

Social Reproduction and Canadian Federalism

BARBARA CAMERON

This chapter attempts to demonstrate that the concept of social reproduction offers important insights into the structure of the Canadian federal state and the historical and ongoing conflicts that characterize intergovernmental relations within Canada. As used by feminist political economists, the concept of social reproduction is influenced by, but differs from, that of Karl Marx. In *Capital* Marx argues, “When viewed ... as a connected whole, and as flowing on with incessant renewal, every social process of production is, at the same time, a process of reproduction” [1887, 1954 531]. From this general perspective, social reproduction encompasses, first, the maintenance and repair of the means of production (which for Marx includes nature, or what we describe today as “the environment,” as part of the instruments of production) and, second, the daily and generational recreation of the population (specifically, the labouring population). Feminist political economists use the term “social reproduction” in the second sense, to refer to the recreation of the population from one day to the next and from one generation to the next. The concept includes but goes beyond physical recreation, in the sense of both biological reproduction and the daily maintenance of the current and future generation of workers. It encompasses as well the transmission from one generation to the next of a historical legacy of skills, knowledge, and moral values. Social reproduction also includes the construction of individual and collective identities and the maintenance

across generations of cultures. The term is used in this chapter in the feminist political economy sense (Bakker 2001; Picchio 1992; Ursel 1992).

Feminist political economy sees social reproduction as existing in a contradictory relationship to production. At times, this relationship is depicted in terms of a conflict between two separate spheres, a view that mirrors the separation between the institutions of production and social reproduction in an industrial capitalist society. Instead, this chapter takes the view that production and social reproduction are two aspects of one process of capital accumulation, and the relationship between them is contradictory in the dialectical sense of a unity of opposites. On the one hand, the social reproduction of the working class is a precondition for capitalist production, ensuring a constant supply of labour with the appropriate skills and behaviours. Furthermore, consumption by working-class households is essential to the transformation of the value incorporated in goods and services into new and expanded capital that may be invested back into the ongoing process of production. On the other hand, the more of the social surplus that is devoted to social reproduction, the less there is available for the reinvestment through which capital is further increased or for personal consumption by the capitalist and associated classes. Conflict and compromises around the allocation of resources to social reproduction are central to understanding the relationship among social classes in different periods. These conflicts and compromises take place both within the sphere of production, around wages and working conditions, and at the level of the state, around regulation of the social relations of work and the family, the subsidization or replacement of the wage through income-support programs, or the provision of services to supplement or socialize household labour.

The dialectical relationship between social reproduction and production in the process of capital accumulation means that there are moments when the unity of interests predominate and others when conflict is most evident. Yet unity does not happen spontaneously. State intervention is required to mediate the relationship by containing social conflicts and attempting to reconcile the competing demands of the interdependent systems. In mediating this relationship, the state intervenes to shape and stabilize a particular system of class relationships and, within it, a gender order. The term “gender order” is used by feminist political economists to connote a set of social

relations characterized by a sexual division of labour and a gender discourse that support that division. As Brenda Cossman and Judy Fudge argue, “The order is stable to the extent that it has been institutionalized in certain key sites such as the family, the labour market and state policies. For such institutionalization to occur, there must be some fit, however temporary, fragile, and incomplete, between the processes of production and reproduction” (Cossman and Fudge 2002, 7). The relationship between social reproduction and production within the process of capital accumulation is a dynamic one, and while a particular gender order and configuration of class alliances may last for several decades, it is not permanent. In a developed capitalist society, there are constantly tendencies toward destabilization and a consequent ongoing need for state mediation. At points of crisis, the system of class alliances, the gender order, and the discourses that support each must be reconstructed, a process that involves social movements as well as the state.

The analysis in this chapter is informed by the political economy insight that political institutions reflect the balance of power – the compromises, accommodations, victories and defeats – among the social forces represented in the process of their creation, the precise shape of these institutions being mediated by the cultural traditions of their creators. Once in place, the institutions provide the framework within which subsequent struggles take place and influence their shape, favouring some interests over others. In this way, political institutions have a relative autonomy until such time as the conflicts among competing social forces become too great and the stability of the system is threatened, requiring new accommodations and occasionally leading to radical changes in political institutions. Feminist political economy situates the role of state institutions, at least in part, in terms of the contradiction inherent in the process of capital accumulation between the processes of social reproduction and production. The contradiction is visible at times of economic crises, in social dislocations of different kinds, and in the struggles of labour, women’s organizations, and other social forces around the allocation of resources to social reproduction. It is less visible in periods when a balance, however temporary, has been achieved between production and social reproduction. In analyzing social change, feminist political economy recognizes social reproduction as a terrain upon which political identities may be constructed and political mobilization may occur.

Since the late nineteenth century in Canada, the relationship between labour and capital has been central to the political conflicts and compromises arising from the contradiction between social reproduction and production. Women's organizations have often been allied with labour in demands for state intervention, with the mobilization of women taking place on the basis of their particular location in the system of production and social reproduction. But when the Canadian state was created in 1867, the overwhelming majority of the population was engaged in subsistence agriculture, and the material survival of individuals and communities was considered the responsibility of the private sphere of households or, failing that, charities. Neither labour nor women had yet emerged as influential political forces. Instead, the issue of the state's relationship to social reproduction centred on the cultural survival of a French-speaking Catholic national community in a new country whose population would inevitably be predominantly English-speaking and (it was thought) Protestant. A federal state structure was embraced as a way to reconcile the need for cultural protections for the French Canadian national minority and the requirement of the English Canadian economic elites for a central Canadian state capable of underwriting the costs of continent-wide capitalist expansion.

The central argument of this chapter is that the way that the 1867 constitution institutionalized an accommodation between capital accumulation and social reproduction, which was also a national accommodation, worked as long as social reproduction was primarily the responsibility of private or local institutions. But this original legal structure became more and more strained as the state was increasingly called upon to mediate the relationship between production and social reproduction through regulation and subsidization. With industrialization, new social forces with new political claims and identities, among them labour and women, began to take their place in struggles around social reproduction that intersected with the claims of the French national minority in complex ways. The original legal structure was stretched by means of judicial interpretation, a few constitutional amendments, and, primarily, constitutional and extra-constitutional innovations to respond to these new forces. The cumulative result of this stretching has been growing tensions between the French-speaking national minority and the English-speaking majority, reflected in conflicts between Quebec and the federal government, and the ever-increasing resort

to unaccountable intergovernmental arrangements to mediate conflicts around social reproduction.

The examination of Canadian federalism begins with an outline of the division of powers at the time of Confederation to show its contradictory basis. The chapter then traces the stretching of the original division of powers and the consequent tensions through four periods in Canada's development. Each period covers a time when the existing system of gender and class relations was destabilized and/or restabilized, more or less completely, on the basis of a reconfigured relationship between social reproduction and capitalist production. The four periods are the National Policy of 1878 to the Great Depression; the Depression and the search for stabilization strategies related to it; the Keynesian restabilization; and the turn to neo-liberalism in the second half of the 1970s. For each of the periods, the chapter examines the implications of the federal division of powers for the capacity of the Canadian state to mediate the contradictory relationship of social reproduction to contemporary projects of capitalist expansion. For the second, third, and fourth periods, it explores the ways that this contradictory relationship was reflected in constitutional conflicts between the federal and provincial governments.

DIVISION OF POWERS AT CONFEDERATION

The primary reason for the creation of a Canadian state in 1867 was to further the capital-accumulation strategy embraced by the English-speaking business interests of Montreal and Toronto after their access to British and American markets was affected by Britain's adoption of free trade in 1848 and the American rejection of it in the early 1860s. The underlying objective of Confederation was to put in place a state structure that would make possible the creation of a continent-wide economy out of scattered British colonies and across a wide expanse of prairie whose main inhabitants were Aboriginal peoples. The new Canadian state would underwrite the costs of constructing the railways, canals and roads that would link the scattered communities, bring settlers to the prairies, transport goods to markets, and spur industrial development in the already established colonies (Creighton 1940). The preference of the dominant capitalist interests was for a state structure modelled on that of Britain, with one elected legislature. However, that model was unacceptable to the political and religious elites of French Canada because it would inevitably make the

survival and development of their culture dependent on the goodwill of a legislature representing an English-speaking Protestant majority. A federal state structure was embraced as a way out of a political deadlock between the two groups. Under such a structure, matters related to economic expansion could be assigned to the central state and matters important to French culture given to a legislature controlled by an electorate that was in the majority French-speaking and Catholic.

Even though a federal structure was adopted in order to reconcile French Canada to the Confederation project, the existence of a French Canadian national minority was nowhere recognized in the British North America Act (now the Constitution Act, 1867). An accommodation of this large minority without specifically mentioning its existence was possible because those activities related to the social reproduction of French Canadian society were primarily carried out by private institutions in all the colonies that came together to create the new state. Industrialization was still in the future, and the majority of the population was engaged in pre-industrial forms of capitalist production, primarily subsistence agriculture but also manufacturing, and production was organized through gendered relations of the household or in small enterprises. Social reproduction was considered a matter for the “private sphere” of family, church, and charities and, at times, the local municipal government. In Canada East (now Quebec) the powerful Catholic Church, whose support was required for any political agreement, played the predominant role in moral regulation of the family and other relations but also in the delivery of educational and welfare services. In the English-speaking provinces the Protestant churches were also involved in moral regulation and service delivery, although they were more divided and less monolithic in their political influence. The architects of Confederation could not have imagined that one day the state would have to intervene actively to balance the demands of production and social reproduction and, eventually, to massively subsidize social reproduction. The very idea would have horrified them.

The main logic underlying the 1867 division of powers, then, was that those activities thought at the time to be essential to continent-wide economic expansion, as well as those thought to be inherently national, were assigned to the central state; those thought to be important to the survival of French Catholic culture or that were of a “merely local or private nature” were given to the provincial governments. As there were significant religious minorities (Protestant within Quebec

and Catholic elsewhere), the central government was also given responsibility for the protection of their education rights. The economic development powers assigned to the federal government in section 91 of the BNA Act 1867 included a general power over the regulation of trade and commerce and over public debt and property, banking, currency, navigation and shipping, railways, canals, all inter-provincial and international transportation, the postal system, the telegraph, inland and coastal fisheries, weights and measures, patents, and copyright. The dreams for capitalist expansion required the appropriation of Native lands in the North-West Territories, which at that time included the area that is now the provinces of Saskatchewan and Alberta. The 1867 division of powers assigned “Indians and lands reserved for Indians” to the federal government, a power that it has exercised historically to destroy the material basis for the social reproduction of Aboriginal peoples. In addition, the preamble to section 91 gave the federal Parliament the power to make “Laws for the Peace, Order, and good Government of Canada” in relation to all matters not assigned exclusively to the provinces. Immigration was made a joint (or “concurrent”) power of the two levels of government, with federal legislation having paramourncy in cases of conflict. In section 92 the provinces were given responsibility for such matters as “local works and undertakings”; hospitals, asylums, and charities; “property and civil rights”; and municipal institutions.

Of particular importance to the later development of the Canadian welfare state was the assignment to the provinces of responsibility for “property and civil rights in the province” in section 93(13). This phrase has important historical links with the recognition of the national rights of the French-speaking population of Canada (Hogg 2003, 504), having first appeared in the Quebec Act of 1774 in connection with recognition of the religious and legal traditions of the French inhabitants. There “property and civil rights” referred specifically to the “entire body of private law which governs the relationships between subject and subject, as opposed to law which governs the relationship between subject and the institutions of government” (Hogg 2003, 505). It includes relations within families as well as business and other relationships among individuals, but does not include matters we think of today as civil liberties. The 1867 constitution recognized that in private matters the inhabitants of Quebec would continue to be governed by a body of law rooted in the French civil law tradition, while the rest of the country would be governed by British common

law. Criminal law, which is considered public rather than private law, was assigned to the federal government to be in force throughout the whole country. Those economic powers that would otherwise have fallen within the scope of “property and civil rights” but which were thought to be essential to economic expansion were removed from this clause and spelled out as specific powers of the federal government (Hogg 2003, 505). An element of asymmetry was provided for in the never-used section 94, which gave the federal government the power to pass laws to harmonize matters related to “property and civil rights” in the common-law provinces, the harmonization to become effective in a province once the provincial legislature had passed legislation accepting it.

The expectation that the central Canadian state would play an active role through public works in underwriting the costs of constructing a continent-wide market was a departure from the dominant liberal conception of the role of the state at the time. Mid-nineteenth-century liberalism favoured a limited role for the state and a strict delineation of the public and private spheres, and this was certainly the perspective of the domestic agricultural and manufacturing interests, which had long criticized the close ties between business and the state of the Montreal trading interests linked to Britain. However, the British North American colonies in 1867 faced an expansionist power to the south and were not in a position to wait as the economy spread gradually across the continent, on the basis of the surplus generated out of domestic production. Capitalists centred in Toronto and Montreal agreed on the need for a central Canadian state strong enough to pursue economic expansion and to borrow the money on international markets required to underwrite the costs of building railways to link the geographically distant regions of the new country together. The expectations around the provincial state, however, were different. The conception of its role was much more in keeping with the nineteenth-century liberal view, which was that the provincial level would mainly be involved in regulating the private sphere by maintaining the legal framework for the contracts that underpinned family, business, and other relationships. The division of powers around sources of revenue reflected the different expectations about the roles of the two levels of government. The federal government was given the power to raise money “by any mode or system of taxation,” while the provinces were limited to levying direct taxes, which at that time meant primarily property taxes, for provincial purposes.

The coexistence of these two conceptions of the role of the state would have seemed natural at the time, corresponding as it did to the dual nature of the economies emerging from colonialism. The dominant section of capital had accumulated its wealth out of the export of staples or raw materials to Britain, and it continued to see its fortunes in terms of the export of staples, now timber and wheat rather than furs, to Britain. It had prospered during the colonial period under a preferential trade regime with Britain and through close ties with the colonial administration and, through these, with the British state. To see its new strategy of accumulation supported by the state, this time a new Canadian state, was not much of a leap for the capitalist elite. Historically, the manufacturing and commercial classes based in Toronto had criticized the close links between the Montreal trading interests and the state. However, the industrialization stimulated by the railways and the prospect of a continent-wide domestic market brought their interests closer to those of their erstwhile foes and created the basis for the Grand Coalition that propelled Confederation. In contrast, the overwhelming majority of the population was engaged in subsistence agriculture, where the basic economic unit was the often isolated household in which productive and property relations coincided with those of the family. The gender order was grounded in the unequal sexual division of labour within the family, which was sustained by laws governing property ownership and inheritance and by religious morality. Within the agricultural household, the formal relations of production and reproduction were patriarchal, with control of the labour of women and children and the products of their labour legally vested in the husband/father (Ursel 1992; Cohen 1988).

Marjorie Griffin Cohen has traced the links between the agricultural household and the staple-exporting economy in nineteenth-century Ontario, arguing that it was this household that produced whatever surpluses of wheat were available for export and during the winter supplied the labour for logging. In return, the household obtained the resources to purchase on the market the manufactured goods, often imported, that it was unable to provide for itself. Very importantly, it was the subsistence production of the household in which women played a central role that sustained the population during swings in external demand so characteristic of international markets for staples (Cohen 1988). In this way, the household was the primary institution for social welfare in periods of market failure at the time of Confederation.

A formula that, for the most part, assigned matters essential to economic expansion to the central government and matters related to the social reproduction of the population (with the significant exception of immigration) to the exclusive authority of the provinces made it possible to accommodate the presence of a large national minority centred in Quebec within a legal framework that assigned the same powers to each provincial government. All provinces were expected to be primarily engaged in providing the legal and institutional framework for commercial, household, and other activities regulated through private contracts or religious teachings and carried out by private institutions (businesses, the family, the church, charities). Within the framework of the French civil code enforced by the Quebec state, private institutions of Quebec society – the churches, the family, and church-run educational and charity organizations – would ensure the cultural survival (and social reproduction generally) of French Canada. If the state were to be involved at all in the provision of support, it would be at the local or municipal level. This was the case in the common-law provinces, particularly Ontario, which had a developed system of municipal institutions. The other major assumption, apart from the identification of social reproduction with the private sphere, was that the cultural survival of French Canada could be separated from control of the economy, which was expected to continue to be in the hands of the English-speaking economic elites (Ryerson 1973, 375).

The premise that social reproduction was essentially a private and local matter began to be tested in the late nineteenth and early twentieth centuries as the effects of industrialization and the extension of the wage relationship began to be felt. As the state moved beyond regulating contracts and private institutions and began inserting itself more directly into private relations – those between worker and employer, parents and children, husbands and wives – and started to deliver services associated with social reproduction, such as primary education, the neat distinction between public and private started to blur and the logic of the 1867 division of powers began to unravel. The identification of social reproduction with the private and local was definitively challenged in the 1930s with the Depression as the need for significant state subsidization of social reproduction became clear, provoking a constitutional crisis. Yet the same developments that blurred the distinction between the public and private also reinforced the importance to the French-speaking national minority of having its own legislature

with jurisdiction over matters related to social reproduction. The country's inability to disentangle cultural guarantees for French Canada from notions of what is "merely local or private" and the legal equality of the provinces has brought about an ever-deepening constitutional crisis. Mediating this crisis has been a primary preoccupation of the central Canadian state for the past seven decades. Struggles around social reproduction involving the state in Canada are inevitably caught up in the resulting constitutional morass.

THE NATIONAL POLICY TO THE GREAT DEPRESSION

The National Policy, which was adopted by the Conservative government of John A. Macdonald in 1878, inaugurated an accumulation strategy based on the development of a domestic manufacturing industry concentrated in central Canada, securing of the Prairies against the threat of American expansionism through settlement and the building of a railway to the Pacific coast, and the creation of an export-oriented wheat economy in the West. The strategy required extensive economic intervention on the part of the central Canadian state in the form of protective tariffs to keep out foreign-produced manufactured goods, massive state subsidies for railway construction, and aggressive immigration strategies to recruit from foreign lands workers for the expanding factories of Ontario and agricultural producers for the West. The rapid pace of industrial expansion and western settlement in this period destabilized the existing system of social reproduction and gave rise to new problems that strained the capacity of traditional institutions of the family, churches, private charities, and local government (Ursel 1992, 62). The disastrous effects of an unregulated wage-labour system on the health and standard of living of the working class were documented by federal investigations into industrial conditions in the 1880s (Guest 1997, 21). There was a cultural dimension to the social dislocation as well. The factory system required the creation of a disciplined working class and increasingly one with minimum levels of literacy. A new working class was being called into existence, primarily through immigration, at the same time as a new nationality was being created in the English-speaking part of the country.

The first wave of feminism in English-speaking Canada played a crucial role in bringing public attention to the effects of the unstable

relations of social reproduction and in the political mobilization that resulted in the consolidation of a new gender order, a new set of class relations, and a new sense of national identity for the English-speaking population (Bacchi 1983; Strong-Boag 1976). At the centre of this new order was the ideal of the male-breadwinner family in which the wife/mother operated within a separate but equal sphere to that of the husband/father, with a special responsibility for socializing children and upholding morality within the family and the larger society. Women's sphere was complementary to that of men and was not seen as isolated from public life. Instead, the maternal feminists recognized that the lines between the public and private spheres were no longer sharply drawn and advocated state intervention in employment and family relationships as a means to protect social reproduction. An active role for women in politics, although not necessarily through the ballot box, was justified in terms of women's alleged superior morality and the impact that politics was having on the family. The nascent labour movement, seeking better wages and working conditions through state intervention to limit competition in the labour market, welcomed an alliance with the socially influential women of the capitalist and professional classes who were the activists in the early women's movement. Jane Ursel describes the urban social reform movement as united around a "commitment to stabilizing reproductive relations" and argues that it played an important role in pushing the provincial state into a more interventionist role in regulating and subsidizing institutions of social reproduction (Ursel 1992, 68–9). At the provincial level, family laws reinforced the support obligations of the husband/father, and factory legislation prohibited the employment of children, restricted the employment of women, limited working hours, and imposed minimum safety standards (Fudge 1999). State regulation and support for charitable organizations was increased, and new organizations to regulate reproductive relations, such as the Children's Aid Societies, came into existence. Federal intervention in the employment relationship came with the Industrial Disputes Investigation Act of 1907.

In addition to intervening to regulate relations within business and the family, the state in this period made its first forays into the subsidization of social reproduction. In the late nineteenth and early twentieth century, the federal government aggressively used its immi-

gration power to bring settlers to build the agricultural economy of the West. After the First World War it became directly involved in providing rehabilitation and training for veterans and pensions for veterans and their dependents. The provincial state, too, began to directly subsidize the costs of social reproduction. With the introduction of compulsory public education, an important historical function of the family was socialized. Workmen's compensation, introduced first in Ontario in 1914, provided a state-mandated system of no-fault insurance to provide for the support of injured workers and their dependents and to protect employers from law suits. In 1916 Manitoba introduced the first mother's allowance and state subsidies for homes for the aged, and the other common-law provinces followed with similar measures. In 1927 the federal government introduced its first program subsidizing social reproduction directed at the larger population with the introduction of an old-age pension, a measure that supplemented market income by providing a means-tested benefit at the age of seventy to British subjects residing in Canada (Guest 1997, 77).

During this period, state involvement in social reproduction, except for the Old Age Security Act, did not stretch the 1867 division of powers. It was developments in the courts rather than legislatures that had the greatest long-term consequences for federal-provincial relations. As the state intervened to regulate or subsidize social reproduction in ways not foreseen in 1867, the courts were increasingly called upon to decide which level of government had responsibility for a new area of social reproduction. While the judges in Canada sometimes recognized the national dimension of matters such as labour relations, the Judicial Committee of the Privy Council in Britain (the highest court of appeal for Canada until 1949) continued to see the new responsibilities of the state in social reproduction through the prism of private contracts and private social relations. As a consequence, the courts opted to classify many new matters under the "property and civil rights" power of the provinces, rather than choosing the "trade and commerce," "peace, order, and good government," or other powers assigned in 1867 to the federal government. A casualty of this approach was a Canada-wide system of collective bargaining when the courts ruled in 1925 that the federal Industrial Disputes Investigation Act, 1907, did not apply to municipal employees or to any industries within provincial jurisdiction ([1925] A.C. 396).

THE DEPRESSION
AND THE CRISIS OF SOCIAL REPRODUCTION

The mass unemployment and widespread destitution of the 1930s destabilized the system of class relations and the gender order centred on the ideal for all social classes of the male breadwinner–dependent wife model. The crisis strained the capacity of the traditional institutions of the family, churches, private charities, municipal, and even provincial governments. As the depression deepened, it gave rise to the mobilization of the unemployed in direct confrontations with capital and the state. The increased political organization of the working class was reflected in the emergence and rapid growth of the Co-operative Commonwealth Federation, the increased membership of the Communist Party, and the expansion of industrial unions. The collapse of markets for commodities (including labour) was compounded by the problem of drought on the Canadian Prairies. There was widespread disillusionment with capitalism, experimentation with new ideologies, and a search for alternative strategies. The strategies advanced – from socialization of the means of production to Keynesian techniques for managing supply and demand in the economy – recognized the failure of unregulated capitalist markets and presupposed active intervention on the part of the state.

With the deepening economic crisis and the ineffectiveness of state repression in stopping working-class organization, important sections of the political elites began to recognize the necessity of a new kind of state intervention in labour and other markets, and liberal intellectuals started to embrace Keynesian economic theories that centred on using the state to manage the relationship between the supply of goods and services and the demand for them through government expenditures to maintain the purchasing power of the population during times of economic downturn and to finance public works projects. In the midst of the Depression and in the last year of his mandate, Conservative prime minister R.B. Bennett – known to the unemployed as “Iron Heel Bennett” – underwent something of a political deathbed conversion, and in January 1935 his government introduced into the House of Commons a package of legislative measures that amounted to Canada’s version of the American New Deal.

The “New Deal” legislation that related directly to social reproduction included the Employment and Social Insurance Act, the Minimum Wages Act, the Limitations of Hours of Work Act, and the

Weekly Rest in Industrial Undertakings Act. The first of these was directed at establishing a system of unemployment insurance and unemployment services across the country; the other three were aimed at bringing the country's practices with respect to minimum wages and hours and days of work in line with Canada's obligations under the 1928 conventions of the International Labour Organization. The legislation involved a significant expansion of the role of the central Canadian state in economic and social life, provoked controversy in Bennett's own party, and brought the federal government into conflict with the provinces, particularly Ontario and Quebec. The legislative package did not save Bennett's government, and the 1935 general election brought the Liberal Party into office. The new prime minister, William Lyon Mackenzie King, had questioned the constitutionality of the measures as leader of the opposition, and once elected, he referred the legislation to the Supreme Court of Canada for an advisory opinion on whether or not it fell within federal jurisdiction.

Drawing on precedents from the previous period, the court found that the legislation was in "pith and substance" an insurance measure and, as such, fell under the "property and civil rights" power of the province ([1937] 1 D.L.R. 684). The court was evenly split on the three pieces of legislation related to the conventions of the International Labour Organization ([1936] S.C.R. 461). However, when the Supreme Court's decision was appealed, the Judicial Committee of the Privy Council in Britain maintained that the federal government's newly acquired capacity to enter into international treaties independent of Britain did not mean it could use that power to enact legislation that would otherwise fall within provincial jurisdiction ([1937] 1 D.L.R. 673). The federal executive (Cabinet) has the authority to enter into treaties, but when legislation is required to implement the provisions of a treaty, it must be enacted by the legislature (federal or provincial) that has the responsibility for that particular matter under the constitutional division of powers. Minimum-wage and hours-of-work legislation in most industries fell to the provinces under their powers over "property and civil rights" and "matters of a merely local or private nature," and so it was up to the provinces to decide whether or not they would introduce legislation to meet the terms of the ILO conventions. The federal government could only legislate measures to conform to the conventions for those industries for which it was specifically assigned responsibility. As a consequence of this judgment, there

is a two-step process involved in Canada's commitment to international human rights treaties, such as the Convention on the Elimination of All Forms of Discrimination against Women. The federal government has the constitutional authority to sign, but the provisions of the agreements only become part of Canadian law if implemented by the legislature having jurisdiction for the matter in question, which is often at the provincial level.

The court decisions compounded the crisis of social reproduction by transforming it into a constitutional crisis. In the wake of the decisions of the Judicial Committee of the Privy Council, Prime Minister King appointed the Royal Commission on Dominion-Provincial Relations (commonly known as the Rowell-Sirois Commission) to address these interrelated crises (Canada 1940). Reporting in 1940, after the Second World War had begun, the commission outlined a comprehensive program to remove the constitutional obstacles to managing the relations between production and social reproduction. At the centre of this program was a proposal to realign federal and provincial powers so that the federal government would assume responsibility for the maintenance of the standard of living of the "employable" unemployed and the provinces would retain responsibility for the "unemployables" (Canada 1940, 128).

The commission assumed that the "unemployable" element of the population would be small, as the central Canadian state would now take responsibility to maintain high levels of employment. In the process, it would be maintaining the wage as the main way to access subsistence for the majority of the non-agricultural population. The commission advocated a program of contributory unemployment insurance with an additional program of unemployment aid, financed out of general government revenue, for those unemployed workers not covered for one reason or another by the social insurance program. Regarding other social insurance programs, the commission recommended that the federal government have responsibility for seniors and the provinces for health insurance.

The gender order underlying this proposal was founded on the male breadwinner-dependent wife and children model. The commission assumed that the husband/father would be the breadwinner and his wage would support an economically dependent wife/mother and their children. This model was similar to the male breadwinner-dependent wife ideal of the earlier period, with the difference that the commission envisaged large public subsidies from the federal state to

make this ideal a reality for the working class as a whole. The federal government's responsibility was to manage the economy in order to maintain the male wage, either by keeping rates of unemployment low or, in periods of higher unemployment, by replacing the male wage through benefits paid under a social insurance program. Within this framework, responsibility for the economic well-being of wives and children was subsumed under the federal responsibility for the employable section of the working class. The commission's preferred approach was for social insurance to cover both the wage earner and his dependents. Yet it recognized that not all women and children would be able to access subsistence through a male wage. In its memorable words, "there would always be a residue of widows, deserted mothers and orphans to be provided for. These would remain a provincial responsibility" (Canada 1940, 35). These unfortunate, husbandless mothers would be the responsibility of the provinces, along with other sections of the "unemployable" population.

KEYNESIAN STABILIZATION

The post-war era in Canada saw the stabilization of a class and gender order based on Keynesian strategies of capital accumulation. At the level of the national economy, this process involved regulation of the domestic market to ensure sufficient demand for domestically produced goods. Maintaining the purchasing power of households was key to this approach, and women's role as managers of household consumption was prized. Internationally, the strategy involved the regulation of the world economy under the leadership of the United States through trade agreements and international institutions such as the World Bank and the International Monetary Fund. The gender order underpinning this strategy was the same as that outlined in the Rowell-Sirois report and was captured in the concept of "the two person-unit" approach to social insurance, articulated in British and Canadian post-war social welfare reports and endorsed by the *Final Report* of the federal government's Subcommittee on Post-War Problems of Women in 1943. This approach "treats a man's contribution as made on behalf of himself and his wife as for a team, each of whose partners is equally essential and it gives benefits as for the team" (Canada 1943-44, 28). In the view of the subcommittee, this conception was even more relevant to Canada than to Britain because of this country's large agricultural population. "In this occupation, wives are directly contributing to

and actually sharing the husband's occupation, while among urban wives, the function is rather that of managing, housekeeping, caring for the well-being of the family, and saving" (Canada 1943-44, 28).

The role of the central state in managing the relationship between production and social reproduction required by Keynesianism brought the federal government into conflict with successive Quebec governments. In the 1950s Quebec opposition to federal social welfare initiatives was led by the conservative, nationalist Union Nationale government of Maurice Duplessis, which rejected both the Keynesian view of the role of the state generally and the post-war role assumed by the federal government. The conservative nationalist perspective was comprehensively elaborated in the 1954 report of the Quebec Royal Commission of Inquiry on Constitutional Problems, commonly known as the Tremblay Commission (Kwavnick 1973).

As with the Rowell-Sirois Commission, the vision of federalism outlined in the Tremblay report was connected to a very specific conception of the appropriate gender order. The report began from a conservative Catholic notion of society as composed of an organic hierarchy of institutions with the family as the most fundamental institution. The report argued that, based on the principle of subsidiarity, responsibilities should be assigned to the most basic institution capable of fulfilling them and only assumed by the next higher institution when necessary. As applied to the role of the state, this concept meant that the state should leave the welfare of members of society to the family and the church and confine its role to providing the financial support necessary to allow these institutions to carry out their responsibilities. As applied to federalism, it meant that the federal government should hand over the taxing power that it had assumed during the Second World War to the provincial government so that it could provide the necessary support to non-governmental organizations. This organic conception of federalism was identified with the French Canadian Catholic world view, and the notions of the role of the state in the Rowell-Sirois Commission were seen as typical of an English Protestant view.

The church remained in control of education and the social welfare system in Quebec until 1960. But with the Quiet Revolution, liberal elites with an agenda of modernizing Quebec society assumed office in the province, and the state rapidly and decisively replaced the Church as the main protector of culture and aspirations. In a very short period,

Quebec went from being the province that relied most heavily on non-governmental (in this case church) organizations in the delivery of social welfare to the one with the largest role for public institutions. Yet, while they had fundamentally different views from the conservative elites on the state-market-family-voluntary sector/charity relationship, the liberal elites shared their view of the role of the federal government in social programs. They too considered matters of social reproduction as vital to French Canadian cultural survival and as falling within the exclusive jurisdiction of the provincial government. Thus federal intervention in these matters is not simply a matter of overstepping the legal boundaries in the constitution; it is a threat to the very cultural survival of French Canada and a renegeing on the agreement that underlies the Canadian state. This view applies to taxation as well as to spending: both should be limited to financing the specific responsibilities assigned to the federal government under the 1867 division of powers.

The opposition of Quebec to the expansion of the federal role was the central dynamic in federal-provincial relations with respect to social programs in the period of expansion of the welfare state, as it is today. From time to time, Quebec is joined by other provinces, particularly the wealthier ones, but this opposition is of a different kind and degree from that of Quebec. For Quebec, the opposition is profoundly rooted in a historical defence of a minority national culture and in a deep, society-wide consensus about the importance of maintaining the protections given to that culture when the Canadian state was created. When English Canadian premiers invoke the “exclusive powers” of the provinces to counter federal initiatives, it is often to defend particular capitalist interests located within their borders, as conservative governments in Ontario, British Columbia, and Alberta did on behalf of the private insurance industry during the lead-up to the introduction of medicare (Shillington 1972, 160; Taylor 1978, 376). More often, it is to ally temporarily with Quebec in order to wring more money or better conditions out of the federal government. Once this tactic has succeeded, they generally abandon Quebec, whose opposition continues on principle. Provincial governments in the English-speaking provinces can often count on their citizens to support their demands for more federal money for provincial programs and their criticisms of federal cutbacks. No provincial government outside Quebec has the support of the electorate to challenge the very existence of a federal role in social programs.

The consequence of Quebec opposition, supported on a number of issues by governments of the wealthier provinces of English Canada, was that the federal government failed in its attempts to bring about a modernizing of the division of powers between the federal and provincial governments in the post-war era. The neat division of responsibilities envisaged by the Rowell-Sirois Commission was not implemented or even very seriously entertained. In two areas, formal constitutional amendments were agreed to: unemployment insurance and pensions. A 1940 amendment made unemployment insurance the exclusive responsibility of the federal government under a new section 91 (2A) of the constitution. In 1951 the constitution was again amended, this time to make pensions a joint area of responsibility, with the provincial legislation having primacy in cases of conflict. In 1964 another amendment expanded the pension power to encompass survivors' benefits. Other than these formal amendments, the main instrument for the expansion of the post-war welfare state under federal leadership has been the federal spending power. This power, which is not spelled out explicitly in the constitution, has been defined as the capacity of the federal Parliament to transfer or lend its funds to any government, institution, or individual it chooses, for any purpose it chooses, and to "attach to any grant or loan any conditions it chooses, including conditions it could not directly legislate" (Hogg 2003, 166).¹

The first use of the federal spending power for social programs was the 1927 program of old-age pensions, which was cost-shared between the federal and provincial governments. It was exercised in the 1930s to transfer money from the federal to provincial and municipal governments to finance "relief" for the unemployed. The Family Allowances program was an example of the use of the federal spending power to transfer resources to individual Canadians. Direct funding to women's services and women's organizations (once more generous than it is today) came under the federal spending power. The federal spending power is the constitutional basis for the federal contribution to the provinces for medicare, as it was for the Canada Assistance Plan (the framework for income support and services for low-income Canadians before it was abolished in the 1995 budget). Another example of the exercise of the federal spending power in the area of social policy is the federal loan/grant program for post-secondary students. While recognizing the need for a special arrangement for Quebec, the child-care movement in English Canada, as represented by the Child Care Advocacy Association of Canada, calls for an ambitious exercise of the

federal spending power to create a country-wide system of child care, with the costs shared jointly by the federal and provincial governments and with conditions attached to the federal transfer to ensure quality. All these matters fall within the “exclusive” jurisdiction of the provinces. Federal involvement is only possible through the federal spending power.

A federal spending power is common to all federations. What is unique about Canada is the extent to which it has been relied upon as an instrument to achieve the expansion of social rights at the level of the central state. The exercise of this power was and remains one of the most hotly contested issues in Quebec-Canada relations. Through the means of its spending power, the federal government was able to finesse the limitations placed on its role in social reproduction by an outdated, yet politically unchangeable, constitutional division of powers, as well as the differences between Quebecers and other Canadians about the appropriate roles for the federal and provincial governments in social programs. As a consequence, the exercise of the federal spending power must be seen as contradictory. On the one hand, it was the instrument for the expansion of social rights on a Canada-wide basis in the period after the Second World War. On the other, it provided a means for the imposition on Quebec of an English Canadian view of social citizenship and the role of the central Canadian state in constructing it.

NEO-LIBERAL DESTABILIZATION

The Keynesian welfare state in Canada reached its highest point in the early 1970s, with the extension of unemployment insurance in 1971 to encompass most of the working class and the full indexing of the then universal programs of Old Age Security and Family Allowance to inflation in 1973 and 1974. The class compromise inherent in Keynesianism, which involved working-class support for capitalism in exchange for the promise and in many cases the reality of an ever-increasing standard of living, was beginning to be seen as too restrictive for capital. Not only was the cost of socializing reproduction high, but the historically unprecedented levels of security enjoyed by working people contributed to labour militancy and limited capital's flexibility in introducing changes in work processes and the organization of production. As a consequence of the post-war period of capitalist expansion, the largest corporations had outgrown the domestic

market and Keynesian strategies for economic regulation. They sought new markets for goods and services in other countries and new opportunities for capital investment, both internationally and within the public and quasi-public sector, such as health services. Competition from the now reconstructed economies of Europe and Japan, combined with advances in science and technology, at once accelerated and facilitated the drive to replace Keynesianism with a new strategy for capital accumulation.

In the search for an alternative to Keynesianism, the political elites at the level of the central Canadian state initially swung back and forth between policies of accommodation, attempting to enlist labour's participation in corporatist or "tripartite" bodies, and coercion, introducing wage controls, using the courts to limit labour's capacity to strike (Panitch and Swartz 2003), and cutting back on social entitlements. During the 1980s, however, political and economic elites increasingly coalesced around a strategy of unilaterally breaking the social contract by rolling back the costs of social reproduction, as reflected both in the wage packet and in social programs, and limiting the power of organizations representing those social groups whose interests are most strongly linked to social reproduction, particularly labour and women. In the middle of the 1980s, the Royal Commission on the Economic Union and Development Prospects for Canada (the Macdonald Commission) played the same role in elaborating a new strategy for economic and political regulation for the dominant Canadian elites as the Rowell-Sirois Commission had done at the beginning of the Keynesian era (Canada 1985). While many of its recommendations were not implemented in the form proposed, significant ones were, and the others formed the basis for negotiations around attempted compromises among various sections of the elite.

At the centre of the Macdonald Commission proposals was a shift away from Keynesian approaches to regulating the relationship between capital accumulation and social reproduction through managing the balance between aggregate supply and demand in the economy. Instead, the focus in the report was on the use of monetary tools (interest rates, the supply of credit) to manage the economy. The shift is reflected in a redefinition of unemployment as a problem with the supply of labour (the characteristics and behaviour of the unemployed), rather than the demand for labour (the lack of jobs). As a consequence, the commission shifted the focus for government away from the creation of employment to influencing the behaviour of the

unemployed through economic coercion, or what was euphemistically described as removing the “disincentives” to work allegedly inherent in existing social programs and state regulatory measures. In effect, it advocated a shift away from employment to what later came to be described as “employability.” Severe cutbacks and even the elimination of the unemployment insurance program were central to its vision of the future. It proposed the eventual replacement of the Canada Assistance Plan, and possibly unemployment insurance as well, with a minimal income-support program, the Universal Income Security Program, that would effectively act as a subsidy for low-wage employers and eliminate the need for minimum-wage legislation (Canada 1985, 2: 542, 811). The commissioners recommended devolving the delivery of social services to voluntary organizations, which are “less bureaucratic and potentially more responsive structures” than government, although governments would retain a supervisory and funding role (Canada 1985, 2: 807). They acknowledged that the current system of daycare drives the majority of Canadian parents into the unsupervised private sector but cautioned that “Canadians must consider carefully whether or not we wish our governments to spend more public funds on providing day care services” (Canada 1985, 2: 813).

The effect of the federal policies since 1985 has been to begin to put in place a new “employability model” of the welfare state, based on a specific conception of the state-family-market-voluntary sector relationship (Porter 2003, 212; Cameron 2002). Within this model, the role of the state is no longer to manage the relationship between social reproduction and capital accumulation to ensure a national market for domestically produced goods but to lower the costs of labour and the expectations of the population with respect to living standards in line with the regional and global expansion strategies of the dominant sections of capital. This process requires removing barriers to the free movement of capital, goods, services, and, to a lesser extent, labour through trade and investment agreements such as the Canada-US Free Trade Agreement and the North American Free Trade Agreement and increasing the “flexibility” of labour through deregulating employment standards, outsourcing production, and eliminating social programs and other protections that provide some insulation for workers from the pressures of competitive labour markets. The virtues of service delivery through the voluntary sector are extolled, and non-profit organizations are brought into a “partner relationship” with the state in which they are turned into subcontractors for the delivery of

government programs and placed in competition for contracts with commercial operators eager to have their profits subsidized by government grants (Shields and Evans, 1998). A limited form of employment equity, which permits the full utilization of skilled human resources, is consistent with this model and is considered preferable to pay equity, which the Macdonald Commission described as administrative wage-setting (Canada 1985, 2: 636).

Implicit in the employability model of the welfare state is a new gender order characterized by continuing inequality between men and women in the workforce and in the home and a marked polarization among women with respect to opportunities and resources. With the erosion of a male wage high enough to support a wife and dependent children, the model assumes the labour-market participation of virtually all women, including those with young children, but on terms of inequality with men. The consequences for women are contradictory. While women's new labour-market position holds the promise of increased economic autonomy, they have been drawn into the labour force without the services being put in place to replace their labour in the home. In the name of deinstitutionalization and moving services closer to the community, the labour associated with social reproduction is increasingly off-loaded onto the non-waged labour of family members and individuals. The result is tremendous stress for families and for women in particular. In the absence of public services to replace the domestic labour of women, the greater equality of opportunity for a small stratum of more professionally trained or highly skilled women is being subsidized by the growing army of low-paid, precariously employed women engaged in child care, cleaning, or food preparation in the growing service sector. Often employed on temporary or casual employment contracts, workers in the domestic and personal services industries are disproportionately drawn from communities of colour or recent immigrants (Arat-Kroc this volume).

The creation of the employability model of the welfare state was brought about through the actions of the state as well as of corporations. The federal government used the same instruments to roll back the Keynesian welfare state as it did in its expansion: its exclusive jurisdiction over unemployment insurance, shared jurisdiction over pensions, and federal social transfers to individuals and, particularly, to provincial governments. Following the logic, if not the exact detail, of the Macdonald Commission, Conservative and Liberal governments decreased entitlements to unemployment insurance so that the proportion of the unem-

ployed who actually got to collect benefits declined from 74 per cent in 1990 to 39 per cent in 2001 (Canadian Labour Congress 2003). Just as the federal spending power was crucial to the construction of a Canada-wide system of social welfare, in this period it became a primary instrument for its deconstruction. Stephen McBride has used the term “negative spending power” to characterize the federal government’s role as it used reductions in transfers to the provinces to bring about a restructuring of social entitlements (McBride 2001, 141). These cuts, begun in 1977 under the Liberal government of Pierre Elliott Trudeau when block funding was introduced for health and post-secondary education, were continued under the Conservative government of Brian Mulroney and became particularly severe under the Liberal government of Jean Chrétien after 1993. In addition, the 1995 budget, brought in by Finance Minister Paul Martin, went farther than the proposal of the Macdonald Commission by abolishing the Canada Assistance Plan and with it the right to assistance based on need, without putting in place a new program for the long-term unemployed.

By cutting its social transfer to the provinces at the same time as it was off-loading the cost of supporting the unemployed onto provincial welfare rolls, the federal government effectively undermined the system of intergovernmental relations. Unilateral changes in funding arrangements, such as the imposition of a cap on the federal transfer for social assistance to Ontario, Alberta, and British Columbia in 1989, broke the contract, both explicit and implicit, underpinning federal-provincial relations. This breach occurred at the very time that Quebec-Canada relations were severely strained by the patriation of the Canadian Constitution in 1982 over the strenuous objections of the Quebec National Assembly. The amendments to the Constitution at that time ignored Quebec’s historic demands for recognition of the unique responsibility of its legislature for the protection and advancement of the culture and social institutions of French Canada. They reduced the collective demands of Quebec to the matter of individual language rights in the Charter of Rights and Freedoms, which was consistent with the preference of then prime minister Pierre Elliott Trudeau, an opponent of Quebec nationalism, and effectively enshrined the principle of “provincial equality” in the constitutional amending formula (McRoberts 1997; Hurley 1996, 297).

The concept of provincial equality was quickly embraced by provincial governments, particularly Alberta, and extended beyond the amending formula to all matters of federal-provincial relations. It is

compatible with a neo-liberal agenda of weakening the power of the federal government. Given the historic and continuing position of Quebec governments of all political stripes that social programs are the exclusive jurisdiction of the provincial government, it ensures that any response to ongoing Quebec concerns will result in a provincialization of responsibility for social reproduction. It also creates a constitutional straitjacket that dooms attempts to reconcile Quebec to the 1982 constitutional amendments, as was evident in the failure of the Meech Lake Accord and the Charlottetown Agreement. These two constitutional proposals combined a symbolic recognition of Quebec's distinctiveness with the extension to all provinces of the powers historically demanded by Quebec, including the right to opt out of national cost-shared programs with compensation. Linking the recognition of Quebec to measures that would weaken the federal role in the rest of the country undermined the support that socially progressive English-speaking Canadians might otherwise have had for an accommodation of Quebec and made it impossible for the political elites to forge an alliance capable of carrying the amendments. The consequence of two failed attempts at constitutional change was an embitterment in Quebec-Canada relations.

The response to the crisis in Quebec-Canada relations was a new elite strategy for managing intergovernmental relations in the era of neo-liberalism: "constitutional change by non constitutional means" (Lazar 1997). This strategy involves an extension of the concept of provincial equality and of the practice of executive federalism – the "eleven white men meeting behind closed doors" criticized by women's organizations during the Meech and Charlottetown discussions. Maintaining publicly that the last thing Canadians wanted to hear about was constitutional change, federal and provincial governments began to put in place new rules and institutions to govern relations among themselves. The main instrument of this new approach to Canadian federalism is the multilateral intergovernmental agreement, which is analogous to international treaties in the area of trade. These agreements, whether the Agreement on Internal Trade or the Social Union Framework Agreement, contain rules and procedures governing relations among the parties and provide for institutions to resolve intergovernmental disputes among them and to monitor observance of the mutual commitments (Doern and MacDonald 1999). In the new era of federalism, the social union is not a relationship between the state and citizens possessing social rights but one among govern-

ments possessing jurisdictional powers. These agreements or accords are negotiated in secret by the executive branch, represented by Cabinet ministers or senior public servants at the federal and provincial levels of government. Unlike the basis for intergovernmental agreements around social programs in the Keynesian era, the statutory basis for these new agreements is weak or non-existent. This characteristic gives great flexibility to the executive branch and makes it difficult for legislatures and the courts – the two institutions in our system whose role it is — to ensure the accountability of Cabinet ministers and public servants. Canadian federalism is increasingly run as a rolling set of deals among executive branches at the federal and provincial levels of government (Cameron 2004b).

While these new arrangements are presented as bringing harmony to fractious relations among governments, many are centrally concerned with managing conflicts around social reproduction, including what are essentially class conflicts about the allocation of resources to social reproduction and national conflicts between Quebec and English-speaking Canada around the appropriate roles of the federal and provincial governments (Cameron 1999). Some social policy analysts see the possibility of a new political space being opened up for civil society organizations in monitoring accountability under the agreements (Jenson, Mahon, and Phillips 2003). At the moment, however, the effect of the new rules, institutions, and practices around intergovernmental relations is to remove decisions about social programs almost entirely from the more public arena of legislatures to private negotiations among senior public servants and Cabinet ministers. In place of accountability to legislatures, which was already weak enough in the Canadian system, a new form of public accountability is being promoted, centring on performance measures and periodic reports to the general public. In practice, responsibility is diffused, the division of responsibility among governments is less transparent than in the past, and organizations advocating state support for social reproduction are even more excluded from decision-making concerning social programs than they were in the past (Cameron 2006).

CONCLUSION

At the time of Confederation, the conservative political and religious elites of Canada East (now Quebec) were the one social force organized on the terrain of social reproduction, and their political

mobilization influenced the structure of the Canadian state. Federalism provided protections for the French Canadian national minority through a division of powers that assigned to all provinces responsibility for matters that were “merely local or private nature.” This accommodation worked in 1867 because social reproduction in a society on the verge of industrialization was still primarily the responsibility of institutions in the “private sphere” of family, church, and charity or of local government. Industrialization gave rise to new social forces organized around issues of social reproduction, including labour and women. Over the years, their struggles have taken place within the framework of a division of powers grounded in the conception of social reproduction as “local and private,” forcing this framework to stretch to accommodate growing state intervention in mediating the contradictions between production and social reproduction and in the process shaping the organization and strategies of labour, women and other groups.

Yet the ways that the social relations of class, gender, and nation are linked through the constitutional division of powers around social reproduction mean that stretching the original framework constantly gives rise to new contradictions. In the Keynesian era, a class compromise involving mediation by the central Canadian state of the relationship between production and social reproduction and based on the male-breadwinner model provided three decades of relative stability. Yet at the same time it aggravated the relationship between Quebec and the rest of Canada and eventually was unable to reconcile popular demands for women’s equality and greater social equality generally with strategies for capital accumulation. The current neo-liberal “employability model” of the welfare state is based on a growing social polarization and will give rise, over time, to increasingly sharp conflicts over the allocation of resources to social reproduction. The removal of issues centrally related to social reproduction from the legislative to the intergovernmental arena allows political elites temporarily to mediate class and national conflicts related to social reproduction, but it will increasingly be challenged on democratic grounds. The current accommodation is therefore unstable, providing opportunities for intervention by social movements.

There is a tendency in Canada outside Quebec to see constitutional debates as unrelated to day-to-day struggles and for more recent immigrant communities to view them as ancient battles between the British and French having no relevance to their lives. As former Quebec

premier Jacques Parizeau once put it, these debates feel like one long trip to the dentist. The problem with this attitude, as this chapter has tried to show, is that struggles for social equality at the level of the state, which centre on social reproduction, invariably get tangled up with the constitutional division of powers. It was easy enough – even if unjust – for Canadians outside Quebec to ignore that province’s concerns about the federal role in social reproduction during the 1950s, when the Union Nationale was clearly a drag on social advance, and even during the 1960s, when the federal state was using its spending power to expand social rights. Indeed, during the Quiet Revolution of the 1960s the competition between the federal and Quebec states concerning jurisdiction over social programs tended to encourage their expansion.

But the embrace by political and economic elites of neo-liberalism introduces a new dynamic into intergovernmental relations as elite strategies of limiting the role of the state in social reproduction through provincialization dovetail with historic Quebec demands for control by the Quebec National Assembly over all matters related to social reproduction. Social movements in Quebec and English-speaking Canada are united in their opposition to neo-liberalism but divided in their response to it by differences over the appropriate role for the federal government. Moving beyond the current impasse will require agreement on a political alternative that fully recognizes the rights of the French Canadian national minority while delinking them from a constitutional framework that treats Quebec as a province like the others and social reproduction as a matter that is “merely local or private.”

NOTE

- 1 The federal claim to a spending power is derived from powers specifically enumerated in the Constitution Act, 1867, including the power to levy taxes by any method, to legislate in relation to public property, and to appropriate federal funds (Hogg 2003, 164). As it has been interpreted by the courts, the spending power allows the federal government to spend but not legislate in areas of exclusive provincial jurisdiction. The key distinction here is between, on the one hand, compulsory regulation, which can only be done by the level of government with the legislative authority, and, on the other, spending, lending or contracting, which imposes no obligations on the

recipient or obligations that are voluntarily assumed. In this context, voluntary means that the recipient cannot be obligated to accept the money offered, although if the offer is accepted, the money can come with conditions attached. If a matter falls within provincial jurisdiction, a federal law cannot compel an individual, organization, or government to accept money, follow a particular policy, or respect standards. But it can make money available to these same individuals, organizations, or governments and require that the recipient respect conditions set out in the federal law. The federal government can use the carrot of money but not the stick of compulsion in matters within provincial jurisdiction. An important corollary to the distinction between compulsory regulation and a non-compulsory transfer is that the only mechanism the federal government has to enforce conditions (or “standards”) is to withhold money if the conditions are not met.