – the capacity of a change to determine a long-term political path, highly consequential organizational forms, and institutional arrangements (Pierson, 2000b; Thelen, 2004, 27).

Capocca and Kelemen have recently explored the factors which need to be in place for a critical juncture to occur. These criteria have been used in this research, but they also provide a clue to what how a critical juncture could be identified in a contemporary context.

A critical juncture occurs when policy makers explore viable policy options which are available at a time of uncertainty or institutional flux (Capoccia & Kelemen, 2007). In this situation the institutions, instruments, values/beliefs or capacities of the actors change so as to have the potential to make significant and lasting change on the relationship. These changes could be incremental or dramatic. The dramatic changes introduced with the Program Review initiative put into effect by Finance Minister Paul Martin (1994) had, I will argue in chapter four, a significant and long lasting impact on the voluntary sector/government funding relationship. External shocks to institutions such as the 9/11 bombing of the World trade Centre in New York has heightened the issue of security in domestic charities and international Non-Government Organizations alike (Sidel, 2007).

One has to look for incremental changes with transformative results, not just big changes from large developments; and be prepared to examine how this institutional change has taken place. Pierson warns us that without paying careful attention to the identification of the mechanisms at work, path dependence analysis can become descriptions of *what* happened rather than providing an explanation for *why* it happened (Pierson, 2000b) This requires a careful identification of the feedback mechanisms at work, which in turn will provide an insight into what developments or processes could lead to institutional change (Thelen, 2003).

Analyzing critical junctures helps to explain *when* institutions might be susceptible to change, but further analysis is required to discern *how* the institution might change. Thelen suggest that institutional change could occur through institutional layering, where new arrangements are “layered” on top of preexisting structures (Streeck

& Thelen, 2005,22-23; Thelen, 2003). Social Development Canada [now called Human Resources and Social Development] was given responsibility for the overall policy direction of the federal government in relation to the voluntary sector, but this arrangement was “layered” on top of a number of pre-existing, higher priority departmental initiatives.

Change also occurs through institutional conversion, where institutions designed with one set of goals in mind are redirected to other purposes; or through displacement, when traditional institutional arrangements are discredited or pushed to the side in favour of new institutions (Streeck & Thelen, 2005, 20-21). A new institutional form was created when the Home Office in the UK developed the Active Communities Unit to support the Compact and strengthen the voluntary and community sector following the signing of The Compact in 1998 (Kendall, 2003).

Two other ways an institution can change is through institutional drift and institutional exhaustion. Like layering, institutional drift can be masked by apparent stability on the surface, but underlying this is the inability or unwillingness to adjust and renegotiate conditions to adapt to changes in the political and economic environment (Streeck & Thelen, 2005). Institutional exhaustion is a reflection of gradual institutional breakdown, rather than change per se (Streeck & Thelen, 2005).

Historical Institutionalism is a framework which contextualizes the impact of historical developments and their positive reinforcement mechanisms which together create path dependency, a sustained investment in a particular policy direction. Yet change does take place, from either an external shock to institutions or through a series of smaller incremental changes. Whether large or small, these institutional changes have

historical roots which influence the viability of available policy options. Historical institutionalism is used in this research to explore four distinct critical junctures in voluntary sector/government relations, including 1) developments that led to the policy change; 2) the way the policy change took place; 3) the positive reinforcement mechanisms which were subsequently introduced; and 4) the comparison between voluntary sector and government regime types during each of these critical junctures.

Because historical institutionalism focuses on the historical consequences of institutional change it has had limited predictive power. Within critical junctures, however, the consequences of cumulative patterns of positive reinforcement have demonstrated whether an institutional change will be sustained over time (Pierson, 2000a 2000b). In this same context, I explore in the second part of my research question whether this positive reinforcement, and thus the policy outcome, is a reflection of the relationship between the voluntary sector and government regime types which prevailed during the critical juncture.

Research Question

The relationship between the voluntary sector and government has never been unidimensional. It has always been simultaneously an instrumental, political, policy, and governance relationship. When the *Statute of Charity Uses, 1601* was enacted during the reign of Queen Elizabeth I, religion was explicitly excluded as a charitable activity to consolidate her control of the church and enforce the loyalty of her subjects; the act forced local parishes rather than the state to provide services to the poor; and for four centuries the act defined the very nature of what was considered a charitable (Bromley, 2001).

This multidimensional relationship encompasses statutory powers over sectoral governance; engagement with the voluntary sector over public policy issues; and partnership or contractual relations for the purpose of providing public services. In the context of this study, voluntary sector/government relations are characterized by policies that pertain to service delivery and regulation including legal definitions, tax policies, and political activities.

I propose that an exploration of the historical and institutional relationship between these two sectors will reveal that there are critical junctures which continue to have an impact on contemporary voluntary sector/government relations. Further, by examining the prevalent regime types which existed during these critical junctures, I intend to determine the nature of the relationship between regime type and the subsequent policy outcome and its reinforcement. By identifying and then comparing three critical junctures in Canada and one in the UK, I will address the following two specific questions which are derived from the broader purpose of this research:

What are the historical critical junctures which continue to have an impact on contemporary voluntary sector/government relations?

and

To what extent does voluntary sector institutional regime type during a critical juncture influence policy outcomes?

Where institutional regime type are characterized as formal, informal, and non-formal depending on the extent to which a particular regime is subject to enforced compliance by its own members or a third party, such as the media.

These two research questions will be addressed by examining three core policy issues which collectively reflect the regulatory, policy, and instrumental dimension of voluntary sector/government relations. Because the regulation of charities is centrally controlled by the federal government, their policies have an impact on all charities which operate in Canada, and influence the actions of others who aspire to be registered charities. Voluntary organizations also see themselves, at times, as legitimate voices for those they serve and represent. Regulations which limit permissible political activities by charities have created a climate of cautious advocacy which in turn influences the nature, type and amount of public policy debate. The instrumental role that charities play in the provision of public services creates both an opportunity to provide needed services and an aura of intimidation toward public advocacy.

The three core policy issues which continue to capture the interest of the voluntary sector in Canada and have done so for more than thirty years are: 1) the definition of charity and related tax benefits; 2) the ability to advocate in the public interest; and 3) the role of the voluntary sector in the provision of public and quasi-public services (Bellingham, 2006; Boyle, 1997; Canadian Policy Research Networks & Canadian Centre for Philanthropy, 1998; S. Carter, Broder, Easwaramoorthy, Schramm, & de Witt, 2004; Drache, 2001; M. H. Hall et al., 2005; M. H. Hall et al., 2004; National Advisory Council on Voluntary Action, 1977; Panel on Accountability and Governance in the Voluntary Sector, 1999; Phillips, 1991 1995 2003b).

Case Selection

Because critical junctures occur as a consequence of both dramatic and incremental developments, a comprehensive review of voluntary sector literature was conducted. This review included an analysis of historical, legal, political, social and economic literature on the voluntary sector in Canada over the past three centuries (Elson, 2007). At the same time the proximity of changes in voluntary sector relations to broader societal changes such as the depression in the 1930s, and the shift to direct citizen engagement and neo-liberal economic priorities in the 1990s were identified. This analysis depicted a clear picture of the relationship between contemporary voluntary sector/government relations and their historical institutional origins. As a consequence, three developments stood out as potential critical junctures which warranted further investigation and formed the basis of three Canadian cases in this study.

A critical juncture needs to clearly signal the beginning of a change which is then positively reinforced over time. It is only through historical analysis that these moments of change and the reinforcement mechanisms and consequences which support such a change can be identified (Thelen, 1999).

There are other critical junctures in voluntary sector/government relations in Canadian history. The Quebec Act of 1774 institutionalized the dominance of the Catholic Church to provide health, education and social services in Québec for almost 200 years (Elson, 2007). A second critical juncture in Québec, the Quiet Revolution in the early 1960s, secularized these same services (Couton & Cormier, 2001; la Fédération des femmes du Québec, n. d.). I have chosen to limit my analysis to critical junctures which continue to impact on voluntary sector/ government relations at a national level. The three critical junctures which are relevant to this research are: 1) the 1930

amendment to the *Income War Tax Act* and its impact on the definition of charity and tax deductions; 2) the shift from representational citizenship participation to tethered advocacy in the 1970s; and 3) the shift in the 1990s from civic partner to fiscal agent by government.

The first case, the 1930 amendment to the *Income War Tax Act*, is important because it established the statutory context in which all charities would operate. Specifically, it 1) acknowledged all charities in statute for the first time; 2) established how charities would be defined; and 3) set limits on personal tax deductions to charities. These three core components of charity regulation will be traced from the implementation of the 1930 amendment to the *Income War Tax Act* to 2006, when capital gains on donations of stock to charities and private foundations were made fully deductible. It is from this point in 1930 that federal tax regulations established the type and limit for eligible donations to charities which can be deducted from personal and corporate income tax. The Department of Finance has taken the lead in setting charity (.i.e., tax) policy while the Canada Revenue Agency has been responsible for its administration.

The second case analyzes the developments leading to and following an increase in permissible political activities following a time when political activity by charities was not permitted. From a public policy perspective, the Canadian government has been extremely cautious when faced with the engagement of charities in advocacy and political activities. In the late 1970s the Canada Revenue Agency³ released Circular 78-3,

³ The Canada Revenue Agency is the current title for this federal department and will be referred to as such throughout this thesis. Until 2003 it was known as the Canada

stipulating that political advocacy by charities was not permitted. Changes have taken place, first in 1987 and again in 2003, but these changes pale in comparison to what the voluntary sector sees as appropriate role of charities in a society where marginalized groups feel disenfranchised and public policy dialogue is often a closed door affair. For more than three decades the desire for a more liberal regulation of advocacy activities by charities, such as that enjoyed by private corporations, nonprofits and political parties, have largely been rebuffed.

In the third case, I analyze the policy shift from citizenship-based program funding, which supported both program activities and citizen engagement, to dedicated short-term project funding. This short-term project funding, initiated in earnest in the early 1990s, has been sustained through subsequent increases in economic prosperity and numerous political regime changes. Prior to the early 1990s, core funding for voluntary organizations recognized what these organizations did, as well as who they were; namely, a civic partner who also fostered citizenship participation and voice (Phillips, 1995). The retrenchment policies in the early 1990s, which were introduced to combat an economic recession and mounting federal debt, have had a sustained and stressful impact on the voluntary sector (Phillips, 2001d).

Following these three cases, I undertake a cross-case comparison of contemporary developments in Canada with those in the UK. In particular, it will include a comparison of the two voluntary sector institutional regime types in Canada and the UK from the early 1990s to 2006, including the 2006 *Charities Act* in the UK. This comparative case

Customs and Revenue Agency, and prior to 1999 it was called the Department of National Revenue.

has been conducted because the UK voluntary sector faced many of the same issues as the voluntary sector in Canada yet has achieved a very different relationship with the central government. I wanted to determine the extent to which differences in institutional regime type may have influenced these two distinct policy outcomes. This difference in voluntary sector policy outcomes between Canada and the UK presented an opportunity to investigate why the voluntary sectors in these two countries responded differently to similar policy issues. This comparison will help to strengthen my proposition concerning the relationship between institutional regime type and policy outcomes.

Research Methodology

This research utilized three levels of analysis and two primary research tools. The three levels of analysis were 1) a macro overview of voluntary sector/government relations literature to identify potential critical junctures; 2) an in-depth analysis of specific critical junctures to identify institutional regime types and positive reinforcement mechanisms; and 3) a contemporary cross-case comparison with the UK. The two primary research tools I used were: 1) cases identified by the aforementioned critical junctures; and 2) elite interviews to verify, complement, and supplement case findings. Within each case, process tracing was conducted, drawing on source documents and secondary sources to analyze the mechanisms associated with institutional change; to identify the steps linking the critical juncture to policy change; and to assess the impact of regime type on voluntary sector/government policy outcomes. The research takes place in three phases: 1) Survey and Identification; 2) Investigation; and 3) Analysis and interpretation.

Survey and identification

Process tracing was used to identify the steps in the causal process leading to the outcome of voluntary sector/government relations [dependent variable] in a particular case and in a specific historical context (George & Bennett, 2005). According to George and Bennett, process tracing “inductively uncovers linkages between cases and reduces the danger of any unanticipated lack of independence between cases” (George & Bennett, 2005, 33-34). This is distinct from King, Keohane and Verba’s desire to accumulate individual observation points in order to increase causality (King, Keohane, & Verba, 1994). Because process tracing connects the observation points to create a causal chain, it provides a means to identify how the independent variable (institutional regime type) leads to the outcome of the dependent variable (voluntary sector/government relationship status) (George & Bennett, 2005).

Selection bias was taken into account. King, Keohane and Verba are clear that “[case] selection should allow for the possibility of at least some variation on the dependent variable” (King et al., 1994, 129). The primary source of dependent variable variance is my comparison of voluntary sector/government relations in Canada and the UK. As Collier and Mahoney point out, comparisons can provide a basis for causal inference (Collier & Mahoney, 1996).

In phase one of my methodology I identified key source documents including archival materials, public reports, and previously conducted research. A review of debates in the House of Commons was conducted to capture a first-hand account of discussions and policy debates. Reports of historical and contemporary policy task forces and affiliated research and program reports were also analyzed. Federal budget documents; auditor general reports; departmental annual reports; internal departmental

memos, reports, and policy documents; information bulletins; and tax commission reports were retrieved as were archival letters of correspondence. Records of annual meetings, copies of deputations to government and membership newsletters of apex organizations were analyzed. An on-line search was conducted of major national newspapers to retrieve articles on relevant voluntary sector/government relations issues from 1900 to 2008. These documents were collectively used to identify and verify the existence of a critical juncture and its positive reinforcement mechanisms.

Investigation

I used the historical institutionalism research framework to identify institutional regime types, critical junctures and positive returns mechanisms in voluntary sector/government relations in Canada. This investigation used process tracing across designated cases in Canada and the UK to identify: 1) modes of institutional change (e.g., displacement, layering, drift, conversion, or exhaustion); 2) the nature and longevity of increasing returns dynamics, feedback mechanisms and reproduction; and 3) source documents to determine the presence and ratings for institutional variables and their reinforcement.

In addition to the analysis of research materials, potential elite interviewees were identified through personal knowledge of specific developments in voluntary sector/government relations, published reports, and the research literature. Elite semi-structured interviews were then conducted with ten senior government officials and leaders of national umbrella voluntary organizations in Canada and four in the UK. These interviews were designed to triangulate previous interviews; to gain new insights into the nature of voluntary sector and government relations; to verify written reports of voluntary

sector/government relations; and to assist in the identification of the institutional regime type which prevailed during a particular critical juncture. Specifically, interview questions were designed to assess the status of voluntary sector institutional regime type and perceptions of policy outcomes. See Appendix A for a copy of the invitation letters, the informed consent forms, and interview protocols.

Analysis and interpretation

I analyzed the four cases to establish the relationship between the data collected and the two primary research questions. I used this data to modify and establish conditions for the development of an institutional regime framework of voluntary sector/government relations. According to George and Bennett, “process-tracing is an indispensable tool for theory testing and theory development not only because it generates numerous observations within a case, but [also] because these observations must be linked in particular ways to constitute an explanation of a case” (George & Bennett, 2005, 207). It is through this method that the quality, validity and relevance of the case observations to a proposed framework for voluntary sector/government relations theory were determined. This case method was used to establish the nature of selected critical junctures in voluntary sector/government relations and to determine the extent to which voluntary sector regime type influenced policy outcomes. My historical institutional analysis of voluntary sector/government relations in Canada is deliberately limited by the theoretical and methodological purpose of this research.

Chapter Outline

Chapter two introduces the events proceeding, during, and following the 1930 amendment to the *Income War Tax Act*. This Act, which established the statutory and

regulatory context for charities in Canada, will be examined to determine the regime types which prevailed during this critical juncture. Subsequent regulatory, statutory and tax changes will be traced to the current day to determine the degree of influence of regime type has had on these policy outcomes.

Chapter three addresses the regulatory limits placed on charities to advocate on matters of public policy. The political value of representative voice started to diminish in the late 1970s with Circular 78-3, and subsequent calls over three decades for a liberalization of advocacy activities by charities, such as those enjoyed by private corporations, have largely been rebuffed. The critical juncture from the release of *Information Circular 87-1* to the release of *Political Activities CPS-022* in 2003 will be analyzed, as will the influence of voluntary sector's regime type on this policy outcome.

In chapter four I use the Paul Martin's Program Review between 1994 and 1997 to trace the institutionalization of a fundamental policy change in funding the voluntary sector. The policy of citizenship-based funding initiated in the 1960s was changed to dedicated short-term project funding through the Program Review and has been sustained through periods of both economic prosperity and political regime changes. Chapter five compares the contemporary regulatory, advocacy and funding policies in Canada with a critical juncture which took place in the UK between 1994 and 1998 when the Compact between the government and the voluntary and community sector was signed. This comparative case highlights the influence of a formal voluntary sector regime type on policy outcomes.

In chapter six I summarize the case study findings and explore the theoretical, and policy implications of these research findings. I build on the historical institutional

framework presented in chapter one and propose an institutional regime framework to explore the influence of institutional regime type on policy outcomes. In this context I also address the limitations of this research and directions for future research.

I then present the policy implications of my research, suggesting that a more formal voluntary sector institutional regime could result in a clearer and more effective policy and representative voice for the voluntary sector and an increase in more favourable policy outcomes.

Conclusion

The purpose of this chapter was to introduce the importance of voluntary sector/government relations; the two research questions around which this study is structured; relevant voluntary sector/government relations research and theories; the value of historical institutionalism as the investigative framework; and my research methodology. Voluntary sector research and theory is dominated by an instrumental or economic perspective of voluntary sector/government relations. Voluntary sector/government relations are much more complex. It includes the regulatory role governments play in the registration and conduct of voluntary organizations; the representational role of the voluntary sector in public policy formulation and implementation; and the instrumental role when public services are delivered through the voluntary sector. Each of these dimensions will be explored in this research through three critical junctures in voluntary sector/government relations in Canada, and one in the UK.

The three critical junctures in Canada are the 1930 amendment to the *Income War Tax Act* (regulatory regime and definition of charity); changes to regulations governing political activities by charities (public policy regime); and changes to the type and degree

of funding for voluntary sector organizations (funding regime). The critical juncture in the UK which took place in the mid 1990s encompasses each of these three dimensions.

To fully address 1) the question of why have these relationships unfolded as they have and, 2) the consequences of critical junctures for contemporary voluntary sector/government relations, policy, regulatory, and funding regimes; institutions are examined from a historical institutional perspective. I then outline the key elements of historical institutionalism; its relevance to a broader understanding of voluntary sector/government relations; and the subsequent research methodology I have used to identify and analyze the four cases which follow.

Chapter Two

The 1930 Income War Tax Amendment

Introduction

The purpose of this chapter is to profile and analyze key developments which occurred before, during, and following the 1930 Amendment to the *Income War Tax Act*. I will show how decisions made with the passing of this Amendment still echo through the corridors of charity regulators and voluntary organizations across Canada. Because the 1930 amendment to the *Income War Tax Act* amendment was both a tax regulatory measure and a statutory definition of charity, these two elements will be addressed separately in my analysis of developments following the passage of the Amendment. My analysis will show that the 1930 amendment to the *Income War Tax Act* was a critical juncture in voluntary sector/government relations and continues to influence regulatory and statutory governance. I will also analyze and comment on the voluntary sector/government institutional regime types in existence at the time of the 1930 Amendment and during attempts at regulatory changes in the mid 1970s and late 1990s.

Developments Leading to the 1930 Income War Tax Amendment

A combination of tight moral control and extensive worker exploitation between the late 1800s and early 1900s was reflected in the growth of numerous reform movements (Armitage, 1988; S. A. Martin, 1985). This social and moral reform was undertaken by groups such as the Women's Christian Temperance Union; the Dominion Enfranchisement Associations; and other social gospel movements which promoted moral as well as physical well-being (Moscovitch & Drover, 1987). These groups tackled issues related to women's education, urban public health and sanitation, and promoted the

establishment of recreational opportunities in both urban and rural areas (Moscovitch & Drover, 1987).

As charities were proliferating, so were other means of providing social support. Social justice aspirations and religious ideologies were integrated into service provision for much the same reason that Jesuits priests were the leading explorers of the early 1600s - the conversion of the masses to a particular faith-based life. The Moral and Social Reform Council of Canada is a case in point. This alliance of Anglican, Methodist, Presbyterian, and Baptist churches and the Trades and Labour Congress of Canada worked together to get the federal government to enact the Lord's Day Act in 1906 (Guest, 2006). Another example is the National Social Service Congress in 1914, which was described as a "display case of religiously motivated, social reform thought in Canada," where speakers represented the right wing, the centre, and the left wing of the social gospel movement (Guest, 2006, 33).

Until this point, citizens and religious institutions were the primary drivers of voluntary sector activities and organizations. Governments provided funding when they were obliged to under the Poor Law, but otherwise viewed social services as a means to control social unrest rather than a way to address social needs (Armitage, 1988). The prevailing view of government was that social services and opportunities for employment were there for the taking, and it was only moral laziness or illness⁴ which stood in the way. This "hands off" approach by government was pervasive, and it was only by

⁴ Laziness and moral decay were terms that were used to describe the "undeserving poor"; widows or those with a mental illness were considered the "deserving" poor.

political or economic necessity that social action was taken. Income security measures resulting from the Winnipeg General Strike of 1919 and financial aid programs for WWI veterans and their families signalled the first major entry by the federal government into the area of social security (Lautenschlager, 1992).

The proliferation of charities created to help the poor fostered social status for their benefactors and moral servitude for their recipients. It also resulted in the creation of local, centralized governing bodies such as the public Social Service Commission in Toronto in 1912, which was designed to streamline charity work and impose a degree of administrative efficiency and accountability, and led, over time, to the creation of the United Way of Greater Toronto (Maurutto, 2005). By the end of the 1920s, similar federated fundraising organizations were formed in major centres across Canada (Maurutto, 2005). One influential national social policy organization which emerged during this period was the Canadian Council on Child Welfare. The Canadian Council on Child Welfare would have a role to play in the passing of the 1930 amendment to the *Income War Tax Act*.

The Canadian Council on Child Welfare

Members, Trustees, and Patrons of the Canadian Council on Child Welfare each contributed to the eventual outcome of the proposed amendment to the *Income War Tax Act*, and thus warrant particular attention. Founded by Charlotte Whitton in 1919, the Canadian Council on Child Welfare was the only national association which represented a broad range of national, provincial and local social welfare organizations. The Canadian Council on Child Welfare developed a strong research and welfare monitoring capacity; held national annual meetings; published a regular newsletter; was a strong political

advocate for welfare reform and relief; and had a governing council and patrons comprised of social, business, and political elites (Canadian Council on Child and Family Welfare, 1930 1933; Canadian Council on Child Welfare, 1929; Splane, 1996). As such, the Canadian Council on Child Welfare was in a strong position to monitor and comment on social welfare issues and collectively benefit from the proposed 1930 amendment to the *Income War Tax Act*.

In 1929 the Canadian Council on Child Welfare celebrated its 10th anniversary with three important changes (Splane, 1996). First was the decision to change its name from the Canadian Council on Child Welfare to the Canadian Council on Child and Family Welfare, providing equal status to child welfare and family welfare (Canadian Council on Child Welfare, 1929).⁵ Their own research at the time revealed that with the exception of Ontario, there was no organization which met community needs in the field of family welfare and community organization, and this finding called for a broader national organization which could provide such support across the country (Canadian Council on Child Welfare, 1929).

Second, membership in the Canadian Council on Child and Family Welfare was not only organizational and individual but also expanded to include a full slate of representatives from the family welfare constituency. Members in 1929 were comprised of National (35); provincial (31); and municipal (68) organizations; while 458 individuals were members of the Council (Canadian Council on Child Welfare, 1929). The Canadian Council on Child and Family Welfare, representing these organizations and individuals,

⁵ In 1969 the Council would change its name to the Canadian Council on Social Development

stood as a leading national voice for social welfare issues across the Country. Members represented a wide range of both faith-based and secular social service organizations. More than fifty member organizations were in attendance at the tenth Annual General Meeting (Canadian Council on Child Welfare, 1929). Individual members were active in a number of Council activities, including sitting on Council standing and advisory committees and the Governing Council. One of the twenty Governing Council members, which had representation from Saint John to Victoria, was C. L. Burton, President of the Robert Simpson Company, a leading figure in Canadian society at the time (Canadian Council on Child Welfare, 1929) who was to comment directly to the Prime Minister on the 1930 amendment to the *Income War Tax Act*.

Third, starting in October 1929, an invitation was extended to a number of prominent individuals to become patrons of the Council. Those who accepted the invitation included the Governor General and the Countess of Blessborough; the Prime Minister, the Rt. Hon. W.L. MacKenzie King; and Leader of the Opposition, The Rt. Hon. R.B. Bennett. When King and Bennett changed positions in the subsequent federal election, they still maintained their position as patrons with the Council (Canadian Council on Child and Family Welfare, 1930; Canadian Council on Child Welfare, 1929).

The Canadian Council on Child and Family Welfare was thus well placed through its patrons, organizational structure, governing council, and its executive director Charlotte Whitton to influence the emerging social policy agenda. These political and business connections, combined with the Council's extensive pan Canadian membership, take on particular importance during the 1930 amendment to the *Income War Tax Act* debate.

Canada goes to war

Military and related spending had climbed substantially as a result of the First World War. By imposing a direct tax on income (a type of taxation that had until then been the domain of the provinces), the federal government planned to increase its revenues enough to help finance the war effort. Previously, the bulk of federal government revenues had been raised through indirect taxes such as customs duties and excise taxes (Government of Canada, 2007). The specific reference to charities in the 1917 *Income War Tax Act* came into being because the federal government realized that funds that could not be raised voluntarily were needed to support First World War veterans and their families (Armitage, 1988; Watson, 1985). Otherwise the federal government saw social, education, and health programs as strictly a provincial responsibility, as defined in the *British North America Act* (Moscovitch & Drover, 1987).

Instead of providing direct relief, the 1917 *Income War Tax Act* [3 (1) c] provided unlimited income tax deductions for donations to the Canadian Red Cross, the YMCA, the Canadian Patriotic Fund and other patriotic and war funds approved by the Minister (*House of Commons Debates*, 1917; *The Income War Tax Act*, 1917). By the end of the First World War, 846 associations had been approved and registered (*House of Commons Debates*, 1925). Because anecdotal evidence suggested that unscrupulous operators were establishing fraudulent charities, the *War Charities Act* was introduced at the same time to register, regulate, and licence approved charities (*House of Commons Debates*, 1917; Watson, 1985). Any question as to whether a charity was, in fact, a war charity, was determined by the Minister [Secretary of State] (*The War Charities Act*, 1917).

During the First World War, patriotic and war funds raised more than \$98 million dollars, almost half of which came to the Canadian Patriotic fund (Watson, 1985). As

soon as the war was over, the enlistment incentive provided by the war funds was redundant and the tax incentives were rescinded, even though the needs of families didn't diminish (Watson, 1985). The portion of the *Income War Tax Act* pertaining to war charities was repealed in 1920 and donations were no longer eligible for a tax deduction. The parliamentary debate concerning this repeal is enlightening since it is the only occasion before 1930 when Parliament debated the justification of charitable deductions.

On June 8th, 1920, during the debate to rescind the section dealing with charity in the *Income War Tax Act*, Hume Blake Croyne, M.P. for London North, proposed an amendment to the *Income War Tax Act* that would extend tax exemptions to hospitals, orphan asylums, and "other charitable purposes", and limit deductible donations to 10 per cent of income (*House of Commons Debates*, 1920). Croyne noted that the work of charitable institutions relied on voluntary contributions and that these donations came from a wide variety of taxpayers, including those of moderate means. Croyne also pointed out that this same taxpayer would then have to pay federal income tax on the donation. The precedent of the existing American legislation (allowing a 15 per cent deduction allowance to charities) was also cited by Croyne as one way to do "something helpful" for "the charitable institutions of this country" (*House of Commons Debates*, 1920, p. 3244).

Those opposed to the amendment objected that: 1) payment of state taxes should take precedence over donations to charity; 2) donations to charity 'ought to hurt'; 3) charitable institutions such as hospitals should not be dependent on charity to operate; 4) the rich would unfairly benefit from a tax deduction; and 5) there would be significant difficulty in determining which charitable institutions and causes would be eligible to

benefit [from the deduction] (*House of Commons Debates*, 1920). The motion was defeated, but the debate itself was an indication of the general high regard in which charities were held by Members of Parliament; the tension between supporting charities and foregone tax revenue; and the challenge of defining eligible charitable organizations.

Following the First World War, parliament continued to grant an exemption of payment of income taxes by religious, charitable, agricultural and educational institutions, Boards of trade and Chambers of Commerce, as originally specified in the 1917 *Income War Tax Act*. From 1921 onward, the government also required the filing of an annual tax return by these exempt organizations, although it would be 45 years before a central registry was initiated (*The Income War Tax Act*, 1917; *Statutes of Canada*, 1922). Throughout the 1920s and particularly in the latter part of the decade, the important work of health and educational charities were explicitly acknowledged in the House of Commons (*House of Commons Debates*, 1925; *House of Commons Debates*, 1927; *House of Commons Debates*, 1929).

In 1929 the Liberal government was being urged by the opposition Labour party to address the severe levels of unemployment and to assist provinces, regardless of provincial jurisdiction as defined by the *British North America Act* (*House of Commons Debates*, 1929). Immigration was exploding, growing from less than 50,000 per year in the early 1900s to 400,000 per year in 1913 (Bitar, 2003). It was this massive immigration to Canada which led to the creation of so many ethnic-centred mutual support organizations (Lautenschlager, 1992). Parallel to these societal shifts was the growth of federated fundraising organizations across Canada. The National Council on Child and Family Welfare, which took a lead role in supporting the provision of relief

across Canada, also developed strong political, economic, and community connections (Canadian Council on Child and Family Welfare, 1930 1933; Maurutto, 2005; Splane, 1996).

The proposed personal tax deduction amendment to the *Income War Tax Act* was thus introduced in the context of a growing economic depression, accelerating unemployment, massive immigration adjustments, a traditional federal reluctance to provide support in areas of provincial jurisdiction, and a pending federal election. The passing of the amendment to the *Income War Tax Act* was one of the last pieces of legislation of the minority Liberal government led by W. L. MacKenzie King before going to the polls.

Well connected yet stressed community-based volunteer networks struggled to provide relief to families; mutual aid organizations and co-operatives worked with the poor and marginalized; federated fundraising organizations consolidated appeals for donations; and the Canadian Council on Child and Family Welfare provided support for health and welfare relief programs. As debates in the House of Commons between 1917 and 1929 reflect, members of parliament were aware of the role of charities during the First World War and their on-going contribution to health, education, and welfare of communities. It will become evident that the Canadian Council on Child and Family Welfare was equally aware of debates which were taking place in the House of Commons.

The 1930 Income War Tax Amendment

A number of amendments to The *Income War Tax Act* were moved in the House of Commons by the Hon. George Everett Dunning, Minister of Finance, on May 1, 1930,

as part of the Ways and Means Motion to implement his recently tabled budget. The amendments included provisions

... 2. That the income of co-operative companies and associations be exempt from income tax; and ... 3 (b) That donations, to the extent of ten per cent of the net income of the taxpayer to any church, university, college, school or hospital in Canada, be allowed as a deduction (*House of Commons Debates*, 1930, p. 1677).

The subsequent debate in Parliament on the motion evolved not around the justification for the deduction, which was readily acknowledged, but the type of charitable organization that would benefit (McCamus, 1996). This limited (i.e., institutional) tax provision was quickly met with vigorous opposition from community funds, federated charities, and non-sectarian charities. The Act also was seen to favour charities in Quebec, which were all affiliated with the Roman Catholic Church, over the non-sectarian charities that dominated in Ontario and the other provinces (Watson, 1985). The proposed amendment attracted attention in the media, and the notice of at least one well positioned business executive. The *Toronto Star* commented on the proposed income tax provisions in its Friday, May 2nd editorial entitled *The Income Tax Concessions*:

Among the concession to income taxpayers which Mr. Dunning makes in his 1930 budget, one of the most interesting is the provision that 'donations to any church, university, college, school or hospital in Canada shall be treated as deductions from income up to a maximum of 10 per cent of the net income of the taxpayer.' This type of deduction is quite new to the Canadian Act, but something of the sort has been many times suggested. ... the new provision recognizes and encourages a type of contribution which is extremely valuable in every community (p. 6).

Further in the same May 2nd edition of the *Toronto Star*, the 10 per cent limit on donation deductions received special attention. Reporting on the amendment from the perspective of churches (the 'Biblical Budget' as it was called), it was reported that for the first time in Canadian history the biblical tithe was being used [by Finance Minister

Dunning] to encourage and help the churches of Canada, irrespective of denomination. The benefit to schools, universities, colleges, and hospitals was also noted in the same article, as was the precedent for similar tax deductions which had been established in the United States (Wayling, 1930b).

On Monday May 5th, 1930, immediately following the publication of the proposed amendment in the Toronto Star, Mr. C. L. Burton, Robert Simpson Company President and member of the Governing Council of the Canadian Council on Child and Family Welfare, wrote to the Hon. Charles Dunning, Minister of Finance, with a carbon copy to Prime Minister MacKenzie King, and expressed concern that welfare and relief work were not eligible for tax deductions:

Referring to reports in this morning's papers that decision had been made not to include charitable gifts in exception from income tax I should like to submit that organizations such as Federation for Community Service in Toronto doing welfare and relief work of a non-sectarian character entirely in the interests of public welfare should be included in the items listed for exemption. May I respectfully submit that donations for welfare and relief work when made through established and properly constituted bodies should be exempt.

Mr. Burton went on to add...

There is surely no good reason why, if it is correct in principle to grant exemptions for the other objects mentioned [church, university, college, school or hospital], that welfare and relief work should be penalized, as I believe it would be if the decision as reported in this morning's paper ...is correct. I can only think that the reported decision must have been made without a full knowledge of the facts (Burton, 1930).

The Toronto Star continued its coverage throughout the month, including another editorial on May 6, 1930. Entitled, "No Tax on Philanthropy", the editorial called the tax deductions for donations the most novel feature of the [Dunning] budget and continued with the comment that "...Unknown to the public a number of organizations engaged in

important community work urged the Dominion government over a period of years to take the step now determined upon” (No Tax on Philanthropy, 1930).

The motion to amend section 3 (b) of the *Income War Tax Act* re tax deduction for donations to any church, university, college, school or hospital was debated in Parliament starting on May 24th (*House of Commons Debates*, 1930).

J.S. Woodsworth, member of the Labour party at the time, led the committee debate with a call to extend the exemption to community funds, or federated charities (*House of Commons Debates*, 1930). Dunning replied that this proposed extension was noteworthy, but still too narrow to reflect the wide range of representations he had also received. Opposition Conservative member R.B. Hanson stood in the House to advocate for the inclusion of the Victorian Order of Nurses and similar organizations:

If the minister is going to grant this exemption, he should cover the whole field. I am not opposed to the exemption; indeed it was urged upon the government by this party many years ago in the house, and I suggest to the minister that if he is adopting the principle, the exemption list is not wide enough ... The whole question [of exemptions] should be reviewed by the minister ... I have no doubt that representations have been made to him by every institution in Canada (p. 2513)

Others made similar appeals for the inclusion of charitable and social agencies which existed at the time in most major cities⁶. Their exclusion (from a deduction) would

⁶ Examples explicitly cited during the debate include: the Victorian Order of Nurses; Boys’ Welfare; Montreal Hygiene Committee; the Social Hygiene Council; the Anti-tuberculosis Association; the King’s Daughters; the Federated Charities of Montreal; the Child Welfare Association; the Family Welfare Association; the Children’s Aid Society; the social settlement of boys’ and girls’ clubs; and the Red Cross Society.

create an undue burden on many worthwhile charities and their inclusion would support the voluntary community donations (*House of Commons Debates*, 1930). Dunning, for his part, found merit in the suggestions which had been put forward, but was reluctant to proceed, citing the governments' lack of experience in knowing what the consequences would be. The opposition parties were also adamant that the government should not be given discretion to determine eligible charities.

The eligibility floodgates continued to open, with museums and non-sectarian and federated charities being noted as worthy exemptions, complemented by continued references to the existing tax provisions in the United States (*House of Commons Debates*, 1930). Dunning indicated that he too was impressed with the wide range of representation he had received, but he declared that he was overwhelmed by potential implementation issues. Dunning appealed to the House to be allowed to start with the provisions as outlined in the amendment and then to look to widen it [exemptions] in the future [.e.g., in one year] once the government had gained experience (*House of Commons Debates*, 1930).

When the Ways and Means Committee continued its debate in Parliament on May 27th, Opposition leader R.B. Bennett reiterated the government's own [biblical] position on the 10 per cent of personal income limit for tax deductions for donations to worthy causes, and pointed out the discrepancy between this principle and the proposed practice of only allowing donations to be deducted if they went to particular types of charities. W. D. Euler, Minister of National Revenue, and Finance Minister Dunning's both restated their earlier position that the principle [allowing tax deductions for donations to charity] was important, but the administrative and forgone tax revenue costs were unknown and

caution was called for (*House of Commons Debates*, 1930). At this point Dunning conceded that the use of the term “charitable institutions ... operated exclusively as such and not for the benefit of private gain” appealed to him, again acknowledging potential unforeseen administrative difficulties (*House of Commons Debates*, 1930).

On May 28, 1930, less than thirty days after the amendment to the *Income War Tax Act* was first introduced, W. D. Euler, Minister of National Revenue, stood in Parliament, and acknowledged the value of argument for the inclusion of federated charities, the Red Cross and other organizations. Euler then stated that [the government had decided that] the clause should be broadened, but specific reference to charities by type would only create another wave of protests from those excluded. The term Euler proposed to include was “charitable organization” (*House of Commons Debates*, 1930)

Euler then proposed the following amendment: “That section 3 (j) be amended by striking out the words ‘any church, university, college, school or hospital’ in lines 24 and 25, and substituting therefore the words ‘any charitable organization’ (*House of Commons Debates*, 1930, p. 2714). Euler continued at this point to establish the legal foundation on which charities continue to stand in Canada, by quoting directly from Halsbury’s Laws of England:

Only those purposes are charitable in the eye of the law which are of a public nature, whole object, that is to say, is to benefit the community or some part of it, not merely particular individuals pointed out by the donor. Accordingly gifts which are directed to the abstract purposes of relieving poverty, advancing education or religion are charitable... ‘Charity’ in its legal sense comprises four principle divisions: trusts for the relief of poverty, trusts for the advancement of education, trusts for the advancement of religion, and trusts for other purposes beneficial to the community not falling under any of the preceding heads. I [Euler continued] submit that this phrase embraces every organization of this kind.

The section [3 (j)], he announced, would then read as follows:

Not more than ten per centum of the net taxable income of any taxpayer which has been actually paid by way of donation within the taxation period to, a receipted for as such by *any charitable organization* [italics added] in Canada operating exclusively as such and not operated for the benefit of private gain or profit of any person, member or shareholder thereof (p. 2715).

Opposition leader W. C. Bennett congratulated Minister of Revenue W. D. Euler for having introduced the amendment, expressed his satisfaction that the term “charitable organization” covered ‘every species of benevolence’ and that the 10 per cent limit also protected the government [from excessive foregone revenue] *House of Commons Debates*, 1930).

The Bill was reported, read the third time and was passed unanimously by the House of Commons (*House of Commons Debates*, 1930).

The passing of the 1930 amendment to the *Income War Tax Act* marked the first time in Canada that 1) a universal tax deduction was introduced for any charitable donation; 2) the statutory term for charity was defined; 3) a designated ceiling on income tax deduction on donations was imposed; and 4) a regulatory body, the Department of Revenue, was assigned to administer the act (Canada Revenue Agency, 1998; *House of Commons Debates*, 1930; McCamus, 1996).

If Euler’s reference to the bible as a basis for capping allowable tax deduction for charitable donations to 10 per cent reflected a long religious history, it was no less profound in a legal context than his reference to the Halsbury’s Laws of England. The quote he used from Halsbury’s was a direct passage from the majority judgement in the House of Lords by Lord Macnaghten in the 1891 Pemsel case which was, and continues to be, the leading judgement and interpretation of “charitable purposes”. The Pemsel case in turn made direct reference to the Preamble to the Statute of Elizabeth, also known as

the Statute of Charitable Uses (1601) or as it was called in 1601, *An act to redress the misemployment of lands, goods and stocks of money heretofore given to certain charitable uses* (Statute of Charitable Uses, 1601).

This is what lawyer and academic Kernaghan Webb (2000) notes about the Pemsel case:

Pemsel was important not only for its classification system, but also for its confirmation that the meaning of charity for trust purposes was relevant and applicable to understanding the meaning of “charitable” under the income tax. To this day, courts and administrators turn to the Pemsel decision to assist them in determinations of acceptable charitable categories (p. 129).

Developments Following the 1930 Income War Tax Amendment

I will now outline the short-term developments following the passing of the 1930 amendment to the *Income War Tax*, followed by the longer-term consequences of the Act in two parts: 1) tax consequences; and 2) consequences for the definition of charity.

Short-term developments

The passing of the amendment to the 1930 *Income War Tax Act* received front-page coverage in several newspapers. The Toronto Star ran a one-inch banner headline on the front page of its May 28th Edition: “CHARITY INCOME TAX EXEMPTION EXTENDED: Include All Donations Given to Any Charity in List of Exemptions” (1930a). In addition to a profile of the amendment itself, the Star reported that W. D. Euler had broadened the exemption in recognition of the work of Federated Charities, the Red Cross, and similar charitable organizations (Wayling, 1930a). A similar article was published on the front page of the Ottawa Citizen the same day (Gifts to Charity Exempt From Tax, 1930). The Globe and Mail reported the tax amendment as part of a list of

legislative accomplishments the following day (House is in Session Long Past Midnight, 1930).

The administrative burden predicted by W. D. Euler did not materialize for four reasons: first, records of federal registration of charities took place within each income tax district (Watson, 1985), so the administration of registrations was disbursed across the country; second, there was no special information or income tax forms to be completed by charities; third, at the individual taxpayer level, a receipt from the registered charity was the only documentation required; and fourth, the deduction was easily incorporated into the existing income tax form, although over time the itemized deductions on the income tax form were continually reorganized, regrouped, and rewritten (Watson, 1985).

During R. B. Bennett's term as Prime Minister from 1930 to 1935, additional amendments were made to the *Income War Tax Act* so that by 1935 eligible donations included not only gifts or property to charities and educational institutions but also donations to the "Dominion of Canada or any province or political subdivision thereof" (Stikeman, 1947, p. 265; Walden, 1984). The Act prudently reserved the right for the government to validate the value of the gift or property to prevent inflationary assessments, which the government still exercises to determine 'fair market value' (Revenue Canada Agency, 1990; Stikeman, 1947).

As valuable as the deduction of donations to charities appeared to be at the time, the inability of charities to raise the funds necessary to provide services only expanded during the years of the Great Depression (Watson, 1985). In the 1930s, millions of Canadians were unemployed; on the prairies farmers were devastated by a seven-year drought (Lautenschlager, 1992). In a letter to Prime Minister R. B. Bennett in 1933

Charlotte Whitton of the Canadian Council on Child and Family Welfare predicted that the number of families on relief would be at least eighty per cent higher than at the corresponding period the previous year (C. Whitton, written communication, September, 11, 1933).

For support, charities turned to local municipalities, which relied on property taxes for their income, and during the 1930s this source of revenue was either limited or in default. Increasingly provincial governments had to assume the responsibility for debt relief. Yet some provinces were themselves in financial straits and so the provinces in turn appealed to the federal government for support (Armitage, 1988).

The federal government responded under pressure from provincial governments to address the massive unemployment and years of drought on the prairies by increasing its funding for unemployment relief measures and passing an *Employment and Social Insurance Act* in 1935 (Armitage, 1988). Meanwhile, relief in the form of soup kitchens, bread lines, clothing depots, and shelters for the hungry and homeless were provided by caring individuals, religious groups, and voluntary agencies such as the Red Cross (Lautenschlager, 1992). This economic climate significantly increased the number of local organizations and local branches of national organizations to which tax-deductible donations could be made by those who were more fortunate.

The next significant shift in tax deduction provisions came during the Second World War when the need to encourage volunteers for the war effort arose again in 1939. In a special session of Parliament the government resurrected the Patriotic Fund, the *War Charities Act*, and introduced legislation permitting the deductibility to war charities of donations of up to 50 per cent of a taxpayer's net taxable income. This was reduced to 40

per cent in 1941. As in the First World War, a large number of war charities, such as the I.O.D.E., the Canadian Legion War Services Fund, and the Salvation Army War Services Fund qualified for the purposes of the deduction (Watson, 1985). These war-time provisions were again repealed in 1948 as they had been in 1920. For the first time the 1941 legislation differentiated between corporations and individuals with charitable deductions by lowering the limit for corporations to five per cent of taxable income.

Long term tax relationship

The tax deduction for donations to selected charities, first introduced in 1917, has been modified on numerous occasions. The incentive for these tax measures has consistently been to support donations to charity, although the issue of forgone tax revenue has also been a recurring theme in debates surrounding any legislative changes (Watson, 1985). The following section highlights some shifts in the ongoing tax relationship between the federal government and charities between 1948 and 2006:

1948 - The infamous 'temporary' *Income War Tax Act* was replaced by the *Income Tax Act*. Until this time lists of charitable organizations were kept separately in each tax district. After 1948, charities wishing to issue receipts for income tax purposes were required to apply for recognition from the federal government (Watson, 1985). However, once this recognition was received, no further monitoring took place (Auditor General, 1966) .

1950 - In response to the proliferation of foundations, some of which were set up to benefit the benefactor, charitable foundations were explicitly defined and an annual income disbursement rate of 90 per cent of return on assets was established (*An Act to Amend the Income Tax Act*, 1950; Watson, 1985).

1957 – An optional standard deduction of \$100 was introduced. It applied to charitable donations, but also included medical expenses, and union, professional or similar dues (Watson, 1985).

1958 - Tax deductible donations by individuals and corporations were limited to ten per cent of net income.

1966 - The Report of the Royal Commission on Taxation (the Carter Commission) recommended among other measures that a federal supervisory body be set up to review applications for charitable registration and a tax deduction allowance of fifteen per cent (K. L. Carter, 1966). The late addition of charity regulation to the Carter Commission on Canadian tax law was most likely due to the 1965 Auditor General's Report which pointed out the complete lack of regulatory oversight or monitoring of charitable activities (Auditor General, 1966).

The 1965 Auditor General's Report drew attention to the lack of any formal registration requirement and administrative oversight for charities such as those formerly required under the *War Charities Act* (*The War Charities Act*, 1917; *The War Charities Act*, 1939). The audit revealed that it was not clear from the limited list of charities (1,200) held by the government that organizations who were issuing tax receipts were actually concerned with poverty, religion, education or purposes of benefit to the community (Auditor General, 1966). The Auditor then pointed out that charities could change their purpose or cease to provide any useful service, and could still issue tax receipts.

When this issue was raised in the House of Commons, Finance Minister Benson explicitly noted the Auditor General's recommendations and departmental concerns,

particularly the need to centrally register charities and to have the regulatory power to reconcile financial contributions with tax receipts to address charity tax-deduction abuses (*House of Commons Debates*, 1966). This recommendation followed the revelation of church scandals in Quebec where it was found that Quebec residents had claimed donations of \$164,616,000 to charity while all the rest of Canada had claimed only \$137,713,000. This charge became highly politicized and mandatory registration for all charities was the result (Watson, 1985).

1967 - Charities are required to formally register with the Canada Revenue Agency in order to issue receipts (Canada Revenue Agency, 1998). This resulted in an institutional layering within the Canada Revenue Agency as the establishment of charity section became the foundation of what would constitute the lead decision making body in the government concerning eligibility as a registered charity and accompanying regulations (Streeck & Thelen, 2005). This will be addressed further in the next part of this chapter, 'Defining Charity'.

1972 - A personal deduction of up to 20 per cent of income in charitable donations is permitted. This limit exceeded the recommendation of a 15 per cent limit made by the Carter Commission (Woodman, 1988).

1984 - The standard deduction of \$100 was eliminated after sustained lobbying efforts led by the Coalition of National Voluntary Organizations (NVO) and the Canadian Centre for Philanthropy (Watson, 1985). However, this only represented part of what NVO and others were looking for in their long-standing 'Give and Take' campaign, and were upset that Finance Minister Lalonde introduced the measure in the House of

Commons as a full response to the voluntary sector's requests (*House of Commons Debates*, 1983).

For the first ten years of its start in 1974 the NVO focused on tax measures, as their primary policy platform (Barr, 1987; Morrison & Cohen, 1978; National Voluntary Organizations, 1981; National Voluntary Organizations Committee Task Force on Tax Reform, 1980). This tax policy, entitled 'Give & Take', called for the standard \$100 personal income tax deduction to be eliminated and replaced by a 50% tax credit or a tax deduction, whichever option was in the best interest of the taxpayer (National Voluntary Organizations, 1978). After more than ten years of campaigning, a bittersweet victory was accomplished in 1988 when partial tax credits for charitable deductions were introduced (Cohen, 1988; *Discouraging to Charity*, 1978).

1988 - The government shifts the personal tax deduction for charitable donations to a two-tier non-refundable tax credit (Domingue, 1996). The taxpayer received a federal tax credit of 17 per cent on the first \$250 and a credit of 29 per cent for any donations exceeding that amount. The result was greater equity in the benefit of charitable donations to Canadians. Tax deductions benefited higher income individuals, who tend to favour education and arts charities, over lower-income taxpayers, who tend to give to religious organizations and specific social welfare organizations (Woodman, 1988). From 1988 onward, the value of the tax credit has been dependent on the amount of donations rather than a percentage of the donor's income (Domingue, 1996).

1994 - For donations above \$200, rather than \$250, individual donors are permitted to apply the advantageous rate of 29 percent for calculating their tax credit.

According to the Department of Finance, this increased credit would cost \$15 million in foregone revenue (Domingue, 1996).

1996 - The maximum that a taxpayer can claim in a year is increased from 20 to 50 per cent of net income, or 100 per cent in the case of bequests. Donations of publicly traded securities are allowed, and capital gains on these securities are reduced by 50 per cent. In addition, donations exceeding the ceiling of 50 per cent of net income could be carried forward over five taxation years; either spouse could claim the credit; and individuals could defer claiming credits for five years to maximize the available tax credit (Canada Revenue Agency, 1998; Domingue, 1996). It was estimated that the personal tax credit feature alone cost the government \$1 billion in foregone tax revenues (Domingue, 1996) and more than \$1.5 billion in incremental stock donations was realized between 1997 and 2004 (Standing Senate Committee on Banking Trade and Commerce, 2004).

The Canadian Centre for Philanthropy (now Imagine Canada) reported in 2004 that the rate of charitable giving had surpassed the rate of economic growth and that there had been a three-fold increase in donations of registered securities between 1997 and 2000 (Standing Senate Committee on Banking Trade and Commerce, 2004).

At the same time, if a gift related to its business is made by a corporation, there is no limit to either the contribution or the deduction from operating expenses. Otherwise, corporations can deduct the fair market value of charitable donations of up to seventy-five per cent of net income (Standing Senate Committee on Banking Trade and Commerce, 2004). It has been argued that the operational expense deduction of donations

amounts to corporate use of public money [e.g., foregone tax], without any accountability to the government or public whatsoever (Domingue, 1996).

1997 - The maximum percentage of donations a taxpayer can claim in a year was increased from *fifty* to *seventy-five* per cent of income, with the limit of Crown gifts falling from one hundred to seventy-five per cent (Canada Revenue Agency, 1998). Capital gains on donated stock were reduced to 50 per cent of the amount which would be otherwise payable. This feature was introduced in 1997 and made permanent in 2001.

The increase in the charitable tax donation limit from 20 per cent to 75 per cent of taxable income in two increments between 1996 and 1997 coincided with significant and unprecedented debt-reducing cuts to government programs, core funding to voluntary organizations, and health and social transfer payments to provinces (Feeman, 1995; Paguet & Shephard, 1996). The eligibility increase was intended to foster charitable donations to compensate for federal budget cuts and increase sector independence from government funding. A Canada Revenue Agency departmental briefing note for the 1996 budget stated, "In the coming year the Department of Finance will examine ways of further encouraging charitable giving and charitable activities, particularly in areas where, due to the fiscal situation of governments, individuals and communities are being asked to do more" (Revenue Canada - Legislative Policy Division, 1996).

2006 - Donations of publicly listed securities to registered charities became fully exempt from capital gains tax, but like the 1997 dynamic, the expansion in access to eligible donations coincided with a \$1 billion budget cut across the voluntary sector in general and to voluntary sector policy and research organizations and to volunteering support in particular (Canadian Press, 2006; Flaherty, 2006; Levy-Ajzenkopf, 2006).

Charity Tax Legacy

The legacy of the tax portion of the 1930 *Income War Tax Amendment* was two-fold. First, the non-payment of income tax by charities and benevolent societies continued to be institutionalized following the original 1917 *Income War Tax Act*, and ingrained in practice which has not wavered (*The Income War Tax Act*, 1917; Stikeman, 1947). Second, the act established the threshold for the level and type of donation which could be deducted from income tax. The initial ceiling for individuals was set at ten per cent, based on the concept of tithing and this level stayed in place for 42 years. Only in 1972, following the Carter Commission on tax reform was the donation ceiling raised to 20 per cent. It was 24 year later, in 1996, that the donation ceiling was raised again.

In 1996 and 1997 there were two dramatic shifts in the tax deduction for charitable donations ceiling. The first was a shift from 20 to 50 per cent of taxable income in 1996. A second shift in 1997 moved the ceiling to 75 per cent of taxable income. These increases were made lock-step with the single largest cuts to date to the voluntary sector by the then federal Liberal government. In the name of fiscal restraint, the federal government introduced tools to raise money through donations by the voluntary sector as a viable alternative to direct core funding (Revenue Canada - Legislative Policy Division, 1996; Standing Committee on Finance, 1996). The same message was delivered ten years later by the minority Conservative⁷ government

⁷ The Progressive Conservative Party of Canada changed its name to the Conservative Party of Canada in 2004. For the purpose of this thesis, references to the Progressive Conservative Party or government will be identified as the Conservative (Party/ government).

(Department of Finance Canada, 2006). In 2006, a \$1 billion budget cut across the voluntary sector was followed by a 100 per cent capital gains exemption for donations of registered stock. The ceiling for charitable deductions has shifted most dramatically (e.g., 1995, 1996, 2006) when it was accompanied by a corresponding decrease in federal government funding to charities. The disproportionate impact of these funding cuts on the voluntary sector will be discussed in chapter four.

I now turn to the section of the *Income War Tax Act* amendment, the definition of charitable purposes, a section which remained unchanged for more than 300 years.

Defining Charity

Chastened by the numerous calls throughout May of 1930 for the designation of specific charities from all sides, and wishing to broaden the clause (specifying exceptions from income tax) without having to name particular charitable organizations, Halsbury's Laws achieved both a practical and a political purpose for W.D. Euler and the government of William Lyon Mackenzie King. It achieved a practical purpose because the designation of the term "*any charitable organization*" in the context of Halsbury's Laws of England was firmly grounded in more than 300 years of common law and because it eliminated the need to continue to address specific requests from organizations to be included as a designated charity. It achieved a political purpose because it satisfied the demands of both opposition parties and a wide variety of constituents without alienating any existing exempted group, and provided the means to support worthwhile charitable activities without increasing government expenditures.

Halsbury's Laws of England trace common law precedents concerning charitable acts back to the *Statute of Charitable Uses, 1601*. The full title of the 1601 statute is "*An*

Acte to Redress the Misemployment of Landes, Goods and Stockes of Money heretofore Given to Charitable Uses. While the act itself was designed to address fraudulent use of charitable purposes, namely the designation of lands and monies by the wealthy to the benefit of their relatives, it is the Preamble to the *Statute of Charitable Uses, 1601*, (*Preamble*) which has stood the test of time (Bromley, 2001):

Whereas lands, tenements rents annuities, profits, hereditaments, goods, chattels, money and stocks of money have been heretofore given, limited, appointed and assigned, as well by the Queen's most excellent majesty, and her most noble progenitors, as by sundry other well disposed persons; some for relief of aged, impotent and poor people, some for maintenance of sick and maimed soldiers and mariners, schools of learning, free schools, and scholars in universities, some for repair of bridge, ports, havens, causeways, churches, sea banks and highways, some for education and preferment of orphans, some for or towards relief, stock or maintenance for houses of correction, some for marriages of poor maids, some for supportation, aid and help of young tradesmen, handicraftsmen and persons decayed, and others for relief or redemption of prisoners or captives, and for aid or ease of any poor inhabitants concerning payments of fifteenes, setting out of soldiers and other taxes; which lands, tenements, rents, annuities, profits, hereditaments, goods, chattels, money and stocks of money nevertheless have not been employed according to the charitable intent of the givers and founders thereof, by reason of frauds, breaches of trust, and negligence in those that should pay, deliver and employ the same.

The *Preamble* to the *Statute of Charitable Uses, 1601* is the foundation on which all subsequent debates, policies, and legal precedents regarding the nature of charity and charity law have been built (Bourgeois, 2002; Broder, 2002; Bromley, 1999; Bromley & Bromley, 1999; Brooks, 1983; Canada Revenue Agency, 2006; T. S. Carter & Cooper, 2006; Drache, 1999 2001; Lord Simons, 1953; McCamus, 1996; Monahan & Roth, 2000; Panel on Accountability and Governance in the Voluntary Sector, 1999; Webb, 2000).

Blake Bromley's analysis of the 1601 Statute in the context of the relationship of the state to the charitable sector is revealing. Bromley concludes from his analysis that the *Preamble* was remarkable for the scope of charitable purposes outlined and troubling

because it was a clear case of the state to co-opting the agenda and resources of the charitable sector (Bromley, 2001). Queen Elizabeth I excluded religion as a charitable purpose in order to solidify the superiority of the state.

The leading case for the liberalization of the *Preamble* from its narrow perspective was *Commissioners for Special Purposes of Income Tax v Pemsel* or *Pemsel* in Britain in 1891. The subject of *Pemsel* was an appeal for a tax rebate on rents paid to the Moravians from a charitable endowment of land. The Moravians was the common name for the Church of the United Brethren. John Frederick Pemsel was the treasurer of the church. This tax rebate had been allowed for seventy-three years and then refused by the Board of Inland Revenue on the grounds that the popular use, rather than the statutory definition of charity prevailed (Bromley & Bromley, 1999).

The majority judgement in *Pemsel*, written by Lord Macnaghten, first clarifies that in no previous statute is charity explicitly defined and that a previous court judgment that equated charity only with “relief of poverty” was too narrow an interpretation (*Income Tax Special Purposes Commissioners v. Pemsel*, 1891). Lord Macnaghten then draws the courts’ attention to the varied and comprehensive list of charities in the *Preamble* to the *Statute of Charitable Uses, 1601* and, quoting Lord Chancellor Cranworth, concludes that the charitable objects in the *Preamble* “are not to be taken as the only objects of charity but are given as instances” (*Income Tax Special Purposes Commissioners v. Pemsel*, 1891, pp 581). Lord Macnaghten then poses the following question:

How far then, it may be asked, does the popular meaning of the word “charity” correspond with its legal meaning? ‘Charity’ in its legal sense comprises four principal divisions: trusts for the relief of poverty; trusts for the advancement of education; trusts for the advancement of religion; and trusts for other purposes

beneficial to the community, not falling under any of the preceding heads [italics added]. The trusts last referred to are not the less charitable in the eye of the law, because incidentally they benefit the rich as well as the poor, as indeed, every charity that deserves the name must do either directly or indirectly. It seems to me that a person of education, at any rate, if he were speaking as the Act is speaking with reference to endowed charities, would include in the category educational and religious charities, as well as charities for the relief of the poor (p. 583).

The four divisions or pillars of charity - poverty, education, religion, and public benefit - have been widely quoted in court judgements, charity law and statutory regulations ever since the 1891 *Pemsel* judgement was issued (Bourgeois, 2002; Boyle, 1997; Broder, 2002; Bromley, 1993; Bromley & Bromley, 1999; Brooks, 1983; Canada Revenue Agency, 2006; Charities Directorate, 2004 2006; Drache & Boyle, 1998; Innes & Boyle, 2006; Kitching, 2006; McCamus, 1996; Monahan & Roth, 2000; Supreme Court of Canada, 1967 1999). While it may or may not have been the intent of Lord Macnaghten to establish the legal definition of charitable purposes, his judgment in the *Pemsel* case has become just that.

Opportunities to challenge the legal definition of charity in Canadian courts, and subsequently influence charity regulation, have been few and far between. To date, less than twenty cases have been heard by the Federal Court of Appeal and only three cases have been heard by the Supreme Court (one case pending) (Monahan & Roth, 2000).

The first case to be heard by the Supreme Court of Canada was *Guaranty Trust v. the Minister of National Revenue* in 1967 (Supreme Court of Canada, 1967). The case involved a claim for an exemption from estate tax on the grounds that funds from an estate were donated to an alumni association for use as a student loan fund for women medical students. The Supreme Court ruled that the purposes were ultimately educational and therefore charitable, and dismissed the claim by the Minister of National Revenue

who had claimed otherwise (Supreme Court of Canada, 1967). Numerous references to English case law were made in the judgement, including *Pemsel*. When *Pemsel* was referenced by Judge Richie to determine charitable purposes, the four pillars of charity as stated by Lord Macnaghten in *Pemsel* are explicitly noted in his judgement (Supreme Court of Canada, 1967). Judge Richie then wrote:

This definition has received general acceptance in this country [Canada], subject to the consideration that in order to qualify as ‘charitable’ the purpose must, to use the words of Lord Wrenbury in *Verge v. Summerville*, be ‘for the benefit of the community or of an appreciably important class of the community’ (p. 141).

The second 1999 Supreme Court decision regarding the eligibility of the Vancouver Immigrant Women to register as a charity is another example of the continuing use of *Pemsel* as a statutory reference point. The Supreme Court of Canada ruled against granting charitable status to the society on the grounds that all of their objects were not exclusively charitable. In their 4-3 decision, Supreme Court Judge Iacobucci, wrote for the majority:

Since the [Income Tax] Act does not define “charitable,” Canadian courts have consistently applied the *Pemsel* test to determine that question. The *Pemsel* classification is generally understood to refer to the preamble of the *Statute of Elizabeth*, which gave examples of charitable purposes. While the courts have always had the jurisdiction to decide what is charitable and were never bound by the preamble, the law of charities has proceeded by way of analogy to the purposes enumerated in the preamble. The *Pemsel* classification is subject to the consideration that the purpose must also be “for the benefit of the community or of an appreciably important class of the community” rather than for private advantage (p.3).

Yet Judge Iacobucci clearly puts the onus on any statutory expansion of the definition of charity on Parliament, when he later writes:

In my view, the fact that the *Income tax Act (ITA)* does not define “charitable”, leaving it instead to the tests enunciated by the common law, indicates the desire of Parliament to limit the class of charitable organizations to the relatively

restrictive categories available under *Pemsel* and the subsequent case law. This can be seen as reflecting the preferred tax policy: given the tremendous tax advantages available to charitable organizations, and the consequent loss of revenue to the public treasury, it is not unreasonable to limit the number of taxpayers who are entitled to this status. For this Court suddenly to adopt a new and more expansive definition of charity, without warning, could have a substantial and serious effect on the taxation system. *In my view, especially in light of the prominent role played by legislative priorities in the “new approach”, this would be a change better effected by Parliament than by the courts* [italics added] (p. 200).

A third case is currently before the Supreme Court. This case, *A.Y.S.A. Amateur Youth Soccer Association v. Canada Revenue Agency* asks for a ruling on the charitable status of sports associations, which like the Moravians in *Pemsel* are appealing the ruling which was made on the basis of statutory regulation rather than common law (Supreme Court of Canada, 2007).

Imagine Canada intervened in the case because it wanted to ensure that the Supreme Court’s judgement confirmed that regulations governing charities were subject to interpretation and evolution under common law (Imagine Canada, 2007). Not unlike the *Pemsel* case, Imagine Canada wanted to make sure that common law, not bureaucratic regulation, took precedence when determining charitable status. The Supreme Court accepted Imagine Canada’s arguments, and made it clear in its judgement that organizations with the designation of national sport and arts associations or affordable housing for seniors as charities, did not jeopardize the on-going development of the definition of charities under common law (Imagine Canada, 2007). The Supreme Court also made it clear that organizations which use sport as a means to achieve their charitable purposes were entitled to apply for charitable registration by the Canada Revenue Agency.

Change by Regulatory Layering

There have been numerous calls for the modernization of the definition of charity, including the *People in Action* report (1977), the *Broadbent Report* (1999), and the Canadian Centre for Philanthropy/ IMPACS campaign (2002). For twenty-five years between 1974 and 1999 legal and policy voices have presented formal recommendations to the federal government calling for revisions to the definition of charity. These voices can be divided into two non-exclusive categories: those who want to see the definition of charity expanded to include organizations not currently acknowledged as charities, and those who want to extend the scope and legal ability of charities to engage in public advocacy (Drache, 2001; IMPACS & Canadian Centre for Philanthropy, 2002; Morrison, 1982; National Advisory Council on Voluntary Action, 1977; Panel on Accountability and Governance in the Voluntary Sector, 1999). The definitional issue will be addressed here while advocacy will be addressed in chapter three.

The call for an expanded definition of charity has emerged from the view that the law itself is restrictive and/or administratively interpreted in a restrictive fashion, as noted by the Carter Commission, (K. L. Carter, 1966). The 1966 Carter Commission Report on Taxation, one of the last public consultations which considered the definition of charity, while acknowledging that the Department of Revenue appeared to be restrictive in their interpretation of the [Income Tax] Act, concluded that “the definition in the *Pemsel* case appears to us to be generally satisfactory for tax purposes” (K. L. Carter, 1966, p. 132).

Another report calling for an expanded definition of charity was *People in Action*, the result of a three-year review by National Advisory Council on Voluntary Action (1977). The only specific recommendation regarding the definition of charity in *People in*

Action was a desire for further consultation on the matter. The Coalition of National Voluntary Organizations, established with financial support from the Secretary of State in 1974, later added their voice (Thayer Scott, 1992). The Coalition of National Voluntary Organizations proposed change in the definition of charity went to the opposite extreme of that held by the government, recommending that *any* [nonprofit] organization should be defined as a charity unless its purposes were personal, illegal, or politically partisan (Hinkley, 1986).

Almost fifteen years later this open definition of charity was reiterated by IMPACS (Institute for Media, Policy, and Civil Society) in collaboration with the Canadian Centre for Philanthropy, when the two organizations mounted a national campaign to garner support for a definition of charity which was only restricted by illegal, politically partisan, and unconstitutional activities (IMPACS & Canadian Centre for Philanthropy, 2002). The intent of this open definition of charity was to strike a position which could be negotiated, but it failed to propose either a credible alternative to the status quo it failed to generate either a credible alternative to the status quo or a viable arena for policy dialogue.

The call for a broader definition of charity has been based, in part, on registration refusal rates. The National Advisory Council on Voluntary Action and others have consistently argued that the Charities Directorate “routinely refuses to register a whole range of organizations which, from a social perspective, *should* be registered, but which, in the Charities Directorate’s view, do not meet the common law criteria. These include organizations promoting racial tolerance, multiculturalism, sports and recreation

organizations, umbrella organizations and community broadcasting groups” (Drache, 2001, 4; National Advisory Council on Voluntary Action, 1977).

The role of the Canada Revenue Agency was consolidated and confirmed through the institutional layering of the Charities Section in to the Agency’s mandate in 1967 in order to centralize the registration and compliance regulations for all charities.

In 1967, the first year registrations were required, 31,373 charities out of 34,630 applications were registered. Most of these were well established religious and social service organizations. In 1968, 3,123 out of 4,322 were registered and thereafter, according to Watson, an average of 1,000 registrations per year were approved, representing a 50 per cent success rate (Watson, 1985). This refusal rate, it is argued, reflects two factors: the bureaucratic application of a narrow definition of charity arising from the 1891 Pemsel Case, which continues to inform registration decisions by the Charities Directorate of the Canada Revenue Agency, and the lack of Federal Court of Appeal or Supreme Court case law on which to draw guidance (Drache, 2001; Monahan & Roth, 2000). This is another reason why each report that recommends a change in the definition of charity also recommends a change in the regulatory agent. This proposed regulatory agent, based on the Charity Commission in the UK, moves the regulation of charities away from The Canada Revenue Agency to either another department or to a more independent regulatory form (National Advisory Council on Voluntary Action, 1977; Panel on Accountability and Governance in the Voluntary Sector, 1999).

Yet a different picture emerges when decisions are analyzed over a wider time span. Patrick Monahan and Elie Roth’s analysis of approval rates between 1992 and 1999 showed an overall average of a 75 per cent approval rate from receipt of application to

approval, with a range of 62.5 per cent to 90 per cent (Monahan & Roth, 2000). The net approval rate is actually much higher (less than 3 per cent rejection), as many withdraw after the submission of an initial application (Monahan & Roth, 2000). This compares favourably with both a similar analysis completed by the Ontario Law reform Commission's and the Internal Revenue Service in the United States, which is considered more liberal (McCamus, 1996; Monahan & Roth, 2000).

One government interviewee intimately familiar with this issue revealed that many groups who were being denied charitable status were unfamiliar with language which could be used to pass the political activity test. For example, if "advocating for policy change" was translated into "ensuring that people you were dealing with got the services to which they were entitled", most received their charitable status (interview transcript). According to the interviewee, this particular translation device was widely circulated and fostered increased charitable registration for many women's, multicultural and official minority language groups. Charitable registration in turn increased their status as an organization and their capacity to solicit funds from other partners, both of which suited the governments' agenda to foster greater independence and less reliance on government funding.

Monahan and Roth caution that the state of a law cannot be judged solely on the basis of cases at the margins (Monahan & Roth, 2000). In the same vein Monahan and Roth's research, as well as Brooks and my own, support the view that the law of charity has generally kept pace with broad societal changes (Brooks, 1983; Elson, 2007; Monahan & Roth, 2000). The overall profile of new charities has shifted over the last

four decades from a dominance by religious charities to those associated with welfare, health and education (Elson, 2007; Monahan & Roth, 2000).

Don Bourgeois concurs with this view when he refers to the Supreme Court judgement in *Vancouver Society of Immigrant and Visible Minority Women v. M.N.R.* in his 2002 book on charitable and non-profit law (Bourgeois, 2002). Bourgeois points out that Mr. Justice Gonthier, who wrote a minority opinion in *Vancouver Society of Immigrant and Visible Minority Women v. M.N.R.*, felt that the *Pemsel* classification scheme is sufficiently flexible. Gonthier was fully aware of the judges' role in modernizing the definition of charity and defends the courts right to do so. Mr Justice Gonthier, as quoted in Bourgeois (2002), writes:

The task of modernizing the definition of charity has always fallen to the courts. There is no indication that parliament has expressed dissatisfaction with this state of affairs, and it is plain that had Parliament wanted to develop a statutory definition of charity, it would have done so. It has not. This leads me to conclude that Parliament continues to favour judicial development of the law of charity (p. 29).

Blake Bromley is even more blunt in his assessment that the common law definition of charity continues to serve society at large (Bromley, 1999 2001). Commenting in the midst of the modernization debate, Bromley warns the voluntary sector that it should be very careful what it asks for. Bromley cautions that there would be huge risks to the sector in asking Parliament, preoccupied as it is with political agendas and fiscal restraint, to define charity: "People seem to have forgotten that it is the economists from the Department of Finance, not enthusiasts from the voluntary sector, who will draft any statutory amendments to the *Income Tax Act*" (Bromley, 1999, p. 23). Bromley asserts that the courts, independent of political pressure, are a safer bet with

their long history of protecting minorities and extending assistance to them (Bromley, 1999).

Federal government officials, particularly within the Ministry of Finance, have made it clear that they have no interest in abdicating any fragment of their tax policy mandate (Phillips, 2003a 2003b). Policy proposals for definitional and regulatory reform have been consistently rejected; and there continues to be no appetite in the government for substantive institutional changes which would see greater independence for the regulator of charities (IMPACS & Canadian Centre for Philanthropy, 2002; Joint Regulatory Table, 2003a; Panel on Accountability and Governance in the Voluntary Sector, 1999; Phillips, 2003b 2005). The link between charity regulation and foregone tax revenues continues to guide the activities of the Charities Directorate. Attention to enforcement of fraudulent practices by charities is rising. As an interviewee from the Charities Directorate noted, “[we] need to protect the tax base of more than \$3billion in foregone tax revenues each year.”

Yet there has been a substantial shift to become more client-focused and, backed by a significant budget increase, the Charities Directorate has enhanced a number of their services, increased access to policy and registration information and has generally established itself as a modern charity regulator. The Charities Section of the Canada Revenue Agency has substantively implemented five recommendations arising from the Joint Regulatory Table and the 2004 federal budget: 1) enhanced service improvements; 2) increased public awareness and sector outreach; 3) improved monitoring and the establishment of intermediary sanctions; 4) a new intermediary appeals process; and 5)

increased cooperation between the Charities Directorate and their provincial/ territorial regulatory counterparts (Canada Revenue Agency, 2007b; Department of Finance, 2004).

Service improvements addressed between 2003 and 2007 include: expediting registration applications; web site improvements to improve transparency and public access to policy and regulatory information, including permissible non-partisan political activities; a registration or penalty decision appeals process conducted by the Appeals Branch; a travelling information roadshow; and improved monitoring and increased compliance audits. The Charities Directorate has also published the guidelines used to determine charitable status including: 1) explicit criteria to meet the public benefit test; and 2) the assessment criteria for applications by organizations assisting ethnocultural communities under the four heads of charity (Charities Directorate, 2005 2006).

As parliament signed international human rights declarations and passed the *Canadian Charter of Rights and Freedoms*, programs have been created to support these policies. In this context the criteria for what constitutes a public benefit, as reflected in established public policy duly sanctioned by parliament, has expanded (Charities Directorate, 2006). The result is that the Charities Directorate has modified public-benefit test criteria by layering the elimination of racial discrimination and the promotion of positive race relations on their existing public benefit criteria (Charities Directorate, 2003b 2005 2006).

Findings and Analysis

The 1930 amendment to the *Income War Tax Act* was a critical juncture in voluntary sector/government relations in Canada. Pierson (2000b) points to the path dependent processes and positive feedback mechanisms that can be highly influential at

the early stages of development. In the overall context of income tax in Canada, 1930 is within the early stage of its development. The *Income War Tax Act* was first introduced in 1917 and no systematic provision for charitable deductions had been implemented prior to the First World War. The 1930 amendment to the *Income War Tax Act* established a path-dependent process that tax deductions to charities would be constrained to a limit of 10 per cent of personal income. This measure was applied annually to subsequent individual and then corporate tax returns, and has been in place, with small variations, to the present day.

While there have been periodic increases in the level of charitable deduction allowance, there has been no attempt to either roll back or eliminate this deduction. The annual use of this same deduction by millions of individual Canadian taxpayers and its promotion by eligible charities to donors combine to represent a positive feedback mechanism and on-going reinforcement of the tax deduction policy. Charitable deduction regulations were institutionalized through the growth of the internal mechanisms established in the Department of Revenue to administer these deductions and related regulations. One of the characteristics of path dependency is that the further the government progressed along this path, the greater the likelihood it would continue, and the harder it would be for any alternative to be considered.

Mahoney (2000) reminds us to look at developments which precede a proposed critical juncture to determine if the critical juncture could have been predicted. Preceding developments related to the 1930 amendment to the *Income War Tax Act* include 1) no prior deduction allowance for charitable deductions on the basis that 'giving should hurt'; and 2) rescinding the War Charities Act following the First World War. If these two

developments were deterministic of what was to follow in 1930, either no charitable tax deduction would have been allowed or it would have been allowed for a limited amount of time and then dropped. Neither happened and thus the 1930 amendment to the *Income War Tax Act* is a critical juncture in relation to charitable tax deductions.

Until the introduction of the actual proposed legislation on May 28th, 1930, debate in the House of Commons centered on the definition and deduction allowance which was prevalent in the United States at the time. By explicitly basing the definition of charitable purpose on the British Common Law, which dated back to *Pemsel* in 1891 and beyond that to the *1601 Statute of Elizabeth*, Euler institutionalized it in both law and polity. Consequently, challenges to the definition of charitable purpose have involved either legal processes or political lobbying.

Lobby for change

While the Supreme Court (1999) has invited parliament to broaden the definition of charitable purposes, any call for change has been consistently resisted or ignored by the federal Department of Finance, and revisiting the definition of charitable purpose has yet to appear on any political agenda (Phillips, 2003b). The most current case being considered by the Supreme Court of Canada (2007), (*A.Y.S.A. Amateur Youth Soccer Association v. Canada Revenue Agency*), will not trigger government action, but the courts have consistently and appropriately left legislation to the purview of Parliament (Moran & Phillips, 1999; Supreme Court of Canada, 1967 1999). The courts, unlike the voluntary sector, have consistently acknowledged the historical relationship between the definition of charity and foregone tax revenue.

The first call for a change in the definition of charity appeared in the *People in Action* (1977) report, but it was only one item in a long list of recommendations which lacked any overall direction. In addition, the *People in Action* recommendations were not backed by a sectoral constituency which could have either established a list of priorities or advocated for their adoption. The second call for a definitional change of charity appeared more than twenty years later in *Broadbent Report* (1999) and was raised in negotiations between government and voluntary sector representatives on the Joint Regulatory Table (K. L. Brock, 2005; Phillips, 2003b). This time the voluntary sector was thwarted by the absence of a clear and viable proposal for reform, an underestimation of the institutionalized mandate of the Department of Finance, and the absence of the political will to engage in substantive legislative change.

The Voluntary Sector Accord was deliberately established as a statement of general principles to guide the future relations between the government and the voluntary sector (Phillips, 2003a 2003b). Good (2003), a government insider to the process, asserts that core voluntary sector regulatory and advocacy issues were never on the governments agenda and that the Voluntary Sector Accord was deliberately left with no provision for annual public reporting and accountability.

Unlike the UK, there was no fundamental policy shift (e.g., public service reform) taking place within government that would predicate anything more than a symbolic shift in voluntary sector/government relations (Kendall, 2003; Phillips, 2003a). Foremost on the government's political agenda was to reach an agreement which could 1) be announced during 2001, the International Year of Volunteers; and 2) avoid any fiscal commitment, including foregone tax revenues which would be associated with a change

in the definition of charity. Government representatives also saw part of their role at the Joint Tables as safeguarding their respective Ministers from any unwanted political repercussions or direct political intervention from the voluntary sector outside the established negotiation process (Good, 2003; Phillips, 2001b; Social Development Canada, 2004).

Voluntary sector representatives were most interested in addressing funding, advocacy and the statutory definition of charity. Unlike government representatives, the voluntary sector had no hierarchical or leadership structure in which to operate or seek direction and were most often represented by individuals with limited national policy experience or skill (Johnston, 2005; Phillips, 2003a). Voluntary sector priorities were fundamentally institutional and structural, while the governments' priorities, which took precedence, were political and populist.

The definition of charity and regulations concerning advocacy were raised by voluntary sector representatives at the Joint Regulatory Table, but their government counterparts, specifically from the powerful Departments of Finance and Treasury Board, were not prepared to engage in any negotiations and vetoed any recommendation concerning taxation or regulatory issues. The Treasury Board had just revised their transfer payment policy prior to the Voluntary Sector Initiative and was not interested in opening it up again. Finance officials were equally unprepared to consult with government representatives from other departments on the Joint Regulatory Table. Substantive fiscal and regulatory policy issues were then reluctantly dropped from the voluntary sector's agenda.

My assessment of the regulatory and definitional process associated with the Voluntary Sector Initiative and its consequent direction is that the opportunity for a regulatory critical juncture did not exist. A major structural economic adjustment, closely tied to the role of voluntary organizations, similar to what was required in 1930 due to the depression, was not a factor in the late 1990s. The government was clear in 1930 that it wanted to balance support for donations to charity with limits to foregone tax revenues. The long-term path dependency with positive feedback mechanisms started with the designated role for the Department of National Revenue in 1930. This role for The Canada Revenue Agency in conjunction with the Department of Finance was consolidated and expanded in 1967 with the establishment of the Charities Section.

True to the nature of path dependency, this well established role and its associated positive feedback mechanism rendered it effectively closed to alternatives such as those proposed by the voluntary sector representatives during the Voluntary Sector Initiative. The Departments of Finance and Revenue ably defended their prerogative to manage fiscal policy and the charitable registration by stipulating that requested changes could be taken into consideration, but were not negotiable (Phillips, 2003a).

The 1930 amendment to the *Income War Tax Act* has also been legally and politically institutionalized. The act itself established the terms under which organizations could register for charitable tax status and those terms remains firmly in place. Challenges to the Supreme Court have upheld the right of Parliament to define charitable purposes and several political appeals have been rebuffed. The 1930 amendment to the *Income War Tax Act* also established the regulatory limit on charitable deductions, but unlike the statutory definition of charity, it has undergone several modifications.

Increases in deduction allowances were introduced in 1972, 1995, and 1996 to twenty, fifty, and seventy-five per cent respectively. The latter two increases corresponded to significant budget cuts to the voluntary sector and were designed to mitigate the political backlash from the funding cuts. For similar reasons, there have been modifications in the terms under which donations can be made, namely, the contribution of publicly listed securities to registered charities (Flaherty, 2006). I now turn to the role of institutional regime type on the policy outcomes in this case.

Institutional regime type

Viewed through the lens of historical institutionalism, there was a clear asymmetry of regime type between the government and the voluntary sector during the negotiations leading to the signing of the Voluntary Sector Accord in 2001. The institutional nature of this relationship was established, as Streeck and Thelen (2005) have stipulated, by outside third-party observers, rather than by voluntary sector or government representatives together. This outside public scrutiny existed to a nominal degree through the media, but more so by the exposure generated through cross-country consultations and independent observers, who were also established researchers in the field and reported both formally and informally on their observations (K. L. Brock, 2005; Phillips, 2003a)

Government representatives were directed and constrained by their departments while voluntary sector representatives operated without any predetermined policy platform or priorities (Social Development Canada, 2004). As an official observer to the Joint Accord Table, Phillips (2003a) reports that government members reported through an executive committee of assistant deputy ministers to a reference group of eight

ministers who were responsible for providing political leadership on the file at the Cabinet table. Phillips (2003a) further reports that at several times in the process of developing the Voluntary Sector Accord, government members had to seek approval or guidance from the executive committee or reference group of ministers.

This protocol, including actions of the Department of Finance detailed above, is evidence that government representatives operated under a formal institutional regime type (see Table 2). This formal regime protocol constrained the actions of government department representatives with the voluntary sector and reinforced government representatives' internal relationship to a formal institutional structure. The continuity of this representational structure was reinforced even further through the nature of government representation. Of the 23 government departments who were involved, only one representative was from outside the National Capital Region and when replacements were required, they were appointed by the government co-chair of the respective joint table (Social Development Canada, 2004).

The self-described structure for the diverse voluntary sector representative body was informal, relying of input and feedback through regional consultations (Government of Canada/ Voluntary Sector Joint Initiative, 2003) (see Table 2). Voluntary sector representatives came together from across Canada, many for the first time in a national policy context, with few expectations or directions for action (Phillips, 2003a; Social Development Canada, 2004). A Voluntary Sector Steering Group (VSSG) was established to bring national voluntary sector leaders and Voluntary Sector Initiative chairs from the sector together during the joint table negotiation process. The VSSG was itself constrained by Voluntary Sector Initiative process, but it did succeed by helping to

strategically position issues raised in the individual Joint Tables and by forwarding these issues to the Joint Coordinating Committee (Social Development Canada, 2004). Key individuals within the VSSG who were interviewed for this research revealed that a considerable amount of trouble shooting took place. Senior members of the VSSG worked behind the scenes to keep committees within the terms of their mandate and joint negotiations on track which were in danger of being derailed.

The explicit terms of reference for voluntary sector participation was that a representational role was *not* to be played, but only as an individual representing the interests of the sector as a whole (Social Development Canada, 2004). Added to the general lack of broad policy and leadership skills of the voluntary sector representatives, the pace and detailed nature of the negotiations was such that planned stakeholder consultation sessions left little time for meaningful consolidation of input or re-negotiation of formulated positions (Government of Canada/ Voluntary Sector Joint Initiative, 2003; Social Development Canada, 2004). This transitory representational and reporting protocol was non-transferable across time and issues and is therefore characterized as an informal institutional regime type in the table below (see Table 2).

The evidence of voluntary sector representation presented here – structurally and categorically limited, with no hierarchical reporting relationships, protocols, or sanctions – meets the criteria for a non-formal regime type (see Table 2). The definition of charity was one of three specific policy objectives the voluntary sector wanted, but failed to accomplish [the other two were advocacy, and funding]. This failure was one consequence of the asymmetry which existed between the formal government and non-formal voluntary sector institutional regime type.

Table 2***Institutional Regime Type (Voluntary Sector Initiative)***

Regime Type	Assessment	Case One
Formal	Well established and sanctioned representational and reporting protocol which is transferable across time and issues.	Government representation to Joint Tables
Non-formal	Transitory representational and reporting protocol which is non-transferable across time and issues.	Voluntary Sector representation to Joint Tables

Regime types – 1930s style

What then of the relative regime types which existed when the 1930 amendment to the *Income War Tax Act* was passed? There was no formal or informal representation for the voluntary sector at the time or a mechanism to make formal deputations to government, factors which make any classification difficult. However, there are some characteristics of institutional regimes which can be identified from the documentation presented in this case. The institutional nature of this relationship can be verified by media scrutiny it received. Media articles concerning the proposed amendment and the public implications of the tax amendment received considerable coverage as did the final amendment (Charity Income Tax Extended, 1930; Gifts to Charity Exempt From Tax, 1930; House is in Session Long Past Midnight, 1930; The Income Tax Concessions, 1930; No Tax on Philanthropy, 1930; Wayling, 1930a 1930b)

It is clear from the transcripts of debates in the House of Commons, that a widespread appeal to increase the eligibility for charitable deductions took place. On May 27th, 1930 Finance Minister Dunning stated in the House:

I may say that the letters I have received since the introduction of the measure in the budget indicate an even wider range, which is still more difficult to describe, in Canada, which I am inclined to think would have at least an equal claim for such exemption (p. 2647).

Included in the letters received by the Minister of Finance, and copied to Prime Minister McKenzie King, was one from C. L. Burton, the influential Chairman of the Simpson's Corporation and fellow patron with the Prime Minister to the Canadian Council on Child and Family Welfare. This letter, profiled in chapter one, takes the government to task for not expanding the eligibility for charitable donations. The combination of widespread appeals from organizations across the country and support from an elite businessperson such as C. L. Burton would have raised the legitimacy of the cause.

There is no evidence that a formal deputation on behalf of groups of organizations was made, although debates in the House of Commons refer to the need to include federated charities, who had established a national network two years previously, and the Canadian Council for Child and Family Welfare which encompassed national, provincial and local representation.

In the context of institutional regime types (see Table 3 below) I characterize both the voluntary sector and the government as informal institutional regime types throughout the debates prior to and during the presentation of the 1930 amendment to the *Income War Tax Act*.

Table 3***Institutional Regime Type (1930 Income War Tax Amendment)***

Regime Type	Assessment	Case
Non-formal	Transitory representational and reporting protocol which is non-transferable across time and issues.	Individual voluntary sector representations to members of parliament
Non-formal	Transitory representational and reporting protocol which is non-transferable across time and issues.	Open debate by all members of parliament

The government was genuinely at odds about what to do and appealed on several occasions to have a trial period of one year in which to work things out (*House of Commons Debates*, 1930). Only in the dying hours of the session of parliament before breaking for an election was the approved amendment proposed. As Pierson (2000a; 2000b) points out, relatively small changes in the early stages of development can have a significant long-term impact. Such was the case with the Amendment to the *Income War Tax Act* in May of 1930 and its impact on charitable eligibility, donations, and regulation by the Ministry of Revenue.

Conclusion

The 1930 amendment to the *Income War Tax Act* is a critical juncture in voluntary sector/government relations in Canada. The statutory and regulatory mechanisms put in place in May, 1930, were positively reinforced over time and consolidated and enhanced in 1967 with the development of the central registration and regulation of charities by the

Canada Revenue Agency. The explicit desire by the federal government to balance support to charities and limit foregone revenue has been consistently maintained through both the registration and taxation processes.

During the most recent Joint Regulatory Table deliberations between federal government representatives and the voluntary sector, the regulatory policy window was not open and no structural economic readjustment was taking place in which the voluntary sector could play a leading role. Thus the taxation and regulation issues raised by voluntary sector representatives to the Joint Regulatory Table between 2000 and 2002 were rebuffed, not just by the representatives of the Department of Finance, Treasury Board and the Canada Revenue Agency, but by the seventy years of positive reinforcement for the statutory role first established by the federal government in 1930.

Chapter Three

The Voice of Charity

Introduction

The purpose of this chapter is to present and analyse a second critical juncture in voluntary sector/government relations in Canada. This critical juncture concerns the extent to which political activities by charities are defined and regulated by The Canada Revenue Agency. Rather than being categorized as an acute development, as was the case with the 1930 *Income War Tax Act Amendment*, this critical juncture is punctuated by three distinct developments in 1978, 1987, and 2003.

I will first profile some key events leading to the 1978 release of *Information Circular 78-3*. This information circular establishes the status of permissible political activities before further regulatory changes took place in 1987 and 2003.

The intent of the 1978 Canada Revenue Agency circular was to clarify the consequences of charities having political objectives and engaging in political activities. Instead, *Information Circular 78-3* launched a series of vigorous protests in the press, the House of Commons and from voluntary organizations. I will then trace changes in these regulations through two modified versions of *Information Circular 78-3*: the release of *Information Circular 87-1* in 1987 and policy statement *Political Activities CPS-022* in 2003. *Information Circular 87-1* and *Political Activities CPS-022* consistently reflected the common law precedents and regulations as prescribed within the *Income Tax Act*. Each of these versions of *Information Circular 78-3* included new regulations which expanded the opportunity for charities to engage in sanctioned political activities.

I will argue that between the 1987 and the 2003 public policy changes, permissible political activities have been clarified and charity regulations have been

modified to provide more opportunities and scope for charities to engage in political activities. I conclude that there has been an incremental and notable institutional change in the regulation of political activity by The Canada Revenue Agency; and that the lack of collective advocacy by the voluntary sector may be a consequence of the voluntary sector's non-formal regime type.

Developments Leading to Information Circular 78-3

The relationship between charities and government social policy in the 1960s was synchronous in many ways and fostered the development of an interdependent partnership. On one hand, governments needed specific types of programs and services to be provided which they were not able to deliver themselves, and funding voluntary organizations was a way to maintain a 'window' on community needs and trends (M. H. Hall et al., 2005). On the other hand, compatible voluntary sector charities had similar program objectives, needed a reliable source of funds, and felt this relationship would put them in a position to influence government policy (K. L. Brock, 2000). By the 1970s, representative voluntary organizations were accepted as important vehicles to help citizens advocate for social rights and enhance the fairness of the democratic process (Jenson & Phillips, 2001).

Parallel to the provision of universal social welfare programs was a growing symbiotic relationship between the secretary of state and the voluntary sector, particularly community organizations. Between 1968 and 1972 Gérard Pelletier, as Secretary of State in the new majority government led by Pierre Elliott Trudeau, implemented the tenets of the 1968 Liberal campaign for a "Just Society" and "participatory democracy" (Pal, 1993, p. 109). The Secretary of State provided millions of dollars through its Citizenship and

Social Action branches to foster multiculturalism, Canadian citizenship, and civic participation (Ostry, 1978; Pal, 1993). Over this three-year time span the Secretary of State budget grew to from \$4.6 million in 1969-70 to \$44 million in 1970-71, and became the single most important federal agency in the funding of voluntary organizations (Pal, 1993). Funding flowed to create a women's bureau; Aboriginal political, social and cultural organizations; youth exchange programs; ethnic groups who wanted to preserve and celebrate their cultural heritage; and any community group who felt isolated from the political process and wanted to advocate for change⁸ (Ostry, 1978; Pal, 1993).

Leslie Pal (1993), provides a much less altruistic reason for this growth:

When the Liberal government embarked on citizenship participation in 1969, it did so not primarily to foster a radical regeneration of Canadian democracy, but to foster greater allegiance to national institutions [the federal government] through a feeling that those institutions were open to popular forces [justice and national unity] (p. 251).

National Unity was the cause célèbre for the federal government. By comparison, the focus for linguistic, ethnic, and women's groups was on collective as distinct from individual rights, and the need for the state to enforce claims made on behalf of those rights (Pal, 1993). These groups were able to organize themselves around a common cause, and in the case of women's groups, strategically align themselves with the government to further their own cause (Pal, 1993). This issue focus and collective action were conspicuously lacking in a voluntary sector which was just starting to find its voice.

⁸ These programs were implemented in spite of resistance from other departments with core responsibilities for the same constituency (Pal, 1993).

Voluntary sector voices in the 1970s

In 1974 the Secretary of State took two steps to boost the capacity of the voluntary sector in Canada. The Secretary of State created the National Advisory Council on Voluntary Action and supported the foundation of the Coalition of National Voluntary Organizations. In November 1974, at the inaugural meeting of the Coalition of National Voluntary Organizations, Secretary of State Hugh Faulkner announced the formation of a National Advisory Council on Voluntary Action which would take two years to study issues and problems affecting federal relations with the voluntary sector (Joint Tables, 1999; National Advisory Council on Voluntary Action, 1977). The National Council on Voluntary Action was supported by a departmental secretariat and was asked to address a wide range of voluntary sector/government issues. These issues included developing a workable definition of the sector; problems associated with the recruitment of volunteers and members; the financing of voluntary associations; government use of voluntary resources; and government support to advocacy groups (National Advisory Council on Voluntary Action, 1977).

According to the National Councils' own report it was prevented from exercising the full extent of its mandate. The work of the National Council was hampered by bureaucratic procedures imposed by the government; instances of outright bureaucratic resistance; and a lack of access to information about the governments' own programs which affected the voluntary sector (National Advisory Council on Voluntary Action, 1977). This reticence was one manifestation of the reluctance of the government to support participatory democracy and the general turmoil that existed at the time within the Secretary of State. The Secretary of State was operating under almost continuously shifting ministers and secretaries (e.g., eleven different secretaries of state between 1969

and 1988); little clear direction; no sense of priorities; and little political will to either direct or change programs (Pal, 1993).

Two examples illustrate this state of affairs. An Interdepartmental Committee on Financial Assistance to Voluntary Organizations was established by the government in 1970 met for more than five years to develop a coherent policy in relation to the voluntary sector, but was unable to do so (Crombie, 1979). A 1984 confidential memorandum to the Minister of State for Social Development confirms that the Secretary of State had already been working for more than ten years without success to formulate a discussion paper on the position of the federal government toward the Voluntary Sector. This same memo took the position that the Secretary of State needed to define a broad voluntary sector relations policy before any type of sectoral financial assistance took place (*Memorandum to the Minister: Voluntary Action Policy*, 1984). Neither was forthcoming.

Nevertheless, the 1977 Councils' Report, *People in Action*, served to identify a collective voluntary sector, identified a number of key sectoral issues, and made numerous recommendations which were aimed at increasing the capacity of the voluntary sector at the time (Elson, 2007). Three of the key sectoral issues in the Report sound eerily familiar, even thirty years later: 1) maintenance of the narrow statutory definition of charity given the broad scope of voluntary sector activity; 2) demand for improved sectoral funding mechanisms, including tax policies and non-financial support by government; and 3) increased access by voluntary organizations to government information and policy consultation opportunities (National Advisory Council on Voluntary Action, 1977).

The *People in Action* Report made over eighty recommendations, almost fifty of which were directed at the federal government. The legitimacy of the Councils' observations is reflected in the fact that many of the issues identified by the Advisory Council on Voluntary Action were reiterated in the 1995 report of the Voluntary Sector Roundtable (M. H. Hall et al., 2005; Panel on Accountability and Governance in the Voluntary Sector, 1999). Some of the recommendations of the National Advisory Council on Voluntary Action were implemented, but many more fell by the wayside. The turmoil which existed in the secretary of state and the absence of a well organized and representative sector-wide regime which could have distilled and prioritized the National Advisory Council's recommendations and pushed to have them carried them forward, were significant factors in the subsequent lack of policy implementation. The National Action Committee on the Status of Women, for example, were able to exploit their broad appeal for women's equality, widespread grassroots support, and national networking capacity to benefit both their agenda for women's equality and the federal governments' desire to repatriate the Constitution (Pal, 1993; Smith, 2005).

The only formal representative voice for the voluntary sector at the time was the Coalition of National Voluntary Organizations. Established in 1974 by several large charities, and at the active suggestion and encouragement of the Secretary of State, the Coalition of National Voluntary Organizations, or NVO as it became commonly called, was the only national broad-purpose sector-wide organization in Canada (Thayer Scott, 1992; Wolf, 1991). The Coalition of National Voluntary Organizations, with membership

of about one hundred diverse national organizations⁹, operated with nearly total reliance on government funding from the Secretary of State's Voluntary Action Program.

The Coalition of National Voluntary Organizations functioned as a coalition throughout its existence, operated without a constitution or formal slate of officers, and used an informal consensus-based decision making style to establish priorities and positions (Thayer Scott, 1992; Wolf, 1991). The Coalition of National Voluntary Organizations was established with two objectives: 1) to develop avenues of common interest and co-operation among Canada's national voluntary organizations and 2) to improve liaison and means of co-operation between the national voluntary sector and the federal government (Morrison & Cohen, 1978). These two objectives were addressed by participation on issue specific task forces and striving to be as representative as possible of the voluntary sector (Thayer Scott, 1992). By 1978, the Coalition of National Voluntary Organizations had established a regular newsletter, was holding a biannual consultation forum, and was seen as a legitimate voice for the voluntary sector at the national level (Chrétien, 1978; Clark, 1978; Committee of National Voluntary Organizations, 1977; Discouraging to Charity, 1978; Stay out of politics, 1978).

Information Circular 78-3

Two specific events were harbingers of the development and release of *Information Circular 78-3*. The first, in May, 1976, involved the disqualification of a

⁹ Members of the Coalition of National Voluntary Organizations included the United Way of Canada, the Anglican Church of Canada; the Canadian Cancer Society; the Canadian Association of Neighbourhood Services; Friends of the Earth; and the Canadian Rights and Liberties Federation.

religious group, Christian Prisoners Release International, who were intent on sponsoring a march and demonstrating in favour of Christianity in iron curtain countries. The church was warned by The Canada Revenue Agency before the march that sponsoring or participating in such an activity would result in their disqualification as a registered charity (*House of Commons Debates*, 1976). The church was coincidentally disqualified, not because of the march, which was subsequently cancelled, but because like many other charities, they had failed to file required reports with The Canada Revenue Agency. When they applied for what would usually be an administrative reinstatement, they included in their application their intent to engage in the aforementioned political activity and were notified by The Canada Revenue Agency that by doing so they would be denied reinstatement (*House of Commons Debates*, 1976).

The Minister of Revenue at the time, the Hon Jack Cullen, was clear in his May 10th and 17th statements to the House of Commons that only four charitable purposes are permitted under the *Income Tax Act* and that the intended political action by the church went beyond permissible boundaries. The Minister indicated in the House of Commons that he had asked his officials [in The Canada Revenue Agency] to look into the matter [of political activities by charities] in more detail (*House of Commons Debates*, 1976). This detailed investigation by officials in The Canada Revenue Agency concerning political activities officially surfaced in the form of *Information Circular 78-3*.

The second event preceding the release of *Information Circular 78-3* didn't concern a particular charity but was politically charged nevertheless. A number of women's groups, including the National Action Committee on the Status of Women, the Vancouver Committee on the Status of Women, the Association féminine d'éducation et

d'action sociale and the Fédération des femmes du Québec made a deputation to Minister of National Revenue Monique Bégin¹⁰ questioning their ineligibility for charitable status because of their advocacy activities concerning women's inequality (*House of Commons Debates*, 1977). Minister Bégin empathized with the delegation of women's groups and subsequently directed her officials to investigate what was considered acceptable political activities by charities in other countries, particularly Great Britain (*House of Commons Debates*, 1977).

These two events catalyzed the development and release of *Information Circular 78-3* on February 27, 1978, by The Canada Revenue Agency. The purpose of *Information Circular 78-3* was not to introduce any new policy. Its official intent was to interpret the law as delineated by previous court decisions and to explain to registered charities, and to any organization applying for charitable registration, the consequences of having objects, and carrying on activities, that were political in nature (Revenue Canada, 1978; Webb, 2000).

Politically however, the text of *Information Circular 78-3* was flavoured with a lingering distrust of overt advocacy and the reluctance to see foregone tax revenues used by charities to expose government policy flaws. Leslie Pal addresses this issue in his analysis of the Secretary of State between 1969 and 1988 (Pal, 1993). Pal points out that the Liberal government had expected substantial political support (e.g., votes) by citizen's groups and voluntary sector organizers following their campaign of promoting citizen participation during the late 1960s and early 1970s. When this activism resulted in

¹⁰ Monique Bégin was Minister of National Revenue between September of 1976 and 1977.

a minority Liberal government in 1972, hostility resulting from this political demotion was directed toward citizen participation (Pal, 1993). According to Bernard Ostry, former Under-Secretary of State for Citizenship, the new minority government refused support to any programs related to the philosophy of participatory democracy (Ostry, 1978). For example, Opportunities for Youth went from being an instrument for social change to yet another employment program run by Manpower and Immigration (Pal, 1993). It was the political tone as much as the legal content of *Information Circular 78-3* which opposition parties and voluntary sector representatives groups reacted to.

Information Circular 78-3 started out by outlining the consequences of an organization whose purpose is the achievement of a political objective, namely, that it cannot be a registered charity (Revenue Canada, 1978). The Circular went on to stipulate that while organization's primary purpose must be charitable; it could have an ancillary political purpose as long as all of the charity's physical and financial assets were devoted to charitable activities (Revenue Canada, 1978). Specifically, the Circular defined "political activity" as one which, "is designed to embarrass or to otherwise induce a government to take a stand, change a policy, or enact legislation for a purpose particular to the organization carrying on the activity" (Revenue Canada, 1978, p. 2).

Examples of prohibited political activities cited in *Information Circular 78-3* included: lobbying, whether directly or indirectly; public demonstrations to apply pressure on a government; writing letters directly to numerous Members of Parliament to influence legislation or soliciting members of the public to write letters of protest to elected representatives; supporting or opposing a political party; and writing editorials

which air political views or are intended to sway public opinion on a political issue (Revenue Canada, 1978).

A number of permissible non-political activities were listed: well-informed oral or written representation to elected representatives, commission, committees or government bodies; publication of an impartial and objective magazine; and holding a conference at which all sides of a public issue are presented (Revenue Canada, 1978). *Information Circular 78-3* gave the specific example that writing a letter to a relevant minister outlining the organizations' views without directly attempting to influence legislation or policy was permissible; but a letter writing campaign directed to numerous members of Parliament, with the intent to influence intended or specific legislation, was not permitted (Revenue Canada, 1978). Finally, *Information Circular 78-3* attempted to clarify the difference between "educational" and "political" activities [emphasis in original] (Revenue Canada, 1978). The Circular stipulated that the following elements must be present if an activity was to be considered educational:

- The objective must be to instruct through stimulation of the mind rather than merely to provide information;
- The subject matter must be beneficial to the public;
- The benefits must be available to a significantly large segment of the population;
- The interests of individuals must not be promoted;
- The theories and principles advanced must not be pernicious or subversive;
- The principles of one particular party must not be promoted; and
- An unbiased and impartial view of all factors of a political situation must be presented (p. 4).

Information Circular 78-3 was developed without any widespread or public consultation with charities; and I could find no evidence that its release was expected by the voluntary sector or debated within the sector prior to its release. Debate certainly did follow its release.

Information Circular 78-3 aftermath

If the intent of *Circular 78-3* was to interpret the law, its immediate consequence was a firestorm of protest. The interpretation by The Canada Revenue Agency of “political activity” in *Information Circular 78-3* was seen as an affront to voluntary organizations who viewed advocacy as a legitimate means to accomplish their mission. Churches in particular felt that they had an inherent right to teach and exercise their social doctrine viewed such restrictions as an attempt to thwart their right to practice their religion (Brooks, 1983; Ottawa intimidates charities, MPs say, 1978; Stay out of politics Ottawa tells charity, 1978). Opposition party politicians saw the circular as a reflection of the government’s disenchantment with participatory democracy and the media championed the right of charities to speak for those in need (*House of Commons Debates*, 1978; Stupid, to put it charitably, 1978). Within a week of its general circulation, *Information Circular 78-3* was subject to intense and sustained criticism in the House of Commons, the press, and among voluntary organizations, particularly large churches (Brooks, 1983).

This collective criticism was based largely on the misplaced premise that *Information Circular 78-3* was a reflection of either a new government policy or an example of arbitrary bureaucratic rule-making (Brooks, 1983). I will profile the response of the voluntary sector, and the House of Commons to this issue in order to establish the basis for my analysis of voluntary sector and government regime types during this critical juncture.

The Coalition of National Voluntary Organizations was one of the first groups to respond. The Coalition of National Voluntary Organizations chair Ian Morrison wrote to the Hon. John Roberts, Secretary of State, on March 31st 1978, stating that the Coalition

of National Voluntary Organizations was concerned about the definitions and interpretations contained in *Information Circular 78-3* and that it would be circulating the documents to its members for further feedback (I. Morrison, personal communication, March 31, 1978). At the same time Ian Morrison wrote to Brian Flemming, Policy Advisor in the Office of the Prime Minister about the Coalition of National Voluntary Organizations' concern regarding *Information Circular 78-3* (I. Morrison, personal communication, March 31, 1978). It appears that the Coalition of National Voluntary Organizations did not include the Opposition Parties in the House of Commons in their communication, as on May 4th Joe Clark, Leader of the Opposition, wrote to the Coalition of National Voluntary Organizations and raised their own concerns about *Information Circular 78-3*, referring to it as a "highly intimidating document" [emphasis added], citing its interference with the right of freedom of speech, and referring to prior instances of attempts by the government to stifle public dissent (J. Clark, personal communication, May 4, 1978).

While the Coalition of National Voluntary Organizations wrote a few official letters to the government, they were able to support extensive press coverage of the issue. As early as April 16th the Toronto Star ran a Canadian Press story with the heading, *Stay out of Politics Ottawa tells charity* (Canadian Press, 1978c). The article quoted the Coalition of National Voluntary Organizations chair Ian Morrison as saying, "There doesn't seem to be any common sense behind the document ... It [the Circular] seems to be Draconian and completely contrary to the government's intentions" (Canadian Press, 1978c). The article continued in this vein, quoting excerpts from the Circular and the

reactions of others in the voluntary sector, including the United Church of Canada and the Migraine Foundation, both of whom admitted to breaching the guidelines.

Canada Revenue Agency officials quoted in the Toronto Star article indicated that the policies in the *Circular* had been in effect for years and were based on prior court judgements (Canadian Press, 1978c). The director of the Canada Revenue Agency's Registration Division, E. A. Chater, indicated that the definition of charity was currently being studied and that a certain portion of charitable funds should be allocated to political activities. This move, Chater was quick to point out, would require an amendment to the *Income Tax Act* (Canadian Press, 1978c).

The Toronto Star followed up with an editorial on April 18th entitled, "Ottawa shouldn't muzzle charities" (1978), citing the work of charities to advocate for the physically handicapped and needy citizens. The editorial ended with a call for an amendment to the Income Tax Act which would redefine charity and political activities (Ottawa shouldn't muzzle charities, 1978).

Other Canadian Press stories on the issue were carried by the Globe and Mail, which ran consecutive articles on May 2nd and 3rd. These articles were entitled, "Ottawa intimidates charities, MPs say" (Canadian Press, 1978a) and "Political role by charities is illegal, Trudeau explains" (Canadian Press, 1978b). The Globe and Mail ran their own editorial on May 8th (Stupid, to put it charitably, 1978). The view of the Globe and Mail was that the distinction between what is charitable and political is blurry at best and that the circular as well as the philosophy it represented needed to be withdrawn (Stupid, to put it charitably, 1978). Coverage of a similar nature was carried by local papers

(Howard, 1978). This press coverage influenced the government and its response to the issue.

The issue of *Information Circular 78-3* was first raised by opposition member James McGrath in the House of Commons on April 17th, at which point changes were demanded, and the regulations concerning demonstrations and letter writing campaigns were referred to as “ridiculous” and an infringement of the *Canadian Bill of Rights* (*House of Commons Debates*, 1978). The cause was taken up again about a week later by Conservative Flora MacDonald who raised the matter in Question Period and became the champion in the House of Commons for the issue. She continued on the theme of the regulations being a violation of the rights of individuals and groups who wanted to take an active interest in political issues, and again demanded that the regulations be withdrawn and that the *Income Tax Act* be amended accordingly (*House of Commons Debates*, 1978). The only assurance she received was that the circular was in the process of being reviewed.

When Flora MacDonald raised the issue again on May 1st, the government had found its feet and started to defend its actions. Speaking for the government, Alan J. MacEachen outlined the review of existing jurisprudence and the clarification of political activity which had been underway since the previous summer, as requested by Monique Bégin when she was Minister of National Revenue (*House of Commons Debates*, 1978). For the first time during this debate, reference was made to a statement by the Minister of National Revenue, indicating that charitable status would not be prejudiced by “limited attempts to promote the interests of these organizations at the political level” (*House of Commons Debates*, 1978, p. 5001). The debate then momentarily shifted to a

consideration of what constituted “limited attempts” (*House of Commons Debates*, 1978, p. 5001).

The government, including the Prime Minister Pierre Elliott Trudeau, continued to explain to opposition members that *Information Circular 78-3* did not reflect a shift in government policy but was a review of the existing law and was intended to be a guide to charitable organizations (*House of Commons Debates*, 1978). While this point was acknowledged, opposition continued to be adamant that the circular be withdrawn, if for no other reason than that they believed that no prior consultation with charities had taken place. Later during this same May 1st debate, the Prime Minister indicated that the circular would indeed be suspended, but not before reiterating that its withdrawal in no way changed either the law or its ongoing application by The Canada Revenue Agency (*House of Commons Debates*, 1978).

The debate was not over. The Official Opposition Conservatives then shifted the debate to the policies underlying the Circular. The Official Opposition pushed the government to acknowledge the contribution made by charities to public policy debate and to address the inherent conflict between the need for charities to be political and promote legislative change yet if they do so, they cannot be charitable (*House of Commons Debates*, 1978).

The following segment of a speech by Flora MacDonald on May 3rd is typical:

How can these charitable organizations, most of which are attempting to ameliorate the plight of certain underprivileged groups of people, made to flourish when all of the avenues of effecting change are closed to them? If they are not allowed to lobby, to hold public demonstrations or to conduct letter-writing campaigns to elected representatives, how can they make the government aware of their concerns? How can they get their point across if effective methods of doing so are considered to be what this government terms political and, as it says, ‘a threat to their status as charitable organizations’? We are not talking about

partisan political efforts here at all. What the government says in its circular is that it sees any involvement in the political process, even that of a recommending legislation on an issue of national concern, as a questionable and perhaps subversive activity by these groups (p. 5116).

The government continued to reiterate its position regarding the legal status of the regulations and the need to clarify these regulations for charities. Monique Bégin, now Minister of National Health and Welfare, also spoke to the issue, referring to the women's groups who had approached her as Minister of National Revenue and the direction she gave to department officials to clarify the legal standing of political activities for charities. She also restated the government's intent to revise the document (*House of Commons Debates*, 1978). In spite of pressure by the opposition, the government would make no concession on the need to enforce the *Income Tax Act* as it stood (*House of Commons Debates*, 1978). It would be exactly nine years to the day before a revised circular was released.

The time between: 1978 to 1987

While some court cases addressed issues related to advocacy between the initial release of *Information Circular 78-3*, (Brooks, 1983) no voluntary sector issue between 1978 and 1987 created the media coverage and political attention of the original circular. The Coalition of National Voluntary Organizations occupied itself with its primary advocacy issue, tax reform. This campaign, entitled *Give and Take*, proposed that 1) taxpayers should be given the choice between claiming gifts as a tax deduction or as a 50% tax credit; and 2) deadlines for tax receipts should extend sixty days into the new tax period; 3) the \$100 standard (non-receipted) deduction should be eliminated; and 4) that charitable tax receipts should be held by the taxpayer, not The Canada Revenue Agency.

The issue of allowable political activities by charities was identified by the Coalition of National Voluntary Organizations in the early 1980s as one its policy priorities, but a systematic review of its newsletters and annual conference proceedings throughout the 1980s and 1990s shows that this issue was clearly overshadowed, first by their own tax reform campaign, and later by their need to respond to government funding cuts (Morrison, 1981).

The short-lived Conservative government (1979-80) declared its intention to follow up on the tax reform measures it advocated for so strongly in May of 1978 when it was in opposition. Just before the 1979 election the Conservative Opposition Party leader Joe Clark asked MP David Crombie to prepare a comprehensive policy document on the voluntary sector (Crombie, 1979). This policy document positioned the voluntary sector in the context of community action, and explicitly distanced it from the Liberal view that the voluntary sector was, “essentially peripheral to government, to be favoured in rich times, to be cut back in lean, but needing no great attention or concern on the part of government” (Crombie, 1979, p. 11). The policy document embraced the perspective that community-based voluntary action was an essential goal of a healthy country and needed to be fostered by government. This was essentially a subsidiary policy, which put community-based voluntary action (by volunteers) at the centre, facilitated by government (Crombie, 1979, p. 16). The Conservatives believed that the power imbalance between social service professionals and community-based volunteers need to be reversed, and that community volunteers were in a better position than professionals to determine what services a community needed (Crombie, 1979).

Among the recommended strategies in the policy document was one which called for The Canada Revenue Agency to develop a new definition of charity and allow voluntary organizations to lobby governments, as long as they did not engage in partisan politics (Crombie, 1979). The importance of the voluntary sector to society was mentioned in the Speech from the Throne (*Speech from the Throne*, 1979), and later by Minister of Finance John Crosbie in his December, 1979, budget speech:

The government attaches great importance to the voluntary sector. We have referred the whole matter of encouragement of the voluntary sector to a special committee chaired by the honourable member for Fraser Valley West. I have undertaken a review of this area, including the tax treatment of charitable donations, and will provide a paper to that committee. The recommendations of the committee will be carefully considered before my next budget (p. 17).

There was not a “next budget”. The minority Conservative government was defeated and the Liberal Party was returned to power. In 1983 the Liberal government released a discussion paper, *Charities and the Canadian Tax System* (1983). Like an earlier Green paper entitled *The Tax Treatment of Charities* (1975), no reference was made in either document to the definition of charity or allowable political activity, but they focused instead on tax issues. The issue of allowable political activities continued to raise tensions between charities and the Liberal government as charities were threatened with deregistration for their political activities and major charities and the Coalition of National Voluntary Organizations protested against what they viewed as harassment by The Canada Revenue Agency (Silversides, 1984a 1984b). As late as April of 1984 the issue was still being raised in the House of Commons and in the media. Secretary of State Serge Royal acknowledged that The Canada Revenue Agency could well be out of step with reality and promised a special parliamentary committee to look into the matter

(Silversides, 1984b). What happened instead were a federal election and the election of the Conservatives under Brian Mulroney.

Information Circular 87-1

When the Conservative government under Prime Minister Brian Mulroney was elected in September 1984, it didn't take long for the issue of allowable political activities to come to the fore. While The Canada Revenue Agency continued to hold charities to the letter of the regulations outlined in *Information Circular 78-3*, the political response by the newly elected Conservatives was very different. In June of 1985 Secretary of State David Crombie, author of the previous policy paper on the voluntary sector for Joe Clark, was explicitly asked to reach out to the voluntary sector and to work to establish a more effective relationship (Goar, 1986). This appointment was followed by an important symbolic appearance at the 1986 annual meeting of the Coalition of National Voluntary Organizations by Brian Mulroney (Goar, 1986). Early in 1987 the Revenue Minister followed through on the promise made by the previous Conservative government to review issues related to political activities by registered charities.

The result was *Information Circular 87-1, Registered Charities – Ancillary and Incidental Political Purposes* (1987). This circular was materially different from the one issued in 1978 in two respects. First, the tone of the document is permissive rather than punitive. *Information Circular 78-3* indicated that its purpose was “to explain to registered charities ...the consequences of having objects and carrying on activities that are political in nature”, while in contrast *Information Circular 87-1* stated: “The purpose of this circular is to familiarize interested person with those of the Income tax Act which

permit registered charities to pursue ancillary and incidental political activities of a non-partisan nature” (Revenue Canada, 1978, p. 1; 1987, p. 1).

Second, while political objects or purposes were still not permitted, ancillary and incidental political activities which were prohibited under *Information Circular 78-3* were now allowed. The presentation of briefs to elected representatives and committees as well as providing information and the expression of non-partisan views to the media were not subject to any limitation in *Information Circular 87-1* (Revenue Canada, 1987). The most significant shift in *Information Circular 87-1* was the allowance for political activities within prescribed expenditure limits. The following four examples of political activities were provided in the circular:

- 1) Publications, conferences, workshops and other forms of communication which are produced, published, presented or distributed by a charity primarily in order to sway public opinion on political issues and matters of public policy;
- 2) Advertisements in newspapers, magazines or on television or radio to the extent that they are designed to attract interest in, or gain support for, a charity’s position on political issues and matters of public policy;
- 3) Public meetings or lawful demonstrations that are organized to publicize and gain support for a charity’s point of view on matters of public policy and political issues; and
- 4) Mail campaign – a request by a charity to its members or to the public to forward letters or other written communication to the media and government

expressing support for the charity's views on political issues and matters of public policy (Revenue Canada, 1987, p. 3-4).

Information Circular 87-1 went on to prescribe the expenditure limits: political activity would be limited to ten percent of all the charity's resources, including its financial, physical, and human resources; or ten percent of its disbursement quota (Revenue Canada, 1987). The circular also indicated that while this expenditure limit was technically measured over a taxation year, an allocation over a longer time period was also possible if the circumstances warranted it. The charity would be required to report on exempt and political activities in their annual information return form (Revenue Canada, 1987).

The Canada Revenue Agency also provided a technical alternative for charities to think about. The circular suggests that charities could set up a separate non-profit organization or trust to engage in advocacy, as long as there was no sharing of resources (Revenue Canada, 1987). Webb's analysis of this provision points out that several charities have done just this, in spite of the fact that the arrangement can lead to complex and potentially conflicting arrangements (Webb, 2000).

Perhaps the most graphic example of the policy shift from *Information Circular 78-3* came in the *Circular 87-1*'s example of political activities which are ancillary and incidental, as cited in the following example:

A charity whose purpose is to protect wildlife and the environment might, in conjunction with its research, conservation and public education programs, ask people to press for stricter legislative standards for industrial waste disposal. The political activity of pressing for legislative change is 'ancillary and incidental' in this case because it is directed toward the organization's charitable purpose of protecting the environment and is subordinate to the education and other charitable programs of the organization. Therefore it would be allowed, subject to the established expenditure limitations (p. 8-9).

The Canada Revenue Agency was clear in *Information Circular 87-1* that the boundary between acceptable and non-acceptable would need to be determined on a case-by-case basis for at least two reasons: first, precedents established by the court would continue to determine their judgements; and second, the line between acceptable and non-acceptable political activities would be as flexible as government policy. If the government changes a law (e.g., legal access to abortions) then charities that support legal access to abortions would not be engaged in a political activity from the moment the bill was passed. At the same time, charities which continued to oppose the provision of legal abortions would now be engaged in political activities.

In addition to the release of the circular, the *Income tax Act* was revised to reflect these changes, changes which stayed in place throughout the tenure of this Conservative government and a subsequent succession of Liberal governments. The focus of the Canada Revenue Agency now turned to monitoring and clarifying the meaning of allowable political activities charities. It wasn't until 2003 that the next incremental change in advocacy regulations took place.

The ambiguity associated with defining political activities remains an on-going concern for the Canada Revenue Agency and is a perpetual source of confusion for many charities. This ambiguity and confusion is not likely to diminish given the common law basis of charity, so the Charities Directorate has continued to issue circulars, letters of clarification, and press releases when necessary. For example, in 1992 the Canada Revenue Agency publicly clarified that a charity would not compromise its status by declaring its position on the Constitutional Renewal of Canada referendum, as long as funds were not raised for this particular purpose (Webb, 2000).

Elections are a particular hot spot for potential irregularities. In December of 2005, prior to a federal election, the Canada Revenue Agency issued an “Important Advisory on Partisan Political Activities” following a number of inquiries from both charities and individual citizens (Revenue Canada, 2005). The Canada Revenue Agency deliberately re-issues its advisory on partisan political activities and steps up its monitoring of the activities of registered charities during election campaigns, whether federal or provincial. The Canada Revenue Agency clearly indicated in its current advisories that it is prepared to take appropriate measures if a registered charity undertakes partisan political activities (Canada Revenue Agency, 2007a).

The Voluntary Sector without a Voice

During the 1980s and 1990s, the voluntary sector was collectively caught in the undertow of four successive waves of government policy reform: 1) a desire for smaller government; 2) an era of fiscal constraint; 3) the growing popularity of direct citizen engagement; and 4) the division of constitutional responsibilities between the federal and provincial/territorial governments (S. Carter et al., 2004; Phillips, 2006b). This dynamic created a voluntary sector/government relationship which deteriorated between the late 1980s and the mid-1990s to mutual isolation and suspicion and outright antagonism (Phillips, 2002). For example, it was common that Charity Directorate consultations at the time consisted of calling leading groups to a meeting and telling them what was going to happen. As one interviewee described it, charity regulation consisted of a “catch them and kill them” approach where deregulation was the consequence for most infractions.

For the majority of its time in office the Liberal government followed the neo-conservative pattern of cost cutting and labelling public policy advocates as ‘special

interest groups', continuing a strategy initiated by the previous Conservative government. The weak voice of the voluntary sector in general, and of the Coalition of National Voluntary Organizations in particular, to advocate against this devastating series of cuts to programs and organizations in the mid-1990s was a reflection of its dependence on government for funding; its on-going professional collegialism with government; and its lack of formal representational and reporting protocols.

While the Coalition of National Voluntary Organizations' voice was weak, the loss of institutional or representative voice for all voluntary interest groups started in earnest in 1990 when the Citizen's Forum on Canada's Future chose to hear from individual Canadians as *individuals* rather than as representative members of interest groups (Jenson & Phillips, 1996). This approach became the norm for national consultations and was reinforced politically by the derisive reference to "special interest groups". Voluntary sector leaders are still explicitly and consistently told that they are only to act as an individual voice on any federal task force or committee, regardless of who they may otherwise represent. The popularity of citizen engagement, directly and individually, came at the expense of collective representation and the social capital represented in that collective voice (Anheier & Kendall, 2002; Jenson & Phillips, 1996). It was not until the mid-1990s that a relational shift started to take place.

The Voluntary Sector Roundtable

In the absence of a dedicated national organization that could speak for the sector as a whole¹¹, a group of 12 national organizations¹² created the Voluntary Sector Roundtable in 1995 (M. H. Hall et al., 2005; Phillips, 2003a). The Voluntary Sector Roundtable was the outgrowth of a short-lived Ad Hoc Coalition on Canada's Charitable and Public Interest Sector which was comprised of many of the same organizations (Marquardt, 1995). Funded not by government, but by a cluster of leading Canadian foundations, the Voluntary Sector Roundtables' primary goals were: 1) to enhance the relationship between the charitable sector and the federal government and 2) to encourage a supportive legislative and regulatory framework for organizations in the community (Voluntary Sector Roundtable, 1998). The Voluntary Sector Roundtable soon realized it

¹¹ There was resistance by other major national umbrella organizations to rally under the auspices of the Coalition of National Voluntary Organizations. The Coalition realized that given this resistance, and its own lack of credibility, the voluntary sector was better served if the Coalition supported the Voluntary Sector Roundtable (personal communication, 2008).

¹² The twelve national organizations were Canadian Centre for Ethics in Sport, Canadian Centre for Philanthropy, Canadian Conference of the Arts, Canadian Council for International Cooperation, Canadian Council on Social Development, Canadian Environmental Network, Canadian Parks/Recreation Association, Community Foundations of Canada, Health Charities Council of Canada, the Coalition of National Voluntary Organizations, United Way of Canada/Centraide Canada, and Volunteer Canada (Voluntary Sector Roundtable, 1998).

needed to promote sectoral accountability, good governance, and public trust (Phillips, 2003a). To this end, in October 1997, the Voluntary Sector Roundtable set up the Panel on Accountability and Governance in the Voluntary Sector, an arm's length Panel chaired by former leader of the federal New Democratic Party, Ed Broadbent.

The Broadbent Panel, as it was commonly called, was given the mandate to explore issues ranging from the role and responsibilities of volunteers to fundraising practices and fiscal management within the sector. The Panel also examined the external regulation of the sector by governments and options for enhancing internal accountability practices (Voluntary Sector Roundtable, 1998). The Panel's 1999 report, *Building on Strength: Improving Governance and Accountability in Canada's Voluntary Sector*, not only laid out recommendations for better self-regulation and governance but also presented a proposed steps for the federal government to take in order to create a more enabling environment and stronger relationship with the voluntary sector (Panel on Accountability and Governance in the Voluntary Sector, 1999).

While similar in some ways to recommendations in the 1977 *People in Action* report, there are three significant differences. *Building on Strength* was funded by the voluntary sector itself, not the federal government; 2) its activities were tied to leading national voluntary sector organizations and foundations; and 3) the report outlined four immediate priorities for action: a) a good practice guide; b) the creation of a Voluntary Sector Commission, based on the position and mandate of the Charities Commission in the UK; c) a review of the definition of charity by Parliament; and d) a compact of good practice between the sector and governments at both the federal and provincial levels,

based on the success of the Voluntary Sector Compact in the UK (Panel on Accountability and Governance in the Voluntary Sector, 1999).

The Broadbent Report recommended changes to the definition of charity, but does not recommend any specific changes to the *Income Tax Act* which would change either the definition of political activity or regulations which limit engagement in political activities. Instead, the Report recommended: 1) further consultation as well as formal negotiations between the government and the voluntary sector; 2) an extension of the list of public benefit purposes; 3) the establishment of a Voluntary Sector Commission as a regulatory alternative to the Charities Directorate; and 4) a compact of good partnership practice with government (Panel on Accountability and Governance in the Voluntary Sector, 1999).

On the government side, a similar mood of collaboration was developing, but for reasons which were peripheral to the voluntary sector. According to Susan Phillips (2001c), this relationship shift was a result of: 1) key citizen engagement advocates located in the Privy Council Office; 2) limited government fiscal resources which the voluntary sector could help to mitigate; and 3) the visibility and community-based credibility which the government could gain by affiliating with the voluntary sector (Phillips, 2001c). The Liberal Party, wanting to overshadow its neo-liberal fiscal policies and the three years of cuts to social programs contained in its 1994 through 1996 budgets, gave considerable attention to the voluntary sector in its 1997 election campaign program and followed through after its re-election (Phillips, 2003a).

This follow through took the form of a Voluntary Sector Task Force which was housed in the Privy Council Office. In 1999, the Voluntary Sector Task Force created

three “Joint Tables” consisting of equal representation from government and the voluntary sector and joint co-chairs (Joint Tables, 1999). The three tables had a mandate to address three key issues: relationship building, strengthening capacity, and improving the regulatory framework (Phillips, 2003a). The result of these three collaborative and highly productive joint tables was *Working Together*, a report which closely reflected many of the recommendations in the Broadbent Report and reinforced one proposal in particular; namely, the development of a partnership framework agreement or accord based on a similar agreement in the UK (Phillips, 2003a).

Working Together also listed a number of regulatory options which it recommended be explored further. These regulatory options included a shortened tax return for small charities; three alternative models of regulatory administration; increased public access to regulatory decisions; and clarifying non-partisan advocacy and public education activities (Joint Tables, 1999).

In June 2000, in response to the Broadbent and Joint Table Reports and their own political priorities, the federal government announced the creation of the Voluntary Sector Initiative (VSI) (Voluntary Sector Initiative, 2006). The VSI was a five-year, \$94.6 million initiative to fund the work of seven joint tables, designed on the collaborative model created by the Voluntary Sector Task Force. These seven joint tables were: Coordinating Committee, Accord, Awareness, Capacity, Information Management and Technology, Regulatory, and National Volunteerism Initiative. In addition, two independent working groups on funding and advocacy were funded by the voluntary sector (K. L. Brock, 2005)

The Voluntary Sector Initiative

The reason these two independent working groups were established by the voluntary sector was that the federal government representatives, particularly those representing the Department of Finance and Treasury Board, flatly refused to make tax issues (including the definition of charity, political activities, and funding) a matter for mutual negotiation. These two powerful federal departments had no intention of yielding ground to outside groups or setting a policy-making precedent. Politically, the government wanted to avoid any contentious areas (e.g., advocacy, financing) in order to achieve a concrete "deliverable" (e.g., the Voluntary Sector Accord) by the end of the International Year of Volunteers in 2001 (K. L. Brock, 2004; Phillips, 2003a 2004).

Between 2000 and 2003, four initiatives combined to bring the issue of advocacy to the attention of both the government and the sector-at-large. First, the seven-member voluntary sector Advocacy Table commissioned an in-depth analysis report; held country-wide consultations; and developed a position paper on advocacy (Harvey, 2002; Rector, 2002). Second, the Institute for Media, Policy and civil Society (IMPACS) commissioned its own legal case for regulatory changes, and then combined forces with the Canadian Centre for Philanthropy to conduct a cross-Canada consultation with voluntary sector leaders about advocacy and possible regulatory changes (Bridge, 2000; IMPACS & Canadian Centre for Philanthropy, 2002).

Third, based on their own comprehensive survey of charities, and strong internal leadership (Phillips, 2006a), the Charities Directorate made a commitment in April, 2001 with its *Future Directions* strategy, to enhance electronic services, ensure transparency,

target compliance activities, and improve co-operation with the voluntary sector (Canada Revenue Agency, 2001).

Fourth, the Joint Accord Table, as a direct follow-up to the signing of the Voluntary Sector Accord in 2001, developed two codes of good practice, the *Code of Good Practice on Funding* and the *Code of Good Practice on Policy Dialogue* (Voluntary Sector Initiative, 2002a 2002b).

In the most general of terms, the *Code of Good Practice on Policy Dialogue* was designed to strengthen and improve the relationship between the voluntary sector and the Government of Canada and to build on the general principles outlined in the Voluntary Sector Accord (Voluntary Sector Initiative, 2002b). The codes are entirely process focused and provided no defensible or accountable criteria which could be used to hold either the voluntary sector or the government to account. Politically, it provided a way to 'report progress' on funding and advocacy when considerable discord had developed during the deliberations of the Regulatory Joint Table.

The process focus represented in the Code of Good Practice on Policy Dialogue and the absence of resources from government or the voluntary sector to follow through with anything but status quo activities are reflected in the three proposed implementation steps: 1) discuss the Code and learn from one another; 2) adapt their policy practices and approaches; and 3) propose reforms to make the Code more effective (Elson, 2005; Voluntary Sector Initiative, 2002b).

The Joint Regulatory Table

Of the six Joint Tables, it has been reported that the Joint Regulatory Table was the most contentious (K. L. Brock, 2005; Phillips, 2005). The committee lagged far

behind other Joint Tables in reaching agreement on their agenda. Brock cites the refusal of the government representatives to address funding and advocacy issues as the source of this extended conflict (K. L. Brock, 2005). For reasons already reported in chapter two, these issues were not resurrected and in the end, the Joint Regulatory Table addressed regulatory transparency, appeals of regulatory decisions, and intermediate sanctions which fall short of deregistration (Joint Regulatory Table, 2003b).

In addition, work on the Joint Regulatory Table would be put on hold if approval from the Assistant Deputy Minister Committee or the Reference Group of Ministers was required. For the voluntary sector regime, there were few sanctions or rewards and no formal umbrella organization outside the Voluntary Sector Steering Group to provide an oversight role.

Voluntary sector members of the Joint Regulatory Table were caught in a Catch-22. They were obliged to address these micro-policy issues, but addressing these issues within the Voluntary Sector Initiative also thwarted them from having the time or capacity to apply external political pressure (Phillips, 2006b). In the words of the Voluntary Sector Initiative process evaluation final report, “the voluntary sector lost its political voice” (Social Development Canada, 2004, p. xiii).

The final report of the Joint Regulatory Table was released in March, 2003 (Joint Regulatory Table, 2003b). The report outlined a number of incremental improvements to the status quo which would collectively improve the relevance, transparency, accessibility and operability of the regulator. In other words, the report recommended minor changes which could be layered onto the existing regulatory regime. This made it relatively easy for the Canada Revenue Agency to accommodate the recommendations as

part of its *Future Directions* strategy, and in the 2004 federal budget a number of these changes were announced (Phillips, 2005).

The Canada Revenue Agency's *Future Directions* strategy has been sustained with healthy budget increases over the past seven years, allowing the Charities Directorate to push the boundaries on disbursement quotas, intermediary sanctions, community outreach activities, accessibility to statistical data, consultation on draft policies, and the extension of permissible political activities. As an interviewee from The Canada Revenue Agency reported, "we see ourselves as a truly modern charity regulator and are now seen as a leader by other common law countries."

The following recommendations from the *Joint Regulatory Table Final Report* have been implemented:

- A simplified tax form for small charities is in place;
- A streamlined charitable registration process has been introduced;
- There is now greater web transparency and access to policies;
- New policy guidelines on permissible charitable activities have been published;
- A travelling 'roadshow' provides information sessions for charities;
- A charities advisory committee was put in place (later discontinued);
- A number of intermediate sanctions which penalize charities without them being deregistered have been introduced; and
- Jurisdictional collaboration among federal and provincial/ territorial governments is underway.

These were all changes which could be implemented independently by the Canada Revenue Agency. The remaining recommendations from the Joint Regulatory Table were structural and involved complex legislative processes and multiple departments (e.g., changes to the *Not-for-Profit Corporations Act* and registration appeals to the Tax, not Federal Court). Movement, however, has occurred in the area of permissible political activities and this is seen in the 2003 release of *Political Activities CPS-022*, the third generation of *Information Circular 78-3*.

Because political activity was officially ‘off the table’, discussions which did occur regarding permissible political activities took place through unofficial joint consultations. Voluntary sector representatives initially took the position that advocacy was a Right of Citizenship and could only be constrained by charitable purpose and liable laws.

The Department of Finance took the opposite view that political activity was not a Right, but a privilege, and was conferred by the government on charities at the governments’ discretion under the Income Tax Act. With the Rights argument rendered invalid, and any changes to the Income Tax Act unworkable, voluntary sector representatives used their own surveys to demonstrate that there was widespread support within the sector for the unfettered right to advocate (IMPACS & Canadian Centre for Philanthropy, 2002). The result was significant changes in both the amount and type of political activities in which charities could engage. These changes were formally introduced in *Political Activities CPS-022*.

Political Activities CPS-022

In January, 2003, the Minister for the Canada Revenue Agency released a draft policy document entitled *Registered Charities - Political Activities* for general feedback (Canada Revenue Agency, 2003a). Following the consultation period, the final policy document, *Political Activities CPS-022*, was released in September 2003, replacing the earlier *Information Circular 87-1* (Canada Revenue Agency, 2003b). These guidelines are clearer and much more specific than earlier circulars.

The purpose of *Political Activities CPS-022* is outlined in the policy statement as follows:

This policy statement replaces Information Circular 87-1, *Registered Charities — Ancillary and Incidental Political Activities*, and provides information for registered charities on political activities and allowable limits under the *Income Tax Act* (the *Act*). It also provides a framework that explains how we distinguish between political and charitable activities. In addition, it seeks to clarify the extent to which charities can usefully contribute to the development of public policy under the existing law (p. 1).

In contrast to any of the previous Information Circulars, *Political Activities CPS-022* explicitly contextualizes its regulations in the Voluntary Sector Initiative consultation process and the *Code of Good Practice on Policy Dialogue* (the *Code of Good Practice on Policy Dialogue* is one item in the initial implementation of the Voluntary Sector Accord). *Political Activities CPS-022* provides substantive details and examples [18 explicit scenarios are detailed], and addresses some of the nuances that the Charities Directorate has to contend with (Canada Revenue Agency, 2003b). For example, *Political Activities CPS-022* contains the following statement with respect to unstated purposes and excessive political expenditures.

Unstated purposes and devoting more than the allowable maximum of a charity's total resources to political activities

When a charity focuses substantially on one particular charitable activity so that it is no longer subordinate to one of its stated purposes, we may question the legitimacy of the activity at law. This is because when an activity is no longer subordinate to a charity's purposes, it may indicate that the charity is engaging in an activity outside its stated objects, or pursuing an unstated collateral political purpose; or non-charitable purpose; or charitable purpose.

In such circumstances, rather than just considering the explicit purpose of the activity in question, we will consider all the facts and determine whether it is reasonable to conclude that the charity is focusing substantially on a particular activity for an unstated political purpose.

In addition, when a charity's purposes are clearly charitable, but it devotes more than the allowable maximum of its resources to political activities, we may consider that the charity is operating to achieve a political objective that is not stated in its governing documents, and it will consequently risk revocation.

Finally, it is important to bear in mind that some purposes can only be achieved through political intervention and legislative change. For example, a purpose such as improving the environment by reducing the sulphur content of gasoline would very likely require changes in government regulations. Generally, any purpose that suggests convincing or needing people to act in a certain way and which is contingent upon a change to law or government policy (e.g., 'the abolition of' or 'the total suppression of animal experimentation') is a political purpose (p. 3-4).

Political Activities CPS-022 continues the permissive tone set in *Information Circular 87-1*, such as indicating that individual circumstances will be taken into consideration, but also outlines, as it does above, the factors within those individual circumstances which will be considered. With two exceptions, *Political Activities CPS-022* draws the same lines in the political-activity sand as did the previous two Information Circulars. The two exceptions are: 1) what constitutes educational activities; and 2) resources for political activities.

Educational activities

Educational activities in earlier versions of *Political Activities CPS-022* only made general comments regarding what specifically represented appropriate education

(e.g., needing to be well-reasoned and reasonably objective), and was thus open to broad interpretation. However, a well reasoned position, *Political Activities CPS-022* points out, should present serious arguments to the contrary position and not just one perspective.

Political Activities CPS-022 quotes Chief Justice Iacobucci in this excerpt from the 1999 Supreme Court of Canada case, *Vancouver Society of Immigrant and Visible Minority Women v. Minister of National Revenue*:

We all agree with the appellant that educating people from a particular political or moral perspective *may be* [italics in original] educational in the charitable sense in that it enables listeners to make an informed and critical choice. However, an activity is not educational in the charitable sense when it is undertaken "solely to promote a particular point of view" (Para. 169).

Political Activities CPS-022 goes on to point out that the degree of bias in an activity will determine if it can still be considered educational. The materials of some organizations may have such a slant or predetermination that it can no longer reasonably be considered educational, regardless of the context in which the activity takes place.

Resources for political activities

Political Activities CPS-022 recognized that the perspective which had been clearly articulated by voluntary sector representatives in the Joint Regulatory Table – the ten percent rule – created a substantial barrier to political activity for small and medium charities. The Canada Revenue Agency decided to exercise its discretion and indicated that it would not revoke the registration of smaller charities for the excessive use of their resources on political activities, as long as they met the following administrative guidelines over a maximum of a three-year period:

Registered charities with **less than \$50,000** [emphasis in original] annual income in the previous year can devote up to 20% of their resources to political activities in the current year.

Registered charities whose annual income in the previous year was **between \$50,000 and \$100,000** [emphasis in original] can devote up to 15% of their resources to political activities in the current year.

Registered charities whose annual income in the previous year was **between \$100,000 and \$200,000** [emphasis in original] can devote up to 12% of their resources to political activities in the current year (p. 9).

The potential impact of these guidelines on political activities has been significantly underestimated by the voluntary sector. There may not have been a shift to increase the allocation that large charities could allocate to political activities, but the overall impact is a collective \$113.5 million annual increase in the permissible allocation to political activities by charities with revenues of less than \$200,000 and an overall increase to \$5.7 billion, not counting large hospitals or educational institutions (see Table 4 below).

Table 4***Political Activities CPS-022: Resource Allocation***

Income (2005 tax data)	Total Income in millions of dollars (number of charities)	Total Income less hospitals and educational institutions (number of charities)	Resources available at 10 percent of total revenue by income category (percent allocation) - millions of dollars (<i>Information Circular 87-1</i>)	Resources available at 10, 12, 15, and 20 percent of total revenue by income category (percent allocation) - millions of dollars (<i>CPS -022</i>)
> \$200,001	139,036 (21,821)	53,485 (18,639)	5,348 (10%)	5,348 (10%)
\$100,001- \$200,000	1,477 (10,234)	1,463 (10,217)	146 (10%)	175.5 (12%)
\$50,001 - \$100,000	732 (10,234)	732 (10,234)	73 (10%)	110 (15%)
< \$50,000	471 (26,421)	471 (26,421)	47 (10%)	94 (20%)
Total	141,716 (68,710)	56,151 (65,511)	5,614	5,727.5
Net Change				113.5

Source: Canada Revenue Agency data (February, 2007); Financial allocation by revenue (line 4700). Nationwide with charities with income less than 50,000; between 50,000 & 100,000; between 100,000 & 200,000; & more than 200,000 for the year 2005.

What has been lost in the discourse concerning *CPS -022* is that even at ten percent, charities could collectively allocate \$5.6 billion annually to political activity. With the release of *CPS -022*, this figure, based on 2005 tax return data from the Canada Revenue Agency, has increased to \$5.7 billion. Even a one percent allocation to political activities by all charities would be almost \$573 million. This analysis reveals that the lack of advocacy activity by charities, rather than being limited by an overly restrictive or ambiguous regulatory regime, is more likely due to the absence of concerted and collective representation. The Voluntary Sector Forum, which operated between 2002

and 2005, was under a similar non-formal regime as the former Coalition of National Voluntary Organizations (Voluntary Sector Forum, 2006)

There has been no public and little voluntary sector reaction to *Political Activities CPS-022*. The most significant commentary has been from legal commentators who, as representatives of large charities, see little progress beyond the ten percent rule (T. S. Carter & White, 2003; Gilbert, 2004; Taking another look, 2005). This view is also held because the expectation was created by the proponents of change that a limited, but concerted appeal to redefine charity legislation in the *Income Tax Act* and liberalize political activities, would be enough to make it happen (Drache & Boyle, 1999; Harvey, 2002; IMPACS & Canadian Centre for Philanthropy, 2002; Rector, 2002). I contend that the regulatory regime has shifted, and because the voluntary sector is unaware of its implications and is unable to take advantage this progressive change, it will be some time before the full impact of *Political Activities CPS-022* on the voluntary sector can be assessed. This shift, which has been in development since 1978, holds important insights and implications for the nature of voluntary sector/government relations.

Findings and Analysis

The release of *Information Circular 78-3* came in response to voluntary sector organizations' (particularly women's groups) questions regarding the rejection of their application for charitable status when their purposes included political activities. These queries came at a time when the federal government had little interest in supporting programs which could fund potential political adversaries (Pal, 1993). Support the government did provide to the voluntary sector existed because the sector could be used as a buffer against public demands for services and funding for community service

programs at a time when the government was simultaneously battling a deficit, inflation, and unemployment (Government of Canada, 1976).

The only national voice which could claim to speak for the voluntary sector, the Coalition of National Voluntary Organizations, took immediate issue with *Information Circular 78-3*. However, it did so without a clear understanding the intent of the Circular. The government was able to successfully define the debate in terms of the content of the Circular, rather than its contextual language. The Coalition of National Voluntary Organizations took the position that *Information Circular 78-3* represented a new punitive policy rather than an interpretation of legal precedents. This interpretation was also initially held by the media and by Parliamentarians until during debates in the House of Commons the government managed to define the content of *Information Circular 78-3* in its own [legalistic] terms. The Coalition of National Voluntary Organizations fuelled the misinterpretation of *Information Circular 78-3* with its comments to the press and letters to politicians. The status of the Circular, as neither policy nor law, made it relatively easy for the government to withdraw the circular without modifying any of their regulatory practices, which the government made clear would be the case (*House of Commons Debates*, 1978).

The release of *Information Circular 78-3* had the unintended consequence of bringing the relationship of lobbying and charities to the fore. The Coalition of National Voluntary Organizations, while voicing its concern about *Information Circular 78-3*, did not use the opportunity to press the government to make any policy changes. The result was that promises were made to review the Circular, but the government also made it

clear that it had no intention of reviewing the more complex tax legislation related to political activities (*House of Commons Debates*, 1978).

The issue of permissible political activities was kept alive by a coalition of women's groups and key cabinet ministers, particularly those affiliated with the National Action Committee on the Status of Women and the Opposition Conservative Party. The Conservative Party continued to champion the contribution of the voluntary sector through policy discourse during its brief term in office between June, 1979 and March, 1980, and again in 1984 when the Conservatives formed a majority government.

This latter majority under Conservative Prime Minister, Brian Mulroney, followed through with the commitment made by Finance Minister John Crosbie seven years earlier, and issued *Information Circular 87-1*. As previously noted, the political status of the voluntary sector shifted as did the tone of the circular, and an explicit limit of ten percent of a charity's resources to political activities was introduced for the first time. Still holding to existing case law, and ever-mindful of foregone revenue implications, the Conservative government was not about to either redefine charity or significantly liberalize allowable political activities. *Information Circular 87-1* was nevertheless a clear step forward in favour of advocacy by charities.

Information Circular 87-1 was a significant step forward for four reasons: it 1) increased the allocation for permissible political activities from zero to ten percent of a charity's resources; 2) broadened the type of political activities in which a charity could engage; 3) defined oral and written representations to government or media as charitable, not political; and 4) allowed political activity expenses to be allocated over several years.

The fact that changes outlined in *Information Circular 87-1* went largely unnoticed by both the media and the voluntary sector underlies the incremental change in the circular in comparison to what the sector saw as appropriate. Beyond the Conservative government's own view of the voluntary sector as an important vehicle for voluntary community action, there is little evidence that there was a widespread campaign to pressure the Conservative government to make the changes contained in *Information Circular 87-1*. Because the voluntary sector at the time continued to be informally represented by the Coalition of National Voluntary Organizations and because there was no clear sense of how big the voluntary sector in Canada actually was, the long-term impact of the ten percent allocation limit for political activities was underestimated.

The government was clear in *Information Circular 87-1* that it did not have an issue with advocacy per se; rather it objected to the use of the charitable form to do it. The government suggested in the circular, as does its successor, that charities could set up an independent non-profit organization to engage in advocacy activities (Revenue Canada, 1987).

In 2003, the release of *Political Activities CPS-022* continued the theme initiated in the previous circulars that no charity can be established for political purposes because the public benefit of those political purposes (e.g., legislative change) cannot be predetermined (Webb, 2000). *Political Activities CPS-022*, taking note of the 1999 Supreme Court *Vancouver Immigrant Women* ruling, addressed the difference between education, which requires that multiple perspectives be examined, and the bias inherent in taking a specific political perspective (Charities Directorate, 2003a). The government did

not move from the position taken by the courts since the 1891 *Pemsel Case* that political activities must be incidental and subordinate to its charitable purpose.

What did move in *Political Activities CPS-022* was the degree to which permissible political activities could be undertaken. Extending the limit on political activities for charities with revenues of less than \$200,000 potentially released an additional \$100 million in resources for political activities for ninety-five percent of registered charities. All but the biggest charities may allocate more resources to political activities if they choose to do so. The key question for the future of voluntary sector/government relations is whether this potential reallocation of resources toward political activity will be realized. Interviewees pointed to the lack of evidence that charities are engaged in political activities, even within their allowable limits. Many charities are unable to differentiate between charitable and political activities and often consider legitimate charitable activities to be political when they are not. Surveys by the Canada Revenue Agency reveal a disproportionate lack of reported political activity and very few instances of deregistration for cause (e.g., twenty-five cases over five years).

Institutional regime type

While some argue (Webb, 2000) that the voluntary sector is constrained politically by these advocacy regulations, another factor which should be considered is the influence of institutional regime type on the status of this policy. The voluntary sector's inconsistent and transitory representation on advocacy policy reflects its non-formal regime type. This collective lack of capacity to engage in sustained and meaningful policy dialogue with a formal institutional regime (e.g., the federal

government), has meant that there have been few political consequences for the federal government's inaction.

Table 5 (below) profiles the relative formality of these two regime types from the release of *Information Circular 78-3* to the release of *Political Activities CPS-O22*. The nature of the relationship between the voluntary sector and government was examined from 1978 to 2003 to determine if there was a significant variance across this period in the non-formal voluntary sector and formal government regime types. No variance was found.

Table 5

Institutional Regime Type (Regulation of Political Activity)

Regime Type	Assessment	Case
Formal	Well established and sanctioned representational and reporting protocol which is transferable across time and issues.	Government representation concerning <i>Information Circular 87-1</i> and the Joint Regulatory Table
Non-formal	Transitory representational and reporting protocol which is non-transferable across time and issues.	Voluntary Sector representation concerning <i>Information Circular 87-1</i> and the Joint Regulatory Table

From 1974 when the Coalition of National Voluntary Organizations was established, to the completion of the Joint Regulatory Table report in 2003, the voluntary sector consistently maintained a non-formal institutional regime type. The Coalition of National Voluntary Organizations, the lead voice for the voluntary sector at the time of the release of *Information Circulars 78-3 and 87-1*, explicitly operated under an informal consensus-based decision making style to establish priorities and positions.

Without repeating the analysis presented in chapter two, the formal regime of the government and the non-formal voluntary sector also operated throughout the Joint Regulatory Table discussions between 1999 and 2003. Starting with the Broadbent Panel (1999), the non-formal voluntary sector pushed throughout the process for a ‘modernized’ definition of charity, a less bureaucratic regulatory structure, and the liberalization of advocacy regulations (IMPACS & Canadian Centre for Philanthropy, 2002; Panel on Accountability and Governance in the Voluntary Sector, 1999). This non-formal regime was evident in both the lack of formal reporting structures and the inexperience of sectoral representatives in formal policy engagement (Social Development Canada, 2004). This lack of policy experience was also evident in the assumption made by voluntary sector representatives that sanctioned joint discussions with bureaucrats constituted a forum where politically sensitive items, such as the definition of charity, could be raised. The difference in the two regime types is reflected in comments made by government representatives during a process evaluation of the Voluntary Sector Initiative. A number of government representatives reported that the voluntary sector was naïve to think that civil servants could speak freely as individuals rather than departmental representatives (Social Development Canada, 2004). Here is a summary comment by one government representative about the voluntary sector representation which appears in *The Voluntary Sector Initiative Process Evaluation: Final Evaluation Report*,

It wasn’t realistic: they wanted us to agree on everything. Their expectations were too high. In certain cases, it’s possible for a public servant to have a personal opinion that differs from that of his Minister, but in a context like this one and the subject of the recommendations that we were making, we are accountable to our Ministers for any substantial changes that are made.

The Canada Revenue Agency, in concert with the Department of Finance, reflecting its formal regime type, was very clear that any legislative changes were political, not bureaucratic decisions. And the two departments made it equally clear to voluntary sector representatives that they only took direction from their political masters (Phillips, 2003a). At the same time as the operational details associated with the Voluntary Sector Initiative overwhelmed many of the inexperienced voluntary sector representatives, the non-formal aspect of the voluntary sector regime and the adherence to bureaucratic protocols by the Canada Revenue Agency prevented a parallel political campaign from being mounted (Phillips, 2006b).

This dynamic reflects a non-formal/formal regime typology (see Table5). Few of the voluntary sector proponents recognized: 1) the degree to which political activity and the definition of charity were not only politically and legally institutionalized, but also inextricably linked with general tax policy and the Department of Finance's hold on foregone tax revenues; 2) that there needed to be some proposed benefit to the government to embark on such an institutional shift, and government representatives perceived few tangible benefits; and 3) the degree to which the proposed changes to the regulatory regime, enforcement regulations, and regulatory definitions were interconnected and posed a serious challenge to the established and institutionalized regulatory regime within the Canada Revenue Agency.

Institutional change

The change in permitted political activities which took place between 1987 and 2003 are no less significant for the incremental manner in which they took place. Pearson points out in his study of social processes that when a long time-horizon is used to study

[policy] outcomes, it provides important insights which are missed if the analysis focuses on narrower contemporary issues (Pierson, 2003). Examined independently, the impact of the three versions of the regulation of political activity in *Information Circular 78-3*, *Information circular 87-1* and *Political Activities CPS-022* have been consistently minimized by the voluntary sector. Collectively, they represent a significant institutional shift in permissible political activity within the existing legislative framework. Rather than creating an advocacy ‘chill effect’ (Webb, 2000, p. 40), the Canada Revenue Agency has been clear that permissible advocacy activities are circumstantially determined and that as long as public policy evolves, so will decisions regarding permissible political activities (Charities Directorate, 2003a).

The changes introduced by each of the information circulars were layered on top of existing Canada Revenue Agency regulations. Each version effectively reinforced and institutionalized legislative regulations regarding the definition of charity and political activities. The information circulars consistently reinforced common law rulings that charities cannot be established for political purposes and that any political activities must be both ancillary and incidental to their charitable purpose (Charities Directorate, 2003a; Revenue Canada, 1978 1987).

What has been forgotten in this long-standing debate is that charities have considerable untouched capacity to participate in political debates to the full extent of their allowable expense limit (see Table 4). I suggest that while there may be valid reasons for the existence of an advocacy ‘chill effect’, such as perceived or real repercussions to advocacy activities, the *Income Tax Act* is not the culprit. Given the number of registered charities, their collective resources, and the lack of evidence that the

political expense limit has been exceeded, I conclude that it is more likely that charities are under-spending their potential political activity allocation and underestimating the impact of collectively advocating for a common cause.

Conclusion

Each successive version *Information Circular 78-3* has: 1) increased the opportunity to engage in political activities; 2) worked to clarify as much ambiguity as possible concerning political activities; and 3) stayed clear of any re-definition of either charity or political activity. Any change in this direction will be politically determined, and will not be confined to the departmental interests of Canada Revenue Agency or the Department of Finance. Current governments and the courts have kept the tax implications of charity regulation in their view as much as Parliament did in May, 1930 (Supreme Court of Canada, 2007).

The fact that the Canada Revenue Agency has, in Susan Phillips's words, worked to "reinvent itself from within" (2005, p. 12), is significant and has resulted in a more dynamic, transparent, and responsive regulator (Kidd, 2002). Traditionally sensitive to complaints, the institutional shift that has occurred in the Canada Revenue Agency is a consequence of the desire by the Canada Revenue Agency in general, and the Charities Directorate in particular, to increase its relevance to the general public (Canada Customs and Revenue Agency, 2001; Canada Revenue Agency, 1998). The engagement of the Canada Revenue Agency in the Voluntary Sector Initiative informed its perspective of the voluntary sector and the issues facing charities; but the Charities Directorate was also informed by its own independent service surveys and its experience as the lead charity regulator.

The extent to which this 'reinvention' is institutionalized with increasing returns and develops path dependency remains to be seen. This reform agenda is being undertaken in a climate where advocacy is currently regarded with disdain and new and exhaustive lobbying regulations will be applied to all organizations, including registered charities. I suggest that this path dependency will depend as much on the nature of the support it receives from the voluntary sector as from political forces within government.

The non-formal voluntary sector has intermittently pushed over the last ten years to have the restraints on political activity lifted, and some important, yet incremental results have been achieved (IMPACS & Canadian Centre for Philanthropy, 2002; Social Development Canada, 2004). The non-formal nature of voluntary sector representation has prevented the full context of the voluntary sector from being acknowledged and represented, and this non-formal regime type continues to hamper substantive legislative changes from being seriously considered.

The challenge this analysis of political activity presents to the voluntary sector in Canada is twofold: 1) the voluntary sector needs to increase its political credibility and institutional regime formality; and 2) the voluntary sector need to start to take advantage of the potential new capacity and resources it already has available through *Political Activities CPS-022*.

Chapter Four

Cuts to the Core

Introduction

This chapter will analyze a third critical juncture in voluntary sector/government relations: a fundamental funding-policy which took place between 1994 and 1997. This investigation will determine the extent to which this critical juncture continues to have an impact on voluntary sector/government relations and the degree to which institutional regime type influenced this particular policy outcome. In this case the voluntary sector was caught up in an aggressive Program Review which involved all government departments and was designed to cut billions of dollars of government expenditures over a three-year period. My analysis will show that while the growing federal government debt crisis catalyzed this extensive program review, there were other factors which exacerbated its impact on voluntary organizations and led to the institutionalization of service-based contract funding. I will also show that the non-formal regime type that prevailed in the voluntary sector at the time of these cuts prevented the sector from both representing the collective impact of these cuts and proposing alternative implementation strategies which could have been less detrimental.

I will outline the economic and political context in which this funding policy change took place in order to demonstrate that the economic climate was the primary driver which led to expenditure reductions across all levels of government. The funding implemented by the federal government not only directly affected federal programs and department staff levels but also included significant reductions in transfers from the federal government to provinces and territories. The provinces and territories in turn

downloaded these funding and program cuts to local municipalities and voluntary organizations as provinces passed down the reduction in federal transfers and introduced retrenchment policies to deal with their own fiscal deficits. The voluntary sector subsequently experienced a dramatic reduction in funding from all levels of government.

These funding cuts also took place at a time when: 1) the federal civil service was being downsized and was struggling to undergo a transformation toward “New Public Management”; 2) the federal government had departed from a citizenship-based program funding model and had embraced short-term service-based contract funding; 3) accountability became the new watchword and created a massive amount of mandatory documentation; and 4) federal voluntary sector/government relations were at an all-time low.

I define citizenship-based program funding as core funding that supports the capacity of an organization to engage in policy dialogue and represent a public interest perspective. For example, Secretary of State grants in the early 1990s provided core grants to national ethnocultural and multicultural organizations “to enhance their capacity to represent their communities, promote active participation in society in pursuit of multicultural objectives and to help develop and maintain their sense of community in Canada” (Canadian Research and Publication Centre, 1991).

While absolute reductions in government funding were challenging, changes in how project funding was administered inflicted significant damage in its own right. Beyond the three-year fiscal reduction campaign between 1994 and 1997 and its

immediate consequences, I will trace the institutionalization of this contract funding regime and the continued resistance to calls for change by the voluntary sector.

What makes this new dynamic particularly important is that the policies of retrenchment and increased accountability have continued unabated through changes in governments; periods of economic growth; the elimination of a federal operating deficit; growing fiscal surpluses; and a significant reduction in the national debt (Dutil, 2006; Jenson & Phillips, 2001).

Neo-Liberal Policy Making

Social security programs in Canada were launched by the March Report in 1943 and supported as a universally accessible public good throughout the 1940s, 1950s, and 1960s (Guest, 1997). Dennis Guest (1997) argues that the neo-liberal solutions introduced by the Liberals in the 1970s to slow economic growth, rising unemployment and inflation, actually set the stage for even greater cuts by the Conservatives in the 1980s and 1990s. Residual social programs introduced by the Trudeau Liberals include the refundable child tax credit (at the expense of the universal family allowance program), and reductions in the eligibility and available of funding for unemployment insurance and old age pension programs (Guest, 1997). As we will see, this pattern would be reiterated by Jean Chrétien's Liberal government in its first term in office in the 1990s when it used the precedents established by the Conservatives to launch its own deficit-reduction program.

Brian Mulroney, in a speech to the Conservative Party in 1984, was clear that one of his priorities was a complete revision of social programs in order to save as much money as possible (Brooks, 2001). This objective was to be met by encouraging the

voluntary sector to participate more in the implementation of social programs, contracted-out through a competitive bidding process. This neo-liberal policy was designed to 1) advance community-based volunteerism; 2) support contracting-out of government services; and 3) marginalize citizenship rights and state obligations (Brooks, 2001).

The Conservatives made several attempts over their two terms in office (1984-1993) to reduce and reform the public service by freezing wages, cutting positions, and introducing private sector management practices in what is known as New Public Management¹³ (Borins, 2002; Savoie, 1994). New public management strategies such as Public Service 2000 were introduced with great fanfare, but ultimately withered due to lack of political support and leadership from senior public servants (Seidle, 1995). Determined political leadership, another prerequisite for the successful introduction of new management practices also fell short as the North American Free Trade Agreement, the Goods and Services Tax, and constitutional negotiations (e.g., the Meech Lake Accord) took priority. Several authors have concluded that Brian Mulroney may have spoken Margaret Thatcher's tough [public sector reform] language, and shared her distrust of bureaucracies, but he lacked her conviction and was more focused on short-term deal making than sustained policy implementation and public service reform

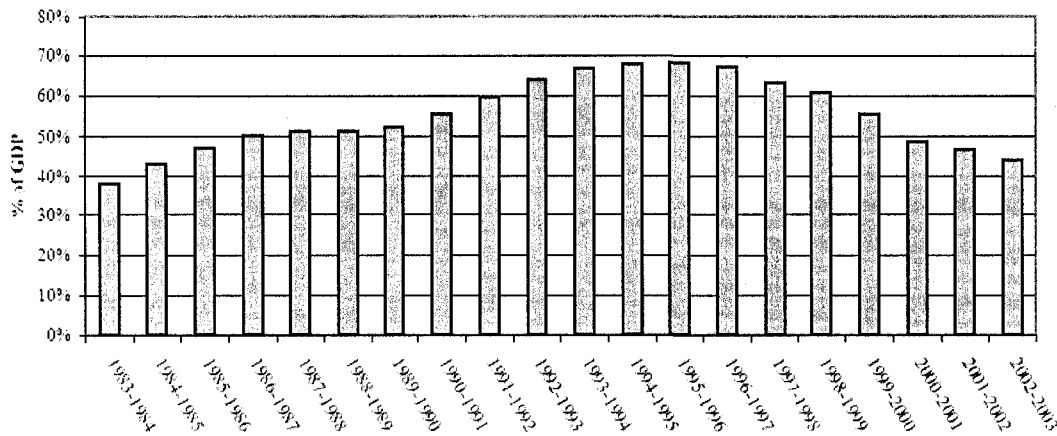
¹³ New Public Management has been linked to: a) slowing or reversing government growth in spending and staff; b) a shift toward quasi- or full-privatization and away from core government institutions; c) use of automation (Information Technology) for the production and distribution of public services; and d) development of a greater international agenda (e.g., intergovernmental cooperation) (Hood, 1991).

(Savoie, 1994; Seidle, 1995). The language of reform, if not the action, took hold and legitimized attacks on government waste and promoted the benefits of privatization.

The economic recession in the early 1980s should have given Mulroney an incentive to address the federal deficit. However, when the economy did expand in the late 1980s, so did federal government spending and the debt. The result was that when the economy went into recession again in the early 1990s, the federal deficit grew from \$30 billion in 1991 to over \$40 billion in 1993 (Borins, 2002). To put this figure in context, the net debt-to-GDP ratio reached a plateau of 51 percent in the late 1980s and then steadily rose during the recession in the early 1990s to a high of 68.4 percent (Dupuis, 2005) (See Figure 2). The economic picture in most provinces was no better.

Figure 2

Federal Debt as a Percentage of GDP



Source: (Dupuis, 2005, p.3)

\ In addition to new public service management practices which were sporadically introduced by the Conservatives, both selective and across-the-board funding cuts were made. Selective funding cuts deliberately weakened the advocacy capacity of organizations which would be most critical of government policy and across-the-board cuts targeted areas where resistance would be poorly organized. For example, core

funding to Women's Programs, Aboriginal groups, and the Canadian Council on Social Development were cut reduced, while broader cuts in the form of clawbacks and partial indexation were made to family allowance and unemployment insurance programs (Cardozo, 1996; Torjman, 1995). To illustrate the selective nature of these cuts, substantial increases in funding were made to Official Language Minority Groups because their work supported the federal government's national unity policy (Pal, 1993; Phillips, 1991).

Table 6

Impact of the Conservative Regime on the Voluntary Sector (1984-1993)

Context	Feature	Voluntary Sector Impact
Political	Defeat of Charlottetown Accord; Neo-liberal attack on 'special interest groups'	Mistrust of voluntary sector as legitimate intermediary for broad public interest
Economic	High deficit, unemployment, and inflation combined with high debt carrying costs	Reduction in government transfers to provinces; shift from public to non-profit service delivery
Social	Reduction of health and social and transfers to provinces; retrenchment of existing social programs	Increased needs of public with fewer resources at all levels of government – voluntary sector struggles to meet needs
Governance	Contracting out and privatization of public services; decline in number of public servants	Below-cost short-term project funding and excessive reporting requirements

A deteriorating economic climate, combined with the political, social and governance forces at play (see Table 6 above) collectively served to: 1) explicitly tie funding levels to policy priorities (e.g., debt reduction, national unity); 2) reinforce the

service function of the voluntary sector over its representational voice for public policy and social justice; 3) mute organizations who would vocally oppose program funding cuts; and 4) bypass the role of voluntary sector as an intermediary in order to legitimize direct dialogue with the public (Jenson & Phillips, 1996 2001). Many politicians from all parties felt that their position as an arbitrator of public will was usurped by community groups during the Charlottetown Accord, and resented the role that ‘special interest groups’ (as reflected by the voluntary sector) played in its defeat (Paquet & Shepherd, 1996). Politicians saw these community groups as lacking broad public accountability, objectivity and legitimacy (Jenson & Phillips, 1996).

This view was vocally and strategically reinforced by neo-liberals and media outlets, who felt that the government was being held hostage by these ‘special interests’ that were thwarting the need for smaller government, debt reduction, program cuts, and lower taxes (Shields & Evans, 1998). Dennis Guest (1997) puts this neo-liberal policy strategy in perspective when he states, “Since 1984, despite Mulroney’s assertions, his government’s policies [their attack on Canada’s social safety net] were undeniably popular in the boardrooms of Canadian and multinational corporations” (p. 245).

At this point in the early 1990’s the formulation of a new financial regime change was more rhetoric than reality, but the language which would serve the pending institutional regime change, marginalize social advocacy groups, and bring retrenchment policies to centre stage, were all in place.

The Liberals come to town

When the Liberal government came to power in 1993 under Prime Minister Jean Chrétien, social policy “reform” (i.e., retrenchment) had been well underway for almost

ten years (Torjman, 1995). The Liberals immediately launched their own social policy review under the direction of Human Resources Development Minister Lloyd Axworthy.

Axworthy's social policy review was launched with comprehensive goals and sound intentions, representative of Trudeau-era progressive social and citizenship-based funding policies. Before long the review was seriously delayed by diminished departmental policy capacity resulting from prior staff cuts, and was then blindsided by Finance Minister Paul Martin with an unexpected announcement of the Canada Health and Social Transfer (CHST) in the 1995 budget (English & Young, 2003; Greenspon & Wilson-Smith, 1996). The CHST, replacing the Canada Assistance Plan and the Established Program Funding, effectively consolidated federal transfers for health, welfare and education into a single block transfer to the provinces and eliminated prior cost-sharing agreements, some of which had been in place since 1966 (Maslove, 1996).

English and Young (2003) accurately describe this fiscal-as-social-policy consolidation as a watershed in Canadian social policy, for from this moment on, social policy became a direct instrument of the Department of Finance. The CHST further reduced the size of the Human Resources Development department, set the stage for massive reductions in transfers of federal dollars to provinces, and reduced the influence of the federal government on national programs and standards (English & Young, 2003). One of the few national program standards which was retained were the five principles of Medicare. There was a legitimate fear that social services and income support would lose out at the expense of other, more politically visible programs (e.g., health and education) (Prince, 1998).

This new transfer policy essentially meant that the provinces could now spend the CHST funds according to their own priorities for health, post-secondary education, social services and income assistance (Prince, 1998). The CHST satisfied existing provincial demands for more autonomy in their areas of jurisdiction and paved the way for sustained funding transfer cuts (Rice & Prince, 2000).

What the Liberals had that the previous Conservative government lacked was 1) the sustained political will in Jean Chrétien and Paul Martin to take action and to withstand any political fallout; 2) significant external pressure from bond rating agencies; and 3) public support to take on the growing federal deficit (Borins, 2002). The Liberals effectively positioned their neo-Liberal deficit fighting program to the public as protection for the long-term future of social programs which would benefit all Canadians (Greenspon & Wilson-Smith, 1996). By focusing on short-term achievable targets; making cuts in numerous areas at once to minimize the opposition; progressively phasing in cuts; and providing provinces with greater program flexibility; the Liberals avoided a lot of the political backlash toward their retrenchment policies which they would otherwise have received (Maslove & Moore, 1997).

Retrenchment Policies

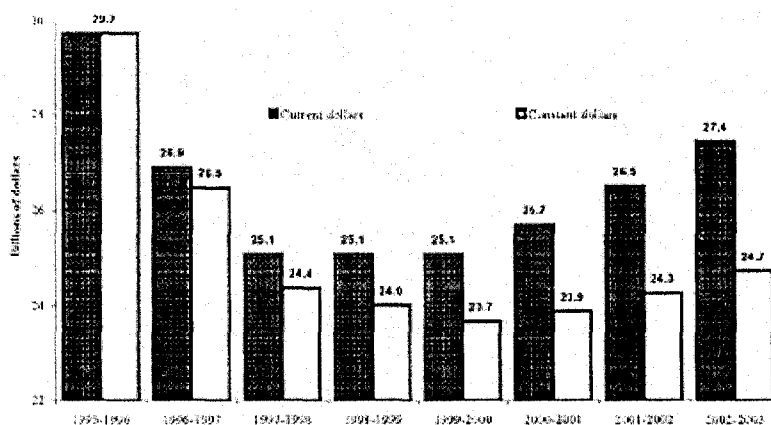
The combination of economic changes, political shifts to the right, and rising costs associated with a maturing welfare state combined to bring repeated calls to rein in mounting social welfare costs (English & Young, 2003). The retrenchment of the welfare state across Canada saw a reversion to even tighter means testing [to identify the 'deserving' poor] and significant to dramatic reductions in social benefits provided by provinces (Guest, 1997).

One need look no further than the dramatic decline in growth of social welfare expenditure between 1995 and 2000 in Figure 3 to see that the welfare bubble had burst. The economic growth which had fuelled the welfare state was slowing down and the underlying welfare state assumptions of full employment (e.g., white, male, and full-time), a stable nuclear family unit, and the dependence of women started to dramatically shift as unemployment rose, the population aged, and women no longer relied on their husbands as their sole source of economic security (Manning, 1999).

Figure 3

Canada Health and Social Transfers to Provinces (CHST) in \$billions

(current and constant 1996 dollars)

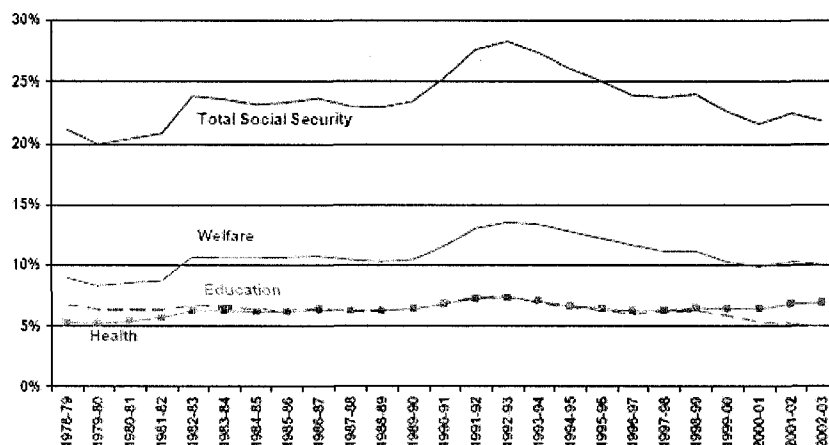


Note: 1995-96 ⁹⁶ EPF + CAP

Source: Madore, C. and Blanchette, C. (1997) Canada Health and Social Transfer: Funding Formula and Changes in transfers, Ottawa: Library of Parliament.

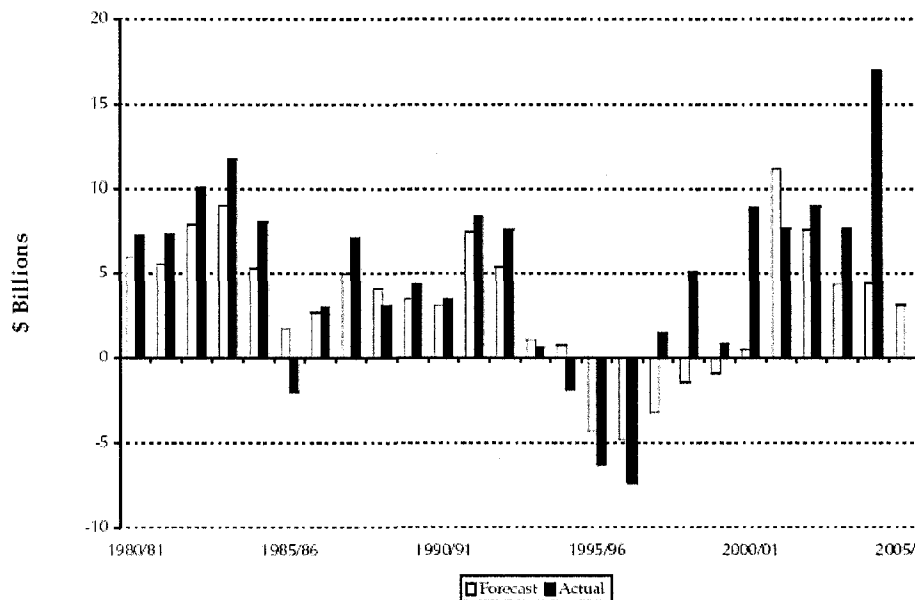
Figure 4**Total Social Security, Welfare, Health and Education Expenditures as a Percentage of GDP**

(1978-1979 to 2002-2003)



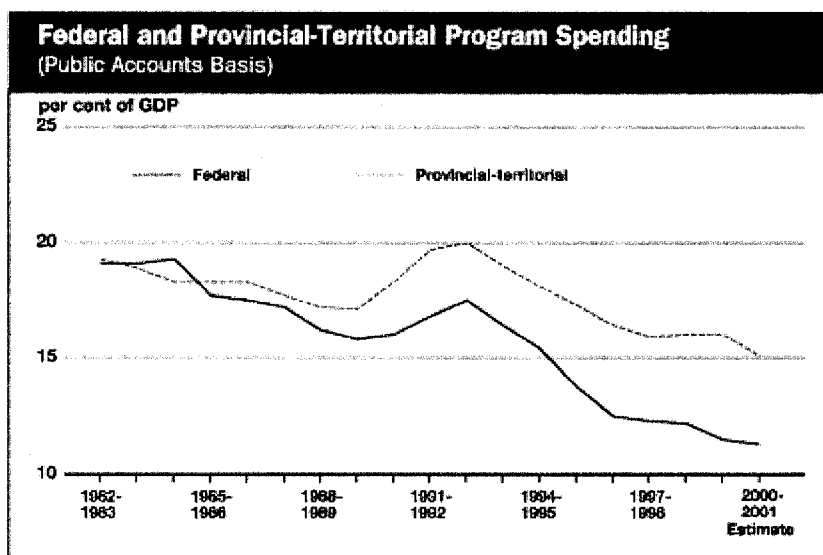
Source: (Human Resources and Social Development Canada, 2005)

As Figures 3 and 4 (above) illustrate, the federal government, led by Finance Minister Paul Martin, cut federal cash transfers to the provinces by \$2.5 billion in 1996-97 and by an additional \$2 billion in 1997-98. In 1995-96 the CHST accounted for 21.6 percent of provincial expenditures and by 1997-98 it accounted for only 19 percent (Madore, 1997). Figure 5 illustrates a trend which the Liberals established throughout their terms in office, namely underestimating budget surpluses and deficit reductions (Maslove & Moore, 1997). This strategy accomplished two purposes: it softened the public expectations of how deep cuts would be at the time they actually occurred, and it demonstrated to the international bond rating agencies that Canada was serious about addressing its deficit. From 1992 through 1995 the federal government, on average, was spending twenty-five percent of its annual budgets to finance public debt. In 1996 this debt servicing cost jumped to thirty percent of total federal expenditures (Swimmer, 1996).

Figure 5**Budget Forecasts vs. Public Accounts 1980/81-2005/06**

Source: (Robson, 2005) What's 12.5 Billion? MPs Must Regain Control of Federal Spending (e-brief), Toronto: C. D. Howe Institute.

Provinces and territories across Canada were not isolated from either the general economic issues of inflation, unemployment, and fiscal deficits which drove the federal retrenchment plan or from their own program expenditures and fiscal debt. Figure 6 (below) illustrates both provincial retrenchment strategies and the direct impact of federal funding cuts on provincial social expenditures (Department of Finance Canada, 2001).

*Figure 6***Federal and Provincial-Territorial Program Spending**

Source: (Department of Finance Canada, 2001) Annex 4: Fiscal Performance of Canada's Federal-Provincial-Territorial Government Sector.

The Program Review

There were a number of tools Finance Minister Paul Martin used to implement his cost reduction regime including expenditure reductions; reduction of subsidies; privatization; and the introduction of alternative delivery systems (Skinner, 1996). Key to the sharpness of these tools was a new mechanism designed to control spending across government, which took the form of the Expenditure Management System. Under this system the centralized pool of funds for new spending initiatives was eliminated (Maslove & Moore, 1997). Any new initiatives had to be funded through departmental reallocations. Contingency funds were strictly controlled by the Finance Minister and these funds were not to be used for program spending (Maslove & Moore, 1997). This strategy is noteworthy because, like the fiscal-as-social-policy strategy profiled above, it

consolidated budgetary and substantial political power in the central agencies, primarily the Department of Finance.

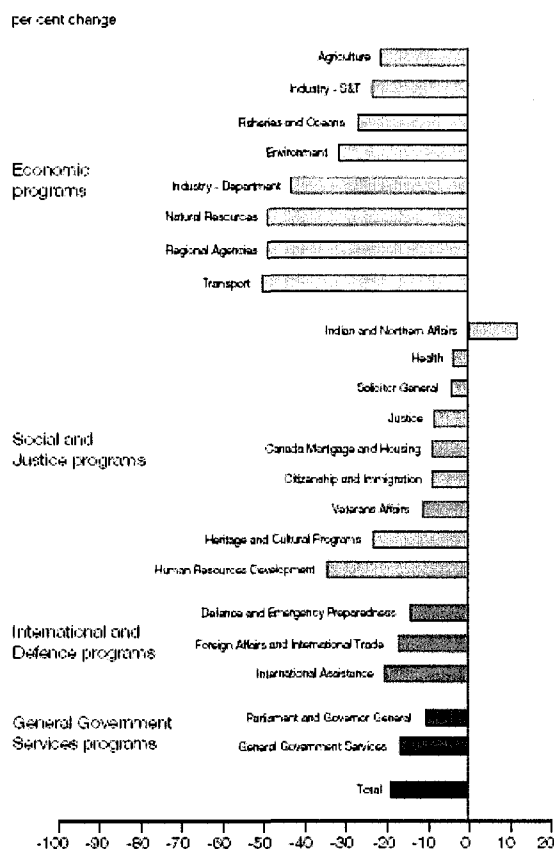
This strategy of adapting existing institutions across government to new purposes, namely cost reduction, is known as institutional conversion. Rather than creating new institutions or adding layers to existing regimes, as was the case with the Charities Directorate (see chapter three), institutions are redirected to new goals, purposes or functions (Streeck & Thelen, 2005).

The Minister of Finance had all the political and positional power he needed to control the federal deficit, and control the deficit he did. Broad policy reviews were undertaken to like spending to policy priorities; efficiencies were created in federal-provincial programs; government assets were privatized; various federal programs and initiatives were integrated or automated on-line; and a substantial across-the-board Program Review took place (Paquet & Shepherd, 1996). This three-year program with its accompanying political and institutional reinforcement tools established the positive feedback mechanism which institutionalized spending control across all government departments. For example, Cabinet ministers could no longer circumvent the Finance Minister by going to the Prime Minister for support for a new program (Greenspon & Wilson-Smith, 1996). This combination of centralized control and horizontal program review, which created a high degree of focused co-ordination and led departments to adapt to meet collective cost reduction expectations, are two key factors in the institutionalization of this change (Pierson, 1993).

Voluntary organizations were affected by cuts to every government department, cuts to social programs in general (23.3 percent) and to Human Resources Development in particular (34.8 percent) (See Figure 7 below).

Figure 7

Changes in Federal Department Spending 1997-98 relative to 1994-95



Source: (P. Martin, 1995, p. 30)

The government planned to use the Program Review to reduce departmental spending by \$3.9 billion in 1995-96, \$5.9 billion in 1996-97 and \$7.2 billion in 1997-98 (Seidle, 1995). At the same time, the priority of service delivery standards was being

driven through all departments and the federal employment levels were being reduced by 45,000 or fourteen percent (Seidle, 1995).

The cuts were made in three phases. Phase One, which involved building new organizational structures and management teams, consolidating existing activities, and streamlining operations, was a continuation of a plan created by former Conservative Prime Minister Kim Campbell (Paquet & Shepherd, 1996). In Phase Two and Phase Three, operations were rationalized and a fundamental re-examination of programs and services was implemented under a comprehensive Program Review.

Within the Program Review, Paquet and Shepherd (1996) profile the following six tests which were initially used to scrutinize government programs:

- 1) Public interest: does the program or activity serve a public interest?
- 2) Role of government: Is there a legitimate and necessary role for government in this area?
- 3) Federalism: Is this program a federal or provincial role?
- 4) Partnership: What programs and services can be transferred to the private or voluntary sector?
- 5) Efficiency: If the program continues, how could it become more efficient?
- 6) Affordability: Is the resultant program affordable within the fiscal restraint? If not, what should be terminated (p.45)?

The results of these tests on departments in 1994 were then incorporated into the 1995 budget. Departments which were still under review at the time of the 1995 budget were reviewed in the second round during 1995-96 (Paquet & Shepherd, 1996). The 1995 budget speech was explicit in declaring that under the Program Review funding for some special interest groups funding would be maintained; for organizations with access to independent resources, matching funds would be required; and for others, funding would be dropped entirely (*The Budget*, 1995). Core funding which was maintained was for groups whose mandate was aligned with government policy priorities. Matching funds

became a criterion for many contribution agreements, regardless of whether these funds represented excess capacity. In most cases, matching funds had to be solicited from other funders at the same time. Paul Martin made the overall purpose of the 1995 budget very clear:

We have said from the beginning that we would meet our targets come what may. Over the next three fiscal years, this budget will deliver cumulative savings of \$29 billion, of which \$25.3 billion are expenditure cuts. ... Relative to the size of our economy, program spending will be lower in 1996-97 than any time since 1951. This budget delivers almost seven dollars of spending cuts for every one dollar of new tax revenue (p. 10095).

This retrenchment policy led to the low moral of the public service, reduced staffing levels, and diminished infrastructure support (Savoie, 1994). Each of these factors played a significant role in the inability of departments to track funded projects, regardless of how effective the projects were. This state of diminished capacity led to several reports by the Auditor General in the 1990s in which Human Resource and Social Development Canada, Heritage Canada, and other departments such as Health Canada were criticized for their poor project funding protocols and documentation (Auditor General of Canada, 2000; English & Young, 2003).

These reports were then used by the opposition parties and the media to champion government wastefulness and to push departments to introduce core funding cuts and enforce stringent accounting regimes, regardless of the level of project funding or financial risk. These are the same departments which had strong ties to voluntary organizations at a national, provincial and local level, and these voluntary organizations have paid a high price for accountability in terms of below-cost project funding and excessive reporting requirements (Eakin, 2005; K. Scott, 2003).

Cuts to the Core

Funding cuts to voluntary sector organizations continued throughout the Program Review. The 1994 Budget served notice that the status quo for grants and contributions would end. Specifically, Paul Martin's 1994 budget speech stated, "Our goal is to encourage greater reliance on funding from other sources. To provide a period of transition, notification will be provided in advance and the full effects of this review will be seen in the 1995 budget" (*The Budget*, 1994, p. 1713). The printed Budget Plan was even more revealing. It stated:

The government provides funding to many special interest groups in order to assist them in carrying out their activities. Some of these groups carry out community functions, while others have a narrower and more special interest group agenda. The fiscal imperative requires that the government prioritize among these competing claims (p. 35).

This priority setting exercise, weeding out the service-focused organizations from 'special interests', took the form of a mandatory departmental review of relationships with any voluntary organization under four criteria: 1) the extent to which the general public is served by the groups' activities; 2) ability to obtain alternative sources of funding; 3) ratio of service to advocacy activities; and 4) consistency of the group's activities with government policy priorities (Cardozo, 1996, p. 317). Finance Minister Martin apparently had no trouble reconciling his view of 'special interests' as those who compete with the government's fiscal agenda, with "nonprofit voluntary and charitable organizations ... who are a powerful collective response to meeting pressing human needs, especially in this time of fiscal restraint" (*The Budget*, 1996, p. 377). This statement was a prequel to the announcement in Martin's 1996 budget that the annual

limit on charitable donations would be raised from twenty to fifty percent of net income. Meanwhile, the Program Review continued unabated.

The Voluntary Action Program in the Department of Heritage Canada is a specific example of the impact of the Program Preview. The Voluntary Action Program had a mandate to support the growth and diversity of the voluntary sector, and to strengthen the independence of the sector by facilitating access to financial and technical expertise and developing innovative financing techniques (McCamus, 1996). Over three years the budget for the Voluntary Action Program was reduced from almost \$1million to less than \$30,000.

The consequence of these cuts was that direct funding to national voluntary organizations, such as the Coalition of National Voluntary Organizations, was eliminated and the focus of the Voluntary Action Program became one of policy and research (McCamus, 1996). Other organizations across the spectrum of social policy, environmental, housing, seniors, sports and arts organizations saw their core funding reduced, eliminated, or replaced with limited fee-for-service contracts. According to one government interviewee, these and other budget cuts undermined organizational membership and severely limited the capacity of the voluntary sector to identify and monitor policy developments.

Paquet and Shepherd's analysis (1996) reveals that over time the Program Review strayed from its original scope (incorporating the six tests) and became entirely focused on reducing expenditures and maximizing efficiency. For example, Paquet and Shepherd (1996) conclude that the CHST became "a unilateral disengagement by the federal

government rather than a reasoned devolution with appropriate compensation; a policy move that has nothing to do with Program Review” (p. 50).

In the name of public input, Finance Minister Paul Martin initiated hearings on the CHST following the release of his 1995 budget. It soon became clear that these hearings were a token gesture in representative participatory democracy.

Some seventy-five voluntary organizations participated in the hearings, including the National Anti-Poverty Organization, the Canadian Council on Social Development, the C.D. Howe Institute, and the Canadian Labour Congress, thus legitimizing the hearing process. As Andrew Cardozo (1996), in his analysis of public interest groups at the time observed, “thanks to the interest groups, the public’s views would be heard, if not heeded” (p. 304). For the first time, interest groups that could not develop a working relationship with the governing party were completely isolated from the policy process (Cardozo, 1996). According to Cardozo (1996) this strategy effectively ostracized any group which had a different policy perspective and seriously undermined the opportunity for interest groups and MPs to advance common interests (see Table 7). It was this situation, when recognized by leading organizations and foundations in the voluntary sector, which gave rise to the Voluntary Sector Roundtable.

Table 7***Impact of the Liberal Regime on the Voluntary Sector (1993-1997)***

Context	Feature	Voluntary Sector Impact
Political	Derogatory view of 'special interest groups' as policy competitors	Termination of funding to groups which questioned or challenged debt reduction policies.
Economic	Reduction of CHST transfers to provinces; reduction of program spending and staffing	Increased needs of public with fewer resources at all levels of government – voluntary sector struggles to meet needs
Social	Acknowledgement of voluntary sector as a dedicated and low cost service provider	Increased need to supplement government funds with alternative revenue sources
Governance	Contracting out and privatization of public services; decline in number of public servants; demand for high accountability	Below-cost short-term project funding and excessive reporting requirements

New Government, Old Tricks

The neo-liberal policy agenda successfully implemented by the Liberals, and its accompanying commodification of the voluntary sector, continued with the January 2006 election of a minority Conservative government under Prime Minister Stephen Harper.

Budget cuts announced on September 25, 2006, now known as 'Black Monday', cut a swath through the voluntary sector, decimating funding for a wide variety of policy and research initiatives and closing the door on advocacy for equality rights for women¹⁴

¹⁴ As of 2007, the Women's Program within Status of Women Canada no longer funded: 1) any previously funded activities; 2) activities outside Canada; 3) capacity building for organizations; 4) research and polling activities; and 5) domestic advocacy

(Canadian Press, 2006; Levy-Ajzenkopf, 2006). The Conservative government revealed plans to trim about \$1 billion in federal spending over two years. These cuts would be to programs the government believed weren't achieving "good value-for-money" or "efficiency"; were "non-core programs"; or funds recouped from "unused funds" belonging to organizations that have already "achieved their mandates" (Treasury Board of Canada Secretariat, 2006). One example was the Canadian Volunteerism Initiative, run by Volunteer Canada and Imagine Canada, which lost close to \$10 million and effectively terminated the program. Here is a list of other cuts to the voluntary sector which were announced on the same day in 2006:

Canadian Heritage

- \$1.1 million in saving through operating/program efficiencies
- \$4.6 million reduction to *Museums Assistance Program*
- Elimination of support for the *Canada Volunteerism Initiative*
- \$5 million reduction in funding to *Status of Women Canada*

Human Resources and Skill Development

- \$13 million reduction in low priority grants and contributions related to *Social Development Partnership Program*
- \$17.7 million cut in investments for *Adult Learning and Literacy Skills Program*
- \$55.4 million cut for youth employment programs
- \$17.6 cut for the *Workplace Skills Strategy*

activities and lobbying of federal, provincial or municipal governments (Status of Women Canada, 2007, p. 5).

Environment

- \$7.6 million reduction in low priority grants and contributions (Levy-Ajzenkopf, 2006).

This 'cut-and-give' relationship between budget cuts and increased personal tax allowance for donations was first introduced by Paul Martin in his 1996 and 1997 budgets. As Paul Martin's Program Review was systematically cutting support to, and programs for, voluntary organizations, the personal income tax deduction allowance for charitable donations was increased. In 1995-96 the deduction allowance increased from twenty to fifty percent of personal income. At the same time, donations of publicly traded securities were allowed, and capital gains on these securities are reduced by fifty percent (Canada Revenue Agency, 1998). In 1996-97 the maximum percentage of donations a taxpayer could claim in a year was increased again from fifty percent to seventy-five percent of personal income (Canada Revenue Agency, 1998). The relationship between the budget cuts and the increases in charitable donation limits was not coincidental. The 1996 Report of the Standing Committee on Finance (1996) made it clear that:

As governments at all levels cut back on the services they provide, individuals will have to do more for themselves and others. More responsibilities will fall to the voluntary sector and charity. *We have asked the government to consider ways to encourage charitable giving, thereby helping Canadians to help themselves and to do more of the things previously done by government [italics added] (p.2).*

The specific Finance Committee recommendation which met these criteria was based on a deputation made by representatives of the National Ballet. The National Ballet recommended that:

The government consider the following measures to give Canadian charities in opportunity to make up for lost [public] funds with private donations [italics inserted]: Exempt appreciated capital property donated to charitable organizations

from capital gains taxation; and increase current limits for charitable donations eligible for tax credits from 20% to 50% of taxable income (pp. 25-26).

The rationale for this measure which presented to the Committee was that these two measures would 1) enable the government to reduce their direct funding to charities by at least as much as the foregone tax revenue the increased allowance would generate; 2) be revenue neutral; and 3) would be welcomed by charities because charities would benefit from an immediate increase in donations (Standing Committee on Finance, 1996). The Standing Committee seized on this particular recommendation, among many others which were critical of the budget cuts, because 1) it legitimized their budget cuts; 2) it could be used to give the appearance of voluntary sector support; and 3) it adhered to the mantra of being revenue neutral.

When Paul Martin later introduced his 1996 budget plan, he made explicit reference to this Standing Committee recommendation:

As the role of the government evolves in keeping with fiscal circumstances, the charitable sector is playing an increasingly important role in Canadian society. The government recognizes that it is in the best interest of all Canadians that the charitable sector has the ability to raise sufficient funds to fulfill that expanding role. The pre-budget consultation process elicited several innovative suggestions as to how this goal might best be achieved. *The government is acting in this budget to implement the recommendation of the House of Commons Standing Committee on Finance and the Canada Council that the annual limit on charitable donations be increased from 20 percent of net income to 50 percent* [italics inserted] (p. 69).

The 1996 Budget Plan promised to explore additional incentives for charitable giving, which is did by increasing the donation limit to 75 percent the following year. The message was clear: from now on rely on the market and donors, not government, for financial support.

This is the same 'cut-and-give' strategy that was employed by the Conservative government in 2006 when 1\$ billion in cuts to the voluntary sector were immediately followed by a tax change that allowed donations of publicly listed securities to registered charities to be fully exempt from capital gains tax (Flaherty, 2006). As was the case under the previous Liberal government, this change disproportionately benefited large institutional charities in the fields of health, education and the arts due to their greater capacity to raise funds through donations and to compete for contracts. The concept of enhanced social cohesiveness through voluntary action, participatory democracy, mutual support and universalism is now more a matter of nostalgia than reality.

Bowling for Dollars

The consequence of these cutbacks to the voluntary sector since the early 1990s has been twofold. On the supply side governments have changed or eliminated funding to programs. Organizations were [and continue to be] forced to collaborate with other organizations or find matching funding to be eligible for public funds, even when it was less effective to do so (Brown & Troutt, 2003; Cardozo, 1996). On the demand side, demands for services in the community have increased in number and complexity (Eakin, 2001; K. Scott, 2003). Flexible grants which had allowed organizations to identify and meet designated community needs have been replaced by short-term contracts which not only involved adherence to strict government guidelines and reporting requirements, but also often involve competing for these same contracts against other voluntary or private sector organizations (M. H. Hall, Andrukow, Barr, & Brock, 2003; M. H. Hall et al., 2005). In other circumstances, federal programs, which were designed to support small

and medium sized voluntary organizations, were suddenly flooded with sophisticated proposals from large voluntary organizations, as they too faced financial pressures.

This contract culture has been well documented as has its consequences. Foremost among these studies are: *Funding Matters* authored by Katherine Scott of the Canadian Social Development Council; *Cornerstones of Community* and *The Capacity to Serve*, two reports from the National Survey of Nonprofit and Voluntary Organizations led by the Canadian Centre for Philanthropy; and several reports and studies undertaken by independent researcher Lynn Eakin (Eakin, 2001 2005 2007; M. H. Hall et al., 2003; K. Scott, 2003; Statistics Canada, 2005). There is a chilling similarity across these Canadian reports which are also substantiated by comparable reports in other countries (Kendall, 2003; D. W. Scott & Russell, 2001).

Here is a profile of the most common contract funding issues consistently experienced across the voluntary sector in Canada:

Advocacy chill: Funders explicitly prohibit advocacy by organizations they fund and in other cases organizations who advocate are screen out in the application process.

Bottom Feeding: Financial insecurity has substantially increased the competition for available funds, to the extent that large organizations are competing against small organizations for contracts and household donations.

Financial insecurity: Due to chronic contract under-funding. Lynn Eakin has estimated that on average, contracts typically fund eighty-five percent of the full cost of program delivery, leaving the voluntary organization to try to make up the difference (Eakin, 2004; Eakin, Kealey, & Van Kooy, 2007). For example, an

organization may be required by law to pay salary increases to its staff, increases that are not recognized by the funder.

Funding straight jacket: Organizations are prohibited from making variations in project programs to meet immediate community needs, even though project proposals are sometimes prepared five months before they start.

Funding volatility: Reliance on multiple funding types and sources forces organizations to respond quickly to new funding opportunities, even if it means departing from their mission (K. Scott, 2003).

Insufficient negotiating power: Given the tremendous power imbalance between an individual voluntary organization and government departments, contracts are difficult to challenge and often put the organization at a fiscal disadvantage (McFarlane & Roach, 1999). For example, contracts often prevent or clawback any earned income associated with the project.

Short term/high risk: Short-term contracts actually present a greater risk to voluntary organizations. Longer-term multi-year contracts introduce an element of predictability and planning which is otherwise absent. On the other hand, governments view short-term contracts as a lower risk because they do not oblige the government to continue to fund an existing arrangement.

Organizational incapacity: In a 2005 survey of federal funding programs, eighty-two percent refused to contribute to organizational capacity such as program management costs incurred by program managers or executive directors (Eakin, 2005). Project funding typically excludes expenses associated with project staff development.

Political interference: An increased involvement of politicians and politics in grants and programs has been reported (Eakin, 2005).

Piece work: Funders contribute to the fraction of the time the project space in an office is used by the hour, and expect organizations to pay for any time the space is not used, such as on week-ends or evenings (Eakin, 2005).

Planning uncertainty: The inability to plan for the future due to short-term, funding, under-funding, and mixed-funding was highlighted in the *Cornerstones of Community* report (M. H. Hall et al., 2003).

Service gaps: Delays in response to proposal submissions, even if funded, force the organization to cover the gap between contracts with their own funds, with no absolute certainty that funding will be forthcoming.

Staffing uncertainty: A consequence of short-term, typically one-year contracts are that they prevent organizations from attracting qualified staff with career aspirations. A further consequence is that institutional memory is lost as organizations replace regular employees with short-term contract workers (Akingbola, 2004).

Top feeding: Large foundations, philanthropists and corporations of all stripes have been inundated by organizations hoping to sustain their cash flow and develop new initiatives. This type of funding competition is very difficult for relative newcomers and foundations; corporations and the like also have limited resources and very specific funding priorities. This has led to a capacity split in the voluntary sector between large organizations, and others which are small and

medium sized; and a split between those organizations that lead popular and less popular causes.

Transaction costs: While theoretically the use of voluntary organizations reduces transaction costs, excessive documentation requirements in both contract application and implementation are frequently reported. In addition, reports are rarely transferable and need to be specifically tailored for each funder, even across government departments. Multi-year funding, though rare, involves annual reporting which mirrors single-year contract reporting (Eakin, 2005).

When governments do cut administrative core operating grants to voluntary organizations, these funds have to be offset by donations, fees-for-services, or in the contract marketplace. Because core administration fees only account for ten or fifteen percent of any given contract, the size of the contract would have to be at least ten times as large as the core grant it tries to replace. Thus a voluntary organization would have to receive a service contract for at least \$100,000 to offset a loss of a \$10,000 core operating grant. Needless to say, this is a loss which many organizations struggle to recoup. A 1996 survey of social service organizations in Toronto revealed that due to reductions in government funding ten percent of the organizations had to close; more than 300 programs were cancelled; over a third had to reduce full-time staff; more than one-quarter reduced their part-time staff; and staff reductions made recruiting volunteers more difficult (Social Planning Council of Metropolitan Toronto, 1997).

These trends have continued across the full spectrum of voluntary organizations for more than ten years (Canadian Council on Social Development, 2006; Curtis, 2005;

Eakin, 2005 2007; Marquardt, 1995; K. Scott, 2003; Social Planning Council of Metropolitan Toronto, 1997). While this negative impact has been painfully consistent, the federal government has not made any substantial funding policy changes. As reported in chapter three, funding issues were discussed independent of the formal Joint Tables during the Voluntary Sector Initiative. While a *Code of Good Practice on Funding* was published and widely circulated, it didn't bind the government to either work with the voluntary sector or implement the Code's recommendations. The recommendations which did appear in the in the *Code of Good Practice on Funding* included moving toward multi-year funding and a streamlined application process (Voluntary Sector Initiative, 2002a). Feedback from respondents, in a 2005 survey conducted by Lynn Eakin, warns that funding of administration expenses has actually deteriorated from when the *Code of Good practice on Funding* was first signed in 2002 (Eakin, 2005).

A Task Force on Community Investments was established in early 2005 by the federal government within Human Resources and Social Development Canada (formerly Human Resources and Development Canada). Its purpose was to examine federal policies and practices relating to the use of transfer payments and the funding of horizontal initiatives in support of community investments. Specifically, the Task Force was asked to make government-wide recommendations on:

- New approaches to ensure that the Treasury Board *Policy on Transfer Payments* is used to its full extent by federal departments so as to achieve consistency with the *Code of Good Practice on Funding* for the Government of Canada and the voluntary sector; and

- New policy directions to enable and support investments in multi-stakeholder, multi-sectoral and local initiatives, with appropriate accountability by departments (Task Force on Community Investments, 2006, p. 1-4).

The activities of the Task Force on Community Investments were then superseded by the Independent Blue Ribbon Task Force, which was established by the new Conservative government under Stephen Harper. The Independent Blue Ribbon Panel (2006) reviewed federal grants and contributions programs, and made a number of recommendations which, if implemented, would also start to address some of the issues described above. The Panel's recommendations included: 1) encouragement of multi-year funding; 2) reduction in the number of cost categories and greater latitude to reallocate funds; 3) identify circumstances where core funding is a cost-effective option; and that funding should reflect full cost recovery (Independent Blue Ribbon Panel, 2006, p. ix).

Institutionalized Retrenchment

To date, the federal government has yet to implement any of the funding recommendations from any of these reports and substantially change the way grants and contributions programs are administered. While a consultation process was initiated in the summer of 2008, the Blue Ribbon Panel and the other consultation activities and their reports echo the "heard but not heeded" exercises which characterized Paul Martin's CHST hearings in 1995. A study by Lynn Eakin (2007), which profiles funding practices across all levels of government, bears this out. Her report, *We Can't Afford to Do Business This Way: A Study of the Administrative Burden Resulting From Funder Accountability and Compliance Practices*, cites the federal government as being

significantly more restrictive than other funders. Almost ninety percent of its grants allowed little or no flexibility, and seventy percent of its application processes were rated as difficult. This difficulty extended to reporting requirements, which were three times more onerous per grant than those of other funders (Eakin, 2007).

While there has been some explicit acknowledgement of the importance of moving in the direction of a more flexible and risk management approach to funding, there is a institutional reluctance to do so due to a lack of political support; on-going Department of Finance and Treasury Board controls; and the high political cost associated with any form of financial mismanagement. For example, the political consequences of financial mismanagement within Human Resources and Social Development Canada (HRDC) reported by the Auditor General in 1999 far outweighed any actual transgression (e.g., 10 investigations were launched out of 30,000 financial transactions). The real culprit was the loss of more than one-quarter of HRDC's experienced departmental staff (7,000) over the previous three years from the Program Review process, which resulted in poor paperwork as the remaining staff worked to continue to fund as many programs as possible (Kroeger, 2000).

To describe this highly institutionalized service-contract funding as a funding 'trend', as it often is, significantly underrates its institutional stability and the degree to which it has been systematically reinforced. Since 1993, Finance Department policy directives have been positively reinforced by Treasury Board guidelines and Auditor General Reports, each calling for increased accountability, risk management protocols, and substantive reporting requirements (Auditor General of Canada, 1966 2000; Treasury Board of Canada Secretariat, 2000). These same Finance and Treasury Board Department

directives have been externally reinforced by the media's portrayal of charities as inadequate managers of funds, and publicity surrounding apparent inadequate financial controls within government (Donovan, 2007a 2007b 2007c; May, 2000).

Findings and Analysis

The unwillingness of the Coalition of National Voluntary Organizations to advocate against the series of cuts to programs and organizations in the mid 1990s was a reflection of its deliberate non-formal organizational regime; its desire to maintain positive relations with the federal government; and its dominant funding source (Secretary of State). This decision was likely aided by a high profile negative campaign launched in 1994 by Liberal MP John Bryden against charities for their apparent lack of transparency, accountability, and reliance on government funding to advocate (Gray, 2005). Each of these factors contributed to the failure of the Coalition of National Voluntary Organizations to define and exercise its collective will, although there were members who supported mounting a counter attack (Thayer Scott, 1992).

While the voice of the Coalition of National Voluntary Organizations was weak, the loss of institutional or representative voice for all voluntary groups had already started in earnest in 1990 when the Citizen's Forum on Canada's Future chose to hear from individual Canadians as *individuals*, rather than as representative members of representative voluntary organizations (Jenson & Phillips, 1996). This approach became the norm for national consultations and was politically reinforced by the derisive reference to "special interest groups". This view, appearing in a book entitled *Limits to*

Government: Controlling Deficits and Debt in Canada, by the C.D Howe Institute

(1992), is typical:

First, the power of these [special-interest] groups has risen as a result of a considerable drop in the costs of communication and travel. These technological developments have lowered the real cost of organizing special-interest groups and of their lobbying efforts with politicians. Second, most modern elections are won on such slim margins that no politician can afford to lose support of any interest group, however small and however outrageously self-serving its demands might be. Mix these two factors together and you get the makings for financial disaster (p. 25-26).

This is the same rhetoric which led governments to believe that their funding of voluntary organizations was “crowding out” private donors who would make up the difference (Shields & Evans, 1998). The fiscal reality, as I have described it, is considerably different. Increased taxation to support social programs actually led to greater levels of private donations and falling levels of government spending has had a significant negative impact on the voluntary sector.

During the 1980s, and 1990s, the voluntary sector was collectively caught in the undertow of four successive waves of change: 1) a desire for smaller government; 2) an era of fiscal constraint; 3) the growing popularity of direct citizen consultation; and 4) the division of federal and provincial/territorial constitutional responsibilities (S. Carter et al., 2004). This dynamic created a voluntary sector/government relationship which digressed between the late 1980s and the mid-1990s from mutual isolation to considerable suspicion and outright antagonism (Phillips, 2002) (see Table 7). It was not until the mid-1990s that a relational shift started to take place.

In the absence of a strong national organization who could speak for the sector, a group of 12 national organizations created the Voluntary Sector Roundtable in 1995 (M. H. Hall et al., 2005; Phillips, 2002).¹⁵ Funded not by government, but by a cluster of leading Canadian foundations¹⁶, the Voluntary Sector Roundtable's primary goals were to enhance the relationship between the charitable sector and the federal government and to encourage a supportive legislative and regulatory framework for organizations in the community (Voluntary Sector Roundtable, 1998). The Voluntary Sector Roundtable soon realized it needed to promote sectoral accountability, good governance, and public trust (Phillips, 2002). To this end it set up the Panel on Accountability and Governance in the Voluntary Sector, an arm's length Panel chaired by Ed Broadbent, which was launched in October 1997.

¹⁵ The twelve national organizations were: Canadian Centre for Ethics in Sport; Canadian Centre for Philanthropy; Canadian Conference of the Arts; Canadian Council for International Cooperation; Canadian Council on Social Development; Canadian Environmental Network; Canadian Parks/Recreation Association; Community Foundations of Canada; Health Charities Council of Canada; the Coalition of National Voluntary Organizations; United Way of Canada/Centraide Canada; and Volunteer Canada (Voluntary Sector Roundtable, 1998).

¹⁶ The Voluntary Sector Roundtable was primarily funded by the J. W. McConnell Foundation, in addition to assistance from the Vancouver Foundation and the Muttart Foundation.

The Broadbent Panel was given the mandate to explore issues ranging from the role and responsibilities of the volunteer to fundraising practices and fiscal management within the sector. The Broadbent Panel also examined the external regulation of the sector by governments and options for enhancing internal accountability practices (Voluntary Sector Roundtable, 1998). The Broadbent Panel's 1999 report, entitled, *Building on Strength: Improving Governance and Accountability in Canada's Voluntary Sector*, not only laid out recommendations for better self-regulation and governance but also presented a proposed steps for the federal government to take in order to create a more enabling environment and stronger relationship with the Voluntary Sector (Panel on Accountability and Governance in the Voluntary Sector, 1999). Conspicuously absent in the Broadbent Report was any direct reference to the dysfunctional funding regime and the need for financing reform. The only specific fiscal policy recommendation called for core funding for intermediary organizations, the key voluntary sector participants in the review (Panel on Accountability and Governance in the Voluntary Sector, 1999).

The enrichment and liberalization of the tax credits for charitable donations have been a mixed blessing, for as the right hand was making it easier for the sector to solicit donations, the left hand was downloading programs and services to the voluntary sector (Brooks, 2001). As previously noted, this downloading came with numerous conditions and rarely enough funds to completely cover the full cost of service delivery (Eakin, 2001 2005; M. H. Hall et al., 2003).

Core funding was eliminated and substituted with competitive project funding, forcing voluntary organizations to compete, undertake forced collaboration, and

continually seek alternative funding sources (Brown & Troutt, 2003; Eakin, 2001 2005). While Canada had since undergone considerable economic growth, this service-contract funding policy has become institutionalized.

Institutional regime type

Throughout the 1990s the Liberals established a consistent and disciplined drive to reduce government spending. This was particularly true during the time from 1995 to 1998 when CHST transfers to provinces were reduced, departmental staff reduced and program funds were cut. The Minister of Finance was fully supported by the Prime Minister and end-runs to get additional funds were not tolerated (Greenspon & Wilson-Smith, 1996). A series of early short-term attainable goals were reached or exceeded which built confidence within the Department of Finance and set precedence for future years when the cuts would be even greater. Suspending any budget cuts and its associated retrenchment regime was not an option. Finance Minister Paul Martin had this to say in his 1995 budget speech,

As the Prime Minister has said: 'The time to reduce deficits is when the economy is growing. So now is the time'. Not to act now to put our fiscal house in order would be to abandon the purposes for which our party exists and this government stands: competence, compassion, reform and hope (p. 10095).

Hiding future budget cuts in a budget statements and disbursing cuts across all departments so that no one group is unaffected are retrenchment obfuscation strategies which deliberately minimize political resistance (Pierson, 1994). An iron lock on spending prevented departments from making anything but reallocations within their diminished budgets. For the first time fiscal policy *was* social policy, consolidating

tremendous control within the Ministry of Finance and reflecting the drive to formally institutionalize the conversion of social policy into fiscal policy (see Table 8).

Table 8

Institutional Regime Type: Policy of Retrenchment

Case Three	Regime Features	Regime Type
Government Strict adherence across all departments to policy of fiscal constraint and Program Review mandate	Well established and sanctioned representational and reporting protocol which is transferable across time and issues.	Formal
Voluntary Sector Collective representation weak throughout the time of budget cuts	Transitory representational and reporting protocol which is non-transferable across time and issues.	Non-formal

The voluntary sector found itself reeling from the progressive program cuts at a federal and provincial level. As organizations scrambled to either close their offices or develop contingency plans in order to survive, their capacity to advocate was effectively shrivelled. Because cut backs to core funding were phased-in as Program Review progressed, it affected some groups in 1994-95 and others in 1995-96, making a combined resistance difficult. This is a classic retrenchment policy strategy of division, introducing cutbacks so they affect some groups before others in order to minimize resistance (Pierson, 1994).

As social services were reduced organizations were faced with more and increasingly complex cases with fewer financial and human resources to support those in

need (Social Planning Council of Metropolitan Toronto, 1997). At a national level the Coalition of National Voluntary Organizations chose to keep a low profile and hoped to avoid the axe. Other national organizations were either cut off from federal funding, as was the case with the Coalition of National Voluntary Organizations, or were converted to service contractors. In either case, the only currency of significant value to the federal government was the low-cost delivery of public services. The acknowledgement that voluntary organizations play a vital role in nurturing community and civil society and need citizenship-based funding to make this contribution to Canadian society ended on February 22, 1994, the date Paul Martin delivered his first budget.

Only when a group of large national organizations with significant foundation support collaborated to form the Voluntary Sector Roundtable did a shift in voluntary sector/government relations start to occur. The developments leading to the formation of the Voluntary Sector Roundtable and the subsequent Voluntary Sector Initiative have been described in chapter three. The issue of funding, like advocacy, was never an agreed upon area of negotiation for the Voluntary Sector Initiative, but it was included in a national survey of voluntary sector issues because its absence would have raised serious questions from the field about the legitimacy of the survey.

The compromise was the establishment of two independent consultations on funding issues, a (sector) Task Force on Financing and a (government) Study on Funding. The consultations did more to deflect attention from financing than to meaningfully address the issues. As one government interviewee commented: "We did what we do best - we buried the [financing] issue in processes and paper." From the perspective of a member of the Task Force on Funding, community organizations saw funding

mechanisms as the key issue and worth fighting for, but were marginalized by national umbrella organizations who knew that funding policy was not really on the table and wanted to focus on the Accord and broader policy issues. The net result was a written *Code of Good Practice on Funding* that was only applicable if and when the government chose a voluntary sector service provider and has resulted in no substantial or sustained changes in federal funding practices.

Thus in the context of the voluntary sector financing and the Voluntary Sector Initiative, the Task Force on Community Investments and the most recent Independent Blue Ribbon Task Force, each can be described as yet another case of ‘heard but not heeded’.

Conclusion

The contract regime, manifested in short-term, competitive, outcome driven contracts has become institutionalized by all federal departments with relationships with the voluntary sector (Eakin, 2001). Typically, this downloading comes with numerous conditions, crippling amounts of paperwork, and rarely enough funds to completely cover the full cost of service delivery (Eakin, 2001 2005; M. H. Hall et al., 2003). The enrichment and liberalization of the tax credits for charitable donations was also a mixed blessing, for as it became easier for the sector to solicit donations, the capacity to solicit funds disproportionately benefited large and publicly appealing voluntary organizations at the expense of small and medium organizations or ones with less appealing causes.

Over time, these tax provisions have contributed to a bifurcation of the voluntary sector. Eighty percent of voluntary organizations in Canada have no staff and revenues of less than \$250,000 (M. H. Hall et al., 2004). On the other hand, there are a relatively

small set of very large voluntary organizations which continue to get even larger. These organizations often provide services of key interest to governments in the areas of health, education, and social services (M. H. Hall et al., 2005). As registered charities, these large organizations have a distinct advantage when they want to attract private donors, recruit and manage volunteers, and compete for government contracts (M. H. Hall et al., 2005). There is also evidence that these large nonprofit institutions are starting to encroach on household donations, a common source of funds for small organizations (Statistics Canada, 2007), as well as federal programs which have historically been intended for small and medium sized voluntary organizations.

The service aspect of the voluntary sector continues to dominant the overall profile of the sector, as reflected in the most recent National Survey of Nonprofit and Voluntary Organizations and the Johns Hopkins Comparative Nonprofit Sector Project report (M. H. Hall et al., 2005; Statistics Canada, 2005). Large service delivery organizations also dominate voluntary sector/government relations as preferred government partners, while citizenship-based voluntary organizations, which focus on community service and advocacy, lack the same degree of policy relevance and credibility (Jenson & Phillips, 1996).

Would a stronger and better organized voluntary sector have made a difference to the budget cuts? Yes and No. A strong and well represented voluntary sector would, like the departments within government, have had little choice but to adapt to the program cuts. However, there could have been a significant difference in the way in which the funding regime evolved into short-term, under-funded and low-risk projects if the voluntary sector had been able to collectively and effectively demonstrate how short-term

projects actually represents a higher risk to the sector; how under-funding impacts on accountability; and how a lack of risk stifles innovation and effectiveness.

The Program Review defines the start of this critical juncture in voluntary sector/government relations, because program cuts that took place between 1994 and 1997, and the subsequent service-contract policy, could not have been predicted from the policies of the previous Conservative government. The voluntary sector seriously underestimated the shift in the axis of power which occurred with the Liberal regime with Paul Martin as Finance Minister. A relationship between the voluntary sector and line departments such as Heritage Canada and Human Resources and Social Development Canada continues, but there is no evidence that the voluntary sector has made a concerted attempt to build a relationship within the Department of Finance beyond the annual ritual of deputations to Pre-Budget Committee hearings.

The voluntary sector continues its surveillance of this institutionalized service-contract policy, but to be effective the sector must become a formal regime type with enough collective capacity to strategically address funding issues for the long-term benefit of its member organizations and the elements of Canadian society they support.

Chapter Five

Canada: This is London Calling

Introduction

This chapter will compare voluntary sector/government relations in Canada with those in the UK between 1994 and 2008.¹⁷ The purpose of conducting this structured, focused comparison is to strengthen my analysis of the relationship between institutional regime type and policy outcomes during critical junctures in voluntary sector/government relationships (George & Bennett, 2005). During this fourteen year period in the UK there has been a sustained and dynamic engagement by the New Labour government with the voluntary sector¹⁸. This engagement has had a direct impact on the regulation and the statutory definition of charities; the contracting out of public services to the voluntary sector; advocacy regulations; and the institutional relationship between the central government and the voluntary sector.

My analysis will show that the period between 1994, when Tony Blair was elected leader of the Labour Party, and 1998, when the *Compact on Relations between Government and the Voluntary and Community Sector* was signed, marked a critical

¹⁷ I will use the term UK (United Kingdom) throughout this research to reflect the general relationship of the central government in the UK with the voluntary sector. While there are differences which exist in this relationship in Scotland, Wales and Northern Ireland, this analysis will focus on themes which have relevance across the UK.

¹⁸ The term voluntary sector is used in this chapter for the sake of consistency. The “Third Sector” and the “Voluntary and Community Sector” are both commonly used to describe the voluntary sector in the UK.

juncture in voluntary sector/government relations in the UK. Relations between the central government and the voluntary sector in the UK functioned within a more substantive and sustainable policy change climate than was the case in Canada when the Voluntary Sector Accord was signed.

This critical juncture in the UK will be analyzed and then compared with Canada in five areas: 1) policy dialogue and New Labour; 2) the Compact; 3) the institutionalization of voice; 4) regulation and the definition of charity; and 5) campaigning and political activity. I will then profile the comparative influence of the voluntary sector regime types in Canada and the UK on their respective policy outcomes.

Policy Dialogue and New Labour

A combination of developments between 1994 and 1998 led the New Labour to see the voluntary sector as a core ally in its overall plan to modernize public services and renew social democracy (Giddens, 1998). When Tony Blair was elected leader of the Labour Party in 1994 he immediately established a leader's review of the relationship between government and the voluntary sector. This policy review was conducted under the auspices of influential MPs Alun Michael and Ann Coffey (Kendall, 2003; Labour Party, 1996). Consultation meetings with the sector were held throughout the UK, and culminated in the 1997 pre-election policy paper, *Building the Future Together*, which positioned a thriving voluntary sector as a key part of a reinvigorated civil society and formed part of New Labour's commitment to a 'Third Way' to achieve social democracy (Giddens, 1998; Labour Party, 1996). New Labour's voluntary sector policy platform committed the party to establishing a Compact with the voluntary sector in direct

reference to the Voluntary Sector's previously released Deakin Report in 1996.¹⁹ The Compact, would involve a partnership with the sector to achieve common aims and continue to respect the voluntary sectors' independence (Labour Party, 1997).

In 1995 the Labour Party revised Clause IV of its constitution. Clause IV historically committed the Labour Party to common [i.e., public] ownership of the means of production, distribution, and exchange as a necessary precondition to achieving its socialist objectives (Assinder, 2007, June 10). The new Clause IV put working in partnership and co-operation with voluntary organizations at the heart of the Labour Party's constitution, and diluted the party's traditional focus on statism (Labour Party, 1996). This development was in sharp contrast with the legacy of the Conservative government under Margaret Thatcher (and followed by John Major). During the multiple Conservative terms in office between 1979 and 1997, the Voluntary Services Unit within the central government had a low profile and was chronically understaffed, reflecting the equally low profile and influence of the voluntary sector at the time (Finlayson, 1994; Kendall, 2003). Thatcher saw the voluntary sector as a convenient way to shrink the state and shift the welfare burden toward voluntary organizations and individual volunteers (6 & Leat, 1997; Thatcher, 1981).

¹⁹ The formal title of the Deakin report or the Report of the Commission on the Future of the Voluntary Sector, was *Meeting the Challenge of Change: Voluntary Action into the 21st Century*. This work was funded by a number of UK foundations and the National Council for Voluntary Organizations.

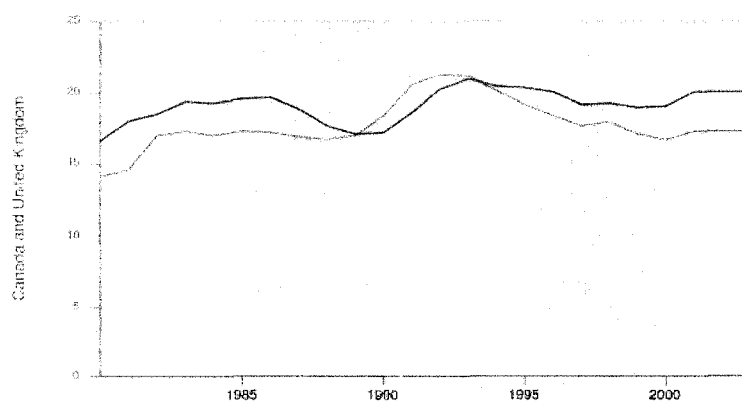
In Canada, the Conservatives under Brian Mulroney were more supportive of the populist perspective the voluntary sector brought to public policy, as was evident when it approved the release of *Information Circular 87-1*. At the same time that Thatcher was in power, the Conservatives introduced short-term competitive project funding as part of their New Public Management movement, leaving many voluntary organizations chronically under-funded and overregulated.

The Third Way

The UK did not engage in the massive cuts in transfers and programs which took place in Canada between 1994 and 1997 (see Figure 8), but had to address a more complex societal dynamic which required a horizontal or whole-of-government approach (Elson, Struthers, & Carlson, 2006).

Figure 8
Total Social Expenditure as a percentage of DGP in Canada and the United Kingdom

(1980-2003)



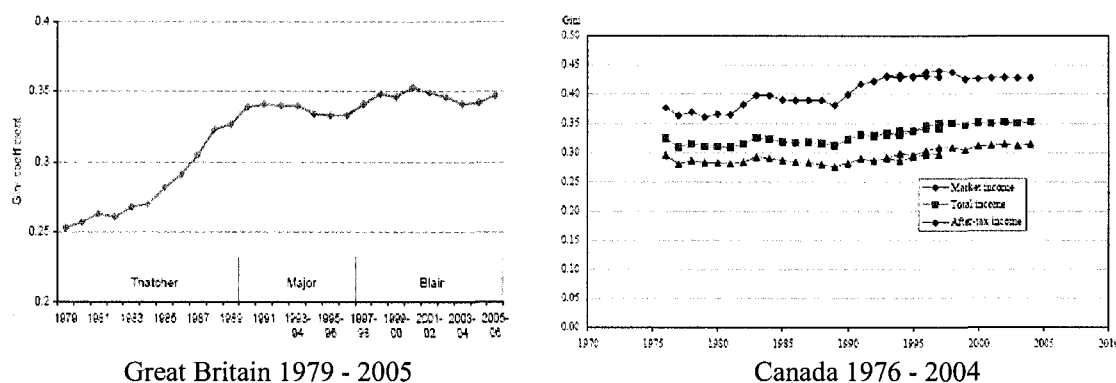
Code: Canada (lighter, lower line) UK (darker, upper line)

Source: OECD Factbook 2007: Economic, Environmental and Social Statistics

The 'Third Way' strategy introduced by New Labour had to address chronic income inequalities which had increased substantially during the Thatcher regime (see Figure 9). By seeing poverty as more than a lack of money, but as a facet of the much broader issue of social exclusion, the policy agenda required cross-departmental collaboration; nonmonetary community development strategies; and stronger partnerships with voluntary organizations in communities who had a distinct comparative advantage over public or private sector service providers (Billis & Glennerster, 1998; Kendall, 2003).

Figure 9

Gini Coefficients for Great Britain and Canada



Note: The higher the Gini coefficient, the greater the degree of income inequality.
Sources: (Brewer, Goodman, Muriel, & Sibieta, 2007, p. 19) and (Heisz, 2007, p. 44)

This whole-of-government approach reflected the Labour party's recognition that there was a complementary relationship between the communitarian role of voluntary organizations and the Labour Party's desire to foster social democracy and reform the provision of public services. When the Labour Party revised Clause IV in 1995, it was necessary but not sufficient to predict a ground-breaking partnership with the voluntary sector. Two other complementary developments moved the government in the direction

of the voluntary sector. First the Labour Party, while still in opposition, announced their intent to work with the voluntary sector as a partner to reform the provision of public services and to introduce a mixed economy of welfare delivery (Kendall, 2003). Evidence of this policy position is contained in the introduction Chief Secretary to the Treasury, Paul Boateng, wrote to the 2002 Cross Cutting Review:

This government is passionately committed to the work of the voluntary sector. We believe that voluntary and community organizations have a crucial role to play in the reform of the public services and reinvigoration of civic life. We in government cannot do this on our own (p. 3).

Second, as a key Labour Party member in Parliament and spokesperson for the Voluntary Sector in the Official Opposition between 1994 and 1997, Alun Michael was well positioned to both champion the voluntary sector and to understand its political and practical role in the reforms the Labour Party had planned (Michael, n.d.). Immediately on coming into power in 1997, Tony Blair appointed Alun Michael as Deputy Home Secretary and Home Office Minister for the Voluntary Sector. The budget and staff for the Voluntary Services Unit immediately doubled. The Voluntary Services Unit became the new Active Communities Unit within the Home Office with substantially increased political influence (Kendall, 2003). Jeremy Kendall (2003) points this out in his analysis of this period:

What is unprecedented here is that so much [political] space should be devoted to the voluntary sector in setting out what was a general statement of overall philosophy and policy, not just a lecture to a 'specialist' voluntary sector audience (as were Thatcher's and Major's most cited speeches on this topic in the 1980s and 1990s) (p. 56).

Beyond the policy formulation and political campaigning, which brought the Labour Party to power in 1997, came an unprecedented policy accord with the voluntary sector (The Compact); a substantive and progressive financial investment in voluntary

sector infrastructure, research, and programming (Futurebuilders and ChangeUp); and ready access by the voluntary sector leaders to decision makers (including the Minister responsible for the Voluntary Sector).

This wholesale commitment to partnership with the voluntary sector in the UK and the subsequent policy and financial investments which were to follow are in sharp contrast with the position taken by the federal government in Canada. In Canada, the voluntary sector was well connected to some individual cabinet ministers; but these ministers did not carry the same weight in cabinet that Labour MP Michael Alun did in Tony Blair's cabinet. The core government agenda the voluntary sector was tied to in Canada was fiscal retrenchment, not social renewal or public service reform. In the mid 1990s this retrenchment policy led to fiscal cutbacks, not fiscal investments, and in the late 1990s to the Voluntary Sector Initiative, which created singular opportunities for individual departmental project spending and no sustainable change in horizontal governance.

The rise of the voluntary sector

In the UK, the National Council for Voluntary Organizations worked to establish a formal regime of representational and reporting protocols as the sectoral partnership with central government was negotiated. This regime change led to the unprecedented signing of the Compact in the UK in 1998. I argue that while proposed broad contextual changes in voluntary sector/government relations were being formulated by the Labour Party, these changes by themselves would have had mixed consequences if the voluntary

sector had not created a formal regime to capture and reflect the future vision of the voluntary sector and its place in society.

In 1980 the National Coalition for Voluntary Organizations changed its name from the National Council of Social Service to reflect 1) the complementary role of voluntary organizations to state service provision; 2) the new reality of a distinct 'voluntary sector'; and 3) the role of intermediary organizations which had gained considerable credibility through the 1977 Wolfenden Report (National Council for Voluntary Organisations, 1980; National Council of Social Service, 1978).

This new name, the National Council for Voluntary Organizations, brought with it a renewed commitment to on-going member and sector-wide consultation and representation. A number of related initiatives were launched over the next decade, including consultations on revisions to charity law, fundraising, and management practices. *Malpractice in Fundraising for Charity*, published by the National Council for Voluntary Organizations in 1986, highlighted the need to reform fraudulent fundraising practices, reforms which were later addressed in the *Charities Act 1992* (National Council for Voluntary Organisations, 1992). The Nathan Report, released in 1990, reinforced the need for voluntary organizations to improve their management practices (National Council for Voluntary Organisations, 1982 1991). During the late 1980s the National Council for Voluntary Organizations created a Parliamentary Working Group to strategically and consistently lobby MPs to ensure that the organization was seen as the premier representative for the sector (6 & Leat, 1997).

The next step the National Council for Voluntary Organizations took reflected its growing capacity and legitimacy as a representative body and principal collective voice

for the voluntary sector (National Council for Voluntary Organisations, 1994). It was in 1994 that the National Council for Voluntary Organizations established the NCVO Commission on the Future of the Voluntary Sector under Chair Nicholas Deakin, a well established voluntary sector researcher and Professor of Social Policy (National Council for Voluntary Organisations, 1994).

The Deakin Commission, as it became known, acted like a Royal Commission would in Canada, and was officially launched in May, 1995. The terms of reference for the Deakin Commission (1996) were to provide a clear vision for the voluntary sector; articulate the contribution of the voluntary sector and its place in society; promote constructive inter-sectoral relationships; improve the performance and governance of voluntary organizations; and make the case for new fiscal, legal and regulatory arrangements for the sector. The Deakin Commission consulted widely, contracted the completion of background position papers, and received numerous deputations from voluntary and intermediary organizations and agencies, including the Charity Commission, throughout its one-year consultation period.

The timing of this consultation was critical to its policy impact. While the Deakin Report refers to timely debates concerning the role of the state in society, the upcoming millennium, and the 400th anniversary of the *1601 Act of Elizabeth* (Commission on the Future of the Voluntary Sector, 1996); the pending national election and the parallel consultation by the Labour Party also loomed large in the minds of the Deakin Commission and its supporters. The Deakin Commission also followed on the heels of the Johns Hopkins Comparative Nonprofit Project which was completed in the UK in 1993. The Johns Hopkins Comparative Nonprofit Project provided the first fully

comprehensive, consolidated and detailed account of the UK voluntary sector, including recreational groups, charitable educational institutions, mutual associations and trade unions (Kendall & Knapp, 1993). Commission Chair Nicholas Deakin and Alun Michael, his counterpart in the opposition Labour Party, met frequently throughout the development of their two reports, and as described by Kendall (2003), created a substantial degree of synergy between the two documents:

They met frequently during that period and shared recommendations in advance ... it wasn't exactly conspiratorial, but it was [seen to be important to both men] that there should be convergence. And that was consciously the objective of keeping in touch ... the 'Compact theory' was simultaneously developed from different directions (p. 62).

An interview with Nicholas Deakin on this point revealed that he kept the tone of the Report deliberately 'soft' 1) to not give offence to the governing Conservatives; and 2) to create the space for the Labour Party to put its own brand on the report without feeling it was being pushed (personal communication, 2002). Where the Deakin Report's predecessor, the Wolfenden Report, had focused on the importance of voluntary sector intermediary organizations and effective management; the Deakin Report, for the first time, positioned the voluntary sector as a distinct and viable public policy partner (6 & Leat, 1997; Wolfenden Committee, 1978).

The Deakin Report declared that the voluntary sector was a major force in its own right, not because of its size or flexibility, but because it is the backbone of civil society and an essential precondition for a healthy democracy (Commission on the Future of the Voluntary Sector, 1996). The Report went on to profile issues associated with the relationship of the sector with central and local government; intermediary organizations; and the private sector. In addition, the Deakin Report challenged the status quo on: 1) the

definition of charity; 2) trustee liability; 3) commercial activities; 4) legal structure; 5) tax relief; and 6) regulation by the Charity Commission (Commission on the Future of the Voluntary Sector, 1996). Not to exclude their own kind, a number of recommendations were directed at improving the performance and governance of voluntary sector organizations.

Deakin saved his flagship recommendation for the relationship of the voluntary sector with central government. He first addressed the issue of the nominal status and funding for the Voluntary Services Unit, pressing for a more centralized position (e.g., Cabinet Office) which could provide a central co-ordination function between government and the sector. Deakin (1996) also addressed the issue of meaningful partnership:

We believe that to give real meaning to the term ‘partnership’ central government must recognize the legitimacy of the voluntary sector’s diverse roles and its own responsibility to promote a healthy sector as a major element in the democratic process. *We would like to see a concordat drawn up between representatives of government and the sector, laying down basic principles for future relations. As part of this process, each government department should make their funding requirements and policy priorities explicit* [italics added] (p. 3-4).

The governing Conservative government was cool to the idea of a concordat, but New Labour was very open to the idea, due to its policy on the voluntary sector, released only months after the Deakin Report, which included its own commitment to establish a Compact with the Voluntary Sector (Labour Party, 1997; Phillips, 2003b). When the Labour government was elected in 1997 that is exactly what they did. At the same time, a national conference of umbrella voluntary and community organizations established the Working Group on Government Relations under the auspices of the National Council for Voluntary Organizations to develop the Compact with government, (Compact Working

Group, 2001). The National Council for Voluntary Organizations consolidated its own national leadership role in the development of the Compact, as it heavily supported the Working Group on Government Relations.

The Voluntary Sector Working Group was established under the direction Sir Kenneth Stowe, a well positioned former civil servant who had unique 'insider knowledge' and experience of the complex machinery of government (Kendall, 2005). Stowe was able to use his knowledge and experience to great advantage at Whitehall and to the advantage of the National Council for Voluntary Organizations by giving credibility and status to the Working Group (Kendall, 2005).

The Compact

The formality of the voluntary sector regime in the UK developed as the Commission on the Future of the Voluntary Sector was established in 1994 and came to fruition in 1998 when the Compact was signed. Evidence for this developing formality is found in the funnelling of sector-wide consultations to the Government Relations Working Group and its complementary Reference Group of voluntary organizations.

The Reference Group was comprised of 65 voluntary sector organizations that had national policy experience, were leaders in the sector, and had a broad grasp of the voluntary sector as a whole²⁰. The Reference Group acted as a sounding board for the

²⁰ The Working Group on Government Relations included the National Council for Voluntary Organizations; National Centre for Volunteering; National Association for Voluntary and Community Action; Association of Chief Executives of Voluntary Organizations; Progress Trust; Council for Ethnic Minority Voluntary Organizations;

Working Group prior to discussions with government (Stowe, 1998). For example, a draft consultation document on the components of the Compact was circulated for feedback to the Reference Group and then circulated even wider for feedback from the sector. Stowe contends that this extensive consultation process was key to its acceptance by the sector (Stowe, 1998).

In excess of 10,000 copies of a draft consultation document on the proposed content for the Compact was distributed and 11 consultation meetings were held (Stowe, 1998). It has been estimated that more than 25,000 organizations were consulted during this process. The Government Relations Working Group consolidated the feedback from these sectoral meetings and the results were then presented to its central government counterpart, the Ministerial Working Group (Commission for the Compact, n. d.).

The strength of the sectoral consultation document on the proposed Compact developed by the Working Group was such that the actual Compact embodied the approach, structure and content of the consultation document (Stowe, 1998). One of the clearest messages the Working Group received from its consultations was that there was no appetite in the UK voluntary sector for a Compact solely with the Labour Party. Any agreement needed to be a Compact with parliament (Stowe, 1999). This was accomplished by making representation to both the Conservative and the Labour Parties and forging a common agreement by both parties that there was a need for the Compact (Stowe, 1999).

National Association of Volunteer Bureaux; and the Charities Aid Foundation (Compact Working Group, 2001).

This development is in sharp contrast with the direction taken with the Accord in Canada: an agreement which focused on approval by the Liberal government, in isolation of any participation by the opposition parties. As one Canadian voluntary sector leader who participated in the Voluntary Sector Initiative recounted in an interview:

We did some things very badly. We felt that we only had to deal with the Liberals and isolated ourselves from the other [political] parties, particularly the Conservatives. As a result, we don't know how they [the Conservatives] think and they don't know us.

Rather than addressing details which would be more bureaucratic than policy focused, the Compact deliberately kept the language and tone at a level which was appropriate for direct Ministerial participation: shared principles, reciprocal obligations, followed by proposed implementation, monitoring and dispute resolution mechanisms (Stowe, 1998). When necessary, the chair of the Working Group on Government relations, Sir Kenneth Stowe, represented the collective voluntary sector position to the Ministerial Working Group (Stowe, 1999).

Both the Ministerial Working Group and the Government Relations Working Group each had access to a larger reference group and the results of their own sectoral consultation on the same draft. In this regard the formality of the regime type of the two groups was matched (see Table 9). Through a series of meetings the two sides negotiated a final position which formed the final version of the Compact. The continuity of the representational and reporting protocols for the working groups have extended past the signing of the Compact and through ten years of Compact implementation. The strategic agenda of Compact Voice, as the Compact Working Group is now called, has been maintained across changes in both government and voluntary sector representation.

Table 9

Institutional Regime Type: UK Compact

Case: UK Compact	Regime Features	Regime Type
Government Relations Working Group (UK)		
Collective representation strong throughout and beyond the negotiation process	Established and sanctioned representational and reporting protocol which is transferable across time and issues.	Formal
Ministerial Working Group (UK)		
Collective representation strong throughout and beyond the negotiation process	Established and sanctioned representational and reporting protocol which is transferable across time and issues.	Formal

The Compact itself was negotiated at a series of meetings between the Working Group on Government Relations and a Ministerial Working Group. The Ministerial Working Group was a subset of a larger Taskforce on Relations between Government and the Voluntary, Volunteering and Community Sectors²¹. The Ministerial Working Group was chaired by the Home Secretary and supported by the Voluntary and Community Unit of the Home Office (Stowe, 1998). The scope of the Ministerial

²¹ Members of the Ministerial Working Group were departments with an existing relationship with the voluntary sector: The Home Office; Department for Culture, Media and Sport; Department for Education and Employment; Department of Environment, Transport and the Regions; Department of Health; Department of Social Security; Northern Ireland Office; Scottish Office; and Welsh Office.

Working Group meant that parallel compacts which were in the process of being negotiated in Wales, Scotland, and Northern Ireland could be supported and lead to the launch of a national Compact. The Ministerial Working Group also used the draft consultation document to carry out its own consultation across government departments (Stowe, 1998).

The final Compact agreement (see Table 10) was negotiated between Sir Kenneth Stowe as Chair of the Working Group on Government Relations and the Ministerial Working Group and presented to parliament in November 1998 (Stowe, 1999). Although the voluntary sector wanted the Compact to be legally binding, this option was not politically viable at the time, so an independent dispute mediation process was agreed to.

The Compact was launched, not as a Prime Ministerial policy relations event at the end of 2001 (the International Year of Volunteers), as was the case in Canada, but at a press conference and reception hosted by the All-Party Committee of the House of Commons, deliberately organized to reinforce the all-party approval of the Compact (Stowe, 1999). A consequence of this effort was that the Working Group achieved an agreement with the Home Secretary of the Cabinet that an annual report on the relationship between the government and the voluntary sector would be tabled in Parliament. This latter agreement compelled everyone 1) to achievement; 2) to a timetable; 3) to action; and 4) to transparency (Stowe, 1999).

Table 10***Key Compact Commitments***

The government agreed to:

- Recognize and support the independence of the sector, including its right to comment on and challenge any government policy;
- Respect the right of the sector to advocate within the law in order to advance its aims;
- Consult the Sector on issues affecting it, particularly where Government is proposing new roles and responsibilities for the sector;
- Develop in consultation with the sector a code of good practice to address principles of funding from Government Departments.

The voluntary sector agreed to:

- Ensure that it informs and represents the view of its constituents and supporters;
- Promote equality of opportunity in the sector's activities, employment and involvement of volunteers.

The Government and the voluntary sector acknowledged:

- The importance of promoting equality of opportunity for all people regardless of gender or status or orientation.
-

The Ministerial Steering Group and the voluntary sector Reference Group asked the Working Group on Government Relations to continue its representational work for the sector. This they did under the name Compact Working Group (now renamed Compact Voice). The specific mandate for the Compact Working Group was to take the Compact forward for mutual advantage with a specific focus on continuing development, implementation, monitoring, and representation at the Compact Annual Meeting (Commission for the Compact, n. d.; Compact Working Group, 2001).

Because the Compact in England, like that in other parts of the UK, focused on laying out general principles, five codes of good practice were subsequently developed

by the Compact Working Group. These codes outlined detailed practice guidelines for funding and procurement; consultation and policy appraisal; community groups; volunteering; and black and minority ethnic groups. The focus on general principles in the Compact made the agreement politically palatable and deferred more contentious issues such as funding policies, the definition of charity and governance (Phillips, 2003a). This was a deliberate strategy, for through the process of negotiating the Compact, the Working Group established its political credibility with their government counterparts, and then was able to use this credibility to advocate for a resolution of funding, governance, and statutory issues.

Compact/accord comparison

As Susan Phillips has noted, there is no organizational equivalent to the National Council for Voluntary Organizations in terms of resources and legitimacy to represent the voluntary sector as a whole (Phillips, 2003b). The consultation process during the development of the Broadbent Report and following its release served to reinforce this informal voluntary sector regime type for three reasons. First, the timing of the consultation was such that it could only reinforce the policy agenda the Voluntary Sector Roundtable had already established. Second, because the key issues which were identified by the sector (e.g., funding, advocacy and definition of charity) were not open to negotiation, the process proceeded largely for its own sake. Third, the breadth of the representation by the voluntary sector provided representative voices at the Joint Tables, but the lack of policy experience and expertise only reinforced the informal regime type.

In terms of comparing the actual content of the Canadian Accord and the UK Compacts, the Accord is long on shared values and principles and short on commitment

and monitoring mechanisms. For example, the Accord the government commits itself to recognizing the need to engage the voluntary sector in dialogue. Specifically, the Accord states:

Recognize its need to engage the voluntary sector in open, informed and sustained dialogue in order that the sector may contribute its experience, expertise, knowledge, and ideas in developing better public policies and in the design and delivery of programs (p. 8).

Contrast this with a similar section on policy development and consultation in the Compact:

To appraise new policies and procedures, particularly at the development stage, so as to identify as far as possible implications for the sector.

Subject to considerations of urgency, sensitivity or confidentiality... to consult the sector on issues which are likely to affect it, particularly where the government is proposing new roles and responsibilities for the sector... Such consultation should be timely and allow reasonable timescales for response, taking into account the need of organizations to consult their users, beneficiaries and stakeholders (para 9.5, 9.6).

This analysis of the Compact and the Accord is consistent with other similar findings (Phillips, 2003a). The Compact is more consistently specific than the Accord in terms of principles and commitments, such as the one noted above, in areas relating to funding, advocacy and consultation, inclusion, and accountability. The Compact Working Group deliberately deferred the question of the definition of charity because they knew it would be contentious for some groups in the sector and the timing was not right. In contrast, the Voluntary Sector Roundtable worked to push the policy agenda on as many fronts as possible because they felt the policy window was very narrow. As it turned out, the two year policy timetable, typical of the federal government's attention span, achieved what was principled, possible, and palatable.

Building on success

The signing of the Compact in the UK had ripple effects around the world, with more than 25 countries, including Canada, adopting elements of the consultation process and using the Compact itself as a template (Commission for the Compact, n. d.). Within the UK, the signing of the Compact marked the beginning of a significant regime shift for two reasons. First, the government was committed to reforming the public service, fostering social democracy, and investing in voluntary sector infrastructure so it could pull its weight in the arena of public service delivery. Second, the voluntary sector built up a resilient formal regime through its independent policy research, field consultations, and representational forums led and supported by the National Council of Voluntary Organizations.

Between 1998 and 2003 five codes of good practice were published²². The institutional regime change represented by the Compact and the five codes of good practice were reinforced through a number of mechanisms, including a detailed annual implementation report by both the voluntary sector and government which was tabled at the annual meeting to review the Compact. This annual Compact Action Plan is mutually agreed upon and has consistently included explicit targets, an outline of actions to be taken, measures of success and accompanying lead agencies. The successes and shortfalls in adhering to the Action Plan by each sector have been reported at each annual meeting

²² The five codes of good practice are: Funding and Procurement; Black and Minority Ethnic Community Organizations; Community Groups; Consultation and Policy Appraisal; and Volunteering.

and subsequently recorded in the annual report to Parliament (Compact Voice, 2007; Compact Working Group, 2001-2003).

Because the Compact implementation strategy included the intention to establish Local Compacts with all Local Authorities across the UK (a process which is now complete), extensive resources have also been allocated to support its implementation at a local level. While local implementation is not the subject of this research, the Local Compacts are designed to build stronger partnerships, and greater engagement of communities in policy, programs, and social service delivery, social regeneration and renewal (Compact Voice, 2007). The 388 Local Compact agreements across the UK provide a powerful institutional reinforcement for the national Compact and the status of Local Compacts is now an integral part of the Annual Compact Report to Parliament (Commission for the Compact, 2008)

Compact agreements at both a national and local level in the UK are not a panacea for harmonious voluntary sector/government relations. The key to the progressive institutionalization of the Compact is that both parties have invested heavily in working within the institutional structures which were established to support the long-term success of the Compact, and its related codes of good practice. For example, the National Council for Voluntary Organizations established the Compact Advocacy Program in 2002 to actively work with voluntary organizations to identify problems and advocate on its behalf (National Council for Voluntary Organisations, 2006, May 17).

This Compact Advocacy Program is a powerful policy tool to mitigate the institutional power imbalance which so frequently dominates the relationship between government and individual voluntary organizations. Organizations are encouraged to

report breaches in either the Compact or any of the five codes of good practice. There are many times when the NCVO Advocacy Program representatives intervenes on behalf of organizations in the independent dispute mediation process (National Council for Voluntary Organisations, 2006, May 17). This mediation process, established in 2003 through independent third-party funding, continues to mediate voluntary sector-government disputes concerning the Compact, whether the infringement is in spirit or practice (CEDR Solve, 2008).

The Institutionalization of the Compact

Following sectoral consultations in 2005 to strengthen the Compact, the Compact Plus scheme was introduced. Compact Plus raised the compliance bar and provided communities and Local Authorities with an official Compact compliant designation, much like a good housekeeping seal of approval (Active Communities, 2005). A Compact Commissioner was also appointed, and a year later a Compact Commission was established (Active Communities, 2005; Compact Working Group, 2006). The purpose of the Commission is increase the profile of the Compact and support the work of the Compact Voice within government and across the country (Compact Voice, 2007; Compact Working Group, 2006).

In addition to the work of the Compact Voice and the representational role of both the voluntary sector and government, the Labour government has made substantial investments in voluntary sector infrastructure since 2002, the year of their first Cross Cutting Review. Contrary to what cross-cutting may imply, it is actually a comprehensive budget allocation and fiscal enhancement process. The 2002 Cross Cutting Review committed the central government to invest £80 million (\$160 million CDN) in

ChangeUp, a program which established national hubs of expertise in governance, performance, finance, volunteering, workforce development and ICT, and geographical support networks (Capacitybuilders, 2007).

In 2007 and 2008, following another spending review in 2004, an additional £70 million (\$140 million CDN) was added to the program (HM Treasury, 2004a 2004b). In addition to this infrastructure investment, a separate program, Futurebuilders, was established to specifically develop the capacity of the voluntary sector to deliver public services (Capacitybuilders, 2007). This program was initially funded with £125 million (\$250 million CDN) but this amount has been increased by £90 million (\$180 million CDN) (Capacitybuilders, 2007). The Labour government renewed its commitment once again in the fall of 2007 announcing a further £515 million [\$1.03 billion CDN] investment between 2008 and 2011, focusing on the capacity of the sector to support community revitalization, volunteering, advocacy, public service delivery, and social enterprise (Office of the Third Sector, 2007) .

This voluntary sector partnership policy continues to be reinforced both politically and fiscally at the highest levels in government. In 2006 the Office of the Third Sector was transferred to the Cabinet Office, in recognition of the increasingly important role of the third sector in both society and the economy (Office of the Third Sector, 2008a). This development included moving the responsibilities of the Active Communities Directorate from the Home Office and the Social Enterprise Unit from the Department for Trade and Industry into the Office of the Third Sector (Office of the Third Sector, 2008a).

In 2006 another spending review also took place, involving extensive sector consultation and resulting in a further three-year spending program for Futurebuilders

and ChangeUp to assist the voluntary sector to play an even larger role in social and economic regeneration (HM Treasury & Cabinet Office, 2007). The National Council for Voluntary Organizations and other lead intermediary organizations such as the Association of Chief Executives of Voluntary Organizations and the National Association for Voluntary and Community Action contributed to the review. Further steps were taken in a 2007 spending review to address issues associated with the sustainability of funding agreements; the importance of maintaining the principle of grant funding for smaller voluntary organizations; the inconsistency of relationships between the sector at different levels of government; and a lack of mutual understanding between parts of the sector and government (HM Treasury & Cabinet Office, 2007).

To reiterate, there is no desire on the part of the voluntary sector or the government to diminish or undermine the institutional framework which has been established. Both the government and the voluntary sector have stated their desire to continue this partnership and build on the progress which has been made. To ensure that this progress survives a political regime change, voluntary sector leaders are discussing enshrining the Compact and the Compact Commissioner in a dedicated statute. Sectoral leaders in the UK are acutely aware that there is a risk of being co-opted by government. One interviewee made it clear that their critique of the central government was tempered by their status as a strategic partner. The Office of the Third Sector in the Cabinet Office has established 45 strategic partnerships with national organizations²³ who receive

²³ Examples of these 45 strategic partners are the National Association for Voluntary and community Action (NAVCA); Association of Chief Executives of Voluntary Organisations (ACEVO); Co-operatives UK; National Council of Voluntary

substantial funding to provide government with their opinions, constructive policy dialogue, and experience from their particular third sector perspective.

Funding Issues and their Mitigation

The case load and annual trends of Compact compliance breaches are published in an annual report by the Office of the Third Sector. The National Council for Voluntary Organizations has recently proposed a Compact compliance rating on individual government departments to bring even more exposure to this process (National Council for Voluntary Organisations, 2007b). In 2005 the Compact Advocacy Program was expanded to include Local Compact compliance.

According to annual compliance reports, complaints often arose from a lack of awareness of the Compact provisions, but most others were the result of funding issues, such as overbearing reporting and monitoring requirements, which are typical of most contract regimes (National Council for Voluntary Organisations, 2007b). According to the NCVO Compact Advocacy Program (2007b), breaches at a national level were dominated by Funding and Procurement codes (83%); followed at a distance by Consultation code breaches (12%) and Black and Minority Ethnic code breaches (13%). The latest Joint Compact Action Plan for 2006-2008 states that Compact awareness strategies across departments will continue; three-year funding agreements will be the starting point for negotiating government contracts; and more work will be done to ensure full cost recovery on awarded contracts (Compact Voice, 2007).

Organizations (NVCO); Philanthropy UK; Social Enterprise Coalition; Third Sector European Network; and Volunteering England (Office of the Third Sector, 2008b).

These are contract issues which are equally prevalent in Canada; the difference being that there is no institutional status for the Accord or its codes of good practice; no policy forum to collectively discuss bilateral issues; no independent dispute mechanism; and no advocacy body to speak on behalf of individual voluntary organizations. Most pertinent to this research is the fact that there is no apex equivalent to the National Council for Voluntary Organizations in Canada and no permanent or politically credible administrative mechanism in government to advance relations with the sector (Phillips, 2003a).

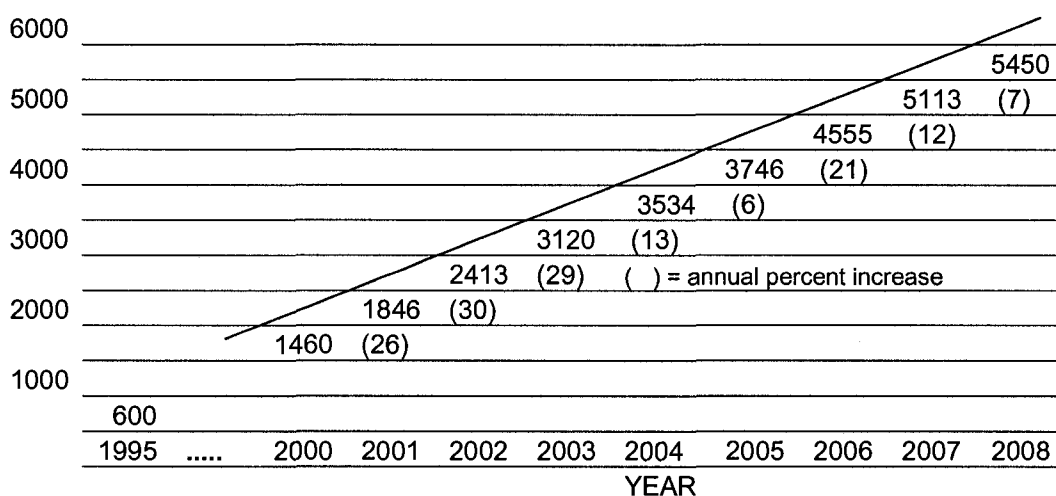
The Institutionalization of Voice

The National Council for Voluntary Organizations, as the leading voice for the voluntary sector, took deliberate steps not only to play a leadership role in the consultation process which led to the signing of the Compact but also to keep pace with the substantive policy changes that followed. It has been established that the capacity of stakeholder groups to monitor and continue to apply pressure for consistent policy implementation across government departments is a critical component to its eventual institutionalization (Kendall, 2005; Sabatier & Jenkins-Smith, 1999). The number of consultations, reports, and deputations the National Council for Voluntary Organizations has produced and engaged in since 1994 are too numerous to mention. Suffice to say that for each significant policy position developed by the government, the National Council for Voluntary Organizations has led a sector-wide consultation which provided a voice for the sector. I have chosen three strategies initiated by the National Council for Voluntary Organizations as evidence of its institutional capacity to act as a credible and

forceful lead representative for the voluntary sector: 1) NCVO membership; 2) sector consultation; and 3) strategic alliances.

Membership

In November, 2000, the National Council for Voluntary Organizations modified its membership criteria to include local and regional voluntary organizations as full members. Previously only national organizations were eligible for full membership and local and regional voluntary organizations were affiliate members. As a consequence, membership increase in the National Council for Voluntary Organizations has averaged 18 percent per year (see Figure 10). Membership more than doubled between 1995 and 2000, and doubled again between 2000 and 2003 after the criteria for full membership were expanded. In addition to expanding the membership criteria, the National Council for Voluntary Organizations also provides free membership to voluntary community organizations with annual revenues of under £10,000 [\$20,000 CDN]. Membership fees are on a sliding scale that increases in relation to revenue size (National Council for Voluntary Organisations, 2008c).

*Figure 10***NCVO Membership 1995-2008**

Source: NCVO Annual Reports 1995 - 2008

Sector consultation

In 2005 The National Council for Voluntary Organizations launched its own consultation on the future of the voluntary sector and then used the results of this consultation to establish its own strategic priorities (National Council for Voluntary Organisations, 2005f). This consultation was less formal than the earlier Deakin Commission process but it achieved a high level of input. First, a number of papers of anticipated sectoral themes²⁴ were commissioned which were then presented at a national

²⁴ Papers were commissioned from Nicholas Deakin (civil society and civil renewal); Gerry Stoker (new localism and the future of local governance); Andrea Westall (Exploring diversity: links between voluntary and community organizations, social enterprise and co-ops and mutuals); and Davis Carrington (Financing the voluntary sector - future prospects and possibilities) (National Council for Voluntary Organisations, 2005f).

seminar. The papers and the feedback received at the seminar were used to identify the themes and questions that would be used in the subsequent consultation with the broader voluntary sector. The papers were published as *Voluntary Action: Meeting the challenges of the 21st Century*, and the accompanying consultation document was *Your Future: A Consultation (National Council for Voluntary Organisations, 2005b 2005d 2005e)*. Both documents were widely circulated to all Council members and others in the sector; and were available on-line. Nine regional consultations events were held and attended by more than 200 people (National Council for Voluntary Organisations, 2005f). This process legitimized the consultation process, the subsequent long-term vision for the future of the voluntary sector, and the leadership role of the National Council for Voluntary Organizations (National Council for Voluntary Organisations, 2005b).

This extensive consultation process gave voluntary organizations throughout the UK a new appreciation for the work of the National Council for Voluntary Organizations and its services, and boosted their membership. The strategic agenda for the future of the voluntary sector encompassed a number of areas which will continue to put the National Council for Voluntary Organizations in a leadership role. These strategies include:

- Promote the value of the voluntary sector beyond service delivery;
- Create a world-class research base;
- Foster community inclusion and citizen engagement;
- Improve relationships within and beyond the voluntary sector;
- Act as a conduit for sectoral debates on European integration; and
- Increase support to the sector by individuals and businesses (National Council for Voluntary Organisations, 2005b).

The strategy of building institutional legitimacy through the development of discussion papers and related consultations has been repeated on a number of occasions by the National Council for Voluntary Organizations (National Council for Voluntary Organisations, 2004b 2005a 2005c 2007c).

Strategic alliances

The third example of institutional capacity building by the National Council for Voluntary Organizations is the strategic alliances they have established with other lead organizations. For example, the National Association for Voluntary and Community Action and the National Council for Voluntary Organizations (2007) have a formal written agreement (a concordat) defining in what areas they will collaborate and which organization will take the lead.

The two organizations have agreed to collaborate in local and regional government policy; funding and procurement policy at a national and local level; and voluntary sector infrastructure issues, particularly in relation to the national Hubs of expertise and Capacitybuilders. The National Association for Voluntary and Community Action will lead on Local Infrastructure Organizations and the National Council for Voluntary Organizations will lead in issues related to the Compact; sectoral strategies; other umbrella coalitions; taxation; charitable giving; public service delivery policy and national governance policies (National Association for Voluntary and Community Action, 2007). An annual meeting between the two organizations is designed to review the progress of the concordat and make any adjustments.

A second alliance for which a similar formal agreement has been struck is with the Local Government Association, the equivalent of Federation of Canadian

Municipalities. This agreement confirms the desire of the two organizations to gain a closer working relationship following prior collaborations (Local Government Association & National Council for Voluntary Organisations, 2008). The agreement covers the development of joint submissions and mutual endorsements; joint conferences and events; and mutual promotion and information sharing (Local Government Association & National Council for Voluntary Organisations, 2008).

These two formal agreements reflect the institutionalization of the National Council for Voluntary Organizations as the voice for the voluntary sector and extend its presence at the local level through the existing lead organizations representing local governments and voluntary organizations.

These three strategies—membership; sectoral consultation; and strategic alliances—illustrate how the National Council for Voluntary Organizations has institutionalized its formal presence at a national level.

Regulation and the Definition of Charity

The regulator of charities in the UK, the Charity Commission, was established in 1858. Its most distinctive feature was that it was quasi-judicial and operated independent of government (Owen, 1964). The Charity Commission was comprised of an appointed Board of Commissioners, and was designed to protect donors and address abuses by charities, such as the use of endowed charities for personal benefit. The Charity Commission provided both an oversight and enforcement mechanism which was intended to be less expensive and more accessible than the courts (Finlayson, 1994; O'Halloran, 2001). To a great extent, the Charity Commission continues to fulfil this role.

The *Charities Act 1960* confirmed that the general purpose of the Charity Commission was to promote “the effective use of charitable resources by encouraging the development of better methods of administration, by giving charity trustees information or advice on any matter affecting the charity and by investigating and checking abuses” (Megarry & Baker, 1960, p. 157). In regulatory matters, the Charity Commission relies, as does the Charity Directorate in Canada, on common law judicial precedents such as the *Pemsel Case*. Following recommendations made by the *Charities Act 1960*, the government increased the independence of the Charity Commission; strengthened the role of the Charity Commission when intervening in the case of charity misconduct or mismanagement; and for the first time required all charities to be centrally registered (Marshall, 1961).

Unlike Canada, the regulation of charity in the UK is not associated with tax law or an ongoing concern for foregone government revenue (Owen, 1964). The tension the Charity Commission does have to contend with is its dual purpose of support and compliance. In contrast, the Charities Directorate in Canada restricts its educational role to informing charities about their regulatory obligations.

The definition of charity

Charity law was the last major policy issue to be addressed by the Deakin Report. It was in 1998 that the National Council for Voluntary Organizations initiated its campaign for charity law reform (NCVO Charity Law Reform Advisory Group, 2001). The delay in tackling charity law reform was deliberate. The National Council for Voluntary Organizations fully understood that previous appeals to broaden the definition of charity had gone unanswered; that charity law was a complex undertaking; and that

any reform, no matter how slight, would have widespread repercussions and be highly contentious (NCVO Charity Law Reform Advisory Group, 2001). The National Council for Voluntary Organizations first established an advisory group to assess the extent to which charity law would need to change to match the current voluntary sector context.

In 2001 the NCVO Charity Reform Advisory Group released a discussion paper, *For the Public Benefit?*, which was followed by a six-month consultation period. The Deakin Report (1996) had recommended that the definition of charity be reformed with a single definition based on a new concept of public benefit. The NCVO Charity Reform Advisory Group modified this recommendation after realizing that with complexity came flexibility and an over-simplification of charity law could have unintended consequences. What the advisory group (2001) did recommend was 1) that a stronger 'public benefit' test should apply to all charitable purposes and be layered onto existing legislation; 2) that the Charity Commission take a stronger role in determining charitable status; and 3) that a new appeals mechanism between the Charity Commission and the High Court be established.

This consultation report was followed in 2002 with the release of two major policy reports by the central government. The first, *Private Action Public Benefit*, established the role the government saw for itself in supporting the voluntary sector to: revitalize communities and empower citizens; encourage public support [of the sector]; help the sector to be more effective and efficient; and partner with Government to shape policy and delivery [of public services] (Strategy Unit, 2002). The second report, *The Role of the Voluntary Sector in Service Delivery: A Cross Cutting Review (HM Treasury, 2002)*, introduced Futurebuilders to build capacity within the voluntary sector and

increase funding for the sector by 20 percent annually to £188 million [\$376 million CDN] over three years.

This major policy report and *Private Action, Public Benefit* (2002) served notice that the government was committed to invest in voluntary sector infrastructure; reform charity law; establish a new legal form of charity incorporation, a Community Interest Company; tighten fundraising regulations; and reform the Charity Commission.

Specifically, *Private Action, Public Benefit* recommended that charity law be modernized with a stronger emphasis on public benefit, the very recommendation which was made by the NCVO Charity Reform Advisory Group. The report also proposed that charitable benefit be expanded to include social and community advancement; culture, arts and heritage; amateur sport; human rights; and the environment (Strategy Unit, 2002). Within government, steps were taken to audit and provide guidelines for the active contracting out of public services to voluntary organizations (HM Treasury, 2006; National Audit Office, 2005).

At its Annual Meeting in 2003, the National Coalition for Voluntary Organizations established the Charities Bill Coalition to push for the introduction of the new charity bill in the next session of parliament (National Council for Voluntary Organisations, 2008b). The Charities Bill Coalition grew from 16 charities to an alliance of more than 30 organizations, and with the support of the National Coalition for Voluntary Organizations collectively lobbied for a new charity bill (National Council for Voluntary Organisations, 2004b).

Both *Private Action, Public Benefit* and *For the Public Benefit?* received widespread support throughout the voluntary sector and formed the basis of the draft

Charities Bill which was announced in the Queen's Speech in 2003 and first introduced in Parliament in May, 2004 (National Council for Voluntary Organisations, 2008b).

The National Coalition for Voluntary Organizations was among many organizations which presented deputations to the Joint Committee on the draft Charities Bill, reiterating its support for the expanded list of charitable purposes, a universal public benefit test, and an independent appeals tribunal. The National Coalition for Voluntary Organizations deputation took issue with attempts to explicitly define public benefit and with the on-going potential conflict between the regulatory and advice-giving role of the Charity Commission (National Council for Voluntary Organisations, 2004a). In November, 2006, the Charities Act became law and the attention of the National Coalition for Voluntary Organizations shifted to address implementation issues.

The *Charities Act 2006* represents the most significant change in the definition of charity since the *Act of Elizabeth 1601*. *Charities Act 2006* contains many provisions which have been discussed or proposed by the voluntary sector in Canada, but have not been seriously considered by any government. In 2002 the government had declared that "The current [charity] law is confusing and unclear and the four categories or heads of charity do not accurately reflect the range of organizations which are, or should be, charitable today" (Cabinet Office, 2002, p. 35). The result of this review, subsequent consultation and legislation is the *Charities Act 2006*.

The key provisions in the Charities Act 2006 are:

1) The legal definition of charity must have charitable purposes as defined in law *and* [italics added] must meet the public benefit test, even if it is designated as a charitable activity;

2. The designation of charitable purposes is updated from the preamble to the Charitable Uses Act 1601. While ‘any other [public benefit] purpose’ is included in the Act, the four heads of charity have been replaced with twelve charitable purposes, namely:

- i) The prevention or relief of poverty;
 - ii) The advancement of religion;
 - iii) The advancement of health or the saving of lives;
 - iv) The advancement of citizenship or community development;
 - v) The advancement of the arts, culture, heritage or science;
 - vi) The advancement of amateur sports;
 - vii) The advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity;
 - ix) The advancement of environmental protection or improvement;
 - x) The relief of those in need by reason of youth, age, ill-health, disability, financial hardship or other disadvantage;
 - xi) The advancement of animal welfare;
 - xii) The promotion of the efficiency of the armed forces of the Crown, or of the efficiency of the police, fire and rescue services or ambulatory services;
- and any other [public benefit] service (*Charities Act, 2006*).

Public benefit is no longer assumed for any application and *all* [italics added] organizations applying for charitable must demonstrate that their purposes benefit the

public. The Act does not define 'public benefit'. Decisions about whether a particular charity meets the public benefit criteria rests with the Charity Commission.

A 2008 report from the Charity Commission indicates that public benefit will be based on two broad categories (Charity Commission, 2008b). First, there must be an identifiable public benefit which is clear, balanced against any harm, and related to the aims of the organization. Second, the benefit must be to the public or a section of the public, not unreasonably restricted by geography or ability to pay, and people in poverty must have an opportunity to benefit (Charity Commission, 2008b). Further consultations on public benefit as it pertains to specific charitable purposes are underway (Charity Commission, 2008c).

The Charity Commission is clear that public benefits are contextually defined and will continue to evolve. Perhaps in anticipation that the Act will create many opportunities for appeals, the Act also creates a new independent Charity Tribunal to review decisions made by the Charity Commission and to save appellants the cost of appealing to the High Court (National Council for Voluntary Organisations, 2007a).

Comparisons with Canada

The *Charities Act 2006* includes a provision that charities with income of less than £5,000 [\$10,000 CDN] can choose whether they formally register while charities with incomes in excess of £500,000 [\$1 million CDN] must have a professional audit conducted. In Canada there is neither a minimum registration threshold nor a requirement for an independent professional audit. The *Charities Act 2006* officially creates a Charitable Incorporated Organization designation which does not require dual registration as a corporation and as a charity, as is the case in Canada.

The Act also addresses a number of governance issues which remain unresolved in Canada, including the provision that trustees can be paid for providing professional services beyond their usual duties as trustee. The Charity Commission has the authority to rule that trustees will not be liable where they have acted 'reasonably and in good faith'. Professional fundraisers must declare their role and net raised fees for charity. There is a provision in the Act for statutory fundraising regulations to be introduced if current self-regulation does not work (National Council for Voluntary Organisations, 2007a), a scenario which may be replicated in Canada if current self-regulatory measures are shown to be inadequate (Imagine Canada, 2008).

This revision to the Charities Act is the most recent element of a substantive and sustained shift in voluntary sector/government relations which has increased the influence of the voluntary sector on government policy.

Campaigning and Political Activity

This shift in the influence of the voluntary sector with the UK government emerged with the confluence of two institutional regime changes. The political regime change was initiated with the election of Tony Blair as leader of the New Labour Party in 1994 and his commitment to partnership with the voluntary sector; the voluntary sector regime change was catalyzed by the development and publication of the Deakin Report in 1996. Between 1994 and 2008 the National Council for Voluntary Organizations has consistently balanced its interest in voluntary sector governance and performance; independence from the state; and public service delivery with civil renewal and democracy (National Council for Voluntary Organisations, 2005a). In typical fashion, the National Council for Voluntary Organizations produced *Civil renewal and active*

citizenship: A guide to the debate (2005a) to stimulate debate and to frame the debate from their perspective.

This document was produced because the National Council for Voluntary Organizations was concerned that while the two leading political parties in the UK had each expressed an interest in civil renewal and active citizenship, the reality is that civil renewal appears to have taken a back seat to an increase in public service delivery by the voluntary sector. The policy discussion paper pointed out the inherent competition and contradiction between policies which focus on individuals as consumers of service and others which see individuals as members of community (National Council for Voluntary Organisations, 2005a). The National Council for Voluntary Organizations intends to formulate a major strategic agenda for the voluntary sector, such as they did with the Deakin Report, and civil renewal will be at the centre of this strategy (S. Etherington, personal communication, April 15, 2008).

This consumer/community debate has a long history in the UK with two distinct schools of thought. One school champions volunteering and voluntary sector independence while the other ignores civil renewal and focus entirely on the benefits to the sector of delivering public services²⁵ (Association of Chief Executives of Voluntary Organizations, 2003; Dahrendorf, 2001; Deakin, 2001; Kendall, 2003; Lewis, 2005;

²⁵ Interviews with UK leaders in the voluntary sector revealed that this dichotomy, reflected in positions taken by the National Council of Voluntary Organizations and the Association of Chief Executives of Voluntary Organizations respectively, was preventing the umbrella voluntary organizations from collaborating and supporting local organizations to the extent to which they could.

Osborne & McLaughlin, 2004). The National Council for Voluntary Organizations has tried to balance these two extremes and recently participated with 25 other national organizations in an independent Advisory Group on Campaigning (i.e., advocacy), chaired by Baroness Helena Kennedy.

The report of the Advisory Group (2007) recognized that the voluntary sector had become the location of choice for civic engagement and that this engagement needed to be supported. Recommendations included 1) the need for a clear and unequivocal framework to support and enable campaigning by charities; 2) increased access to broadcast media; and 3) removal of security legislation which limits campaigning (Advisory Group on Campaigning, 2007). The key recommendation was the call for the ability of charities to campaign without limit in pursuit of their charitable objectives.

The Advisory Group on Campaigning report and its recommendations were explicitly acknowledged in the 2007 Third Sector Review (HM Treasury & Cabinet Office, 2007). The Charity Commission has determined that political campaigning is acceptable as long as it not “the dominant means by which a charity carries out its charitable purpose” (HM Treasury & Cabinet Office, 2007, p. 26). The Third Sector Review report went on to say that “it is surly possible, in a well-run charity, for political activity to be ‘dominant’ within a charity and yet still enable it to further its charitable purpose” (p. 26).

The government continues to make a clear distinction between political activity as a legitimate charitable activity to achieve a charitable purpose; and political activity as the sole reason for the existence of the organization, which is illegal. The government

thus reaffirmed its view that the law should not allow an organization with a political purpose to be a charity. The Third Sector Review report (2007) then clearly stated:

Provided that the ultimate purpose remains demonstrably a charitable, one the Government can see no objection, legal, or other, to a charity pursuing that purpose wholly or mainly through political activities [italics added]. Those running a charity will have to justify its activities. If they can show that political activity, in preference to (or in conjunction with) any other activity is likely to be effective in serving the charitable purpose then they will have succeeded in justifying the political activity (p. 26).

The Charity Commission reviewed its regulations on political activities and the recommendations of the Advisory Group on Campaigning and the Campaign Effectiveness and NCVO report in the fall of 2007 (Advisory Group on Campaigning and the Voluntary Sector, 2007; HM Treasury & Cabinet Office, 2007; NCVO & Sheila McKechnie Foundation, 2007). The legal and regulatory framework for campaigning and political activities by charities was released in March, 2008 in *CC9 -Speaking Out - Guidance on Campaigning and Political Activity by Charities* (Charity Commission, 2008a).

Charities can make campaigning their sole focus for the purpose of achieving their charitable objectives; but political activity restricts political endorsements, funding, and must remain ancillary to other charitable activities (Charity Commission, 2008a).

The regulation document refers charities to the Campaigning Effectiveness Program at the National Council for Voluntary Organizations (National Council for Voluntary Organisations, 2008a). The Campaigning Effectiveness Program was established in 2006 and recently received £634,000 (\$1.27 million CDN) over three years from the Big Lottery Fund to expand the program. The purpose of the program is to provide a central resource for influencing, advocacy and campaigning in the voluntary

and community sector. The program supports organisations of all sizes that want to increase the impact of their campaigns by providing best practice principles and skill development (National Council for Voluntary Organisations, 2008a).

The Campaigning Effectiveness Program provides research, training and advocacy support for campaigning. Research and analysis into effective campaign strategies and campaign trends is conducted and shared with the sector. Training programs have been developed for small- and medium-sized organisations in particular to increase their capacity and skills in influencing, advocacy and campaigning. A certificate program in campaigning has also been introduced (National Council for Voluntary Organisations, 2008a).

The Campaigning Effectiveness Program advocates on behalf of voluntary organisations to influence the various legal and regulatory mechanisms that govern campaigning. The Campaigning Effectiveness Programme has recently been selected to lead the National Support Service (NSS) for Campaigning and Advocacy. Working with a range of partners across the sector, Campaigning Effectiveness will receive funding from the Government, through Capacitybuilders, to provide additional support in enhancing effectiveness and impact to infrastructure organisations until 2011 (National Council for Voluntary Organisations, 2008a).

This program, part of the National Council for Voluntary Organizations' vision for the future, reflects their belief that voluntary organizations have the right to campaign; and the importance of an independent and effective voluntary sector (National Council for Voluntary Organisations, 2005b 2008a).

It is too early to determine the broad societal impact these changes will have, but they have been well received by the voluntary sector and clearly establish the architecture for an engaged civil society. What is clear is that the value of investing in voluntary sector infrastructure to increase its capacity has been accepted by the central government.

Campaigning in Canada

While the regulations governing permissible political activities by charities in Canada are more restrictive than in the UK, the lack of infrastructure support is even more telling. Most charities in Canada remain painfully ignorant of their opportunities to engage in political activities. Surveys conducted by the Charities Directorate confirm that most charities self-censor themselves or believe that they are still not allowed to engage in *any* form of political activity. This is the case even while there is general public acceptance for charities to advocate for what they feel is a public good (Ipsos-Reid, 2006).

This reluctance to advocate is deep seeded and can be connected to a dominant government funding regime, but it is also a symptom of the informal voluntary sector regime type. Under this type of informal regime, individual voluntary organizations feel more isolated than connected, and more vulnerable than supported. There is no central support system in Canada to either educate or to mediate for charities in the arena of political activity. Until this circumstance changes, fear of political engagement will be the norm.

Findings and Analysis

The Voluntary Sector Accord in Canada was only afforded the policy priorities government departments chose to give it; political interest in the Accord quickly

dissipated; and Accord, and long before this point in time departments had moved implementation surveys only lasted two years (Elson, 2006). After five years the Voluntary Sector Initiative was terminated on other policy priorities. Notwithstanding changes which have taken place within the Charities Directorate, a partnership with government departments may have been important to the sector, but to most government departments, the Voluntary Sector Initiative was peripheral to other policy priorities (Phillips, 2001b). Since the election of the minority Conservative government in 2006, any form of overt advocacy, research or policy analysis has been shunned by policy makers and the goal has been extensive funding cuts (Department of Finance Canada, 2006).

The informal regime type, which characterized voluntary sector representation during the Voluntary Sector Initiative, continued with its successor, the Voluntary Sector Forum. This meant that there was no concerted or collective movement to resist the funding cuts which the voluntary sector experienced in October, 2006 (Levy-Ajzenkopf, 2006). Umbrella voluntary sector organizations in Canada have worked hard to maintain a relationship with the federal government, but no apex organization has systematically and collectively provided a voice for voluntary organizations throughout Canada. More often than not voluntary sector organizations are isolated from mainstream policy processes. At no time has responsibility for a voluntary sector policy agenda rested in one federal department or Minister.

The institutional regime differences between the representative voices for the voluntary sector in Canada and the UK are evident in the eventual demise of the Coalition of National Voluntary Organizations in Canada and the corresponding growth

of the National Council for Voluntary Organizations in the UK (see Table 11). In Canada, the dominant focus by lead organizations representing the sector during the Voluntary Sector Initiative was on relationship building to the detriment of representing and defending the core issues facing the sector at the time (e.g., definition of charity, advocacy regulations and funding).

In the UK, the voluntary sector, with the lead of the National Council for Voluntary Organizations, built a formal representational and reporting process (e.g., the Government Relations Working Group) to ensure that the voluntary sector was both well informed and represented. Weaknesses, such as the representation of Black and Ethnic Minorities, were explicitly acknowledged and later addressed within the representational regime which had been established (Phillips, 2003a; Stowe, 1998).

The Government Relations Working Group transitioned itself into the Compact Working Group upon the signing of the Compact and continuity was maintained, as was the pressure to implement the Compact, and to develop and monitor the five Codes of Good Practice. The most recent transformation of the Compact Working Group to Compact Voice reflects its ongoing representational role. The Compact continues to provide a focused, clear and continuing sense of purpose and direction for both the government and the voluntary sector.

Table 11***Institutional Regime Type: UK Compact/Canadian Accord***

Case	Regime Features	Regime Type
Government Relations Working Group (UK)		
Collective representation strong throughout and beyond the negotiation process	Established and sanctioned representational and reporting protocol which is transferable across time and issues.	Formal
Voluntary Sector Roundtable (Canada)		
Collective representation weak throughout and beyond the negotiation process	Transitory representational and reporting protocol which is non- transferable across time and issues.	Non-formal

Conclusion

It is the formal representational and reporting style of the voluntary sector and the National Council for Voluntary Organizations in policy and legislative initiatives which are central to voluntary sector's status as a formal regime type. This formality is reflected in the consistent fashion by which the National Council for Voluntary Organizations draft and sector coalitions prepare preliminary observations using experts in the field; create opportunities for extensive field consultation; articulate the position of the field with a collective voice; and support the field to adapt and grow as new policies are approved and implemented. I have used the initiatives to change the charity law and campaigning regulations to illustrate this regime type.

The time between the election of Tony Blair as leader of the Labour Party in 1994 and the signing of the Compact in 1998 represents a critical juncture in voluntary

sector/government relations in the UK. The institutional regime change took place not by institutional layering, but by institutional conversion. This conversion was accomplished by using existing governance structures such as the Home Office, and later the Cabinet Office through the Office of the Third Sector, to institutionalize the priority of the Compact and the voluntary sector as a policy partner (Thelen, 2003). Tony Blair could have established an open market for public service delivery, providing no particular advantage or support for voluntary organizations. This is a route which has been taken in other countries, including the US and Canada. The choice by Blair and the Labour Party to create a central role for the voluntary sector when other options existed reinforce this change as a critical juncture (Capoccia & Kelemen, 2007).

It was the distinctive combination of community-centred service delivery, civic engagement and collective voluntary sector capacity articulated in the Deakin Report which brought the Labour Party and the voluntary sector together; but it was the Compact which institutionalized this partnership.

The process of negotiating and signing the Compact enabled the voluntary sector and the National Council for Voluntary Organizations to formally create a representative voice for the voluntary sector. This voice, the Compact Working Group, created continuity in representation and reporting as progressive targets for Compact implementation were established, monitored, and implemented (Etherington, 2000).

The process and design in Canada leading to the Voluntary Sector Initiative and signing of the Voluntary Sector Accord was initiated with a similar consultation document, the Broadbent Report (Panel on Accountability and Governance in the Voluntary Sector, 1998). The Voluntary Sector Roundtable in Canada, like the UK

Working Group on Government Relations, was a relatively small, but influential group of national voluntary organizations (Joint Tables, 1999). Together with government representatives, the Voluntary Sector Roundtable created a Joint table and formulated many of the policy positions which formed the basis of the Voluntary Sector Initiative and the Accord (Phillips, 2004).

The key difference in the direction of the two voluntary sectors came when the Voluntary Sector Roundtable in Canada decided to expand its representation to be seen as more legitimately 'representative' in the eyes of the government while its equivalent in the UK, the Working Group on Government Relations held its more formal representative structure and referred to a broader representational group.

The decision to expand representation by the Voluntary Sector Roundtable diluted existing policy expertise and resources, distanced voluntary sector leaders from politicians, and eliminated any opportunity to build a Pan-Canadian institutional presence. The Accord negotiations then became more focused on projects than policy; more ambitious than politically practical; and more individually inclusive than collectively representative.

In the UK, the voluntary sector in general, and the National Council for Voluntary Organizations in particular, have created a partnership with government in which engagement is communication, not conflict; differences call for dialogue, not rhetoric; and expectations are measured and met, not left behind as empty promises. The investment in voluntary sector infrastructure, such as the interconnected hubs of expertise and training for voluntary organizations provided through Capacitybuilders and

Futurebuilders, at the national, regional and local level has reached almost £1 billion [\$2 billion CDN] since the first Cross Cutting Review in 2002 (HM Treasury, 2008).

During this time the Active Communities Unit expanded within the Home Office and is now incorporated within the Office of the Third Sector in the Cabinet Office, at the very centre of government. Alun Michael was the first Minister responsible for the Voluntary Sector, a post which has been continually filled. This position provides a central political point of access for the voluntary sector and is currently occupied by Phil Hope as Minister for the Third Sector. This on-going political access is in addition to Compact Voice meetings and the annual Report to Parliament on the Compact.

There are still substantial challenges which lay ahead, particularly in relation to support for Local Compacts in the 388 Local Authorities across the UK. Not everyone is convinced that this partnership with government will come without a price, namely the degree of independence which is seen as vital to both voluntary organizations and Local Authorities (National Council for Voluntary Organisations, 2004b).

This research has shown that the formal institutional regime type developed by the voluntary sector, with the capacity to legitimately engage and represent their constituency, has succeeded in moving forward an ambitious policy agenda of its own creation. Maintaining a balance between partnership and independence is a creative tension which will benefit the long-term interests of the voluntary sector.

Chapter Six

Discussion and Conclusion

Introduction

This chapter will discuss the theoretical and policy implications of this historical institutional analysis of voluntary sector/government relations in Canada and the UK. In the theoretical segment I will set out a proposition that frames the relative influence of government and voluntary sector regime types during critical junctures on policy outcomes. From a policy perspective, this research has shown that a non-formal regime type has consistently characterized the voluntary sector representation in Canada. This non-formal regime type has marginalized Canada's voluntary sector's influence on policy outcomes and has weakened rather than added to its collective strength and impact on Canadian Society. Historical institutional research informs this relationship by providing a framework to analyze both the historical and institutional influence of earlier development on contemporary voluntary sector/government relations. I conclude by addressing the implications of this research for the future of voluntary sector/government relations in Canada.

Summary of Findings

The first question this research sought to address was the identification of critical junctures that have led to the relational, regulatory, and financing policy issues which currently exist between the voluntary sector and government in Canada. Historical institutionalism was used to identify and trace the historical origins of these contemporary issues to specific critical junctures. Three critical junctures in Canada were identified and analyzed: 1) the 1930 Amendment to the *Income War Tax Act*; 2)

regulatory changes in permissible political activity that took place in 1987 and 2003; and 3) the change from citizen-based project funding to service-based contract funding between 1994 and 1998.

The second question this research addressed was the influence of regime type on policy outcomes during each of these three critical junctures. In addition, a comparative case analysis was conducted with the UK. In the mid 1990s, the voluntary sector in the UK faced many of the same issues as the voluntary sector in Canada. Yet the voluntary sector in the UK has achieved very different policy outcomes. This case comparison was conducted to determine the extent to which these different policy outcomes could have been influenced by differences in voluntary sector representational regime type.

Historical institutionalism acknowledges that history, critical junctures, and positive returns provide evidence when analyzing *why* [italics inserted] institutional policy change occurs (Pierson, 2000a; Streeck & Thelen, 2005). These critical junctures, identified through process tracing, identified: 1) the critical juncture time sequence; 2) the existence of alternative policy options or contingencies; and 3) the positive reinforcement mechanisms for the policy option which was adopted. The relatively short time during which these viable policy options exist and the relatively long sequence of positive reinforcement is key to identifying a critical juncture (Capoccia & Kelemen, 2007).

In case one, the 1930 Income War Tax Amendment involved an intense debate which took place over 28 days in May, 1930. A number of policy options were strongly debated; including adopting American regulations for charities, before a tax statute based on Common Law and the 1891 *Pemsel Case* was adopted. The new regulations concerning charities were then layered on top of the on-going responsibilities of regional

federal tax authorities. My analysis of the relative formality of the two regimes during this critical juncture showed that both the government and the voluntary sector were operating as non-formal regime types.

Discussion on the *1930 Income War Tax Amendment* took place in open committee debates in the House of Commons. There was no evidence presented during the debate that would reflect evidence of a clear and complete policy position on the part of the government or opposition parties. Rather, the implications and alternatives emerged over the course of the month-long debate. At no time did any formal external consultation take place with outside parties. Interest in the debate was reflected in the large volume of letters received by members of parliament. This letter writing campaign included many organizations who were members of the Canadian Council on Family and Child Welfare as well as the influential C. L. Burton who was not only President of the Robert Simpson Company but also a member of the Council's Governing Council.

The non-formal nature of both debates in the House of Commons and sector representation continued as the Act was further amended in the mid 1930s to include gifts of goods and property, as well as money. The widespread support throughout the voluntary sector, to make the definition of charity as inclusive as possible, positively influenced the debate within the House of Commons and the decision to pass the *1930 Amendment to the Income War Tax Act*.

The year-to-year institutional reinforcement took place through the thousands of individuals, and later companies, who claimed tax deductions. It was more than forty years before any change in allowable deductions took place and another twenty years

before a significant shift to fifty and then seventy-five percent limit on deductions was allowed.

Throughout this entire period the common law basis of charity has held fast and the federal government maintained its resistance to either separate charity regulations from the Income Tax Act or modify the definition of charity. There continues to be a premium on the designation as a charity, which is due as much to the public benefits charities provide as to the private tax benefits their donors enjoy.

In case two, the release of *Information Circular 87-1* in 1987 was the point at which permissible political activities by registered charities started to shift from a punitive to a permissive regulation. *Information Circular 87-1* extended both the type and amount of permissible political activity. Pressure had been applied by the voluntary sector and the opposition political parties to have these regulations changed since 1978 when *Information Circular 78-3* was released by the Liberal government. While the Liberals were reluctant to extend the regulations for permissible political activity, the opposition Conservatives saw it as a reflection of their populist roots and as an opportunity to support voluntary [non-government] action at a community level.

When the Conservative government under Brian Mulroney came into power, a more positive climate for permissible political activity by charities ensued. The result was the release of *Information Circular 87-1*, which did extend the regulations on political activities, but it also restricted the charitable resources which could be allocated to such a purpose to ten percent. Permissible political activity by charities in Canada was expanded further with the release of *Political Activities CPS-022* in 2003. This latest iteration had its foundation in *Information Circular 87-1* and was institutionally layered onto existing

regulations enforced by the Charities Directorate. These regulations have been reinforced, primarily through reactive enforcement measures and special monitoring of activities during elections. Interviews with both government and voluntary sector leaders are consistent in concluding that the current regulations permitted by existing legislation have reached their limit.

Throughout the period from 1978 to 1987 continuing through 2003, the voluntary sector in Canada maintained a non-formal regime type. The consensus and optional opting-in style of governance of the Coalition of National Voluntary Organizations prevented support for one campaign (e.g., tax incentives) being translated into equal support for other policy initiatives (e.g., permissible political activities). While an average of one hundred organizations were member the Coalition of National Voluntary Organizations, only a fraction of these organizations actively participated in policy advocacy for the Coalition. Further, a position taken by the Coalition of National Voluntary Organizations would not necessarily be embraced by other major national umbrella organizations, with the result that the government received either a mixed or diluted message.

At the same time the government was becoming leery of voluntary organizations, particularly when they advocated for policy positions in opposition to government policy. The underlying resentment by politicians that tax money could be used to criticize government consistently overruled support for citizen participation. This government position was consistently reinforced through both changes and cuts in program funding; a general discrediting of the voluntary organizations as representative of 'special interests'; and the marginalization of the role of representative organizations in policy dialogue.

While few opportunities for formal policy consultation took place over the period before or following the release of *Information Circular 87-1*, the Voluntary Sector Initiative provides a contemporary example of formal and non-formal regime types. Within government the representation and reporting protocols remained formal, operating for the most part within parameters prescribed by the Department of Finance. Within the voluntary sector, representatives to the Regulatory Table struggled to put advocacy on the policy agenda with no discernable impact. While consultations with the broader voluntary sector across Canada took place during the Voluntary Sector Initiative, no mechanism was created to formalize this input or to bridge input from one consultation to another.

The Joint Table process of the Voluntary Sector Initiative matched the non-formal collective voice of the sector. The amount of attention the issue of permissible political activity garnered through the Voluntary Sector Initiative and complementary advocacy work by the Canadian Centre for Philanthropy and IMPACS, did have some residual benefit. A Code of Good Practice on Policy Dialogue was published and the Canada Revenue Agency worked to extend the regulations for permissible political activities. However, the lack of an established and sanctioned representational and reporting protocol grounded in the broader voluntary sector diluted both the policy outcome and available reinforcement mechanisms.

Political Activities CPS-022, released by the Charities Directorate of the Canada Revenue Agency in 2003, is a further institutional layering of permissible political activities in both regulatory and fiscal terms. Permissible political activities are now broader and charities with annual revenues of less than \$200,000 are permitted to allocate a higher proportion of their resources to political activities. These changes could be of

significant benefit to charities if they chose to use their new found freedom to engage in concerted advocacy activities.

The statutory definition of charity and regulations concerning permissible political activities has, from the perspective of interviewees from both government and the voluntary sector, reached its limit in the absence of major statutory reforms. If the voluntary sector continues to operate as a non-formal regime type, it is likely that any future policy changes would be defined by and for the government, not the voluntary sector.

In case three, the Paul Martin's three-year Program Review effectively orchestrated an institutional conversion which 1) changed the social policy framework in Canada; 2) introduced spending regulations by departments which curtailed overspending; and 3) centralized fiscal and social policy control in the Department of Finance. There were policy options. The Canadian Centre for Policy Alternatives presented an annual alternative budget, showing how fiscal targets could be reached without the program spending cuts Martin proposed (Canadian Centre for Policy Alternatives & CHOICES: A Consortium for Social Justice, 1995 1996 1998). Subsequent economic improvements and changes in governments and their leaders have done little to change the negative impact of internal staffing reductions; the culture of short-term under-funded contracts; and excessive accountability and regulatory mechanisms which were introduced by Martin in 1994-95 (Dutil, 2006).

The non-formal institutional regime, which existed in the voluntary sector throughout the Program Review period, was reflected in the action of the Coalition of National Voluntary Organizations. The Coalition of National Voluntary Organizations

was conflicted between mounting an advocacy campaign against the cuts and holding on with the hope that the cuts would not be as dramatic as expected. The Coalition of National Voluntary Organizations chose the latter and was swept up in the cuts along with hundreds of other organizations. There was little the voluntary sector could do to prevent the cuts *per se*; but there were also no steps taken at the time to demonstrate *how* the funding was being administered was equally damaging, if not more so, to the size of the cuts themselves.

This disconnection between policy positions taken by the national umbrella organizations and the reality facing community organizations on a day-to-day basis appears to continue. Community organizations who participated in the Voluntary Sector Initiative were secondary to the core national organizations and voluntary sector co-chairs, who were operating within a policy agenda which had already been established by the Voluntary Sector Roundtable and the Broadbent Panel. Interviews conducted for this research with community organizations confirmed the marginalization of community organizations by these large national umbrella organizations.

The funding regime within government is one of the most regulation bound processes within government. Reports of the Auditor General and media coverage of the perception of fiscal mismanagement eliminated the flexibility and risk management practices which had been in place. Combined with a significantly reduced civil service, funding processes slowed down and became even more rule-bound. The success of the Department of Finance in reducing the fiscal deficit in the 1990s consolidated their political power and centralized fiscal-as-social policy. The centralized and formal reporting protocols in the Department of Finance were evident during the Voluntary

Sector Initiative. Interviewees made it clear that any facet of fiscal policy was the singular prerogative of the Department of Finance and fiscal policy negotiations were not an option, even among other departments.

This resulted in separate and independent groups of government and voluntary sector representatives who examined a number of funding issues, but no bilateral dialogue took place. At the time there was a lack of concrete evidence of the impact of the funding regime on voluntary sector organizations, a weakness that was exacerbated by the voluntary sector's transitory reporting and representational protocol. A lack of fiscal policy expertise within the voluntary sector may have affected the process, but the non-formal voluntary sector regime type which prevailed throughout the Voluntary Sector Initiative meant that there would be few political consequences for the government if they refused to negotiate. In fact, the willingness of the government to collaborate with the voluntary sector to the extent that it did was based on an understanding that there would be no political fallout or long-term financial commitment to the sector (Good, 2003).

Since the Program Review took place, more than ten years of reports have continued to chronicle the impact of contract funding at a federal, provincial/territorial and local level (Eakin, 2001 2005; Eakin et al., 2007; K. Scott, 2003). The picture has not changed and contract funding policies continue to have widespread implications for not only the day-to-day operations of voluntary organizations but also their capacity to retain and recruit staff and volunteers and plan for the future (M. H. Hall et al., 2005; Statistics Canada, 2005). At a sector-wide level, the divergence between large service-focused

organizations and small and medium community organizations who may be both advocacy and service-based continues to grow (Statistics Canada, 2005 2007).

Because representational and reporting protocols within the voluntary sector remains transitory, and the results of one policy analysis or consultation are not readily transferred to another, the voluntary sector continues to be at a comparative disadvantage to governments who operate within a more formal regime.

In the fourth case, the contemporary status of the three Canadian cases and their respective voluntary sector/government policy issues were compared to how the same issues have developed in the UK. The UK critical juncture started with the election of Tony Blair as leader of the Labour Party in 1994, and culminated with the signing of the Compact in 1998. The Labour Party could have built on their existing commitment to public delivery and defined a minor role for public private partnerships and the voluntary sector. Instead the Labour Party saw the voluntary sector as both a significant provider of public services in communities and a catalyst for social inclusion and civic engagement.

A key difference between Canada and the UK is that in the UK the government was undergoing a critical juncture in social policy reform at the same time as the voluntary sector was formulating and formalizing its own representative regime. The voluntary sector deliberately marshalled its research and policy analysis capacity through the Commission on the Future of the Voluntary Sector (The Deakin Report) and the Working Group on Government Relations, both heavily supported by the National Council for Voluntary Organizations. Throughout this process a formal representational and reporting protocol was established which was used to identify and propose the terms of the Compact. This formal representational and reporting protocol was transferred to

subsequent policy discussions on the Charity Act reform, the definition of permissible political activities, and the five codes of good practice. This voluntary sector change was institutionalized through institutional displacement, that is, through the rediscovery and activation of latent institutional resources, namely, the National Council for Voluntary Organizations and associated national apex umbrella organizations, with links to community organizations across the UK. The Labour government layered its voluntary sector policy onto existing institutions, initially the Home Office and more recently the Cabinet Office (Streeck & Thelen, 2005).

The formal regime type developed by the voluntary sector in the UK, led by the National Council for Voluntary Organizations, influenced the means by which the sector could establish, present, and reinforce its own voluntary sector policy regime. This policy regime was articulated in the Deakin Report and convinced the Labour government that this direction was compatible with their own policy goals. The institutionalization of the voluntary sector has been tested throughout the ten-year implementation of the Compact. The National Coalition for Voluntary Organizations and Compact Voice have continued to represent the collective position of the voluntary sector, even as the Compact has expanded and become more complex. *Charity Law 2006* has moved into its implementation phase; campaigning by charities is virtually unrestricted; and permissible political activity has been extended (Charity Commission, 2008a 2008b; Compact Voice, 2007).

Theoretical Implications

Capoccia and Kelemen (2007) point to power asymmetries as one conceptual shortcoming in the current critical junctures framework. Building upon Capoccia and

Kelemen (2007), this research directly addresses this shortcoming by demonstrating that institutional regime type has an influence on policy outcomes during a critical juncture.

Senior levels of government most often represent a formal institutional regime type with long-established norms of behaviour, veto points and hierarchical protocols (Phillips & Levasseur, 2005). Voluntary sector representation in Canada has been non-formal with an inconsistent representational and reporting protocol and a limited policy and research capacity (Phillips, 2004; Thayer Scott, 1992). Consequently, voluntary sector policy benefits have been minor in relationship to the size and capacity of the sector. The voluntary sector in the UK has dramatically increased both its institutional formality and its productive policy outcomes in the area of regulation of campaigning and political activity, political credibility and influence, and long-term funding protocols (see Table 12).

In Table 12, I present the regime types which have been identified in this research. This regime typology only refers to the structure of collective representation for the government and the voluntary sector over the course of a critical juncture and does not reflect or indicate the behaviour of individual representatives at particular moments in that process.

In case one, the 1930 amendment to the *Income War Tax Act* both the government and the voluntary sector have both been identified as non-formal regime types with nominal institutional asymmetry because neither regime had a formal policy position or resolution process which took place outside the open debates in the House of Commons. In case two, the federal government's policy position on political activity was formally controlled by The Canada Revenue Agency whereas the voluntary sector was represented

by the non-formal Coalition of National Voluntary Organizations. The voluntary sector operated under the same non-formal regime type in case three, when Paul Martin conducted his Program Review from 1994 through 1996 and social and fiscal policy was centrally controlled in the Ministry of Finance. The bilateral negotiation between the voluntary sector and the central government in the UK in case four is one example of policy negotiations between two formal regime types.

Table 12

Institutional Regime Type and Cases

Regime Type	Regime Features	Case Examples
Formal	Established and sanctioned representational and reporting protocols which are transferable across time and issues.	<p>Case 2 (Advocacy): Government representation to sanctions on political activities (1987)</p> <p>Case 3 (Funding): Government representation to the Voluntary Sector Initiative (2000-2005)</p> <p>Case 4 (Compact): Government Relations Working Group (UK) (1996-1998)</p> <p>Case 4 (Compact): Ministerial Working Group (UK) (1996-1998)</p>
Non-formal	Transitory representational and reporting protocols which are not transferable across time and issues	<p>Case 1 (Charity regulation): Representation to amendment to Income War Tax Act (1930)</p> <p>Case 1(Charity regulation): Government policy on amendment to Income War Tax Act (1930)</p> <p>Case 2(Advocacy): Voluntary Sector representation to sanctions on political activities (1987)</p> <p>Case 3 (Funding): Voluntary Sector representation to Voluntary Sector Initiative (1996-2003)</p>

Institutional Regime Type

Based on the three Canadian case studies and the comparative case in the UK, I propose that during a critical juncture institutional regime type will have an influence on the policy outcome. The greater the degree of difference in institutional regime type between the participants in a negotiating process, the greater the disparity between the policy desired by the less formal of the two regime types. The term policy outcome is used because the impact of institutional asymmetry extends beyond policy formulation and adoption to include longer-term policy implementation and revision (Sabatier & Jenkins-Smith, 1999). The strength or weakness of the policy outcome reflects the degree to which the policy outcome is consistently politically and financially reinforced.

Regime types are defined in this proposed framework as formal, non-formal, and informal. The degree of formality is a reflection of third party public scrutiny, accountability measures, and established formal norms of behaviour with collectively enforced sanctions (Streeck & Thelen, 2005). This relationship is detailed in Table 1 and in Table 12 (above) where the regime type in each of the four cases studies in this research has been presented as examples of either formal or non-formal regime types.

This proposed institutional regime type framework assumes a bilateral policy dynamic, as was found in the four cases in this research. The formal regime type has established and sanctioned representational and reporting protocols which are transferable across time and issues; the non-formal regime type has transitory representational and reporting protocols which are not transferable across time and issues; and the informal regime type has ad hoc representational and reporting protocols which are not transferable across time and issues. Whether the proposed changes are

ultimately beneficial to society can only be determined through further analysis when the policy consequences have been revealed. The influence of institutional regime type during the critical junctures examined in this research can be summarized as follows:

- In a critical juncture, when the government operates with a formal representational regime type and the voluntary sector operates with a non-formal regime type, the voluntary sector will have a weaker influence on policy outcomes and policy reinforcement than when it operates with a formal representational regime type.

I have described the NCVO and the Government Relations Working Group as a formal regime type when it engaged in its negotiations with the Labour government with the result that the voluntary sector had a strong influence on the policy outcomes and reinforcement. In Canada, the Voluntary Sector Roundtable and the Voluntary Sector Initiative non-formal representational regime type resulted in weak policy outcomes for desired changes in funding regulations, advocacy limits, and the definition of charity and weak reinforcement for the policy outcomes which did occur.

Clearly further research at both a domestic and international comparative level will be necessary to further test and refine this proposed institutional regime framework. Further examination of critical junctures in voluntary sector/government relations is required as is an analysis of institutional regime types during these critical junctures.

Limitations and Future Research Directions

This initial research shows that institutional history and regime type contribute to a new understanding of voluntary sector/government relations, and that regime type and policy outcome may be related. I have addressed the specific implications of this research

for contemporary and future voluntary sector/government relations in Canada. I have also proposed an institutional regime framework which reflects the relationship between regime type and policy outcomes in the four cases analyzed in this research.

Further case studies in other domestic or international jurisdictions are needed to test this framework and expose its limitations; refine its typology and measurement; and expand the analysis of voluntary sector/government critical junctures, regime types, and policy outcomes.

Policy Implications

This research has shown that in circumstances where a critical juncture takes place in voluntary sector/government relations, institutional regime type can have an impact on policy outcomes. The voluntary sector may be better served by a more formal institutional regime type when engaged in formal policy dialogue with governments. The non-formal regime type which dominates the Canadian voluntary sector has, for example, hindered the ability of the voluntary sector to translate general public support for common cause advocacy into policy changes (Ipsos-Reid, 2006). To summarize the view of an interviewee within a central government agency, “we see very little evidence of [voluntary sector] engagement in permissible political activities. When we do hear from organizations, their concerns are often very particular and not germane to our policy making process.”

At a national level I have made the case that a more formal representation regime type for the voluntary sector would be beneficial to its relationship with the federal government. However, as demonstrated by the National Council for Voluntary Organizations in the UK, this institutional regime must be broad, consistent, legitimate,

linked to national as well as community organizations. This formal regime type would require a consistent investment in increasing the depth of stakeholder participation and greater continuity of representation and reporting across policy arenas. This increased regime formality would need to be underpinned by policy research, deep stakeholder consultation processes, and a strong political and media presence. This will take time, dedication, foresight, and financial and human resources. What this research has demonstrated is that there is a way, over time, to systematically identify, articulate and achieve policy goals which are driven from within the voluntary sector for the benefit of the sector and a more equitable and just Canadian society.

Conclusion

This research has been driven by my passion to understand and contribute to the nature of voluntary sector/government relations in Canada. Historical institutionalism has provided a useful research framework to acknowledge the influence that history and institutions have played in the status of contemporary voluntary sector/government statutory, policy, and funding relations. Yet this is only a beginning.

The proposed institutional regime framework I have outlined is a consequence of applying historical institutionalism as a research framework to analyze three critical junctures in voluntary sector/government relations in Canada and one in the UK. The four critical junctures concerned the definition and regulation of charity; limitations placed on permissible political activities; funding policies; and relational policies. These policy changes were analyzed in the context of 1) the 1930 Amendment to the *Income War Tax Act*; 2) *Information Circular 78-3, 87-1* and *Political Activities CPS-022*; 3) Paul Martin's Program Review between 1994 and 1997; and 4) the signing of the Compact in

the UK in 1998. The contemporary comparison with the UK demonstrated how two voluntary sectors facing similar challenges responded in two very different ways in seeking to negotiate a relational framework, proposing changes in charity law and changes to advocacy regulations, and in improving funding relations.

In the UK a formal regime type with sector-wide representational and reporting protocols was established with the development of the Compact and continues with Compact Voice. In Canada, the voluntary sector's non-formal representational regime type has re-defined its representation and reporting protocol for each new policy issue, and its policy influence has diminished over time. It is time that the non-formal regime which characterizes the voluntary sector in Canada starts to change and it is my hope that in some meaningful way this research will make a contribution to this much needed institutional change.

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Appendix A

Interview Protocol

The interviews were conducted over a three-stage process. First, interviewees were contacted by phone or internet with a short script/letter of invitation (letter one). Second, subject to their expression of interest, a second letter was sent, outlining the purpose of the interview, time requested, general subject area, and sample questions. Upon agreement to be interviewed, an informed consent form was sent to the interviewee and it was signed and returned prior to the interview.

At the beginning of the interview, the time available for the interview was confirmed and permission to audiotape the interview was requested. The interview was semi-structured, with a prepared list of questions (see Interview Protocol). However, several interviewees provided valuable insights which went beyond the prepared questions and made some of them superfluous. All individuals and organizations contacted agreed to participate in the interview process and considerable interest in the nature of the research was expressed.

Following the interview, notes were made noting the key points made by the interviewee and the audiotapes were safely stored. On one occasion additional information following the interview was requested, and received, from an interviewee. Below are samples of the initial informal invitation to participate (letter one); the formal invitation to participate (letter two); the Informed Consent Form (letter three); and the Interview Protocol.

Letter One- Script/Invitation

(On OISE/UT Letterhead)

Potential Interviewee

Dear Interviewee,

I am currently a PhD Candidate at OISE at the University of Toronto and am in the process of conducting my thesis research. My research focuses on the nature of voluntary sector/ government relations in Canada.

I would like to invite you to participate in my research by allowing me to interview you for not more than thirty minutes. You do not need to agree to participate at this time and your participation will be anonymous. I will send you information concerning the research project, including a consent form, and contact information for my supervisor for your review. I will follow up after you have a chance to think about this.

The purpose of my PhD thesis research project is to understand the nature of voluntary sector/government relations during important historical events, and the impact of those events on contemporary voluntary sector-government relations. I am particularly interested in the influence of organizational formality on those relationships and subsequent policy outcomes.

In this context, I am conducting interviews with key leaders in the voluntary and public sector in Canada who played an instrumental role in, or who were privy to information, regarding the Voluntary Sector Initiative in general and the Joint Regulatory Table in particular. This is one of three important events in the history of voluntary sector-government relations in Canada which I am investigating.

I am interested in your insights into the Joint Regulatory Table and your observations leading to, during, and following the Voluntary Sector Initiative from your perspective. Your participation will support my exploration of voluntary sector/government relations, and when combined with other interviews, will help to verify and complement my analysis.

Would you be interested in participating? I would be glad to answer any questions you may have about this research, either now or after you have received the additional information I will send you.

Thank you.

Peter R. Elson
167 Garden Avenue
Toronto, Ontario
M6R 1H8
Phone: 416-588-1195
Email: peter.elson@utoronto.ca

Letter Two - Invitation

(On OISE/UT letterhead)

I am currently a PhD Candidate at OISE at the University of Toronto. My thesis research focuses on the nature of voluntary sector/ government relations in Canada, but I am comparing these developments with events in the UK since 1994.

I would like to invite you to participate in my research by allowing me to interview you for not more than thirty minutes (by telephone). You do not need to agree to participate at this time and your participation will be anonymous. I will send you information concerning the research project, including a consent form, and contact information for my supervisor for your review. I will follow up after you have a chance to think about this.

The purpose of my PhD thesis research project is to understand the nature of voluntary sector/government relations during important historical events, and the impact of those events on contemporary voluntary sector-government relations. I am particularly interested in the influence of organizational formality on those relationships and subsequent policy outcomes

Specifically, I am conducting selected interviews with leaders in the voluntary and public sectors in Canada and England who played an instrumental role in, or were privy to, events of importance to voluntary sector/government relations. Through these interviews I hope to verify and complement my understanding of how formal or informal the institutional regime type of the collective voluntary sector representation was at the time of these policy deliberations.

Examples of questions which I plan to pose during our interview include:

- a. How would you describe the nature of voluntary sector representation to the Charity Commission during your tenure?
- b. To what extent has Compact Voice acted as an advocate for changes in the Charity Commission
- c. What do you see as the key strategic policy issues facing the Charity Commission with respect to the voluntary sector?

I will use the results of my research to produce an institutional regime type framework which I hope will add to the understanding of the relationship of institutional form to policy outcomes, specifically as it related to voluntary sector-government relations in Canada.

Would you be interested in participating? I would be glad to answer any questions you may have about this research, either now or after you have received the information I will send you.

Thank you.

A handwritten signature in black ink, appearing to read 'P.R. Elson', with a long horizontal flourish extending to the right.

Peter R. Elson
167 Garden Avenue
Toronto, Ontario
M6R 1H8

Phone: 416-588-1195
Email: peter.elson@utoronto.ca

Letter Three- Informed Consent

(On OISE/UT Letterhead)

March 31, 2008

Dear Interviewee,

Thank you for taking time to consider your participation in my PhD thesis research project. I am currently a full-time PhD Candidate at the Ontario Institute for Studies in Education at the University of Toronto. My area of research is voluntary sector/government relations. My supervisor is Dr. Jack Quarter and he can be contacted at jquarter@oise.utoronto.ca or at 416-923-6641 ext 2576.

The purpose of this letter is to provide you with information about the nature of my research and the role of individual interviews within it. I also want you to be informed about the options which are available to you throughout the proposed interview process.

The nature of my research

The title of my research project is: **“A Historical Institutional Analysis of Voluntary Sector/Government Relations in Canada”**.

The purpose of my research is to understand the nature of voluntary sector/government relations and how institutional form can have an impact on those relationships and subsequent policy outcomes. The majority of the research will be comprised of literature and document analysis. My interview with you is intended to both verify and complement the historical literature and document analysis which I have undertaken concerning changes in allowable tax deductions and political activities, and funding strategies.

Specifically, I am conducting selected interviews with leaders in the voluntary and public sectors in Canada and England who played an instrumental role in, or were privy to, events of importance to voluntary sector/government relations. Through these interviews I hope to verify and complement my understanding of how formal or informal the institutional regime type of the collective voluntary sector representation was at the time of these policy deliberations.

Examples of questions which I plan to pose during our interview include:

- d. What was your relationship to the voluntary sector during the time period between 1994 and 2007?
- e. How would you characterize the representational style of voluntary sector and government representatives?
- f. To what extent, if at all, did external observers or the press review or comment on voluntary sector/government representational activities?

I will use the results of my research to produce an institutional regime type framework which I hope will add to the understanding of the relationship of institutional form to policy outcomes, specifically as it related to voluntary sector-government relations in Canada.

Participation is completely voluntary and no compensation is offered. Should you decide to participate, you are free to withdraw at any time. Any concerns about this research may be addressed to Dr Jack Quarter at 416-923-6641 ext 2576 or you may contact me at any time at 416-588-1195; Email: peter.elson@utoronto.ca.

The interview process

Your part in the research is to be interviewed for not more than about one hour at a time and place convenient to you or by telephone. You would also have an opportunity at this time to reflect on this research in general and share your thoughts with me for the purpose of achieving the goals of the research. You may choose not to answer any or all questions. Following the interview I may request that you review the transcript or summary of the interview (if prepared) in order to correct or otherwise edit or elaborate on your comments prior to its use in my research.

You may choose to participate anonymously, so that your identity would not be known except to me. Potential limitations in my ability to guarantee anonymity are that because of the relatively small community of voluntary sector-government leaders, some may be able to identify you, so anonymity is virtually impossible to guarantee.

I would like to record, transcribe, and analyze our interview. This is an option on your part. I will ask your permission prior to recording, and you may refuse or ask that the recording be stopped at any time, and I will do so. The results of the interview are intended to be used in my doctoral dissertation, published articles, or other published or unpublished works that may be made publicly available.

Your contribution will be identified and attributed if you so choose; otherwise I will not reveal your name. Unless you choose to be identified, I will refer to you by a code on all materials, and only I and my thesis supervisor will know your identity. Results will only be reported in aggregated form, not as individual responses.

The timing for the destruction of the recordings and/or the raw data is estimated to be September, 2010 or after completion of my doctoral program.

The results of the interview are intended to be used in my doctoral dissertation, published articles, or other published or unpublished works that may be made publicly available.

I will be pleased to provide you with a summary of the research results.

Risks/ Benefits

The benefits associated with participating in this interview are the opportunity to reflect on the events under consideration and to contribute to the understanding of voluntary sector/ government relations. There are no perceived risks.

Agreement

I have read through this document. I understand what is being asked and the accompanying conditions and promises. I understand the nature and limitations of the research.

I agree to participate in the ways described. If I am making any exceptions or stipulations, these are: (please check one)

I wish to remain anonymous in the research, subject to the limitations described above.

Or:

I agree to be identified in the research, including in researcher's thesis and published uses of the research, if any.

I understand that I am free to withdraw my participation at any time.

_____ (Signature)

_____ (Printed Name)

_____ (Date)

There are two copies of this letter. The information above informs you of your rights as a participant in this research. Please make a point of reading it carefully before signing one copy. The other is for your own records.

Thank you.

Sincerely,

Peter R. Elson
167 Garden Avenue
Toronto, Ontario
M6R 1H8
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Interview Protocol (cover page)

Name:

Date:

Time:

Contact information:

1. **Informed Consent Form – Sign**
2. **Permission to Tape Interview**
3. **Questions**
4. **Next Steps in research process**
5. **Thanks**

1. How long and what form has your relationship to the voluntary sector taken?

2. In general, how would you characterise voluntary sector/ government relations over the term of your experience?

3. From your perspective, was the VSI the first time sustained bilateral policy discussions took place between the voluntary sector and government, or were there other (earlier) examples which you would also consider to be significant?

4. During these policy discussions or others with which you are familiar, how would you characterize the nature of government and voluntary sector representation? (probe according to each event)

5. How would you characterize current voluntary sector/government relations?

6. What are your thoughts on the future of voluntary sector/government relations in Canada?

7. Is there anything else you would like to say about the nature of voluntary sector/government relations in Canada as you understand it?