

**FEDERALISM MATTERS:
WELFARE REFORM
AND THE INTER-
GOVERNMENTAL
BALANCE OF POWER
IN CANADA AND THE
UNITED STATES**

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AND
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“(We) believe that the restrictions attached by the federal government to transfer payments in areas of clear provincial responsibility should be minimized. . . . (T)he cost sharing approach of the past no longer helps the provinces, who have clear responsibility to design and deliver social assistance programs, to do so in a way that is as effective as possible and in tune with local needs.”

Finance Minister
Paul Martin, 1995
Budget Speech¹

“Perhaps the fact that is most important to me personally, by passing this bill we give the states flexibility to design programs that will work best for their residents.”

Senator Conrad Burns
(R-Montana, August 1, 1996)²

“(The) States should have more flexibility to design programs to meet the needs of their residents. I do not believe that

*A list of acronyms used in this article is provided on page 37.

detailed prescriptions from Washington, DC are the answer to the problems afflicting the current welfare system."

Senator Russ Feingold (D-Wisconsin, August 1, 1996)³

If Americans invented federalism, Canadians have long been among its most enthusiastic practitioners. At the turn of the 21st century Canada is one of the most decentralized countries among advanced industrial democracies, its provinces possessing a status and policy reach unrivaled by American states.⁴ Canadians often speak of having eleven senior governments in recognition of the rough political parity between the provinces and Ottawa. There is no equivalent in the American lexicon to reference the relationship between Washington and the fifty states.

Of late, however, American and Canadian practices of federalism seem to be moving in the same direction. A fillip has been the response of each country to those common macro-economic forces that come under the rubric of globalization, the integration of world markets through enhanced trade and investment and the fluidity of capital. Subject to the twin pressures of market liberalization and fiscal restraint, during the last decade of the twentieth century Ottawa and Washington became ardently committed to lower taxes and balanced budgets. One method of achieving such ends was to reduce central government expenditure on social programs. In the event, most administrative authority and much policy-making and

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financial responsibility for such initiatives were devolved to sub-central tiers of government.

The paper explores this nexus of globalization, federalism and social policy. At the heart of the discussion is the recent experience of Canada and the US with welfare reform, a process that began in earnest in the 1980s and which came to fruition in 1996 with the introduction of the Canada Health and Social Transfer (CHST) and the US Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA).

Two related questions are posed. First, in conditions of globalization, has welfare reform led to a convergence in the distribution of power between central and sub-central governments in Canada and the US? Federalism has always had an important influence on the provision of welfare benefits in the two countries. Not all social assistance programs have been a matter of joint inter-governmental responsibility—notably, unemployment insurance and old age pensions have not—though for the last seventy years or so policies regarding public health insurance, aid to individuals with disabilities and income support to children and families in distress have had this dual character. Typically the construction of the welfare state is attributed to the superior economic position of a strong national government, its financial capacity to provide high levels of desired public services that sub-central governments are unable to offer. In the context of federal economic austerity, welfare retrenchment would seem to be a force for the de-centering of power, national governments shifting the burden of social assistance to lower-level jurisdictions. Yet this essay will argue that Canadian and American patterns of federalism are resistant to change even when cross-border policies move in the same, though not precisely the same, direction.

If Canadian and American federalisms are resilient, do they retain a discrete influence on welfare policy? Among students of political economy, there is considerable disagreement regarding policy latitude under globalization. Most famously, New York Times columnist Thomas Friedman writes that if states wish to prosper in an age of globalization, they must put on a “golden straitjacket” of political decision-making, implementing those initiatives—balanced budgets, limited taxation, modest regulation, privatization, and so on—necessary to secure the confidence of capital markets.⁵ Given market interdependence, the argument

runs, governments feel constrained to recast their economic and social policies to resemble what is on offer in other countries. Downward harmonization of social provision is the likely outcome. Other scholars demur, insisting that states maintain considerable autonomy to frame public policy as they see fit. Globalization stimulates demand among ordinary citizens for protection from heightened market risk--unemployment and reduced wages and benefits. On this perspective, it is in the interest of governments to redress these insecurities not only because they are a potentially volatile election issue, but also because publicly-funded social programs may enhance social stability, reduce business costs--as in the case of education and health care--and thereby increase market advantage in the competition for international investment. When for these reasons governments choose to act, the mediating effect of diverse political institutions, distinct political cultures, and the historical momentum of state policy legacies means that identikit social policy is not destiny.⁶

Crafted according to the same global economic imperatives, welfare reforms in Canada and the US share many features. Structurally, American states have come to resemble Canadian provinces more closely in their degree of autonomy over welfare programming. Conditional grants from the federal government to states and provinces have been replaced by block grants. Means tested benefits have been replaced by work-tested benefits. Welfare is disbursed largely on the basis of an individual's accommodation to the market rather than because it is an intrinsic right of social citizenship.

Still, there are important nuances. American states have introduced social assistance terms that are more invasive and harsh than those found in most Canadian provinces. The constitutional architecture of each country, of which federalism is a central prop, is in large part responsible. Given the legal authority of the Canadian provinces for welfare as well as the fact that the CHST is a block grant, provincial governments have the flexibility to determine what part if any of the federal transfer will be spent on social assistance. In the US, states do not have this power. Far more than Ottawa, Washington has been free to set the terms of welfare reform, as national American standards for time limited assistance, workfare, and efforts to change personal behavior indicate. This paper maintains that in some measure it is due to federalism that Canada and the US continue to follow distinct social policy trajectories.⁷

The analysis proceeds in four stages. Section One establishes the institutional context of social policy-making in Canada and the US with respect to federalism, focusing on executive–legislative relations as well as the constitution and judicial review. Section Two surveys the nature of welfare reform under PRWORA and the CHST. It shows how American versions of reform are less forgiving than their Canadian counterparts with respect to time limits and work requirements and more ambitious in seeking to affect behavioral changes among welfare recipients. Section Three assesses the Canadian and American inter-governmental balance of power since the introduction of the CHST and PRWORA. Whereas Ottawa leaves program design largely in the hands of the provinces, Washington has an ongoing presence in the administration of American reform. Whether those patterns hold, especially in the US case, depends in part on the stability of the financial relationship between central and sub-central governments. Section Four evaluates the way in which federalism’s influence on welfare reform has been mediated by American and Canadian political values. Federalism plays a formative policy role as part of the institutional framework of Canadian and US government, but that influence is filtered through discrete constitutional and cultural matrices. Over time, such factors bias the specific ways in which federalism matters to Canadian and American social policy. Consequently, despite a joint commitment to the devolution of policy responsibility, welfare reforms in Canada and the US retain the imprint of country specific patterns of inter-governmental relations.

I. THE INSTITUTIONAL CONTEXT

Canada and the US are both federations, but they are not federations in quite the same way. In order to evaluate the relationship of federalism and welfare policy in the two countries, one must first consider the constitutional architecture of which federalism is a part.

Executive-Legislative Relations

The fact that the Canadian political system is parliamentary, while the American government is presidential, is critically important. The fusion of executive and legislative power in Canada’s Westminster model helps to explain Ottawa’s ability, on occasions

like the introduction of the CHST, to impose its will over the provinces without significant input from the latter. Provinces have no reliable and forceful voice in the councils of central government. In view of parliamentary norms of party discipline, Canadian governments are largely unencumbered by a contentious House of Commons—an imperfect body for airing provincial perspectives in any case. Provinces also lack equal, effective and elected representation in the Canadian Senate, an assembly peripheral to national policy-making. Combined with Ottawa's superior financial resources and a historic willingness to use the federal spending power to enter social policy fields like health and welfare over which the provinces have constitutional jurisdiction, there is ample opportunity for Ottawa to push the pace of policy change.

There is a related feature of Canadian federalism more solicitous of provincial power, however: its elite-driven quality. Regular discussions between Ottawa and the provinces on a wide variety of common policy concerns, dominated by the leading ministers and bureaucrats of each jurisdiction, are partly a consequence of a national pattern of governance that is reproduced in provincial capitals. Provinces have considerable political status in the view of the Canadian federal government because, from a constitutional perspective, provincial ministers speak with authority on behalf of the citizens they represent. Without an entrenched provincial presence in the national legislature, they are expected to do so. In Canada it is a rare domestic policy field that does not require official consultation between the federal and provincial orders of government.

The US Senate chamber is the principal forum for directly and equally representing state interests in Washington. Beyond a bicameral national legislature in which the power of the two houses is roughly the same, the US does not, like Canada, formalize central-sub-central government interaction. Arguably, it would be unwieldy to do so. The sheer number of American states means that the national political clout of any one state or group of states is diminished. And unlike Canadian provinces, US state governments take various political forms. Depending on the way in which state constitutions define the executive-legislative relationship, governors hold power on different terms. Some states have formidable executives, whereas others limit the ability of governors to name their own cabinets or veto legislation. Certain state executives cannot even be certain of having a functioning assembly with which to work because

of limitations on the number of days that a legislature can be in session per year. State governments do have related public interest groups who speak on their behalf in Washington. Yet that is far from Canadian-style executive federalism, the quasi-diplomatic relationship that the provinces have established with Ottawa.

Power is fragmented throughout the American political system. Not only is this true of the relationship between Washington and the states, but within federal and state governments as well. Presidents, governors, and their various cabinet secretaries must share influence with legislatures and courts. Thus there are numerous access points to the American decision-making process—formally with respect to each of the three branches of national and state governments, and informally via interest group influence on public officials. Since under a presidential model of governance the executive is not sustained by the legislature, federal and state elected representatives are free from the strictest norms of party discipline and highly susceptible to such influence. In the US, executive policy initiatives are always subject to countervailing political pressures.

Local government, too, can be a significant player in the formation of American social policy. In neither Canada nor the US are municipalities given constitutional protection, but US states are more reticent to tamper with the jurisdictional integrity of city governments, several of which hold state charters protecting their rights and responsibilities. Not so in Canada, as the amalgamation of metropolitan Toronto and Montreal, and now Montreal's partial de-amalgamation, suggests. The subordinate role of Canadian local government in its triadic relationship with the provinces and Ottawa may be changing. Recent studies of Canadian government have detected the development of an "hourglass" variety of federalism, in which the federal government bypasses provincial authority over municipalities to deal directly with the latter over matters of joint concern.⁸ In the specific instance of the CHST, however, local governments have been expected to conform to provincial directives.⁹ Conversely, an overlapping authority model of American federalism was on full view in the passage of the PRWORA—one entertaining federal, state, and local interests.¹⁰

The Constitution and Judicial Review

British political scientist H.G. Nicholas once cautioned that the price of federalism is constant litigation.¹¹ At the very least, federal

systems of government require a vigilant judiciary to resolve the inevitable jurisdictional disputes between the central and sub-central units of government. The Canadian and American judiciaries have been formative in this regard.

At their foundation, each country affirmed the classic federal principle of dual sovereignty--that political authority should be divided between two sets of jurisdictions and that the governments in charge of each jurisdiction should be largely autonomous in the exercise of their power. Yet the original constitutional documents were not entirely neutral as to which level of government should take precedence. Not the least because the US was conceived in revolution against a perceived autocracy, the American constitution stipulated a rough equality between Washington and the states, and was keener to use federalism as one hedge among others against the concentration of national power. States are guaranteed few things in the US constitution. Yet the direct representation of state interests in the upper house of the national legislature as well as a grant of residual power via the tenth amendment gave them a legal status not shared by their provincial counterparts. By contrast, the British North America Act (BNA Act, 1867) tipped the balance of political power to Ottawa, both because a Westminster model of governance privileges a national parliament and because Ottawa was granted more constitutional authority. This included the "Peace, Order and Good Government" (POGG) clause that gave Ottawa those (residual) powers not directly specified in the constitution.

Judicial intervention recast the original constitutional dispensations. For the last half century or so, power in the US has tended to flow toward Washington. The US Supreme Court's early assumption of the power of judicial review (*Marbury v. Madison*, 1803) and its capacity, if not always its willingness, to apply the constitution expansively in the interest of the national government, is certainly a factor.¹² One must also remember that the American Civil War was fought in part to resolve the issue of nullification, the claim that individual state governments might veto national legislation. Constitutional amendments subsequent to the war—abolishing slavery (13th), guaranteeing the rights and liberties of the Bill of Rights for all Americans (14th), securing universal male suffrage (15th)—had a nationalizing intent, too, though until the 1930s the Court did not consistently interpret legislation in that way.

In Canada, however, the decisions of the final court of appeal—the Judicial Committee of the Privy Council (JCPC) in London until 1949, the Canadian Supreme Court thereafter—have had the effect of enhancing the power of the provinces. Particularly important were JCPC rulings that Ottawa’s grant of residual power under the BNA Act held only in special circumstances, further that the provinces’ constitutional authority over civil and property rights, health, education, and welfare should be widely and strictly applied. Since then, Canadian courts have been instrumental in limiting the ability of the federal government to legislate in such areas without provincial consent. It is true that the judiciary has been reluctant to overturn acts of the federal parliament that bear on the material well-being of provincial citizens for fear of compromising the Westminster principle of parliamentary sovereignty.¹³ But if Canadian courts have permitted the federal government to direct transfers for policy areas under provincial jurisdiction, and to attach certain stipulations as to how the money may be spent, they have not permitted Ottawa to legislate directly in areas of provincial responsibility. Indeed, when the Supreme Court of Canada has ruled on issues of federal and provincial concern, frequently it has provided an impetus for further federal-provincial negotiations rather than to end the dispute decisively.

The way in which the respective courts dealt with federal legislation to address the effects of the Great Depression is instructive. Beginning in the 1930s, the American and Canadian federal governments began to use their superior spending ability to move into social policy areas previously regarded as matters of sub-central government concern. Though initially Franklin Roosevelt’s New Deal was resisted by the US Supreme Court, after 1937 the Court withdrew its earlier objections that federal economic regulatory legislation violated the prerogatives of the states. Until the mid-1990s no such legislation was ever declared unconstitutional.¹⁴ Conversely, R.B. Bennett’s Canadian New Deal—the Employment and Social Insurance Act of 1935—was ruled *ultra vires* by the JCPC. Unlike the US, in Canada ultimately constitutional amendments were required to authorize federal initiatives regarding federal provision for unemployment insurance and pensions. In effect, the Court forced federal and provincial governments to interact as constitutional partners in order to solve pressing social and economic problems.

II. WELFARE REFORM IN NORTH AMERICA

Until the mid-1990s, social assistance in Canada and the US was offered on the basis of a shared cost arrangement between central and sub-central governments. The major welfare program in Canada was the Canada Assistance Plan (CAP). Established in 1966, the CAP was a conditional grant arrangement whereby Ottawa agreed to pick up half of the cost of provincial and municipal spending on social assistance and welfare. The American counterpart was Aid to Families with Dependent Children (AFDC), christened in 1950 though with roots in the Social Security Act of 1935. AFDC, too, was a conditional grant program to the states for which Washington set broad parameters for eligibility and covered, by the program's end, between fifty and eighty percent of benefit costs.¹⁵

Over time, the escalating federal share of social assistance in both countries prompted a change in welfare policy direction. Between 1980 and 1994, US federal grants-in-aid to state and local governments for welfare exclusive of health care more than doubled, from US\$18.6 billion to US\$43 billion.¹⁶ Whereas transfers to provinces as a total share of federal Canadian government spending peaked in the early 1980s, in the same period federal responsibility for all social programs, largely social assistance and health, grew from about C\$90 billion to C\$140 billion or 20% of Canada's gross domestic product.¹⁷ In the context of budget deficits, rising unemployment, and lower tax revenues, Washington and Ottawa determined to restructure the character of social assistance.

By the advent of PRWORA and the CHST, in the US and Canada concerted efforts at welfare reform had been underway for quite some time. Of particular note in the US was the Reagan Administration's failed attempt at budgetary devolution through its "New Federalism" initiative, an effort to give the federal government complete responsibility for Medicaid—the medical assistance program primarily targeted at poor Americans—in return for the states' authority over food stamps, AFDC, and forty-three other categorical grant programs. More successful was the Bush Administration's Family Support Act in 1988, which aimed at moving single mothers off welfare through a combination of job training, work requirements, child care subsidies, and stricter child support enforcement over absent fathers.¹⁸ Ottawa recast its commitment to welfare spending when the Mulroney government introduced the "cap on the CAP" in 1990, curbing the growth of transfers to the provinces by

placing a five percent ceiling on increasing federal welfare payments to the wealthiest provinces—Ontario, Alberta and British Columbia—in a given year. Three years later, the Liberal government of Jean Chretien began to implement its “Red Book” manifesto pledge to fix Canada’s social safety net. It did so by instituting an overall freeze on welfare payments to the provinces and territories as well as imposing cuts in unemployment insurance.

It is possible to exaggerate the break in policy direction between the CAP / AFDC on the one hand and the CHST / PRWORA on the other. With respect to inter-governmental relations, in terms of decentralization and flexibility aspects of the former approach foreshadow the latter. AFDC, for instance, did not require that states provide any welfare benefits to their citizens in need, nor did they have to meet their own payment targets. At program’s end, in 1996, a dozen states did not do so. Further, benefit levels varied widely across jurisdictions, and states often received waivers from federal AFDC guidelines concerning time limits and work expectations for receipt of cash assistance.¹⁹ Using such waivers, by 1996 twenty states had prohibitions on payment of benefits to mothers for children conceived while their mothers were on welfare, twenty-two had a time limit for receipt of cash benefits after which work was required or benefits reduced, and thirty-two lowered earnings disregards or asset limits for receipt of benefits.²⁰ For its part, the CAP included no national minimum standard welfare rate, no nationally standard appeals process in cases where welfare benefits were denied, though all of the provinces adopted their own protocols, and provinces varied significantly in the way they could count earnings and asset exemptions against the receipt of benefits.²¹ States and provinces operating under AFDC / CAP also implemented a variety of programs to speed the transition from welfare to work vis-à-vis job training, job search assistance, earnings supplements, and wage subsidies paid by employers to welfare recipients.

Thus many aspects of the post-PRWORA and CHST reform agenda were elaborations of existing practice. The fundamental change heralded by the legislation consisted of ending the shared cost arrangement between central and sub-central governments and devolving greater decision-making authority over welfare to the states and provinces.

United States

When the PRWORA was signed into law by President Bill

Clinton in 1996, it replaced the open-ended funding of the AFDC conditional grant with Temporary Assistance to Needy Families (TANF), a fixed sum block transfer to the states of US\$16.5 billion a year that removes automatic entitlements to federal cash assistance. The Act changed the criteria for access to welfare benefits in two principal ways: (1) welfare recipients now had to work in exchange for time-limited monetary support; (2) behavioral changes were encouraged among the beneficiaries of welfare, particularly with respect to child support enforcement and teen pregnancy prevention.²²

According to TANF, adult welfare recipients must work after a maximum of two years on cash assistance. Work is specified by the federal government as including subsidized or unsubsidized employment, on the job training, community service, a year of vocational training, or the provision of child care services to individuals participating in community service. Under TANF's original provisions, single parents were expected to be participating in work related activities for at least 30 hours by FY 2000 and 35 hours per week for two parent families. Families who have received cash assistance for five cumulative years, less if individual states so determine, are ineligible for further monetary aid. States are permitted to exempt up to twenty percent of their welfare caseload from the time limit. They can also provide non-cash assistance and vouchers to families who reach the five year deadline by drawing on a separate PRWORA Social Services Block Grant, whose funds are targeted at families and children in crisis because of poverty or physical and mental health.

In order to access maximum TANF support, a state must move a percentage of its welfare recipients into work. Twenty-five percent of all families were to be engaged in work or to have left the welfare rolls by fiscal year 1997, a proportion rising to fifty percent by 2002. PWRORA includes a "maintenance of effort" (MOE) clause whereby states are required to continue their own spending on welfare at 80% or more of the level reached in fiscal year 1994. States meeting the specified requirements for moving individuals off the welfare rolls may reduce their MOE to 75% of the 1994 threshold. Additional federal funds are available to defray the cost of welfare in states affected by high population growth or economic difficulty and for child care beyond an initial allotment, though in these instances states are expected to have a 100% MOE before such top-up funds

may be accessed. One billion dollars is made available as a performance bonus to states that might be especially successful at moving individuals from welfare into work.

Further provisions of PRWORA aim at promoting the integrity of the family unit, particularly the well-being of children. Both TANF and a Child Care and Development Block Grant (CCDBG) fund care for children in need, though the CCDBG is addressed to low income families both on and off of welfare. States may transfer up to 30% of their TANF funds to the CCDBG, though 70% of that spending must go to individuals on welfare. According to current TANF regulations, child care subsidies count as cash assistance and may trigger time limits for welfare. The new law establishes stringent child support measures including a nationwide system to track newly employed parents who are delinquent in their child support payments and state penalties for non-support such as garnishing wages and seizing assets. In order to be eligible for TANF block grants, states must operate a child support enforcement program meeting these federal requirements. States are also required to outline strategies for reducing out of wedlock pregnancies and may draw on a \$250 million federal fund to implement programs of abstinence education. In fact, states are given a performance bonus in the form of additional federal funds for reducing out of wedlock births without increasing abortions. Unwed teen-age mothers are expected to live at home and participate in formal education or job training activities.

TANF's original authorization was for five years. Since the expiration of the enabling legislation in 2002, Congress has extended the act on a temporary basis, voting to continue its provisions in six month increments. In spring 2004, Congress once again failed to renew TANF for the full five year period. Despite bipartisan agreement to add \$6 billion in child care funds to the basic block grant, fixed at the original US\$16.5 billion, ultimately the effort foundered on whether legislation increasing the minimum wage should be appended to the body of the bill. Subsequently, temporary authorizations have been approved through fall 2005.

In terms of the future of American welfare reform, it is telling that draft legislation in 2004 and 2005 contemplates terms far more demanding than the 1996 TANF bill. In particular, stricter work provisions for welfare eligibility are included. States are expected to produce self-sufficiency plans for each family within sixty days of

TANF enrollment, outline how individuals will be moved from welfare to work, and risk financial penalties if they do not. Minimum work force participation rates for states to be able to access TANF funds are to be increased to 70% within four years of a new bill's passage. Between thirty-four and forty hours of work per week are expected of family-enrolled welfare recipients, with reductions for parents with small children permitted in the Senate proposal but not that of the House. There are restrictions on what counts as work, including a reduced emphasis on vocational education. As for the family responsibility provisions of TANF, if single individuals on welfare marry they are eligible for a cash bonus. A matching grant program is proposed for healthy marriage promotion, to be used to advertise and educate individuals on the benefits of stable two parent families. And a new initiative encourages "responsible fatherhood," though it is to be funded at a lower level and does not require a state match.

PRWORA re-contours American federalism. It devolves a measure of autonomy to states in the design and administration of welfare programs in return for an annual limit on the federal contribution to states for welfare and social services. TANF codifies what had been the practice of federal-state relations concerning welfare under AFDC, but goes further by introducing additional provisions for specific program waivers.²³ Indeed, under the House versions of the 2004/2005 Congressional reauthorization proposals, states can obtain waivers for virtually all federal laws and rules related to social welfare programs provided they get approval from the appropriate federal agencies.

States vary in the way they have used this policy freedom. With regard to the "work-first" principles of welfare reform, in most states the emphasis has been on rapid labor force entry as opposed to longer term development of job skills through vocational education. Although federal regulations permit a two year grace period for welfare recipients before they must work to receive cash assistance, twenty-five states have imposed an immediate work requirement. In the majority of states the work exemption for parents with young children has been reduced to twelve months from the federally stipulated three years, though a few have chosen even shorter periods including no exemption at all. Almost all states have imposed sanction policies for non-compliance with work expectations that are harsher than the TANF minimum, including in at least one instance

(Idaho) lifetime ineligibility to receive welfare benefits. Most have adopted the sixty month lifetime federal limit on the receipt of welfare. But several states have significantly shorter eligibility maximums—e.g., twenty-four months in Arkansas and Indiana. And though states are permitted to exempt 20% of welfare caseloads from the 60 month maximum limit on cash assistance, only two have done so.²⁴

States also differ considerably in how they choose to spend their TANF grant. In large part this is because they are permitted to use TANF and MOE funds for purposes other than cash assistance. During the first four years after TANF, for example, child care spending--the favorite place to dedicate funds for non-cash assistance--grew in Wisconsin by 219% but by only 34% in Oregon.²⁵ No state has been so bold as to do away entirely with cash assistance which, strictly speaking, is permitted. But on balance, monetary support for welfare recipients has declined and non-cash assistance has increased; in FY 2003, non-monetary assistance, including support for transportation and child care, accounted for 58% of combined federal and state TANF/MOE expenditures on welfare.²⁶ Given the latitude that states have for spending on non-cash benefits, state policy innovations have often come in welfare-to-work support programs: asset and earnings disregards in the determination of benefit eligibility, state supplements to the federal Earned Income Tax Credit (EITC), the extension of Medicaid benefits, and programs for transitional child care. Not all states are equally creative, however. Thus Colorado increased the non-cash portion of its welfare program by 115% between 1995 and 1998, whereas New York decreased such assistance by 4% over the same period.²⁷ States have different needs, resources, and policy norms. They do not have the same policy room for maneuver, the devolution of authority for welfare notwithstanding.

Canada

The federal legislation that served as a spark to Canadian welfare reform is not quite as Byzantine in its provisions. The CHST consolidated and fixed existing federal transfers under the Canada Assistance Plan and the block Established Program Financing (EPF) grant for health and post-secondary education. It transfers federal cash to the provinces and territories for health, post-secondary education, and welfare spending.²⁸ Tax points are also transferred, a

process whereby Ottawa vacates federal taxes in the expectation that provinces will impose their own levies to pick up the revenue slack. Few federal restrictions accompany the grant, only a ban on provincial legislation establishing residency requirements for welfare recipients, save for a three month minimum, and the abiding principles of the Canada Health Act.²⁹

In what has been called an “exercise of the federal spending power in reverse,” between 1995 and 1998 federal financial support for CHST social programs was reduced by 14%.³⁰ Once Ottawa began to register annual budget surpluses—1998 was the watershed—the public coffers opened a bit wider. In 2000 an inter-governmental agreement was reached committing Ottawa to the restoration of cash to the CHST to a \$C18.5 billion minimum, the sum of combined EPF / CAP spending in 1995-96. The federal government also agreed to increase the cash portion of the CHST to C\$21 billion by 2005-06—C\$2.2 billion for early childhood development, the larger portion for health care. A further C\$2.5 billion three year supplement to the CHST was authorized in 2003. Finally, the 2003 federal budget included a five year CHST transfer of C\$900 million for child care and early learning. While not fully compensating for early federal cuts to social assistance, the CHST transfer grew by roughly fifty percent between 1997-98 and 2003-04.³¹

Over the life of the program, the formula for allocating funds has been a matter of some controversy. Initially provinces varied in their per capita CHST entitlement—from between 92% and 111% of the national average—due to historic patterns of cost sharing under the CAP and different methods for calculating tax point transfers under the EPF. Beginning in 2001, however, per capita CHST payments were made equal across all provinces, though cash payments continue to vary given the continuation of different tax point arrangements. In 2004 Ottawa disaggregated the CHST and began to transfer money for health through a separate Canada Health Transfer. This development may not bode well for spending on other social services, given that the amount of federal cash devoted to social assistance (and for that matter, post-secondary education) in the remnant Canada Social Transfer will decline from C\$ 8.5 billion in 2003-04 to C\$ 8.4 billion in 2005-06.³²

Ottawa offers certain provinces and territories a further unconditional federal transfer under its Equalization program. A principle entrenched in section 32 of Canada’s Constitution Act (1982), equal-

ization is a means of ensuring that the poorer provinces have sufficient revenue to offer comparable levels of social services at similar levels of taxation as provinces at an arbitrary national average. Presently, only Ontario and Alberta do not receive such payments because of their superior fiscal position. In the 2003-2004 fiscal year, when cash and the value of transferred tax points are included, the CHT/CST and Equalization accounted for almost a quarter of all provincial and territorial revenues, the CHST comprising 77% and Equalization 21% of the C\$47.7 billion disbursed.³³

The removal of the CAP provision for a federally mandated and provincially administered needs test as the sole criterion of welfare eligibility gave provinces and territories substantial freedom in recasting their social assistance programs. As with American states, the provinces' efforts to make the social assistance system more restrictive predate the mid-1990s. The election of the Klein government in Alberta in 1992 and the Harris government in Ontario in 1995 indicates that welfare cuts were on the agenda of Canada's most conservative administrations even before the CHST. But under the pressure of limited transfer payments via the CHST, as well as the revenue shortfalls of a sputtering economy, by the mid-1990s all provinces changed their laws concerning welfare to impose stricter eligibility requirements, foster a quick transition from welfare to work, and reduce the cost of benefit delivery.

Provinces vary considerably in their welfare mix. Table 1 summarizes some of the most salient differences. Basic cash assistance varies in benefit levels and qualifying criteria. In calculations of eligibility, four provinces "claw back" Canada's National Child Benefit—the monthly supplement introduced in 1998 for low income families with children and a federal program in which all provinces except Quebec participate. Some of the freed up money is used for separate provincial in-work assistance programs—i.e., income supplements for parents once work is secured—though Newfoundland and Prince Edward Island do not have such programs.³⁴ Special health benefits—dental, optical, prescription drugs—are retained for low income individuals transitioning from welfare to work in all provinces but Ontario. Limits on liquid assets for unemployed individuals on welfare are as high as \$5500 (in Ontario, but only for individuals on disability since that province has mandatory workfare expectations) and as low as \$1000. Separate provincial child benefit or family allowance programs are available in six of the ten provinces,

TABLE 1: Provincial Differences in Welfare Support

	BC	AL	SK	MA	ON	QE	NB	NS	PEI	NL
Level of income assistance*	\$10,147	\$8,684	\$8,627	\$9,636	\$10,281	\$8,985	\$8,772	\$8,772	\$10,077	\$11,436
Welfare income as % average income*	39%	26	38	37	37	40	45	41	43	52
Welfare income as % poverty line*	54%	48	57	52	59	57	61	58	63	70
Limits on liquid assets for unemployed individuals	\$1500	\$2500	\$3000	\$2000	\$5500--individuals on disability	\$2845	\$2000	\$1000	\$1200	\$1500
Monthly exemption earning exemptions for recipients transitioning to work**	None	First \$25 of \$230; 20% over \$230 -- only single parents	First \$25; 20% of next \$375	\$100 plus 25% of net after 1st month	\$143; further variable exemption depending on family size	\$200	\$150-200; possible further exemption	30% of net	\$75	\$75
Monthly In-work earnings supplements	yes	yes	yes	yes	yes	yes	yes	yes	no	no
Monthly Provincial Child Benefit	\$1.58	none	\$35	none	none	\$52.08	\$20.83	\$37.08	none	none
Clawback of National Child Benefit	yes	yes	yes	no	no	no	no	No	yes	No
Age of youngest child at which labor force participation of single parent required***	3 yr.	6 mo.	2 yr.	6 yr.	6 yr.	2 yr.	No req.	No req.	No req.	2 yr.

Source: National Council of Welfare Reports, Welfare Incomes 2004 (Ottawa: Minister of Public Works and Government Services, 2005).

*For single parent, one child family

** For employed single adult, no kids, unless otherwise indicated

*** For single parent on social assistance

though the disbursement ranges from \$1.58 to \$52.08 per month. The age of the youngest child at which labor force participation of a lone parent is required extends from no stipulation at all to six months to six years. There is a patchwork of provincial provision for child health benefits both for families on social assistance and low-income families not on social assistance. The same is true of childcare. Quebec is the sole province to offer publicly subsidized childcare spaces, though at present the Quebec Liberal government is revisiting the policy.³⁵

All provinces expect compulsory labor force participation, including job searches, in return for basic assistance monies. In general, British Columbia, Ontario, and Alberta are the places where welfare retrenchment has gone the furthest. They have tightened eligibility and imposed Canada's most severe work expectations. In 2002 British Columbia became the first province to introduce US style time limits on social assistance; after two years on welfare, eligibility is cut off for all individual recipients without children, save the disabled, and significantly reduced for all parents with children over three years of age. British Columbia is also the only province that does not offer earning exemptions for welfare recipients transitioning to work. The Ontario Works program, instituted in 1998, makes Ontario the sole province to impose mandatory employment stipulations, including unpaid community service work, in exchange for benefits. Alberta was the first province to restructure its welfare program radically—in 1993, three years before the CHST was implemented—and it continues to be quite strict in its welfare provisions. Compared to other provinces, Alberta offers one of the lowest levels of income assistance, imposes the earliest age limit (six months) for a child whose parent is expected to find paid work in return for assistance, and has no provision for child benefit or family allowance for families of modest means.

Given the variety of provincial and state programs on offer, then, it is difficult to be very precise about the Canadian and American experience of welfare reform. Table 2 reviews several of the key cross-national differences.

III. THE INTER-GOVERNMENTAL BALANCE OF POWER

Federal governments in both Canada and the US have played a major role in charting a new course for welfare, though it is not the same role. The CHST was almost exclusively a federal initiative.

Table 2: Key Differences in US/Canada Welfare Reform Legislation

	United States	Canada
Title	Personal Responsibility and Work Opportunity Reconciliation Act, 1996 (PRWORA)	Canada Health and Social Transfer, 1996 (CHST)
Type and Amount of Transfer	Federal block grant, fixed at \$16.5 billion per year for social assistance, including child care.	Federal block grant, varies; 2004-05 C\$40 billion for health, welfare and secondary education.
Time limits	60 month federal maximum, less if states so determine (e.g. 24 months in two states).	Only in British Columbia (24 months).
Target caseload reduction	25% of recipients off welfare rolls by 1997; 50% by 2002; \$1 billion performance bonus for states that meet or exceed the target	No equivalent
Work requirements	Federal requirement that recipients work after a maximum of two years on assistance; 25 states have immediate work requirements. 30 hours per week for single parents; 35 hours per week for two-parent families.	Only in Ontario, after four months on assistance. No equivalent stipulations
Behavioral changes	Child support: Federal requirement for state child support enforcement program. Pregnancy prevention: States required to adopt strategies to reduce out of wedlock pregnancy. \$250 million available for state-based abstinence education. Cash bonus for recipients to marry; matching grant program for marriage promotion. Teenage mothers ineligible if not living at home.	No equivalent
Federal Maintenance of Effort Expectation	Yes; states must continue their own spending at 80% or more of their 1994 level of expenditure.	No
Equalization Transfer	No	Yes

PRWORA is the result of a confluence of multiple interests as expressed by central and sub-central governments. Whereas Canadian welfare policy in the post-CHST era reveals few traces of Ottawa's influence, Washington has had an abiding presence in post-PRWORA American policy-making.

The Policy-Making Process

The gestation of the CHST resembles what James Rice and Michael Prince have called “reform by stealth,” whereby Ottawa unilaterally and without significant provincial consultation recasts the federal budget to achieve desired policy ends.³⁶ Disaggregation of the CHST into separate transfers for health, social assistance, and post-secondary education has been achieved in much the same way. In light of the provinces’ constitutional responsibility for welfare, and considering the belief that collaborative federalism, the co-determination of national policy between two equal and interdependent tiers of government, best characterizes the majority of inter-governmental relations in Canada, there is reason to expect otherwise.³⁷ Yet provincial dependence on federal funds to run social assistance, health, and post-secondary education programs, and the absence of direct provincial access to the federal parliamentary process means that ultimately the provinces can only complain about the cascade of financial burdens emanating from the federal government in hope that the latter will reconsider. In 1995, the Chretien government easily absorbed any such criticism. Ottawa invoked the TINA principle—“there is no alternative”—of deficit reduction as the only way to revitalize a moribund economy and save social programs. A dwarfed federal opposition and the prospect of a long election cycle meant that any political fallout from the CHST could be accommodated. Since provinces would be the ones to make the tough decisions about allocating the transfer, the federal government could always practice blame avoidance in case the policy went wrong. In response to provincial concerns, Ottawa did soften its original CHST proposal to reduce federal transfers for social programs to zero by 2008. And eventually, along with nine of the provinces, it signed the Social Union Framework Agreement of 1999 (SUFA), whose aims include guaranteeing provincial consultation when Ottawa undertakes new funding initiatives. But short-term reaction to the CHST was muted. Collectively, the premiers requested only that cuts in federal transfers should not be greater than cuts to Ottawa’s own operating expenses—a recommendation made in a 1995 Premiers’ Conference report.³⁸

By comparison, neither the White House nor the federal government in general exerted decisive influence over American welfare reform. The US political system offers multiple access points to the federal decision-making process, hence numerous opportunities for

public and private actors to block changes in policy. Agenda control is difficult, especially when legislation seeking to reduce social benefits is at issue. R. Kent Weaver offers an excellent account of how welfare reform was stymied in the twenty-five years before passage of the PRWORA. Procedural barriers in the American political process were put to good effect. Representatives of state and local government agencies often relied on entrenched clientele relationships with counterparts in the federal government to protect their interests, a dynamic that has been termed “picket-fence” federalism.³⁹

In 1996 many of these same potentially blocking forces crystallized in support of a change in policy. PRWORA did not have uniform bipartisan support, but it did have sufficient cross-party support to ensure passage in both houses of the Republican controlled Congress and, of critical importance, the agreement of a Democratic president.⁴⁰ In light of the wariness of provinces toward the CHST, even more remarkable is the virtually unanimous support of the American inter-governmental lobby. The National Governors’ Association and the National Conference of State Legislatures, in particular, were overwhelmingly in favor of the proposed reforms.⁴¹ Such interest groups made key interventions during the PRWORA debate, advocating for the proposed TANF transfer to be a block grant and a larger one at that, as well as for greater flexibility for states to design welfare programs to their own specifications.

By all accounts, state governments wanted the devolution of welfare policy. Part of the reason may be that they desired freer reign to deregulate social provision, lower taxes, and thus become more attractive to business. A buoyant economy and federal funding commitments, at least for the five year authorization period, reduced state fears about inadequate funds for state-run social assistance programs. Moreover, the political risk of loss imposition--that scaling back social benefits might carry negative electoral consequences--was more than offset by overwhelming public opinion in favor of reform.⁴²

Federalism post-PRWORA and post-CHST

With respect to inter-governmental relations, over the last decade the Canadian and American variants of welfare reform have had much in common. Both countries introduced block grant formulas for federal welfare contributions, an approach that offered an

enhanced role for provinces and states in welfare policy-making and administration. Sub-central governments have used that latitude to promote rapid job entry among welfare recipients. The diversity of provincial and state programs offered suggests that the promise of greater control over policy-making autonomy has not been empty. The results, too, have been much the same: since the introduction of the CHST and PRWORA welfare caseloads have significantly declined—by approximately one-third in Canada and one-half in the US--though poverty rates have not.⁴³

Yet the US federal government maintains a far more significant presence in a devolved welfare policy environment than does its Canadian counterpart. It is a telling difference that whereas the CHST was introduced primarily as a way to reconfigure an existing transfer arrangement between Ottawa and the provinces and territories, PRWORA was regarded more ambitiously as a matter of “ending welfare as we know it.” Sustained federal involvement in American welfare reform may be both cause and effect of such raised expectations. State administered welfare programs operate under a broad umbrella of federal regulation. Maintenance of effort expectations, specified percentages for moving welfare recipients into work, strategies to reduce out of wedlock pregnancies, child support enforcement programs, stipulated teen parent living arrangements, requirements for access to and spending of supplementary child care funds--all of these are within Washington’s bailiwick. Failure to comply brings the down the stick of reduced transfers. But there are carrots, too, in the form of performance bonuses if states exceed expectations. Washington’s oversight responsibilities are taken seriously. Congressional committee chairs with legislative jurisdiction over welfare policy have cautioned governors about surplus TANF funds, which states are permitted to accrue in a reserve account to be drawn down at a later date, as well as the practice of supplanting, whereby states attempt to replenish their own budget lines with TANF money, lest Capitol Hill reclaim excess funds or reduce its financial commitment to the program.⁴⁴

Compared to Canada, this centripetal tendency of American federalism is striking. Washington imposes a maximum time limit on the receipt of cash assistance, a stricture by which state governments must abide in order to receive the full federal transfer. Ottawa prescribes no such limits and, with the exception of British Columbia,

neither do the Canadian provinces. In the context of moving individuals from welfare into work, Washington defines what counts as a work-related activity and limits a state's ability to use job training programs as a substitute for paid employment. In Canada, only Ontario has a similar regimen. The reform agenda in the United States aims at behavioral changes among welfare recipients. But absent from Canada are stipulations dealing with teen-age mothers, abstinence education, marriage promotion, and responsible fatherhood. And if Ottawa has restored some of its original cuts to welfare spending in the CHST and has supplemented the transfer in other ways, the reauthorization process in Washington aspires to welfare standards which are stricter still. State development of self-sufficiency plans for welfare applicants, higher minimum work expectations in order to access TANF funds, and narrower definitions of work have all been vetted by Congress. Moreover, such changes are to transpire without increasing the basic annual federal transfer and in the context of a two year economic recession from which states have only lately begun to emerge.

It is true, of course, that many US states have received waivers from federal laws pertaining to welfare. When TANF was inaugurated, states with existing AFDC waivers were permitted to continue their exemptions for the duration of the original waiver period. By 2004 these waivers had expired in all but four states, though several states have lobbied for renewal of the arrangement.⁴⁵ Their efforts have been superseded by the Bush Administration's endorsement of the "superwaiver," an idea that found its way into the House version of the failed 2004 reauthorization bill. The superwaiver would apply to TANF, the CCDBG, and many other federal programs pertaining to job training and homelessness. If states wished to be freed from federal restrictions, governors, with the support of local officials whose jurisdictions would be directly affected, would apply to a relevant federal executive branch authority for waiver authorization. The latter would have the power to grant the request without consulting or needing the approval of Congress. The proposal is controversial inasmuch as opponents of the measure fear that without Congressional vigilance minimum federal standards for welfare will be eroded, and that a reprioritization of federal social assistance could free up state funds for purposes other than to help low income citizens.

In Canada, with the possible exception of the medicare issue, there is no parallel debate. The provinces' constitutional authority over welfare, and a well-established practice of permitting provinces to opt out of federal initiatives with full compensation in favor of running their own program, means that such a discussion would be otiose. Although Ottawa remains a principal funding source for provincially administered welfare programs, it resists using its superior financial position to dictate provincial welfare policy. Quebec's refusal to participate in the federally initiated National Child Benefit program is a case in point. No doubt the CHST presents provinces with the difficult choice of how to distribute the block transfer between the three policy areas for which it is intended--health, education, and welfare. In the US, states are spared that dilemma because they have a narrower range of spending options; they can divert up to 30% of their TANF funds to related welfare programs, but they cannot use, say, the greater portion of the transfer to cover state Medicaid expenses. Given the overwhelming support of Canadians for public health insurance, provincial spending on welfare and post-secondary education has often been a casualty of the competition for federal funds. But except for the principles of the CHA and the ban on residency restrictions, the Canadian government does not intervene directly in the formation of provincial welfare policy.

The Impact of the Judiciary

Over the last decade, devolution in US welfare policy has been paralleled by a judicial environment more favorable to state prerogatives. A series of Supreme Court decisions have reduced the scope of Congressional legislation in the interest of state authority. For the first time since the early New Deal, the Court has invalidated federal statutes enacted pursuant to the interstate commerce clause of the Constitution (article I, section 8)—a basis on which Congress has claimed authority to implement national policy over and above state law.⁴⁶ Court decisions have tended to give states immunity from suits brought by private citizens and based on federal legislation—e.g. with respect to laws regarding violence against women, age discrimination, and language discrimination.⁴⁷ The Court has also ruled that state legislatures and state executives cannot be “commandeered” by Congress to act in accordance with Congressional instructions or assist in the enforcement of federal law.⁴⁸ Finally, the

Court has adopted a new and strict standard of review—"congruence and proportionality"--for Congressional action taken under section five of the fourteenth amendment, a provision that empowers Congress to enforce the equal rights, equal protection and due process clauses of the amendment by appropriate legislation.⁴⁹

Over the past decade, the Canadian Supreme Court, too, has made several rulings impinging on federalism. But among the highest profile of these cases only one, *Her Majesty the Queen v. Powley* (2003), which elaborated the constitutional right of Aboriginal peoples to hunt for food notwithstanding provincial restrictions, would seem to assert the power of the national government over the provinces. Two further decisions, the reference case on same sex marriage (2004) and that establishing the right of citizens under Quebec's Charter of Human Rights and Freedoms to purchase private health insurance and pay private providers for services covered under Medicare, *Chaoulli v. Quebec* (2005), would seem to acknowledge the ability of provinces to determine their own policy priorities. In the case of same sex marriage, the Court argued that the federal government had the authority to amend the legal definition of marriage, but that the equality provisions of the Canadian Charter did not obtain since Ottawa had already accepted the rulings of provincial courts that a change in the definition of marriage was required. At the time of the reference decision, since seven of ten provinces had already recognized same sex marriage, it is hard not to conclude that policy in the majority of provinces helped drive the federal government's approach. With respect to *Chaoulli*, although the government of Quebec lost the ruling, the determination was made on the basis of Quebec law. The constitutional door appears open for any other province that might seek to challenge the strictures of the Canada Health Act.

It is difficult to know whether this evolving judicial environment has had direct application to the matter of welfare reform. Canadian and American judiciaries have been reluctant to assume a national legislative role and create new welfare entitlements from the bench. Hence the Supreme Court of Canada denied a recent appeal made under the Charter of Rights and Freedoms in support of the right to an adequate level of social assistance for individuals in need (*Gosselin v. Quebec [Attorney General]*, 2002). Yet each judiciary would seem to have had a mildly nationalizing effect on welfare policy. Both courts have upheld constitutional guarantees to proce-

dural and civil rights and enforced sub-central government compliance with existing statutory law. The US Supreme Court has acknowledged the right of publicly funded legal assistance attorneys to bring litigation that challenges state welfare rules (*Legal Assistance Corporation v. Velazquez*, 2001). The Canadian Supreme Court has taken up a 'spouse in the house' case on appeal from the Ontario Appeals Court concerning the right of single mothers to the same standard of social assistance regardless of whether they are cohabiting; the lower court ruled that notwithstanding Ontario's welfare regulations, under the Canadian Charter of Rights and Freedom's Equality clause a cohabiting partner's assets should not be factored in when determining benefits (*Falkiner v. Director, Income Maintenance Branch* [2002]). And judiciaries in both countries have been active in ensuring the adequacy of notices of sanction to individuals for failing to comply with the terms of their social assistance and have enforced the right of welfare recipients to fair hearing state appeals processes when benefits are denied. In this manner North American judiciaries have leveled potential benefit losses due to the devolution of welfare policy.⁵⁰

Still, there are important differences in kind between the rulings of American and Canadian courts. In general, US courts have appeared more willing to redress the welfare related grievances of individuals against any tier of government and have intervened in the direction of national uniformity. In large part this is because, unlike Canadian provinces, American states have de facto but not constitutional responsibility over welfare. The US Supreme Court has determined that welfare benefits cannot be withheld without due process (*Saenz v. Roe* [1999]; *Goldberg v. Kelly* [1970]), and it has denied the rights of states to restrict welfare benefits to individuals on the basis of durational residency requirements (*Shapiro v. Thompson* [1969]). True to the principle of parliamentary sovereignty, the latter restriction is similarly rejected in Canada—but as a mandate from Ottawa, not on the basis of a judicial decision with nationwide implications.

The Power of the Purse

In assessments of federalism, it is important to follow the money. Economics is the wild card of inter-governmental power relationships. As the construction of the welfare state in the US and Canada well illustrates, financial transactions between central and sub-central governments help to forge and sustain patterns of politi-

cal influence. Among Americans and Canadians alike, much of the present public discourse about federalism and social policy concerns not only jurisdiction but revenue.⁵¹

Due to the sluggish American economy of the recent past as well as a 28% per capita increase in state spending across the 1990s, many states are facing enormous deficits. During the early years of TANF when the American economy was strong, states placed unused transfer money in a reserve fund for future contingencies. They drew on these accounts to increase expenditures on a variety of PRWORA related programs. Since 2001, though, states have regularly spent above what the block grant, supplementary grants, performance bonuses, and reserve funds can give them—US\$1.6 billion more in FY 2002. At the beginning of FY 2004, aggregate state revenues exceeded expenditures by an estimated US\$70-80 billion, or between 14.5% and 18% of all state budgets.⁵² Although tax receipts are up for the first time in three years, 33 states still project shortfalls for FY2005.⁵³ As every state but Vermont requires a balanced budget, revenue enhancing actions must be taken and programs must be cut. Education and Medicaid payments are the states' major concerns, but welfare spending seems especially vulnerable.

In light of an increasing number of Americans in economic distress, the financial strain on the states is beginning to show. According to OECD data, between 1995 and 2001 the relative US poverty rate grew from 16.7% to 17.1% of the population.⁵⁴ Using a different measure, the US Census Bureau reports that poverty increased in the subsequent two years as well, while over the last three years food stamp usage has increased by 35%.⁵⁵ Nationwide the number of welfare caseloads has dropped every year since the PRWORA's enactment and now stands at slightly less than half of the total for 1996. Yet in 2002-03, caseloads rose in twenty-four states.⁵⁶ During that same period thirty-five states pared their TANF funded programs including child care, welfare to work programs, and basic cash assistance.⁵⁷ The unpredictability of long-term federal funding and program expectations, given Congress' repeated failure to reauthorize TANF for a full five year term, makes state officials especially anxious. Should they determine that welfare policy devolution simply means that Washington intends to make them do more with less, they may become less willing to accept national mandates over reform.

Canadian provinces are in a financial position only slightly less vulnerable. This is largely due to provincial control over a greater number of revenue streams and the relative health of the Canadian economy. Yet six of the provinces ran deficits during the 2003-04 financial year.⁵⁸ OECD data for 2001 reveal a pre-tax relative poverty rate of 10.3%, the number of individuals in poverty having increased from 9.5% in 1995; using a different measure, Statistics Canada confirms the trend.⁵⁹ Partly in response, between the 1995-96 and 2001-02 financial years, cities and provinces boosted spending on health and welfare by more than 30%, almost double the increase in their aggregate budgets. During that same period, Canada's federal government increased its total spending by only 3.6%. If Ottawa appears a bit more generous than it was during the mid-1990s, it has nonetheless offloaded responsibility to the provinces without equivalent compensation over the course of the CHST.

The provinces rely heavily on the CHST, in most cases accompanied by equalization transfers, to fund the social programs they choose to run. As long as that is the case, they can never be entirely free from Ottawa's potential influence. In the 1990s, once the federal accounts were in the black, Ottawa embarked on funding initiatives regarding income assistance (National Child Benefit), health (home care, prescription drugs) and post-secondary education (Millennium Scholarships, Research Chairs). All of these touched on the CHST. The SUFA and more broadly the 2002 proposal for an inter-governmental Council of Federation were motivated by the provinces' recognition that the federal spending power can be used as a wedge to reduce provincial independence. When it comes to spending the surplus, however, Ottawa remains disciplined by the imperative of balanced budgets, debt reduction, and reduced taxes. Increasing resources for social programs other than health are unlikely to be high on the federal government's agenda.

IV. THE POLITICAL-CULTURAL CONTEXT OF FEDERALISM

Political structures and policies are animated by a country's political culture--the attitudes, beliefs, and values of the citizenry regarding the nature of government, an individual's role in the political decision-making process, and desired policy outcomes. S. M. Lipset's well-known saw that America is the country of revolution

whereas Canada is the country of counter-revolution is pertinent in this regard.⁶⁰ Historically, Canadians have been favorably disposed toward political order and the traditional elites who preserve it, to collective rights and the claims of community, to the appropriateness of using state power to achieve the public good, and arguably less inclined to defer to the market. By contrast, American political culture may be characterized as Lockeanism with a populist twist: individualism, freedom from the state, equality of opportunity, confidence in markets, and participatory democracy.⁶¹

Welfare states expanded among and within industrial democracies because the programs they instituted were a means of securing political legitimacy, citizens affirming the state's moral authority to rule as a *quid pro quo* for valued social norms and benefits.⁶² Thus, to be considered equally legitimate, the deconstruction of the welfare state must be defended in terms of the characteristic political value scheme of a country. In Canada, the national government presented the CHST as a matter of fiscal and constitutional probity rather than recasting a long-standing public commitment to Canada's neediest citizens. Conversely, in the run up to the PRWORA American officials, in good populist fashion, championed the devolution of welfare responsibility to the states as an instance of bringing government closer to the people--with accompanying strictures against laziness and promiscuity.⁶³

Governments operate within a climate of opinion that limits the range of the policy options they can pursue. It may be a concession to a Canadian idea of collective responsibility for the less fortunate, that the degree to which Canada has scaled back the welfare state is less extreme than in the US. In relative terms, Canada and the US represent the individualistic market-based approach to welfare articulated in Gosta Epsing-Andersen's famous typology of welfare regimes—liberal, conservative, and social democratic.⁶⁴ Still, Canada is less solidly liberal than the US. Poverty rates are higher in the US than in Canada, yet American governments spend proportionately less on all social services, save health, than their Canadian counterparts--0.5% to 2.7% of gross domestic product, respectively.⁶⁵ Further, transfer and tax policies on reducing relative poverty, including child poverty, are roughly twice as efficacious in Canada as in the US; economic analyses tend to agree that these measures reduce the number of individuals in poverty by about half in Canada but by one-quarter or so in the US.⁶⁶ American welfare reform emphasizes

moving as quickly as possible from state support to work, even unpaid work. Receipt of benefits is subject to a nationwide time limit; welfare delivery services are frequently privatized; the federal transfer is frozen; eligibility for social assistance and benefit levels varies significantly between states. All of this speaks to the American preference for bootstraps individualism and market-based justice. The cumbersome title of the watershed American reform legislation, the Personal Responsibility and Work Opportunity Reconciliation Act, drives home that message. The assistance given to needy families, as TANF denotes, is decidedly temporary.

Privatization of welfare is an American distinctive. Among advanced industrial states, including Canada, the US is a laggard in direct public welfare expenditure. It is not so peculiar, however, in terms of the total amount of expenditure on welfare-related services. That is because the US heavily weights private social protection, of which private health insurance is the best example, in the welfare equation.⁶⁷ Private actors, especially employers, account for more than forty percent of American social spending disbursements compared with less than a fifth in Canada.⁶⁸ But welfare in the US is privatized in another way. The willingness of American governments to wed political power to private ethics is a function of the moralism of American public discourse and speaks to the heightened place of religion in American politics. Welfare provisions that reward certain types of private behavior—abstinence, marriage, responsible fatherhood—are characteristic of the American reform landscape. Moreover, the involvement of religious organizations in the public administration of welfare with respect to job training, transportation services, housing assistance and childcare is fairly common in the US but rare in Canada.

Federalism can manifest itself as an expression of a political cultural preference for limited government. That conviction is more profound in the US, perhaps, where Madison provided federalism's original ideological justification, than in Canada, where federalism was largely a pragmatic response to the distinctiveness of Quebec. In principle, federalism accommodates plural centers of social policy-making, as sub-national governments tailor legislation to the particular needs of their citizens. Yet in those instances where minority groups are territorially concentrated in certain political jurisdictions, or when the laws affecting those groups become wildly divergent

across jurisdictions, questions of equality in a federal state become especially poignant.

Though a full treatment of the cultural, ethnic and racial context of welfare policy in North America is beyond the scope of the present discussion, it must be noted that fundamental social differences between the US and Canada have had a formative effect on inter-governmental relations. American federalism and welfare policy have shaped and been shaped by the uniquely difficult relationship of Black and White Americans. In the 1950s and 1960s, for example, southern states and the senators who represented their interests in Washington were reluctant to approve federal welfare initiatives for fear of driving up the cost of cheap, largely black labor and thereby losing market advantage. Over the last fifty years or so, however, the general trend has been toward a nationalization of social policy, including welfare, in the interest of the African-American minority. For that reason, in the US the current redefinition of the welfare state has a racial dimension. Given that African-Americans are among those citizens hardest hit by poverty, that they are residentially concentrated in states with the harshest welfare provisions, and that they are the ethno-racial group most likely to be cut-off from income assistance, in the US devolution comes at the cost of the minority.⁶⁹ Alternatively, Canada's largest socio-cultural minority, its Francophones, have been a force for political decentralization. In recognition of Quebec's peculiar status as one of the Canadian confederation's four founding governments and the primary place of residence of one of Canada's three founding peoples--French, English, and Aboriginal--Ottawa has devolved important aspects of social policy to the province. Quebec has resisted national social assistance initiatives, as its decision to opt out of national pension and child benefit plans suggests. The result has been an overall asymmetry in federal-provincial relations. Since other provinces, often in response to Quebec's prerogatives, have demanded and received similar policy autonomy from Ottawa, Quebec's importance as a catalyst of decentralization is magnified. Granted, there is no small controversy about the status of Anglophone, Allophone, and First Nations minorities within Quebec. Yet if in the US "states' rights" conjures up images of police barring the schoolhouse door to minority children, in Canada provincial rights with respect to Quebec may be understood as a means of securing Francophone linguistic and cultural well-being.

Federal regulations concerning inter-governmental transfers reflect and embellish national preferences as to how federalism should work.⁷⁰ What Weaver calls the “federalism trap” in social policy-making, a question of how much geographic variation is permissible in benefits, eligibility and administration, seems far more troubling to Canadians than Americans.⁷¹ There is no American equivalent to Canada’s regional equalization transfer, which, in principle if not in practice, provinces may use to promote comparable levels of social assistance without introducing disparate levels of taxation. The closest the US may have come to such an arrangement was the establishment by the Nixon Administration, in 1972, of general revenue sharing with the states. That program was never intended to make state-based social services similar in benefit level. It ended in 1986 due to Congress’s unwillingness to transfer further funds given a national budget deficit. It is not surprising, then, that in 2003 the maximum annual TANF and food stamp benefits for a one child, single parent family in the continental US ranged from a low of US\$4776 in Mississippi to a high of US\$8568 in Vermont.⁷² During that same year and for that same kind of family, in Canada total welfare assistance including provision for the purchase of food and exclusive of tax credits, varied from a low of C\$8794 in Alberta to a high of C\$11,646 in Newfoundland and Labrador—a much narrower band of difference.⁷³

Canadian and American political cultures are not uniform. A federal state encompasses a variety of cultural and ideological perspectives, some of which will be territorially specific. To the degree that such regional outlooks on political problems and priorities find expression through the institutions of provinces and states, social policy will vary across jurisdictions. V.O. Key’s seminal study of southern US politics, which traces the relationship between political culture, single party state dominance, and public policies disadvantageous to low-income voters, and Daniel Elazar’s articulation of America’s three regional political cultures—individualistic/market-based, moralistic/communitarian, traditional/elitist-deferential—foreshadow much of the current public discourse about culture wars and “red” and “blue” states.⁷⁴ Canadian scholars have given equal, if not more, attention to the possibility of sub-national political cultures as informed by a province’s or region’s distinct historical experiences, immigration and emigration, economic bases and development strategies, class composition, patterns of party competi-

tion, and relationship with the central government.⁷⁵ A recent statistical analysis of welfare spending differences between American states finds that independent of a state's fiscal capacity or the need of its most disadvantaged residents, policy choices regarding support for cash assistance are most influenced by the ideological views of elected officials.⁷⁶ Similarly, a study of variations in Canadian social policy reveals that whereas Alberta departs from the Canadian norm in pursuing a stingier US-style of reform, welfare policy in Quebec bears several similarities to the social democratic model of Scandinavian states.⁷⁷ Ideologically, Alberta is the most American of all Canadian provinces, in large part because of heavy cross-border migration in the late 19th and early 20th centuries, and it has a long tradition of one-party right-wing Social Credit and Conservative rule of which the neo-liberal Klein government is the latest manifestation. In view of Quebec's linguistic and historic particularities and the desire of its governments since at least the 1960s to have the province recognized as a nation, it is understandable that Quebec might take a more gentle and comprehensive approach to reform in the interest of a *projet sociale*.

Nevertheless, despite the fact that provinces can customize welfare reform to their own specifications, and though Washington's sustained intervention in state welfare policy might lead one to expect otherwise, it is Canada, not the US, where welfare benefits and programs depart least from nationwide norms. Provincial approaches to social assistance are more similar to each other than they are to the United States as a whole.⁷⁸ Informed speculation to be sure, but it is not difficult to detect in this the enduring effect of separate sets of national values.

CONCLUSION

Not so long ago many students of politics, especially American politics, found federalism inappropriate to the problems of modern governance.⁷⁹ More recently, given trans-national markets in trade and investment, scholars have questioned the enduring significance of political boundaries of any sort. But if anything, globalization has invigorated federalism. In part, this is simply because in the effort to balance their accounts central governments have downloaded spending programs to sub-central jurisdictions. More positively, the economic development strategies of sub-central governments have a growing cross-border dimension, enhancing their autonomy from

national government and from each other.⁸⁰ And for citizens who feel alienated by impersonal market-driven economies, sub-central governments may promise a greater sense of political ownership and control. In short, federalism remains a crucial link between the imperatives of globalization and the domestic policy environment.

No doubt the macro-economic context of welfare reform in North America impinges on the capacity of Canadian and American governments to shape policy. In the view of deficit hawks in Ottawa and Washington, a global mandate for market competitiveness has required major changes in how--and how much--welfare has been funded by central governments. If Canadian and American per capita welfare spending has increased since the CHST and PRWORA, it is not only due to welfare policy design, specifically those economic incentives aimed at reducing welfare caseloads, but also to economic expansion and the high labor market demand essential to speeding the transition from welfare to work.

Yet in a federal state no less than any other, policy outcomes are not simply the product of brute economic forces. Political structures have an independent effect on political outcomes.⁸¹ Public policies affect the operation of federalism, as the instance of African-Americans and Quebec Francophones well indicate, but so are those policies changed by the federal systems of government within which they are expressed. This reciprocal relationship offers a rejoinder to the direst predictions of convergence made by students of globalization. If countries undertake political and economic reform in response to common global economic impulses, the institutional processes--including federalism--whereby the policies are implemented and thus the policies themselves will continue to differ. That Canadian provinces have the authority to tailor their own welfare programs largely independent of Ottawa, whereas American states are constrained by a US federal government that insists on strict time limits and work expectations for receipt of benefits, is certainly important to those individuals for whom the policies are intended.

Inter-governmental relations are not self-contained. Federalism is part of a constellation of forces, structural, cultural and social, that over time have informed the nature of social assistance in North America. The sum of these influences obliges a more centralized version of federalism and welfare reform in the United States than in Canada. One must qualify the extent to which provinces and states can be, in the famous phrase of Justice Brandeis, "laboratories of

innovation." Precedent builds momentum for approaching new policy challenges in time-honored ways. In many cases, states and provinces took the occasion of the PRWORA and the CHST to institutionalize practices that were already in place. But if welfare policy is path dependent, so is federalism. Discrete historical trajectories prejudice certain types of inter-governmental interaction--Washington-centered in the US, more province-centered in Canada--that are difficult to shift. Precisely because of divergences across time in the character of American and Canadian federalism, in the US the terms of welfare reform have been national in scope, subject to sustained federal involvement in policy-making, whereas Ottawa has had a much lighter touch.

Among individuals worried about the creeping Americanization of Canada, evidence of these idiosyncrasies should be reassuring. Common policy inclinations do not necessarily result in homogeneous policy processes or outcomes--differences between Canadian and American political institutions and culture are too resilient for that. With respect to welfare reform, Canada is not in particular danger of becoming Americanized. But neither, with respect to federalism, is the US likely to become Canadianized.

ANCRONYMS

AFDC	Aid to Families with Dependent Children
BNNA	British North America Act
CAP	Canada Assistance Plan
CCDBG	Child Care and Development Block Grant
CHA	Canada Health Act
CHST	Canada Health and Social Transfer
EITC	Earned Income Tax Credit
EPF	Established Program Financing
JCPC	Judicial Committee of the Privy Council
MOE	Maintenance of Effort
POGG	Peace, Order and Good Government [Clause of Canadian Constitution]
PRWORA	Personal Responsibility and Work Opportunity Reconciliation Act
SUFA	Social Union Framework Agreement
TANF	Temporary Assistance to Needy Families

NOTES

¹ Accessed at www.fin.gc.ca/budget95/speech/SPEECH6E.html.

² Remarks on the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; Conference Report. Accessed at <http://thomas.loc.gov/cgi-bin/query/F?r104:2/temp/~r104cMYkcK:e5184>.

³ Remarks on the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; Conference Report. Accessed at <http://thomas.loc.gov/cgi-bin/query/F?r104:2/temp/~r104cMYkcK:e43132>.

⁴ For example, see R. L. Watts, Comparing Federalism In the 1990s (Kingston: Institute of Intergovernmental Relations, 1996); S.M. Lipset, Continental Divide: The Values and Institutions of the United States and Canada (New York: Routledge, 1990), pp. 193-211.

⁵ Thomas L. Friedman, The Lexus and the Olive Tree (NY: Farrar, Straus, Giroux, 1999), pp. 83-92. Also see Susan Strange, The Retreat of the State: The Diffusion of Power in the World Economy, Cambridge Studies in International Relations (Cambridge: Cambridge University Press, 1996); Kenichi Ohmae, The Borderless World: Power and Strategy in the Interlinked Economy (New York: Harpers, 1990); Richard McKenzie and Dwight Lee, Quicksilver Capital: How the Rapid Movement of Wealth Has Changed the World (New York: Free Press, 1991).

⁶ See, for instance, Geoffrey Garrett, "Global Markets and National Politics: Collision Course or Virtuous Circle?," International Organization 52 (4), Autumn 1998, pp. 787-824; Daniel W. Drezner, "Globalization and Policy Convergence," International Studies Review 3, Spring 2001, pp. 53-78; Herbert Kitschelt, et al., "Convergence and Divergence in Advanced Capitalist Democracies," in Kitschelt et al., eds., Continuity and Change in Contemporary Capitalism (Cambridge: Cambridge University Press, 1999); Duane Swank, "Funding the Welfare State: Globalization and the Taxation of Business in Advanced Market Economies," Political Studies 46 (4), pp. 671-92; Phillip Manow, "Comparative Institutional Advantages in Welfare State Regimes and New Coalitions in Welfare State Reforms," in Paul

Pierson, ed., The New Politics of the Welfare State (Oxford: Oxford University Press, 2001).

⁷ The weight of recent scholarly evidence seems to agree. On continuing differences in Canada and US social policy, see George Hoberg, Keith G. Banting, and Richard Simeon, "The Scope for Domestic Policy Choice: Policy Autonomy in a Globalizing World," in Hoberg, ed., Capacity for Choice: Canada in a New North America (Toronto: University of Toronto Press, 2002); Banting, "The Social Policy Divide: The Welfare State in Canada and the United States," in Banting, George Hoberg and Richard Simeon, eds., Degrees of Freedom: Canada and the United States in a Changing World (Montreal: McGill-Queen's Press, 1997); and Gerard W. Boychuk and Banting, "The Paradox of Convergence: National Versus Subnational Patterns of Convergence in Canadian and US Income Maintenance Policy," in Richard G. Harris, North American Linkages: Opportunities and Challenges for Canada (Calgary: University of Calgary Press, 2003), pp. 533-74. For an alternative view see Richard Gwyn, Nationalism Without Walls: The Unbearable Lightness of Being Canadian (Toronto: McClelland and Stewart, 1996), and Thomas Courchene and Colin Telmer, From Heartland to North American Region State (Toronto: Centre for Public Management, University of Toronto, 1998). For a good overview of the Canadian debate on globalization and social policy, see Grace Skogstad, "Globalization and Public Policy: Situating Canadian Analyses," Canadian Journal of Political Science, XXXIII:4 (December 2000), pp. 811-820; and Timothy Lewis, In the Long Run We're All Dead: The Canadian Turn to Fiscal Restraint (Vancouver: UBC Press, 2003).

⁸ See Thomas J. Courchene, "Hourglass Federalism—How the Feds Got the Provinces to Run Out of Money in a Decade of Liberal Budgets," Policy Options, April 2004, pp. 12-17.

⁹ Ontario is the most acute example of this. In 1998 Queen's Park compelled municipalities to undertake new financial responsibilities for social housing and fifty percent of health provision in return for the province's authority for funding public schools. Ontario's local governments are also expected to cover 20% of the province's workfare and disability support programs.

¹⁰ On models of American federalism see Deil Wright, Understanding Intergovernmental Relations 3rd ed. (Pacific Grove, CA: Brooks/Cole, 1988), p. 40.

¹¹ H. G. Nicholas, The Nature of American Politics, 2nd ed. (Oxford: Oxford University Press, 1986).

¹² For example the “necessary and proper” national supremacy principle determined in the case of *McCulloch v. Maryland* (1819), the commerce clause principle of *Gibbons v. Ogden* (1824).

¹³ See the discussion in Gerald Baier, “Judicial Review and Canadian Federalism,” in Herman Bakvis and Grace Skogstad, eds., Canadian Federalism: Performance, Effectiveness, and Legitimacy (Don Mills: Oxford University Press Canada, 2002), pp. 24-40.

¹⁴ In 1995 in the *Lopez* case, for the first time in almost sixty years the Supreme Court ruled that Congress exceeded its authority to regulate interstate commerce by passing a law making it a crime to have an unlicensed gun in a school zone. Again in 1997, the Court struck down part of the Brady gun control law requiring state and local law enforcement officers to carry out background checks on prospective handgun purchasers, the Court ruling that such an expectation violated the principle of separate state sovereignty.

¹⁵ R. Kent Weaver, Ending Welfare as We Know It (Washington D.C.: Brookings Institution Press, 2000), p. 19.

¹⁶ Bureau of Economic Analysis, US Department of Commerce, National Income and Product Accounts Table, Table 3.17 Selected Government Expenditures by Function. Accessed at www.bea.gov/bea/nipaweb/TableViewFixed.asp

¹⁷ Chris Schafer, Joel Emes, and Jason Clemens, Surveying US and Canadian Welfare Reform (Vancouver: Fraser Institute Critical Issue Bulletin, 2001), p. 42.

¹⁸ See the discussion in Weaver, Ending Welfare, pp. 54ff.

¹⁹ Weaver, Ending Welfare, pp. 18-20. For example, in 1996 the maximum benefit for a family of three was \$120 in Mississippi but \$703 in parts of New York.

²⁰ Weaver, Ending Welfare, p. 259.

²¹ Allan Moscovitch, "The Canada Assistance Plan: A Twenty Year Assessment, 1966-1986," in Katherine Graham, ed., How Ottawa Spends, 1988-1989: The Conservatives Heading Into the Stretch (Ottawa: Carleton University Press, 1988).

²² It should be noted that the PRWORA also changed eligibility requirements for Supplemental Security Income—a benefit for low income seniors, individuals with certain disabilities, and children in medical distress—as well as food stamps, most importantly by limiting the access of recent immigrants. Most of the restrictions on immigrants have since been lifted.

²³ Schafer, p. 20.

²⁴ See Jane Jenson, Redesigning the "Welfare Mix" for Families: Policy Challenges, Report for the Canadian Policy Research Networks, 2003, p. v.; Weaver, Ending Welfare, pp.344ff; Schafer, pp.16-19.

²⁵ Donald Boyd, Patricia Billen, Paul Posner, Bill Keller, "Assessing State Social Service Spending Under Welfare Reform," unpublished paper presented to the annual meeting of the American Political Science Association, pp. 6 ff.

²⁶ Department of Health and Human Services data. Accessed at www.acf.dhhs.gov/programs/ofs/data/tableF_2003.html.

²⁷ Boyd et al., pp.6 ff.

²⁸ An additional federal transfer, Territorial Formula Financing, compensates for the higher cost of delivering social services in Canada's north.

²⁹ The five principles of the Canada Health Act are public administration, comprehensiveness, universality, portability, and accessibility.

³⁰ David Cameron and Richard Simeon, "Intergovernmental Relations in Canada: The Emergence of Collaborative Federalism," Publius, Spring 2002, p. 3.

³¹ Also of note and beyond the confines of the CHST is the National Child Benefit Agreement (NCB) of 1998. Under the NCB the federal

government offers a Child Tax Benefit, a monthly payment received by approximately 80% of Canadian families, and an additional National Child Benefit Supplement for low income families.

³² Data from Department of Finance Canada. Accessed at www.fin.gc.ca/FEDPROV/FTPTe.html.

³³ Data from Department of Finance Canada. Accessed at www.fin.gc.ca/FEDPROV/cste.html.

³⁴ The Liberal Ontario government announced in its 2004 budget that it will no longer claw back the NCB in calculating social assistance.

³⁵ Data from various provincial government websites and Jenson, p. 29 ff.

³⁶ James J. Rice and Michael Prince, Changing Politics of Canadian Social Policy (Toronto: University of Toronto Press, 2000).

³⁷ See, for instance, Cameron and Simeon, p. 1.

³⁸ As related in the December 21, 1995 Report of the Ministerial Council on Social Policy Reform and Renewal. Accessed at www.releases.gov.nl.ca/releases/1996/exec/0328n03.htm. Conservative premiers especially welcomed the federal turn toward fiscal rectitude. In 1995, in response to the CHST, the newly elected Conservative premier of Ontario, Mike Harris, affirmed, "We accept a reduction of transfers from the federal government, providing those dollars are going to the deficit." Quoted in Sid Noel, "Ontario and the Federation at the End of the Twentieth Century," p. 281, in Harvey Lazar, ed., Canada: The State of the Federation 1997 (Kingston, Ont: Institute of Intergovernmental Relations, 1997). Soon after, when the inequities of the CHST formula for Ontario were recognized fully, Harris took a more confrontational approach.

³⁹ Weaver, Ending Welfare, chapter four.

⁴⁰ The vote for PRWORA in the House of Representatives: Yes, 226 Republicans, 30 Democrats; No, 4 Republicans, 165 Democrats. In the Senate: Yes, 51 Republicans, 23 Democrats; No, 1 Republican, 23 Democrats.

⁴¹ Weaver, Ending Welfare, pp. 265-69, pp. 321-24.

⁴² See, for instance, Steve Farkas and Jean Johnson, The Values We Live By: What Americans Want from Welfare Reform (New York: Public Agenda, 1996).

⁴³ R. Sceviour and R. Finnie, "Social Assistance Use: Trends in Incidence, Entry, and Exit Rates," Canadian Economic Observer, August 2004, Statistics Canada—Catalogue no.11-010, p. 4.

⁴⁴ Boyd and Billen, pp. 9-13.

⁴⁵ See the letter from the National Governors Association to the Speaker of the House of Representatives, J. Dennis Hastert, and the Minority Leader of the House, Richard Gephardt, dated May 1, 2002. www.nga.org/nga/legislativeUpdate/1.1169.C_LETTER%5ED_3678.00.html. The four states are Montana, Massachusetts, Tennessee, and Hawaii.

⁴⁶ *United States v. Lopez*, 1995. See note 14 above.

⁴⁷ *Seminole Tribe of Florida v. Florida*, 1996; *Alden v. Maine*, 1999; *US v. Morrison et al.*, 2000; *Kimel v. Florida Board of Regents*, 2000; *Alexander v. Sandoval*, 2001.

⁴⁸ *New York v. United States*, 1992; *Printz v. United States*, 1997.

⁴⁹ *City of Boerne v. Flores*, 1997.

⁵⁰ Leslie A. Pal and R. Kent Weaver, "Conclusions," p. 310, in Pal and Weaver, eds. The Government Taketh Away: The Politics of Pain in the United States and Canada (Washington, DC: Georgetown University Press, 2003).

⁵¹ For the Canadian debate see Banting, p. 294; Douglas M. Brown, "Fiscal Federalism: The New Equilibrium Between Equity and Efficiency," in Bakvis and Skogstad, p. 75; also the cover story in the September 3, 2001 issue of Macleans.

⁵² Iris J. Lav and Nicholas Johnson, "State Budgets for Fiscal Year 2004 are Huge and Growing," Center on Budget and Policy Priorities,

January 23, 2003; *Fiscal Survey of States*, June 2003 (Washington: National Governors Association and National Association of State Budget Officers, 2003).

⁵³ James Dao, "States' Tax Receipts Rise, Leading to Some Surpluses," *New York Times*, May 4, 2004. Accessed at www.nytimes.com/2004/05/04/politics/04TAXE.html.

⁵⁴ Michael Förster and Marco Mira D'Ercole, "Income Distribution and Poverty in OECD Countries in the Second Half of the 1990s", OECD Social, Employment and Migration Working Papers, Paris 2005, accessed at www.oecd.org/dataoecd/34/11/34542691.xls. Relative poverty rates are measured using a threshold of the proportion of the population falling under 50% of a country's median income.

⁵⁵ The US Census Bureau maintains that poverty increased from 11.7% of the US population in 2001 to 12.5% in 2003. Data from Census Bureau report, "Income, Poverty, and Health Insurance Coverage in the United States: 2003." Available at www.census.gov/hhes/www/income.html.

⁵⁶ US Department of Health and Human Services data. Accessed at www.acf.hhs.gov/TANF_data.htm.

⁵⁷ See the report for the Center on Budget and Policy Priorities by Sharon Parrot and Nina Wu, "States are Cutting TANF and Child Care Programs," June 2003.

⁵⁸ Statistics Canada data for 2004. Accessed at www.statcan.ca/english/Pgdb/govt56a.htm. Canadian provinces are unencumbered by American-style constitutional requirements to balance their budgets. Six provinces have passed balanced budget legislation of varying strictness, whereas two others—British Columbia and Ontario--have had such legislation on the books only to repeal it.

⁵⁹ Förster and Mira d'Ercole, "Income Distribution." Unlike the US, Canada has no official measure of poverty. Statistics Canada uses low income thresholds below which people are regarded as living in "straitened circumstances." Canadian social policy analysts most

often use this as a rough substitute for the poverty line. On these criteria, in 2001 the Canadian pre-tax poverty rate stood at 16.2%.

⁶⁰ S.M. Lipset, Continental Divide.

⁶¹ See, for instance, the discussion in John Harles, Politics in the Lifeboat: Immigrants and the American Democratic Order (Boulder and Oxford: Westview Press, 1993), ch. 4.

⁶² Banting, p.271; Edward Shils, Center and Periphery: Essays in Macrosociology (Chicago: University of Chicago Press, 1975), p. 66.

⁶³ Consider, for instance, the "Contract for America," the party manifesto signed by over three hundred Republican Congressional candidates in 1994: "This year's election offers the chance, after four decades of party control, to bring to the House a new majority that will transform the way Congress works. That historic change would be the end of government that is too big, too intrusive, and too easy with the public's money. It can be the beginning of a Congress that respects the values and shares the faith of the American family." Among the Contract's initiatives were a "Personal Responsibility Act" designed to "(d)iscourage illegitimacy and teen pregnancy by prohibiting welfare to minor mothers and denying increased AFDC for additional children while on welfare, cut spending for welfare programs, and enact a tough two-years and out provision with work requirements to promote individual responsibility." Accessed at www.house.gov/house/Contract/CONTRACT.html. Also see the discussion in Paul Pierson, "The New Politics of the Welfare State," World Politics, 48:2 (1996), pp. 143-179.

⁶⁴ Gosta Epsing-Andersen, The Three Worlds of Welfare Capitalism (Princeton, NJ: Princeton University Press, 1990).

⁶⁵ See OECD data for 2001. Accessed at www.oecd.org/dataoecd/13/33/34557122.xls.

⁶⁶ For instance, Forster and Mira d'Ercole, "Income Distribution"; UNICEF, "Child Poverty in Rich Countries, 2005," Innocenti Report Card, No. 6, UNICEF, Innocenti Research Centre, Florence, Italy, 2005; Garnett Picot and John Myles, "Poverty and Exclusion: Income

Inequality and Low Income in Canada," report prepared for the Government of Canada, Policy Research Initiative, vol. 7 no. 2, December 2004, accessed at http://policyresearch.gc.ca/page.asp?pagenm=v7n2_art_03.

⁶⁷ Jacob S. Hacker, The Divided Welfare State: The Battle Over Public and Private Social Benefits in the United States (Cambridge: Cambridge University Press, 2002).

⁶⁸ See OECD data for 2001. Accessed at www.oecd.org/dataoecd/13/33/34557122.xls.

⁶⁹ Sanford F. Schram, Joe Soss and Richard Fordling, eds. Race and the Politics of Welfare Reform (Ann Arbor: University of Michigan Press, 2003); Paul Pierson, "Fragmented Welfare States: Federal Institutions and the Development of Social Policy," Governance: An International Journal of Policy and Administration, vol. 8, no. 4, October 1995, pp. 467-68; Matthew C. Fellows and Gretchen Rowe, "Politics and the New American Welfare States," American Journal of Political Science, vol. 48, no. 2, April 2004, pp. 362-73.

⁷⁰ Thomas J. Courchene, "Federalism and the New Economic Order: A Citizen and Process Perspective" (2000), address to the Forum of Federations conference on Federalism in the Mercosur: The Challenge of Regional Integration, June 26-27, 2002, Porto Alegre, Brazil, p. 2.

⁷¹ Weaver, Ending Welfare, p. 49. For the Canadian debate, see Rice and Prince, p.121.

⁷² US House of Representatives, Committee on Ways and Means, "Background Material and Data on the Programs within the Jurisdiction of the Committee on Ways and Means (Greenbook 2003)," Section 7, Table 7-12, pp. 41-42. Accessed at www.waysandmeans.house.gov/media/pdf/greenbook2003/Section7.pdf.

⁷³ National Council on Welfare report, "Welfare Incomes: 2003," pp. 27-28 (Ottawa: Minister of Public Works and Government Services Canada, 2004).

⁷⁴ V.O. Key, Southern Politics in State and Nation (New York: Knopf, 1949); Daniel J. Elazar, American Federalism: A View from the States (New York: Thomas Y. Crowell, 1966).

⁷⁵ See, for example, John Wilson, "The Canadian Political Cultures: Towards a Redefinition of the Nature of the Canadian Political System," Canadian Journal of Political Science, VII (3), (September 1974), pp. 438-483; David Elkins and Richard Simeon, Small Worlds: Provinces and Parties in Canadian Political Life (Toronto: Methuen, 1980); David V.J. Bell, The Roots of Disunity: A Study of Canadian Political Culture (Toronto: Oxford University Press, 1992); Neil Nevitte, "The Dynamics of Canadian Political Culture(s)," in Introductory Readings in Canadian Government and Politics, eds. Robert Krause and R.H. Wagenberg, 2nd ed. (Toronto: Copp Clark, 1995); Alisa Henderson, "Regional Political Cultures in Canada," Canadian Journal of Political Science, 37 (3), (September 2004), pp. 595-616.

⁷⁶ Richard Toikka et al., "Spending on Social Welfare Programs in Rich and Poor States," unpublished paper, 2004. Accessed at econwpa.wustl.edu/eprints/pe/papers/0410/0410006.abs.

⁷⁷ Paul Bernard and Sebastien Saint-Arnaud, "Du Pareil au Meme? La Position des Quatre Principales Provinces Canadienne dans l'Univers des Regimes Providentiels," Canadian Journal of Sociology, volume 29 issue 2, Spring 2004, pp. 209-39.

⁷⁸ See the quantitative analysis offered in Bernard and Saint-Arnaud; also Gerard W. Boychuk and Deborah Van Nijnatten, "Economic Integration and Cross-Border Policy Convergence: Social and Environmental Policy in Canadian Provinces and American States," report prepared for the Government of Canada Policy Research Initiative, volume 7 no. 1, June 2004, accessed at http://policyresearch.gc.ca/v7n1_art_10e.html.

⁷⁹ Early examples are Herbert Croly, The Promise of American Life (New York: Macmillan, 1909) and Harold Laski, "The Obsolescence of Federalism," The New Republic, vol. 98, May 3, 1939. For the contemporary debate see Paul Peterson, The Price of Federalism (Washington DC: Brookings Institution Press, 1995).

⁸⁰ See, for example, Courchene and Telmer; also Rice and Prince.

⁸¹ See, for instance, Peter B. Evans, Dietrich Rueschmeyer, and Theda Skocpol, Bringing the State Back In (Cambridge: Cambridge University Press, 1985); Peter A. Hall and Rosemary C.R. Taylor, "Political Science and the Three New Institutionalisms," Political Studies, XLIV (1996), pp. 936-57; Vivien Lowndes, "Institutionalism," in David Marsh and Gerry Stoker, Theory and Methods in Political Science, 2nd ed. (New York: Palgrave, 2002).