

The Rise of the Liquor Control Board of Ontario and the Demise of the Alberta

Liquor Control Board: Why Such Divergent Outcomes?

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Abstract

This thesis will explore the divergent fates of the Alberta Liquor Control Board (ALCB) and the Liquor Control Board of Ontario (LCBO). It will focus on answering one question: why did the governments of Mike Harris and Ralph Klein do such drastically different things with their respective liquor boards? In 1993 Klein liquidated the ALCB and established a private market to distribute alcohol while Mike Harris not only retained the LCBO in public hands, but poured significant amounts of capital into it so that it could complete its modernization process. His government did more than any other Ontario government to solidify the public ownership of the LCBO.

The answer to the question lies in the province-specific contextual differences between Alberta and Ontario. The Klein government privatized the ALCB because such a move would show the citizens that this was a 'new' government that was going to radically alter the governing structure in the province. It had widespread public support and there was little organized opposition to the government's very decisive and speedy policy shift. Interestingly, the structure of the resultant marketplace was not designed to be the most efficient in an economic sense, but rather was designed to favour one particular constituency, independent small businesses.

In the case of Ontario, the Harris Tories never considered privatizing the LCBO because such a move would meet stern resistance from a number of very influential interests such as the Ontario wine producers and the large Ontario brewers. With privatization off the policy table, the government poured money into rebuilding the LCBO because such a policy, it was reasoned, would increase the government's revenues by altering consumer preferences to purchase more high-value products and, most critically, retaining the LCBO would maximize the monopoly rent portion of its remittances to the government.

The thesis draws upon historical institutionalism (HI) and John Kingdon's multiple streams decision-making model to structure its descriptive and analytical components. HI's emphasis on the seminal importance of history, context and the endogenous nature of preferences, among other characteristics, is the most suitable framework from which to explain the two divergent sets of decisions from both governments. Both liquor boards, furthermore, helped to shape their respective fates at the hands of their political masters and were sent down distinctive trajectories long before the election of either the Harris or the Klein governments. Kingdon's theory is encapsulated within HI and is used to analyze the actions and mindsets of the key decision makers. The continued presence of government-owned liquor boards in the retail and wholesale sectors of the alcoholic beverage industry, with the exception of Alberta and exemplified by the LCBO, raises some interesting questions about Canada, the relative influence of neoliberalism on policy formation and how Canadian governments choose to solve collective action problems.

Table of Contents

	Page
Abstract	2
Acknowledgements	4
Introduction Unique Contexts, Different Outcomes: The Fates of the LCBO and the ALCB	6
Chapter One Historical Institutionalism: Accounting for Time, Place and Context	42
Chapter Two The Rise of the LCBO: History, Politics and Context	87
Chapter Three Fast, Pragmatic and Ideological: The Privatization of the ALCB	141
Chapter Four Explaining our Outcomes: Different Contexts, Different Outcomes	190
Chapter Five The Significance of our Cases: Canada, the State and Liquor	224
List of References	248

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Any and all errors in logic or judgments, conclusions, omissions and any other deficiencies are, of course, the sole fault of the author.

Introduction

Unique Contexts, Different Outcomes: The Fates of the LCBO and the ALCB

“We did things like privatize our liquor stores. That was unCanadian.”¹

Mr. Klein makes a valid point. Of all Canadian provinces, only Alberta has privatized its liquor distribution system, by selling the Alberta Liquor Control Board (ALCB) in 1993 and implementing a private retail market to sell alcohol. The other nine provinces have instead chosen to continue to own and operate their large, provincially owned liquor retailers. Indeed, the largest of these retailers, the Liquor Control Board of Ontario (LCBO), has not only remained in government hands, but has also radically improved its customer service and product selection. The dingy stores and ill-tempered staff of its past are gone. Today, LCBO stores are warm and inviting, the staff helpful and overall consumer satisfaction is high.² The privatization of Crown assets, a common policy of many federal and provincial governments during this ‘neoliberal’ era,³ has not generally extended to provincially owned liquor boards. The fact that Alberta is the only province to have liquidated its liquor board raises some important questions regarding the evolution of provincial state institutions in our contemporary era. It is also what makes the study of divergent outcomes in Alberta and Ontario so valuable, with the former being the more unusual, and the latter being the norm.

¹ Klein, Ralph, *The National*, ‘Interview with Rex Murphy’, 21 September, (Toronto: Canadian Broadcasting Corp., 2006).

² Ontario’s citizens are quite happy with the LCBO. Customer satisfaction levels are well over 70% across a wide range of consumer categories and it continues to win plethora of corporate awards. LCBO, *Annual Report 2003-2004* (Toronto: LCBO, 2004) p. 29.

³ McBride, Stephen *Paradigm Shift: Globalization and the Canadian State*, second edition (Halifax: Fernwood Publishing, 2005), p. 103. A complete exploration of neoliberalism, its characteristics and its relationship to this thesis can be found on p. 31.

Questions to Answer and Factors to Examine

This thesis is a comparative case study of the government-owned and operated liquor boards in Ontario and Alberta, the LCBO and the ALCB respectively, from the mid-1980s until 2006. Its goal is to understand why we witness such divergent outcomes in these two provinces: why did successive Ontario governments maintain public ownership and, in fact, expand and enhance the LCBO, while in Alberta, the provincial government chose to privatize its entire liquor distribution system? What institutional, political, social, and economic forces are responsible for these very different policy outcomes? These contrasting outcomes imply that some different factors were at work in each province. Accordingly, one must ask what role province-specific variables - from history and culture to formal institutions - had on these outcomes. One must also examine whether, and in what manner, the institutions themselves shaped their respective fates. How had their internal composition during this period affected the resultant policy outcomes and to what extent were these institutions able to influence the decisions of their political superiors?

More clearly, the divergent outcomes were the results of different decisions made within each provincial government. Accordingly, one must examine where the critical decisions were made regarding liquor policy in these provinces, who made them and what criteria they used to arrive at their final decisions. Decisions, of course, are never made in a vacuum and must be placed into a specific context: what was the composition of the political landscape and what factors were foremost in the minds of the decision makers? To understand how different interests viewed liquor distribution, who were the relevant stakeholders and how influential were they over the policy process? Ideology, in

this case, neoliberalism, played a pivotal role in both the governments of Mike Harris and Ralph Klein.⁴ Accordingly, one must also ask what role, if any, did neoliberal tenets play in the selection of policy outcomes with respect to liquor boards in Ontario and Alberta? Finally, one must inquire into the resultant effects of the different types of distribution systems on such things as selection, price, government revenues etc. and how these factors influenced the decision makers.

Argument

This thesis will argue that in the particular policy arena of liquor distribution, both provincial governments made decisions that were politically pragmatic in nature. While both governments were staunchly neoliberal in their ideological orientation, and Alberta did, in fact, privatize its liquor board, it did so primarily because such a decision, and the subsequent liquor distribution regime that was set up, made good political sense at the time and in that particular province.⁵ In contrast, Ontario and Mike Harris' Tory

⁴ Ideology is a difficult thing to define, but a simple definition is: a coherent set of ideas that forms the basis of an economic or political theory. It is often a comprehensive visionary manner of examination and its purpose is usually to alter how society functions by making normative evaluations; it is the application of abstract thought to public issues. Ideology and 'Ideological', more specifically, often refers to a type of political movement that is guided by a particular set of ideals and ideas. Allen, R.E., editor, *The Concise Oxford Dictionary of Current English* (Toronto: Oxford University Press, 1990) p. 586 and Carlsnaes, Walter *The Concept of Ideology and Political Analysis: A Critical Examination of Its Usage By Marx, Lenin, and Mannheim* (Westport: Greenwood Press, 1981) p. 4.

⁵ The term 'political' is used in this thesis to refer to the divergent array of forces that influence how and why governments act, in addition to the inherent self-interest of governments to appease citizens and interest groups, and to mitigate active dissent. Kingdon's broad and narrow definitions of 'political' are helpful here. Broadly, Kingdon views 'political' as "any activity related to the authoritative allocation of values or to the distribution of benefits and costs". His more narrow definition and the one he applies in his case studies relates to "...electoral, partisan, or pressure group factors." It can be applied when "...they use 'political' motivations...to refer to politicians attention to voter reactions, their skewering of members of the opposite political party, and their efforts to obtain the support of important interest group leaders." (Kingdon, John W. *Agendas, Alternatives, and Public Policies* (Toronto: Little, Brown and Company, 1984) p. 152). Applying his definition of 'political' draws attention to, for instance, the interests of relevant actors in this particular sector such as suppliers of alcoholic products, public health groups and other retailers of alcoholic beverages, among others, all of whom have a vital interest in how this particular sector is organized. Such a term also includes other, more general needs of governments to, for example, preserve and create jobs through the promotion of indigenous industries and, of course, to earn revenues from the sales of alcoholic beverages. The loss of such revenue would require either tax increases or service cuts,

government not only chose to not privatize, but did more than any other Ontario government to solidify the public ownership of the LCBO - a decision that made good political sense in Ontario. The decisions regarding the fate of each liquor board, a single one in the case of Alberta and more iterative ones in the case of Ontario, were highly centralized in the upper echelons of their provincial governments without any meaningful public or popular consultation, and both were tailored to the needs of their respective provincial governments. This difference in outcomes was ultimately the result of differing provincial political cultures and, most importantly, the institutional make-up of the respective liquor distribution regimes. Individual liquor boards, especially the LCBO, also influenced the decisions of their political superiors. Contextual variables in our two case studies will explain these divergent outcomes.

This thesis will also argue that the LCBO is a dynamic entity that was (and is) able to provide high-value to consumers, satisfy all relevant stakeholders and please its political superiors, and that it was able to do this because it was given sufficient resources, freed from political constraints and operated by capable personnel. The LCBO case study will demonstrate that privatization is not the only way to increase the effectiveness or efficiency of Crown corporations – reforms can be made while such institutions are still in public hands. After nearly 20 years of state retrenchment and much academic and popular criticism of the state and its (in)ability to solve social and economic problems, this thesis lauds the reformed LCBO as tangible proof that state

both of which could cause potential ‘political’ problems for the government since citizens (and firms) resent both policy options. In this sense, the term ‘political’ also includes repercussions from proactive decisions made by the government. Privatizing the LCBO or radically altering the distribution system in Ontario, for example, would cause problems with suppliers, other retailers of alcoholic beverages, since they would lose their privileged positions in the market and would voice such concerns to the government. In Alberta, such a drastic opposite move had ‘political’ appeal since it would show both the citizenry and others that this government was steadfast in its decision to alter how the province was governed. This has widespread popular appeal.

institutions can (and, in many cases, must) effectively solve collective action problems. Emphasizing this point and the dynamism of state-owned institutions will be one way this thesis contributes to the public policy literature.⁶ However, it also points out that the outright privatization of the ALCB and the fact that its distribution system works well, illustrates that it is possible (and some may argue desirable) to use private market mechanisms to distribute alcoholic products. This fact, then, makes the outcome in Ontario and fate of the LCBO even more intriguing.

On an abstract level, this thesis will demonstrate that much of the theoretical literature, and particularly Marxist and rational choice frameworks, cannot adequately explain Alberta and Ontario's divergent outcomes. Neither Marxism, with its universalistic assumptions of the subservient role of the state to the needs of capital, especially in a more global economy, nor rational choice, which also makes universalistic assumptions, the most critical one being that private markets are more efficient at providing goods and services to citizens than government-owned monopolies, can explain the outcomes in both provinces. Each tends to underestimate the importance of context-specific political factors. It is argued that a historical institutional (HI) approach, in conjunction with John Kingdon's multiple streams decision-making theory, provides a more suitable theoretical basis to explain these two divergent outcomes. More specifically, these two frameworks can account for the pragmatic nature of both decisions in each province. And, that such pragmatic action is, in turn, relative to the province-

⁶ du Gay, Paul *In Praise of Bureaucracy: Weber, Organization and Ethics* (Thousand Oaks, California: Sage, 2000), preface. du Gay explicitly argues that the state in and of itself is an essential set of institutions that has a positive influence on society. He is one of a very few theorist who makes positive normative claims as to the inherent value of traditional bureaucracies of the state.

specific political, cultural and (formal) institutional factors that shape the political landscape.

These two divergent outcomes also illustrate the complexity and intricacies of provincial government ‘retrenchment’ in our contemporary neoliberal era. This is particularly true in Ontario where the provincial state, via the LCBO, continues to intervene directly in the liquor distribution market. But, interestingly, it is also true in Alberta where the provincial government imposes a strict set of rules that structure the liquor distribution market to meet a set of particular objectives. Alberta, as will be explained, implemented a ‘competitive’ market not simply a ‘free’ market. The actions of the Harris Tories, as mentioned, were largely based on political considerations, but they were also based on the fact that the government viewed a revitalized LCBO as the best means to maximize its revenue since outright privatization, as will be explained, was never a politically viable option given the strength of interests aligned against privatization. All governments (including Alberta’s) desperately need new and growing revenue streams. The differing outcomes in these two provinces raise important issues as how governments are reorganizing their institutions to continue to meet fiscal, political and economic objectives that, in turn, are shaped by province-specific factors and political reality.

The summary of this thesis’ argument for why we witness such divergent outcomes is as follows: in the case of the LCBO, successive Ontario governments chose to retain and to reform the LCBO because these choices would maximize the government’s revenue earned from alcohol sales. In particular, the LCBO, and thus the Ontario government, would continue to benefit from the monopoly rent derived from the

LCBO's dominant position in the alcohol retail market. Interestingly, and somewhat ironically, it was the Conservative government of Mike Harris that, more than any other previous government, poured significant amounts of capital into the LCBO, in order to rebuild its store network. Other vital reasons for continued public ownership include the political power of The Beer Store (TBS) and the owners of the domestic wine stores that share the oligopolistic retail market with the LCBO, and, not surprisingly, did not wish to see their privileged position challenged.⁷ In addition, the Ontario wine industry, for the most part, also supports the current model (many players in this industry own and operate wine stores that receive preferential treatment from the LCBO). Most suppliers of alcoholic products like the current model too, since it provides a unitary portal to the consumer (lowering advertising, sales and administration costs) and promotes high-value (and higher profit) products in a socially responsible manner.⁸ Other variables include support from the public health sector for continued government ownership and, of course,

⁷ The Ontario alcohol retail market is an oligopoly. In terms of market share by product values in the 2005/2006 fiscal year, the LCBO had 51.2%; TBS had 30.1% and the domestic wine stores had 2.5%. Other retail sources of alcohol were the illegal market (6.6%) and other legal channels (9.7%). The latter category included on-site brewery and distillery stores, duty-free stores and homemade products. It is important to note that TBS is owned by Labatt, Molson (each owning a 49% share), and Sleemans (with 1%), and two firms, Andres and Vincor, own the vast majority of wine stores. The composition of the Ontario alcohol retail market will be discussed more thoroughly in chapter 3. LCBO, *Annual Report 2005/2006* (Toronto: LCBO, 2006), Available at: http://www.lcbo.com/aboutlcbo/annual/2005_2006.pdf. p. 40.

⁸ Westcott, Jan, Executive Director, Canadian Association of Canadian Distillers (Spirits Canada), Interview, November 10, 2005; Heaps, Cameron, President, Steam Whistle Brewing, Interview, October 25, 2005; Davidson, Rod, Vice-president, Sales, Colio Estate Wines, Interview, November 2, 2005. Some smaller Ontario wineries do not like the current market configuration, especially if they are unable to get their products into the LCBO store network, see: Mytelka, Lynn K. and Haeli Goertzen 'Learning, Innovation and Cluster Growth: A Study of Two Inherited Organizations in the Niagara Peninsula Wine Cluster' in *Clusters in a Cold Climate: Innovation Dynamics in a Diverse Economy*, David A. Wolfe and Matthew Lucas, editors (Montreal and Kingston: McGill-Queens University Press, 2004), pp. 66 and 67. It is also important to note that (most) suppliers of alcohol want their product to be distributed in a socially responsible manner and support the LCBO's efforts in this regard. While no participants discussed this matter directly, most representatives from the industry are very politically astute and would understand the potential for negative publicity that might arise from problems associated with alcohol consumption. All of them would be aware of the troubles facing large tobacco firms and would not want to emulate their public relations and legal problems.

the LCBO's unionized workers.⁹ Last, but most certainly not least, Ontario consumers also like the LCBO.¹⁰

The LCBO reformed its upper management structure in the mid-1980s. Following these reforms, a very capable senior management team, led by an astute 'policy entrepreneur,' Andrew Brandt, was placed in charge of the LCBO.¹¹ Brandt's team was able to influence the LCBO's fate by ensuring that the Board was actively meeting the needs of the government in power. Under this team, the LCBO was not a passive institution. It significantly increased its remittances to the provincial treasury and it managed to accomplish this by changing consumer preferences with respect to alcohol. No longer a sinful vice of its prohibition era ethos, alcohol is today viewed as a part of healthy, middle-class lifestyle in which moderation and individual consumer responsibility – as opposed to externally imposed controls – are key hallmarks. The LCBO's new management team implemented a strategy to shift consumer preferences and views of alcohol deliberately, in order to promote high-value products that were more profitable, without selling higher volumes of alcohol, which was not politically feasible.¹² Ontario's Protestant temperance ethos accordingly played a small role in the reformation of the LCBO by contributing to a general aversion, on the part of the Ontario politicians, bureaucrats and electorate, towards outright privatization. Finally, successive Ontario governments (including the Harris Tories) opted not to radically change the liquor

⁹ Murie, Andrew, CEO of Mothers Against Drunk Driving (MADD), Interview, November 30, 2005 and Nielson, Heino, Executive Assistant to the President, OPSEU, Interview, November 17, 2005. Note: the Ontario Liquor Boards Employees' Union merged with OPSEU in the summer of 2005.

¹⁰ Customer satisfaction levels of the LCBO remain very high. Research by an independent research firm shows that in 2005 78% of the LCBO's consumers ranked their shopping experience eight points or higher on a ten point scale, and four out of ten claimed that the LCBO was one of their favourite palaces to shop. LCBO, *Annual Report 2004/2005* (Toronto: LCBO, 2005), p. 16.

¹¹ Kingdon, *supra* note 5, pp. 188-193.

¹² Brandt, Andrew, CEO, LCBO, 1991-2006, Interview, Nov. 8, 2005.

distribution market because such attempts would require a significant expenditure of political capital for marginal political gain. Privatizing liquor distribution in Ontario would require the government to fight with many established interests and risk hurting the government's revenues (losing the monopoly rent component of the LCBO's remittances). Accordingly, privatizing the LCBO was not ever an appealing (or seriously considered) option, even under the Harris Tories. Harris had other, more important, policy issues to deal with; altering the liquor system was simply not a priority for his government.¹³

In the case of Alberta, the Klein Conservative government chose to privatize the ALCB and to distribute alcohol using a private market mechanism because such a decision fit well with the neoliberal orientation of the nascent government in this specific policy arena at this particular period. However, given that the Ontario government also had a neoliberal orientation, this is not sufficient to explain the decision to privatize. At that time, Alberta faced some acute fiscal and economic challenges that out of political necessity needed to be acknowledged quickly and decisively. It is also important to note that in political cultural terms Alberta's electorate is considered to be to the right of Ontario's and therefore more receptive to privatization initiatives. Facing a mounting deficit and high unemployment, the Klein Conservatives decided to privatize the ALCB as a tangible and visible sign to the citizenry that this was the beginning of a new era in Alberta governance - a sign that they were going to shrink the state, sell assets to repay the debt, eliminate unionized workers and, perhaps most critically, set up a distribution system that would improve customer value by facilitating small-scale businesses, all the while continuing to maintain the government's revenues earned from alcohol sales. It was

¹³ Giorno, Guy, Advisor to Mike Harris, 1995-2002, Interview, Nov. 29, 2005.

a relatively easy asset to eliminate and privatization comprised a part of a larger effort by the Klein administration to get the government out of delivering non-essential services such as highway maintenance and vehicle and permit registries, both of which were contracted to private interests.¹⁴ It was a decision that made both political and ideological sense at the time. In the eyes of the Klein Tories, the sale of the ALCB would be relatively easy, in political terms,¹⁵ and would also serve as an exemplar to the citizenry that markets, rather than governments, are the most efficient delivery agents for goods and services. The decision to privatize the ALCB was made and implemented quickly, with no public or interest group input. Within six months of the decision, all of the former ALCB stores had closed. Public health organizations, alcohol suppliers, employees and citizens had to accept the government's decision as a *fait accompli*.¹⁶

It is interesting to note, however, that despite its neoliberal orientation, the Alberta government did not create a 'pure' free market in the alcohol retailing sector when it privatized the ALCB. If market efficiency had been the government's only goal, it would not have required liquor stores to be free standing (and thus exclude the large grocery retailers from selling liquor in-store), nor would it have imposed uniform wholesale prices or delivery fees (a store in Edmonton pays the same unit costs as a store

¹⁴ West, Hon. Stephen, Minister of Municipal Affairs (Ministry responsible for the ALCB), 1992-1994, Interview, March 1, 2006.

¹⁵ Davis, Jack, Deputy Minister of Municipal Affairs, 1992-1995, Interview by phone, May 8, 2006.

¹⁶ A few secondary sources that support the paragraph's assertions and are additional secondary sources on the privatization of the ALCB are: MacKenzie, Bornwyn and Norman Giesbrecht 'The Alberta Experience with Privatization: An Exemplary Model or Cautionary Tale?' *In Sober Reflections: Commerce, Public Health, and the Evolution of Alcohol Policy in Canada, 1980-2000*, in Norman Giesbrecht et al, editors (Montreal: McGill-Queen's University Press, 2006); Laxer, Gordon, 'The Privatization of Public Life' in *The Trojan Horse: Alberta and the Future of Canada* Trevor Harrison and Gordon Laxer, editors (Montreal: Black Rose Books, 1995); Lisac, Mark, *The Klein Revolution* (Edmonton: NeWest Press, 1995). These three sources are critical of the Alberta government's decision to privatize. More supportive views of privatization are: West, Douglas, *The Privatization of Liquor Retailing in Alberta* (Vancouver: The Fraser Institute, 2001) <http://oldfraser.lexi.net/publications/pps/5/index.html> (accessed August 2, 2007) and Cooper, Barry *The Klein Achievement* (Toronto: Faculty of Management, 1996), p. 21.

in Fort McMurray). It might also have permitted multiple wholesalers rather than a wholesale monopoly (except for domestic beer) to operate the old ALCB warehouse in Saint Albert. Finally, it would not have raised the taxes levied on alcohol. The new Alberta liquor distribution market was instead deliberately designed, as will be explained, to appease specific interest groups and to meet political objectives of the Conservative government.

Five Important Themes

There are five important themes that will run throughout the course of the thesis. First, the thesis' aim is to provide a comparative analysis of the evolution of Alberta's and Ontario's liquor distribution systems; it will not make any normative judgments on the functioning of each system. Second, the policy outcomes produced by the two case studies are a part of a general trend towards the relaxation of the stringent rules that governed alcohol prior to the Second World War. Third, the fact that the Harris government retained and expanded the LCBO is an unexpected and fascinating outcome and thus comprises a key part of the analysis. Fourth, decisions, in both provinces were highly centralized and this is causatively related to alcohol's narcotic properties and the states' need to maintain its regulatory function. The critical role that political concerns, above all others, played in the minds of the decision makers is the final theme. Together, these five themes will influence the thesis' analysis and conclusions.

First, the liquor distribution systems in both Alberta and Ontario perform well. By and large, all interested groups – the government, consumers, and suppliers – are satisfied with the institutional arrangement in each province.¹⁷ Each system has a number

¹⁷ Throughout 2006 there have been some significant problems with the Alberta wholesaling system. The company, Connect Logistics, which operates the only alcohol wholesale warehouse in the province (with

of different attributes, but each supplies reasonably priced products to consumers, provides the provincial treasury with ample tax revenue and allows suppliers to conduct their business. There is a heated debate among public health officials as to the public health effects of the different systems, and there are credible arguments for both supportive and critical views of each system,¹⁸ but this debate is outside of the purview of the thesis. Few consumers (or researchers, for that matter) have regular, first-hand experience with a system other than the one of their home province; so long as people have reasonable access to a wide selection of fairly priced alcohol they are satisfied. The preferences of individuals (and governments and suppliers), as will be explained, are largely shaped by the institutional arrangements of each province. This is why consumers, for example, are satisfied with their respective provincial systems. Similar arguments are applicable to both governments and suppliers of alcoholic products. This obviously implies that the thesis will not provide a normative argument in favour of either system. Rather, it will explain the structure and characteristics of each system and link how they have changed over the last twenty years to the political (and ideological,

the exception of domestic beer) has been unable to fill orders from suppliers in a timely fashion, resulting in empty store shelves. This problem, it is felt, has less to do with the setup of the distribution system and more to do with the firm's inability to please the industry's stakeholders (especially retailers). If a firm has been granted a privileged position in a marketplace (as Connect Logistics has, with its monopoly on the wholesaling of alcohol in Alberta) it must make intense efforts to ensure that all groups are satisfied with its performance. This is something that this company has apparently thus far been unable to do. See: Libin, Kevin 'It Could be a Dry Christmas in Alberta', *The National Post*, 27 October, 2006.

¹⁸ There are two diametrically opposed views on the influence of distribution systems on individual alcohol consumption. Giesbrecht et al. at the Centre for Addiction and Mental Health (CAMH) and Andrew Murrie of Mothers Against Drunk Driving (MADD), for example, draw a positive, causative relationship between private retail liquor distribution systems and increased consumption. Others such as Ed Sawka, Director of Research Coordination, at the Alberta Alcohol and Drug Abuse Commission, do not think there is a causative relationship between privatized liquor retailing system and increased consumption. He argues that Alberta has not witnessed an increase in alcohol related problems as a result of privatization. Giesbrecht et al., *supra* note 16, p. 202, Andrew Murrie, *supra* note 9, and Edward Swaka, Director, Research Coordination, Alberta Alcohol and Drug Abuse Commission (AADAC), Interview by phone, March 1, 2006.

cultural, structural etc.) forces in each province that are responsible for the divergent outcomes.

Second, the institutional changes to the retailing and wholesaling system in both provinces are indicative of (or perhaps partially responsible for) a larger shift within Canadian society towards a more liberalized attitude towards alcohol.¹⁹ The last forty years have been a period where the rules and regulations surrounding alcohol have gradually been relaxed. Examples of this shift abound. Real prices have fallen; permits are no longer required for retail purchases; age restrictions have eased (changing from 21 to 19 or 18); men and women are free to mingle in bars and consumption is permitted at universities.²⁰ Consuming alcohol, so long as it is done in a responsible manner, is no longer viewed as a particularly sinful activity. Alcohol consumption and smoking, in some respects, have changed positions in society in that the latter is currently viewed as a social ill and the former much less so. Forty years ago, particularly in Ontario, the opposite was true. Thus, in both provinces today, as compared with the previous systems (an unreformed LCBO and the former ALCB) purchasing alcohol is easier and designed to be a much more pleasurable experience with stores offering better service, selection and prices.

The liberalization of the regulatory regime for consuming alcohol, moreover, is also directly related to a shift in the burden of responsibility for consuming alcohol in a moderate and socially responsible manner. With the relaxation of rules regarding its purchase and a shift away from an external control on its consumption (the 'C' in LCBO supposedly stands for 'control'), the burden has moved away from the institutions that

¹⁹ Bird, Malcolm G. and Christopher Stoney 'Government Approaches to the Regulation of "Sin"' in *How Ottawa Spends, 2006-2007*, G. Bruce Doern, editor (Montreal: McGill-Queen's University Press, 2006)

²⁰ Heron, Craig *Booze: A Distilled History* (Toronto: Between the Lines, 2003,) p. 332-338

sell alcohol to the individuals who purchase it. This is partly due to the ‘liberalization’ of our society more generally (and the increased emphasis on market mechanisms to solve collective action problems). However, it is also a result of a conscious effort by the LCBO in Ontario to place the burden of responsibility on the individual rather than the (state) institution that provides the product.²¹ The privatization of the ALCB in Alberta has, perforce, largely accomplished the same task.

Third, the most interesting and novel finding of this thesis is the reform of the LCBO. This is not to say, however, that exploring the Alberta model has not been of interest or that comparing Ontario’s system to Alberta’s model is problematic. Alberta’s liquor system is the most divergent from Ontario’s (and the other provinces) because Alberta permits the private sector to distribute all alcoholic beverages in the province (albeit within a highly regulated marketplace). Consequently, the Alberta model thus provides the starkest and most useful contrast with the LCBO’s evolution. In addition, as will be explained, the rationale, process and outcomes of the Alberta model have been thoroughly explored in academic works providing a valuable source of reference. More generally, theoretical constructs – both coming from the ideological left and right – can be used to explain the Klein government’s decisions. It is the evolution of the LCBO that, in some respects, is surprising. Indeed, the LCBO has been so successful in its institutional reformation efforts that it is widely supported by interest groups, consumers and the government. Successive Ontario governments (Conservative, Liberal and New

²¹ This is partly a result of a general shift in society towards emphasizing the role of individuals and their own responsibility for their actions, in addition to being a part of a larger trend of neoliberal type state reforms that place production and social security, for instances, on the individual as well. However, it is also a deliberate attempt by the LCBO to divert culpability from itself to its clients. Such a shift is necessary since ‘modernizing’ its retail operations would obviously require enticing consumers to its stores and would be antithetical to its previous role of reluctantly providing alcohol to the citizenry. An interesting comparison is with the gambling industry that shares more of the responsibility of its clients’ behaviour than its alcohol-dispensing counterpart. No participants wanted to be quoted on such a sensitive subject.

Democratic Party (NDP)) chose not to privatize liquor distribution in Ontario, but it was the staunchly neoliberal oriented government of Mike Harris which solidified the public ownership of the LCBO, more than any other government, by, among other things, greatly increasing its capital allotments. This type of reform of Crown corporations has largely been overlooked in the academic literature. Given the 'privatization-ethos' in Canada over the last twenty years, we would not expect that a government would retain and expand a state enterprise, such as the LCBO. But, this is exactly what happened. The LCBO's reformation will compromise a key part of this thesis' analysis and its contribution to the existing literature on the evolution of state institutions in Canada.

Fourth, the decisions made regarding the reformation of the LCBO and the privatization of the ALCB were highly centralized in the upper echelons of the Ontario and Alberta provincial governments. They were made without any meaningful consultation with the public and outside of the influence of the legislatures. All of the key decisions regarding the fate of these institutions were made in the Premier's or relevant minister's offices, and a few were made within the senior ranks of the LCBO (with the consultation and approval of the government). This is not only characteristic of the centralization of power within Canadian government more generally,²² but also has to do with some of the characteristics of alcohol as a product.

²² Power in both provincial and the federal government is increasingly centralized in the upper echelons of the executive branch, principally in the Premier's office or the Prime Minister's Office. Centralized decision-making locus is characteristic of Westminster Parliamentary systems, but it has increased notably in the federal government. Power has always been more centralized in the Premier's office in the provinces and has been getting more so over time and, in particular, with the election of the Harris Tories. On the federal government see: Savoie, Donald J., *Governing From the Centre: The Concentration of Power in Canadian Politics* (Toronto: University of Toronto Press, 1999); on provincial premiers, see: White, Graham 'Governing from Queen's Park: The Ontario Premiership' in *Prime Ministers and Premiers: Political Leadership and Public Policy In Canada*, Leslie A. Pal and David Taras, editors (Scarborough: Prentice-Hall, 1988); Centralizing power in the Premier's office, see: Cameron, David R. and Graham White *Cycling Into Saigon: The Conservative Transition in Ontario* (Vancouver: UBC Press, 2000). D.

Debates over the optimal system for distributing alcohol were (and are) determined by its narcotic properties. First, alcohol is a product that causes a wide range of social and medical problems. It is estimated that the total costs of alcohol use (and abuse) in 1992 was approximately \$7.5 billion or 1.1% of Canada's GDP for that year. This number includes direct costs, such as increased medical and law enforcement expenses, and indirect costs, such as lost economic productivity.²³ These significant externalities form part of the rationale for imposing significant sin taxes on alcohol²⁴ and, in the case of the LCBO and Ontario, are used to support direct state intervention in the marketplace. Furthermore, limiting the consumption of alcohol is often an important public policy concern for all levels of government. However, the degree to which the decision makers heed the concerns of the public health authorities over the externalities caused by alcohol's consumption vary from province to province and from time to time.

Second, a relatively small minority of the population consumes a disproportionate volume of the alcohol sold and, not surprisingly, this group is also responsible for most of the problems associated with its use. Estimates vary as to the exact percentages, but one source argues that 20% of the population consumes 80% of the alcohol in Ontario.²⁵ This

Murray, MacKenzie, President, North York General Hospital, 1994-2005, Interview, Dec. 1, 2005, pointed out that it in the healthcare sector most of the key decisions, particularly those that require financial expenditures, are increasingly centralized in the Premier's office. In addition to the general trend of centralizing decisions in the executive, alcohol's narcotic properties and the types of individuals that consume it mean that decisions regarding liquor distribution systems can more easily be made without input from actors outside of the senior levels of the executive.

²³ Single, Eric et al. 'The Economic Costs of Alcohol, tobacco and Illicit Drugs in Canada, 1992' in *Addiction*, Vol. 93, Issue 7, 1998, p. 1001.

²⁴ Negative externalities form part of the rationale for high alcohol taxes, however, taxes levied on alcohol do not cover the costs associated with its use. Even in places such as Finland which have high alcohol taxes they only cover half of the real cost of consuming alcoholic products. Lehto, Juhani, 'The Economics of Alcohol' in *Addiction*, Vol. 92, Supplement 1, June 1997, pp. S55-S59, p. S58.

²⁵ Murrie, *supra* note 9. Also see: Cook, Philip J. 'The Effect of Liquor Taxes on Drinking, Cirrhosis and Auto Accidents in *Alcohol and Public Policy*, Mark Moore and Dean Gerstein, editors (Washington, DC: National Academy Press, 1982), p. 280, and de Lint, Jan and Wolfgang Schmidt 'The Distribution of

includes heavy drinkers (clinical alcoholics) who make up approximately 6% of the population, and so-called 'binge' drinkers, many of whom are young males.²⁶ This group, almost by definition, is relatively weak in terms of political power.²⁷ Alcoholics and young people who drink too much are unlikely to raise any concerns with their elected representatives as to the condition of the liquor distribution system.

Even moderate drinkers (many of whom are middle-class and educated) are relatively silent, in a political sense, when it comes to structural changes to liquor distribution systems. This is principally because other public services, namely healthcare and education, are deemed to be much more important than issues as to how alcohol is sold. Like other drugs, alcohol's inherently 'sinful' nature tends to limit peoples' tendency to express publicly strong views regarding the manner in which alcohol is sold. As one participant aptly put it: "You don't have an alcohol version of the friends of Medicare."²⁸ Changes to the distribution system are thus unlikely to evoke a strong politicized response from all types of alcohol consumers. The 'demand' side of the alcohol consumption contingent is a relatively weak political group, (i.e. consumers), while in contrast, the 'supply' side, which includes suppliers, manufactures, other retailers and the Ontario wine industry, for example, are cohesive and well organized groups, willing and able to make their views known to the upper echelons of the political sphere. Despite the relative power of the 'supply' component in each province, however,

Alcohol Consumption in Ontario' in *Quarterly Journal of Studies on Alcohol*, Vol. 19, No. 4 (New Brunswick, New Jersey: Center for Alcohol Studies, 1968).

²⁶ Murrie, *supra* note 9.

²⁷ By and large, people who smoke tobacco and gamble to excess tend also to be on the margins of society since many smokers and problem gamblers are male, young, poor, and have low education attainment levels. This group again, by definition, is relatively weak in political terms. For more discussion on the relationship between government's regulation of 'sin' and how it is influenced by the social groupings of those that indulge, please see: Bird and Stoney, *supra* note 19, pp. 259-261.

²⁸ Blumenthal, Len, CEO, Alberta Alcohol and Drug Abuse Commission, 1988-1998, Interview, April 19, 2006.

the divergent decisions of both governments are indicative of relatively centralized decision making systems in both provinces. Suppliers of alcoholic products, for the most part, did (and do) not support the privatization initiatives in Alberta or Ontario.²⁹

Provincial governments also earn significant amounts of tax revenue from the sale of alcohol. In 2004/2005, gross revenue from the Alberta Liquor and Gaming Commission (ALGC) for alcohol was \$570 million and total net revenue from alcohol for the Ontario government for the same year was \$1.603 billion.³⁰ This revenue is earned by the government at relatively low political cost when compared with the costs governments would have to incur by imposing more intrusive taxes, such as income, property or corporate taxes on provincial residents. What makes earning revenue from alcohol sales even more attractive in political terms is how ‘distorted’ the price paid in retail stores is in relation to the actual cost of production, distribution and retailing of alcoholic products. Historically high taxation levels on alcoholic beverages in Canada have altered how consumers view prices; few people appreciate how much of the price of liquor is really a tax on sin.³¹ And, of course, provincial governments, like all levels of government, are in desperate need of politically palatable sources of revenue to provide citizens with an ever-increasing myriad of goods and services.

²⁹ Campbell, Ian, Executive Director, Ontario Imported Wine-Spirit-Beer Association, Interview, Nov. 18, 2005. A number of other participants confirm this point, but many wish not to be quoted in a public document. The views of interest groups in Alberta, including alcohol suppliers, will be examined in more detail in chapter 2.

³⁰ Alberta Liquor and Gaming Commission, *Annual Report 2004/2005*, (Edmonton: Alberta Liquor and Gaming Commission, 2005), p. 38, and LCBO, *Annual Report 2004-2005*, *supra* note 10, p. 29 (Calculations by author). Direct comparisons between the two provinces are difficult since each has a unique configuration of institutions in the alcohol sector. The Alberta figure, \$579 million, can be thought of as a ‘sin tax’ on alcohol levied on all alcohol purchased at the wholesale level. Ontario’s \$1.603 billion includes the ‘profit’ earned by the LCBO, and the ‘sin tax’ levied on all alcohol passing through TBS and the wine shops, \$1.115 billion and \$488 million respectively. It is important to remember that the LCBO’s ‘profit’ (i.e. what it remits to the government) is comprised of three components: a sin tax, an operating profit and a monopoly rent. The different tax regimes and institutional arrangements will be explained more fully in chapters 2, 3 and 4 of this thesis.

³¹ The price of alcoholic products, taxation levels and regimes will be examined in more detail in chapter 4.

In addition to being relatively ‘cheap’ in political terms, revenue earned from alcohol sales is generally quite a stable source of governmental income, and one that is not dependent on variable commodity prices. It is also, interestingly enough, a source of revenue that has shrunk, over the last forty years, as a proportion of total government revenue. The Ontario government’s earnings from the LCBO in 1968, for example, comprised 7% of the provincial budget, in contrast to the 1.3% in 2004.³² The price of alcoholic products, too, has dropped in real terms over the last forty years. This is largely because taxes have not kept pace with inflation.³³ Provincial governments might appreciate the ‘potential’ source of revenue from this sector and thus wish to maintain strict control over its distribution.

The fifth important point to consider is that the Ontario and Alberta case studies illustrate that political concerns were foremost in the minds of the critical decision makers. Even in Alberta, where ideology played a more significant role, the decisions in both provinces ultimately made good political sense given the constituency of the stakeholders groups, cultures, temporal epoch etc. To support this supposition, in direct contrast to the ALCB’s fate, the Alberta Treasury Branches (ATB Financial), a provincially owned deposit-taking financial institution, was reformed in much the same manner as the LCBO during the 1990s. ATB’s reformation, and ability to stave off privatization, was the result of serendipity, institutional maneuvering and, most importantly, the fact that it is an institution with close ties to the rural and small business

³² Canadian Tax Foundation, *Provincial Finances 1967* (Toronto: Canadian Tax Foundation, 1967), p. 17, LCBO, *Annual Report 2004-2005*, *supra* note 10, p. 45, and Ministry of Finance, *Annual Report and Consolidated Financial Statements, 2004-2005* (Toronto: Ministry of Finance, 2005) http://fin.gov.on.ca/english/economy/paccts/2005/05_ar.html (Calculations by author).

³³ Barbor, Thomas et al. *Alcohol: No Ordinary Commodity* (Oxford: Oxford University Press, 2003), pp.106 and 112.

community.³⁴ Had ideology, particularly of a neoliberal type, been foremost in the minds of Alberta's decision makers, retaining and reforming ATB Financial would most certainly not have occurred. Political concerns, in the case of ATB Financial's reformation, appear to trump ideological dogma.

The politicized nature of the decision-making within each respective provincial government is also demonstrated by the Ontario case study. Mike Harris and his Conservative Party not only made direct promises to privatize the LCBO (by holding a news conference on the LCBO's front steps during the 1995 election campaign), but also made explicit reference to the privatization of Crown assets in their policy platform for the 1995 election, the *Common Sense Revolution*.³⁵ Harris' Conservative government, like that of Ralph Klein, had made a fundamental ideological shift away from the more moderate Macdonald 'red tory' stance of previous Ontario Tory governments³⁶ to a more radical form of conservatism, one heavily influenced by neoliberalism.³⁷ Yet the Harris Tories chose not to privatize the LCBO. The Ontario example serves to demonstrate that despite both governments' predispositions towards neoliberalism, in each province, decision makers made very logical, highly pragmatic decisions that suited the particular time and place. Decision makers were constantly weighing the political cost of any action against the possible value (economic or political) of the policy change, conducting a

³⁴ Ascah, Bob, Vice-president, Government Relations, ATB Financial, Interview, Feb. 9, 2006. A more expansive explanation of the rationale for retaining and expanding ATB Financial will be explored in chapter 4.

³⁵ The Progressive Conservative Party of Ontario *The Common Sense Revolution* (Toronto: The Progressive Conservative Party of Ontario, 1994), p. 22.

³⁶ Rea, K.J. *The Prosperous Years: The Economic History of Ontario, 1939-75* (Toronto: University of Toronto, 1985), p. 18

³⁷ Ibbitson, John *Promised Land: Inside the Mike Harris Revolution* (Scarborough: Prentice Hall, 1997) p. 27 and 28. Ibbitson uses the term 'neo-conservative' but its use is synonymous with 'neoliberalism' for all intents and purposes.

ruthless (and quick) ‘cost/benefit’ calculation as to the potential repercussions from the outcome of such change.

Decision makers in each government, but especially in Ontario, were concerned with government revenue and took steps to ensure it did not shrink. Provincial governments are under intense pressure to provide public goods, such as healthcare and education, but are increasingly unable (or unwilling) to raise direct taxes. The expansion of these two sectors, especially with an aging population and the pressures of the ‘knowledge-based, new economy’ only add to the financial strain facing this level of government. Governments, very simply, need revenue. This overarching drive - to secure non-direct sources of revenue - is paramount to both case studies, but especially evident in Ontario. In addition, at the times that the key decisions regarding their respective liquor distribution systems were made, both governments had ambitious policy agendas that limited the amount of time/energy they had to dedicate to non-core policy arenas. In Alberta, privatization was a key part of the new government’s agenda, while in Ontario balancing the budget and (direct) tax cuts, and not privatization per se, were its seminal goals. This thesis, then, will focus on examining the political context that the key decision makers faced in both provinces and the various factors that influenced their respective decisions. Each set of decision makers evaluated the potential – political - costs and benefits of any changes to the liquor system and acted in accordance to the outcome of such an evaluation.

Contribution

This thesis also aims to make a significant and novel contribution to the field of Canadian public policy in two important respects. First, it focuses on provincial

governments, Crown corporations and provincial liquor boards which are policy arenas that, of late, have received little academic attention. While some literature has been produced by academics on provincial governments and the growth of the provincial state, by-and-large provincial governments today are under-examined given their control over a wide range of substantial public policy issues that have a tangible effect on the citizenry.³⁸ Comparisons between provinces, likewise, are sparse since “there has been surprisingly little effort made to understand the similarities and peculiarities of the politics and governments of Canada’s provinces and territories.”³⁹ Today, it is the federal and local governments, international relations and thematic topics (gender, native relations, electoral systems etc.) that, for the most part, receive the bulk of the academic attention. Literature on Crown corporations peaked during the 1980s and early 1990s.⁴⁰

³⁸ This is not to say that there are not some very good and insightful works on provincial governments in Canada, only that given the provincial states importance that there is not as much as one might expect. Part of this problem is one of scale. Canada and its constituent provinces are relatively lightly populated places and there is a correspondingly small pool of academics to produce works on each province. For instance, there is much more written on Ontario than Alberta. Sadly, this often means that there are no pairs of seminal books written on any two provinces, for instance, K.J. Rea’s book *The Prosperous Years: The Economic History of Ontario, 1939-1975*, has no Albertan counterpart. A look at the tables of contents of a journal in Canada, such as *The Canadian Journal of Political Science*, will illustrate the limited degree of interest in the provinces and institutional components. Some good sources on provincial politics and government are: *The Provincial State in Canada: Politics in the Provinces and Territories*, Keith Brownsey and Michael Howlett, editors (Peterborough: Broadview Press, 2001); *Provinces: Canadian Provincial Politics*, Christopher Dunn, editor (Peterborough: Broadview Press, 2006) and Dyck, Rand, *Provincial Politics in Canada: Towards the Turn of the Century* (Scarborough: Prentice-Hall, 1996). On Ontario, see: White, Graham *The Ontario Legislature: A Political Analysis* (Toronto: University of Toronto Press, 1989); White, Graham ‘Revolutionary Change in the Ontario Public Service’ in *Government Restructuring and Career Public Services*, Evert Lindquist, editor (Toronto: IPAC, 2000) and Cameron, David R. and Graham White, *supra* note 22, among many others. Alberta has significantly fewer works, but some important ones include: *Government and Politics in Alberta*, Allan Tupper and Roger Gibbins, editors (Edmonton: University of Alberta Press, 1992); Bruce, Christopher J., Ronald D. Kneebone and Kenneth J. McKenzie, editors, *Government Reinvented: A Study of Alberta’s Deficit Elimination Program* (Toronto: Oxford University Press, 1997). Journalists sometimes produce rigorous pieces, see: Lisac, *supra* note 16 and Ibbitson, *supra* note 37.

³⁹ Brownsey and Howlett, *supra* note 38, p.13.

⁴⁰ Kirk Laux, Jeanne and Maureen Appel Molot *State Capitalism: Public Enterprise in Canada* (Ithica: Cornell University Press, 1988); Rea, K.J. and Nelson Wiseman, editors *Government and Enterprise in Canada* (Toronto: Methuen Publications, 1985) and Tupper, Allan and G. Bruce Doern, editors *Privatization, Public Policy and Public Corporations in Canada* (Halifax: The Institute for Research on Public Policy, 1988)

Recently, Crowns have received little academic study and “[v]ery little serious analysis has been undertaken about the administrative, political and economic issues facing Crown corporations in modern Canada.”⁴¹ This thesis will help to fill in some of these voids.

Provincial liquor boards have received some academic attention. Most of the literature, however, has been pre-occupied with making normative claims over the effects of the privatization of the ALCB (either ardently supportive or virally opposed), or calling for significant changes (read privatization) of the provincially owned liquor boards.⁴² Only one known publication offers a comparative view of the changes in Alberta and Ontario, and the authors of it, while arriving at some important conclusions, also miss some critical factors.⁴³ No known literature has taken a specifically

⁴¹ Tupper, Allan ‘*The Changing Political Environment of Canadian Crown Corporations*’ in *Public Enterprise in an Era of Change*, John Allan, editor (Regina: Canadian Plains Research Center, 1996), p. 23. One notable exception is: Bellamy, Matthew J. *Profiting the Crown: Canada’s Polymer Corporation, 1942-1990* (Montreal: McGill-Queens University Press, 2005).

⁴² Most of the secondary literature looks at Alberta’s privatization experience. In support of the move, see: West, D., *supra* note 16; Alberta Liquor Control Board *A New Era in Liquor Administration: The Alberta Experience* (Edmonton: Government of Alberta, 1994); Cooper, *supra* note 16, p. 21; and Christopher J. Bruce ‘Rethinking the Delivery of Government Services’ in Bruce et al., *supra* note 38. More critical views include: Laxer, *supra* note 16; Flanagan, Greg *Sobering Result: The Alberta Liquor Retailing Industry Ten Years after Privatization* (Edmonton/Ottawa: Canadian Centre for Policy Alternatives and Parkland Institute, 2003); Laxer, Gordon, Duncan Green, Trevor Harrison and Dean *Neu Out of Control: Paying the Price for Privatizing Alberta’s Liquor Control Board* (Ottawa: Canadian Centre for Policy Alternatives, 1994); and Mark Lisac *supra* note 16, p. 121-125. There are a few pieces written on the transformation of the LCBO: McInerney, Rosemanry and David Barrows *A Critical Analysis of Management Tools for Creating Government Responsiveness: The Liquor Control Board of Ontario as a Context for Creating Change* <http://www.innovation.cc/case-studies/barrows-ed.pdf>; Barrows, David and Arthur Barrows *Change Management and the Liquor Control Board of Ontario (LCBO)* in The IPAC Case Study Program, Series 2.0 Carolyn Johns, editor (Toronto: IPAC and Ryerson University, 2002); and Petkantichin, Valentin *Is Government Control of the Liquor Trade Still Justified?* (Montreal: Montreal Economic Institute Research Paper, October 2005). The first two outline some of the LCBO’s organizational changes and the latter is an argument for all provincial governments to get out of the liquor business. None delves deeply into the political reasons for the continued public ownership of the LCBO. A significant number of newspaper and magazine articles have been written, but they tend to be overly normative (editorials arguing for privatization, for example), and most do not delve into significant detail as to the political rationale for continued public ownership.

⁴³ Giesbrecht, Norman, Andree Demers, Alan Osborne, Robin Room, Gina Stoduto and Evert Lindquist, editors, *Sober Reflections: Commerce, Public Health, and the Evolution of Alcohol Policy in Canada, 1980-2000* (Montreal: McGill-Queen’s University Press, 2006). This anthology comes closest to providing

comparative perspective that focuses on an in-depth view of the political reasons from the respective different outcomes from each province. This thesis will also help to fill in some of these lacunae.

In many respects, this thesis is examining an old subject within the Canadian political economy literature: the role of the state in the economy of the nation. Canada is a country where the state has played and continues to play a pivotal role in the economy through close regulation, outright monopolies on such things as healthcare and post-secondary education and, of course, the provision of goods and services through Crown corporations. Our nation's vast size, history, limited population and dependence on resource extraction, tends to make Canadian governments, both provincial and federal, more willing to intervene directly in the economy.⁴⁴ Some intellectuals, in fact, have argued that direct state involvement is a characteristic of our national identity. Herschel Hardin proposes that Canada's "Public Enterprise Culture" is in direct contrast to the America's "Free enterprise country".⁴⁵ Publicly owned monopolies are not only a part of

an explanation of the divergent outcomes between Alberta and Ontario's alcohol distribution systems. It has some valuable insights, but also, in the eyes of this author, uses some problematic source material and arrives at some conclusions that this author's research does not support.

⁴⁴ However, it is important to note that it is difficult to make broad statements arguing that Canadian governments intervene more than their American counterparts, but rather, that the form and structure of the state's intervention is different. American defense spending, for instance, at over half a trillion dollars, is indicative of a significant level of intervention that fundamentally shapes both society and the structure of the American economy. One set of scholars, Stanley Winer and J. Stephen Farris, in fact, argue that if defense spending is taken out of the analysis, that the difference in the size between Canadian and American government is insignificant. What is important to this discussion is that in Canada there are a number of sectors where governments hold a monopoly, such as healthcare insurance and post-secondary education, and, in general, there has been a willingness to use the state to help meet specific political and economic objectives and that this has often resulted in the use of Crown corporations. This is most certainly true in the liquor distribution sector where all provincial governments, except Alberta, continue own and operate liquor wholesale and retail businesses. In political cultural terms, too, there is a general perception in Canada that citizens trust government more than their American counterparts. Winer, Stanley L. and J. Stephen Farris 'Just How Much Bigger is Government in Canada? A Comparative Analysis of the Size and Structure of the Public Sectors in Canada and the United States?' in *Canadian Public Policy*, Vol. XXXIII, No. 2, 2007.

⁴⁵ Hardin, Herchel *A Nation Unaware: The Canadian Economic Culture* (Vancouver: J.J. Douglas, 1974), chapters 4, 5, 6 and 8.

our identity, but, as Hardin points out, oftentimes can be more efficient in delivering goods to citizens than private markets. Others, such as Gad Horowitz, drawing upon work by Kenneth McRae, argues that socialism (and its affinity for state intervention) is stronger in Canada than in the United States because socialism and toryism, as ideologies, share a number of common traits in comparison to American-style liberalism. Both eschew liberalism's focus on the individual and his or her rights and, despite some important differences, have a similar collectivist bent that calls for the state to play a seminal role in the economy and society, more generally. The "tory touch" meant that there is space within (English) Canada's ideological foundation for a strong and interventionist state; a red tory is a uniquely Canadian identity.⁴⁶

The support of Canadians (and the support of Canada's elites) for national healthcare and education programs (the most popular publicly owned and operated monopolies) is very strong.⁴⁷ Our nation, in some respects, has been and continues to be defined by our citizenry's willingness for the government to play a pivotal role in the society through direct intervention. While there are fewer Crowns in Canada now than there have been in the past, the Crowns have not disappeared. In the liquor retail industry, Ontario chooses to use a Crown corporation while Alberta now uses private enterprise to distribute liquor, it does so within a highly regulated (and indeed rigid) set of government-imposed rules. Canada's historical affinity for publicly owned monopolies and state involvement, more generally – while diminished – still exists and, as we shall

⁴⁶ Horowitz, Gad 'Conservatism, Liberalism and Socialism in Canada' in *Introductory Readings in Government and Politics*, 2nd edition, Dickerson, Mark O. et al, editors, (Toronto: Methuen, 1987) and McRae, Kenneth D. 'The Structure of Canadian History' in *The Founding of New Societies: Studies in the History of the United States, Latin America, South Africa, Canada and Australia*, Louis Hartz, editor (New York: Harcourt, Brace and World, 1964).

⁴⁷ Canadians derive much of their nationalistic identity from the state provision of public goods, such as healthcare, or with state action, such as peacekeeping, than with Canadian private firms. See: *The Economist* 'A Foreign Invasion: But Globe Shopping Canadians are Relaxed', 2 February 2006.

see, plays an important role in our two case studies, particularly in Ontario. The fact that the publicly owned and operated LCBO is an efficient distributor of alcoholic beverages and most citizens are well served by it, likewise, warrants analysis particularly given the stereotypically popular view that state enterprises cannot effectively solve problems.

Neoliberalism in Canada

Our examination of these two case studies occurs within a political and economic context often described as the ascension of neoliberalism. Ostensibly, neoliberalism is a rejection of the postwar Keynesian Welfare State (KWS),⁴⁸ which was characterized by high taxes, direct government intervention in the marketplace, through regulation, Crown corporations, high unionization rates and a state supported system of public goods, such as education and healthcare. Intellectually, neoliberalism is rooted in reviving the late 19th century classical liberalism whereby individuals and markets (unhindered by state-imposed obstructions) dominated the economic intellectual milieu.⁴⁹ Its more recent roots lie with ardent proponents of laissez-faire marketplaces such as Friedrich Hayek and especially Milton Friedman, who won the Nobel prize in economics in 1976, both of whom attacked the postwar welfare state, arguing that the overbearing welfare state (with its taxes, programs, regulation etc.) was stifling economic growth.⁵⁰ Stagflation of the early 1970s, according to these intellectuals, was a direct result of the economic inefficiencies caused by the state's intervention into the operation of the market. Their conclusion, very generally, was that markets are far superior solvers of collective action

⁴⁸ Jessop, Bob 'Towards a Schumpeterian Welfare State? Preliminary Remarks on Post-Fordist Political Economy' in *Studies in Political Economy*, Issue 40, Spring 1993, p. 7-9.

⁴⁹ Hackworth, Jason. 'Progressive Activism in a Neoliberal Context: The Case of Efforts to Retain Public Housing in the United States' in *Studies in Political Economy*, Issue 75, Spring 2005, p. 30.

⁵⁰ Hayek, Friedrich A. *The Road to Serfdom* (Chicago: University of Chicago, 1944); Milton Friedman *Capitalism and Freedom* (Chicago: University of Chicago, 1962) and *The Economist* 'Milton Friedman: A Heavyweight Champ at Five Foot Two', 23 November 2006.

problems than states and that all attempts should be made to free markets from as many ‘distortions’ as possible. Unions, taxes, regulations, Crown corporations and, more generally, the state itself, were hindering the ability of the marketplace to reach optimal efficiency.

Neoliberalism reached the political sphere with the election of Ronald Reagan in the United States and Margaret Thatcher in the United Kingdom in the early 1980s.⁵¹ These two leaders actively sought to impose market-oriented agendas in their respective countries. Taxes were cut, regulations reduced, unions challenged and the marketplace – and its values – were given primacy. Such changes demarcated a ‘policy paradigm shift’ in how national economies were managed, away from strong state intervention in the national economy (Keynesian) to one where markets forces and economic liberalization are dominant.⁵² It was not just an ‘economic’ or material concern, but was directly linked to ‘political’ emancipation of individuals, in that the marketplace, it was felt, would be the ultimate democratic institution, placing the individual and his/her needs above that of the state, bureaucrats or any other external influences.⁵³ More generally, however, neoliberalism can be characterized by an increased reverence for the value and efficacy of the marketplace for solving collective action problems, and a corresponding degradation and support for the state as a viable mechanism to solve such problems.

Where markets were not able to solve collective action problems that were formally performed by the state through the use of outsourcing, contracting out,

⁵¹ McBride, *supra* note 3, p. 9.

⁵² McBride, *supra* note 3, p. 8.

⁵³ Friedman and Hayek, *supra* note 50.

privatization and the introduction of public-private partnerships,⁵⁴ and where state involvement remained necessary, governments, according to neoliberal theorists, were to import management concepts from the private sector. For example, governments were to quantify public sector outputs, create partnerships with the non-profit and private sectors, and institute performance-pay scales for civil servants, in a shift in operations that is summarized by the concept of New Public Management (NPM).⁵⁵ According to the guiding principles of NPM, the marketplace is the real generator of wealth and the role of the state is to facilitate its efficient function by protecting property rights, providing healthy, educated workers and low tariffs and taxes. Under NPM principles, governments are to “steer” society and the economy rather than taking on an overly onerous and interventionist “rowing” role.⁵⁶ While the United States and the United Kingdom embraced NPM principles (and neoliberalism more generally) relatively warmly, Canada’s embrace of these principles has been “tepid,” since the implementation of many NPM concepts has never received significant political support here, particularly at the federal level.⁵⁷ The Mulroney government did initiate a review of the process and structure of the federal government, PS2000, but it did not significantly alter the structure of the federal government. The Program Review implemented in 1995 by Chretien’s Liberals did have a significant impact on the structure of the government, but this was

⁵⁴ Mahon, Rianne *Varieties of Liberalism: Canadian Social Policy from the “Golden Age” to the Present*, prepared for Multi-Pillar Systems of Social Safety Nets, Seoul, South Korea, 24 November, 2006, pp.3-4.

⁵⁵ Pal, Leslie A. *Beyond Policy Analysis: Public Issue Management in Turbulent Times* (Scarborough: Nelson, 1997) chapter 5.

⁵⁶ Osborne, David and Ted Gaebler *Reinventing Government: How the Entrepreneurial Spirit is Transforming the Public Sector* (Don Mills: Addison Wesley, 1992).

⁵⁷ Pal, *supra* note 55, p. 170. This is a generalization and does not apply to all policy sectors. Public or social housing, for instance, is one area where the Canadian federal government, particularly since the Program Review of 1995, has both withdrawn much its direct funding and delegated most of its policy creation and implementation to the provinces and the cities. This is in stark contrast to the American federal government that is still involved directly in providing social housing in cities. See: Prince, Michael J. ‘Holes in the Safety Net, Leaks in the Roof: Recent Changes in Canadian Welfare Policy and their Implications for Social Housing Programs’ in *Housing Policy Debates*, Vol. 9, Issue 4, 1998.

mainly due to its drastic funding and personnel cuts. At the provincial level, neoliberalism, and some of the NPM concepts, did enter the Canadian political sphere, at least in some provinces – it did so most notably, with the election of the Harris Tories in Ontario in 1995 and the Klein Conservatives in 1993.⁵⁸

Interestingly enough, the neoliberal shift in some, if not all, Western governments during the last 20 years, and neoliberalism's accompanying cynicism regarding the state's ability to solve collective action problems effectively, does not, however, mean that the state in Western societies (or Canada) is shrinking in relative power or importance to the marketplace. In fact, there is ample evidence (and, indeed our Ontario case study clearly demonstrates) that states are not shrinking at all, but may, in fact, be expanding or, at the very least, 'morphing' in light of current ideological, political and cultural pressures. Provincial government spending on healthcare and education, for example, is increasing far faster than inflation and in conjunction with future pension liabilities; provincial and federal budgets continue to expand at a rate that is in far in excess of inflation.⁵⁹ Any discussion, in short, of the relative strength of the state in relation to the marketplace, at the very least, needs to be carefully balanced with empirical data that may complicate and distort what is often assumed to be a straightforward and common assumption: that markets are usurping states in relative economic and political power. This thesis at its theoretical heart is examining the Canadian provincial state and seeing how it is changing

⁵⁸ Ibbitson, *supra* note 37; Harrison, Trevor and Gordon Laxer 'Introduction' in *The Trojan Horse: Alberta and the Future of Canada* (Montreal: Black Rose Books, 1995) and Harder, Lois, Associate Professor, Department of Political Science, University of Alberta, Interview, March 15, 2006.

⁵⁹ Government spending in Alberta, for instance, has increased from \$24.1 billion in 2004/2005 to 28.3 two years later in 2006/2007, an increase of over 8% per year. In Ontario, we also see significant increases in expenditures. In 2004/2005 the government spent \$79.3 billion and in 2006/2007 it spent \$87 billion, an increase of almost 4% per year. Treff, Karin and David B. Perry *Finances of the Nation: A Review of Expenditures and Revenues of the Federal, Provincial and Local Governments of Canada* (Toronto: Canadian Tax Foundation, 2007) pp. 2:10, 2:14.

in one particular arena –liquor distribution - during this neoliberal era. One provincial state institution, the LCBO, has adapted well to its new political (and ideological) surroundings.

Methodology

This thesis has generated substantial data and draws on both primary and secondary sources to support its assertions. Its most important source of information is approximately 40 interviews with key actors (or their representatives) that were conducted in both Ontario and Alberta during the fall and winter terms of the 2005/2006 academic year. The author interviewed, over the phone and in person, a significant portion of the relevant stakeholders and key actors in the two provinces while residing in both provinces for several months during this process. Requests for interviews were, for the most part, received positively, and his sources represent a wide range of actors. Meetings took place with key people within the political and bureaucratic spheres of both governments; past and present senior employees of the LCBO, the former ALCB and current Alberta Liquor and Gaming Corporation (ALGC); manufacturers, suppliers or importers of alcoholic products (or their trade organization representatives); public health professionals, a union representative (Ontario) and other professionals familiar with each respective provincial government.

Other critical primary source data comes from pamphlets, government and liquor board publications and newspapers. Secondary sources were also consulted, both with respect Alberta's decisions to privatize the ALCB (where the secondary sources are extensive) and Ontario's decision to reform the LCBO (where the secondary sources are more limited). A plethora of academic literature, needed to contextualize the case

studies, was also consulted. This included material on Canadian public policy and Crown corporations, as well as more theoretical material on methodological approaches for analyzing state activity. These materials inform the research and form a key part of this thesis' analytical framework.

Theoretical Framework

Explaining the divergent outcomes and different liquor distributions systems of Ontario and Alberta requires a set of theories that allow for province-specific factors – both formal and informal institutions - to be preeminent. The theoretical frameworks used in the thesis will help to guide the analysis of the changes to the liquor systems of each province, organize the empirical evidence, and, finally, to place the thesis' argument within the wider plethora of public policy literature. This thesis will employ two theoretical frameworks in order to do this: historical institutionalism (HI) and Kingdon's multiple streams decision-making model.

HI, very simply, places emphasis on how and why institutions change over time.⁶⁰ It stresses the interplay between internal or institution specific forces and their relation to the wider external set of factors that exist within the political, cultural and historical context in which all formal institutions exist. Conceptually, the HI framework will help to explain the province-specific variables, from ephemeral, yet critical factors such as political and historical culture to more concrete variables such as the role of external actors, such as liquor suppliers or producers to other interest groups, and how they influenced the context in which political decisions were made. It will also help to explain

⁶⁰ A historical institutional approach is articulated by Streeck, Wolfgang and Kathleen Thelen 'Introduction: Institutional Change in Advanced Political Economies' and Hacker, Jacob S. 'The Hidden Politics of Social Policy Reform: Uncovering and Explaining Retrenchment in America's Public-Private Welfare Regime' in *Beyond Continuity: Institutional Change in Advanced Political Economies*, Wolfgang Streeck and Kathleen Thelen, editors (New York: Oxford University Press, 2005).

the roles and interests of the governments and the liquor boards themselves. The role and interests of the LCBO are particularly relevant here since the LCBO played a key part in shaping the policy decision-making context surrounding it. The HI framework will help organize the province-specific contextual variables that influenced the decisions that were ultimately made regarding the fate of both provinces' liquor boards.

Focusing on institutions and how and why they change over time, HI differs from other frameworks, such as rational choice or Marxist political economy theories. In the case of the former, utility maximizing rational individuals who have exogenous sets of preferences (i.e. they are shaped by internal rather than external influences) are the focal point of research rather than institutions themselves. This focus on individuals tends to lead to universal/generalized suppositions, and as such, rational choice views have a propensity to underestimate the significance of the specific context under examination or, more formally, for the influence of differing institutional configurations or unique features of the political and cultural context on outcomes.⁶¹ In the case of the latter, Marxist-type theories tend to discount the independence of the state as an autonomous actor, viewing the state instead as an instrument of the capitalist class that upholds an inherently exploitative system. The Marxist framework also views the state as relatively powerless in the face of globalized capital⁶² or, more precisely, that the state is adapting its form to better act in the explicit interest of global capitalist forces:⁶³ “The state apparatus and state power are critical factors here in shaping the dynamic of

⁶¹ Howlett, Michael and M. Ramesh *Studying Public Policy: Policy Cycles and Policy Subsystems*, 2nd Edition, (Toronto: Oxford, 2003), pp. 22-25. Chapter 2 of this thesis will expand on these ideas by providing more explanation and citations.

⁶² Howlett and Ramesh, *supra* note 61, pp. 26-29 and McBride, *supra* note 3, p. 8.

⁶³ Panitch, Leo and Sam Gindin ‘Superintending Global Capital’ in *New Left Review*, Vol. 35, September-October 2005; Vogel, Steven K. *Freer Markets, More Rules: Regulatory Reform in Advanced Industrial Countries* (Ithaca: Cornell University Press, 1996)

accumulation as well as being shaped by that dynamic.”⁶⁴ These theoretical frameworks do not have the capacity to account for the divergent outcomes with respect to decisions made regarding liquor distribution in Ontario and Alberta during the relevant time period.

Since neither rational choice nor Marxist theoretical frameworks is able to explain the outcomes in the two case studies, institutional perspectives are used to analyze our findings. There is a diverse group of theories within institutionalism. This thesis will divide the institutionalist approaches into three groups: new (or neo) institutionalism, varieties of capitalism (VoC) and, finally, historical institutionalism (HI). It will examine the first two of these three institutional approaches and elucidate why they are not able to adequately explain our two divergent outcomes. The principal reason is that neither has sufficient analytical scope to account for the (relatively) autonomous actions of the provincial governments in question, nor take into account the political contextual variables that are responsible for our policy outcomes. In addition, both of these institutional theories doubt the efficacy of using states to effectively solve collective action problems.

In order to adapt the HI theoretical framework to our two empirical case studies, this thesis will outline its six seminal characteristics. It will then draw upon the first five to help structure the empirical data for the Ontario and Alberta case studies. The first characteristic of HI is its emphasis on context and as such the first sections of the descriptive chapters will outline the cultural and political context of both provinces. The second sections will explain how temporal factors, such as the liquor board’s institutional history and the sequence of events, were fundamental in understanding our two divergent outcomes. The third component of the case studies will explain how the structures of

⁶⁴ Jessop, Bob *The Future of the Capitalist State* (Cambridge: Polity Press, 2002) p.1

each liquor system has helped to shape the preferences of individual consumers. It will show the endogenous nature of preference formation in this particular sector. The role that other actors play in shaping the context which an institution exists within is central to a HI framework, as such, the fourth sections will explore the role that other formal actors, or interest groups, played in shaping the context in which decisions were made regarding each liquor board. The fifth section will illustrate the rationale and logic behind each set of decisions in each province and will show how they were relatively centralized in the upper echelons of the provincial governments. It will be structured to follow Kingdon's multiple streams decision-making model. HI's sixth characteristic and one that is normative, is that HI takes a positive view of states intervening in the marketplace and society to produce optimal outcomes. The state, in the eyes of many HI theorists, must intervene not only to produce economically efficient outcomes, but also, and perhaps most importantly, to produce outcomes that contribute to making society a more fair and equitable place.⁶⁵

Affixed to this contextual 'base' will be a John Kingdon's multiple streams model of decision-making. This model will be used to help understand the rationales and motivations of key decision makers in both governments.⁶⁶ Kingdon's approach posits that policymaking is comprised of three independent streams: problems, solutions/policies (alternatives) and politics. Governments make decisions and enact policy when there is a fusion (or coupling) of streams to create a policy window, which is

⁶⁵ For an example of the HI theorists who support direct state intervention to produce socially optimal outcomes see: Rianne Mahon 'Gender and Welfare State Restructuring: Through the Lens of Child Care' in *Child Care at the Crossroads: Gender and Welfare State Restructuring*, Sonya Michel and Rianne Mahon, editors (New York: Routledge, 2002).

⁶⁶ Kingdon, *supra* note 5, chapter 5.

the most opportune time for the state to address a problem or condition.⁶⁷ Kingdon's multiple streams model will provide a means to better understand the process of decision-making under examination (it will, in other words, provide a micro perspective) and the HI framework will help to illuminate the larger political, temporal, institutional and cultural context (a macro perspective). Both theories, however, will have to be adapted to our Canadian, provincial context, most notably by appreciating the centralized nature of decision making within both the formal institutional structure of Canadian Westminster Parliamentary systems (which provincial governments mimic) and by appreciating the particular characteristics of the alcohol policy arena which, as discussed, exacerbate the centralized nature of policy decisions. Kingdon's decision making framework emphasizes the pragmatic nature of decision-making within governments – governments need to identify and solve problems with solutions that are politically palatable; how this pragmatism is determined and defined by decision makers, in turn, is shaped by contextual factors - be they political, institutional, cultural or temporal in nature – factors that are at the very core of an HI-based analysis. In this sense, Kingdon and HI will work together, the latter embedded in the former, in a symbiotic relationship. This thesis, and the empirical data underpinning it, then, will demonstrate that the provincial governments of Ontario and Alberta both made decisions that were consistent with the context – broadly defined - of the respective provinces and that each decision suited the unique needs of the ruling government at the time that the decision was made.

⁶⁷ Zahariadis, Nikolaos 'Ambiguity, Time and Multiple Streams' in *Theories of the Policy Process*, Paul A. Sabatier, editor (Boulder: Westview Press, 1999), p. 79.

Outline of Thesis

This thesis will be comprised of five chapters. The first will discuss the thesis' theoretical underpinnings, exploring competing theoretical frameworks and explaining how (and why) HI and Kingdon's multiple streams decision-making theory are the theories best suited to explain the empirical data. It will also position the two case studies within the wider literature on Canadian public policy. Chapters 2 and 3 will examine the two case studies – Ontario and the evolution of the LCBO will be scrutinized in Chapter 2, and Alberta and the privatization of the ALCB will be scrutinized in Chapter 3. These chapters will investigate the fate of the liquor boards in each of these provinces in specific detail, and will examine the institutional, political, cultural and historical ethos of each province more generally. The chapters will both draw upon the same five defining characteristics of HI to explain the empirical data. Chapter 4 will compare the findings and empirical data from the two case studies. The final chapter will conclude and link the thesis' findings with general trends in Canadian public policy and the evolution of the public institutions in our contemporary era. Conceptually, the thesis resembles an hourglass with broad discussion of public policy and theoretical frameworks in the first two chapters, narrowing to focus on the empirical data – our Ontario and Alberta case studies – in the middle and then widening again to incorporate the case studies into developments of public policy in Canada and theoretical constructs on the evolution of contemporary state institutions.

Chapter One

Historical Institutionalism: Accounting for Time, Place and Context

Theoretical frameworks are not benign. Their purpose is not simply to help guide empirical research; they will, in many respects, dictate the types of conclusions drawn from the collected data. They serve a descriptive, analytical and normative function in any written piece. In public policy and for those interested in examining the state and its relationship with society, different theoretical frameworks ultimately make normative claims on the ability - and desirability - of the state to solve collective action problems effectively. This chapter will serve two purposes: it will outline the most common sets of theoretical frameworks, Marxism, rational choice and institutionalism,⁶⁸ and, by doing so, will explain why historical institutionalism (HI) is the most relevant approach capable of explaining Alberta's decision to privatize the ALCB and Ontario's decision to retain the LCBO in public hands and to revitalize and reform it. HI is the most appropriate framework to use principally because it rejects universalistic suppositions and focuses instead on context-specific variables to explain institutional change. It is also the only theoretical framework that makes positive normative assumptions about the ability of states to effectively solve collective action problems.

In contrast to HI, Marxism and rational choice, at their cores, are inherently skeptical of the value and ability of the state to effectively solve collective action problems and its ability to act relatively free of external influences and in its own

⁶⁸ Coats, David 'Introduction' in *Varieties of Capitalism, Varieties of Approaches* David Coates, editor (New York: Palgrave MacMillian 2005). Please note: the theoretical frameworks under discussion in this chapter represent general categories and an analysis of feminist, post-modern or other 'critical theories' has not been included. These latter theories, it is felt, are not relevant to the thesis' subject matter and thus offer little explanatory value for the empirical evidence uncovered during the course of this study.

interests.⁶⁹ The reformation of the LCBO illustrates that the Ontario government acted decisively in its own interests (to increase financial revenues) and demonstrates that a state-owned firm can effectively (and efficiently) distribute alcohol to consumers. But the Alberta case study also illustrates that governments can and do act decisively (relatively free of the wishes of external actors) for the purposes of setting up marketplaces to meet particular political goals. HI is particularly helpful for explaining the Ontario outcome, which is the more complicated, anomalous and surprising of the two; the Harris Tories were not expected to expand and solidify the public ownership of the LCBO. The Alberta model, while it will and can be explained using a HI framework, is a simpler and more straightforward case study in both empirical and theoretical terms. Any number of theories could have been applied to the Alberta case study to explain the privatization and to situate the Klein government's actions in a larger, macro context.⁷⁰ HI, with its key assumptions regarding the embedded nature of institutions within specific political, cultural and historical contexts, and the influence of these contexts on policy outcomes, means that it has the theoretical flexibility to explain our two very divergent outcomes in Ontario and Alberta.

This chapter will outline the theoretical framework that will be used to examine the empirical evidence gathered for this thesis. Its purpose will be to situate the thesis' two case studies in the explanatory theoretical literature most commonly used to analyze

⁶⁹ Przeworski, Adam 'The Last Instance: Are Institutions the Primary Cause of Economic Development?(I)' in *European Journal of Sociology*, SLV, 2, 2004 pp. 165-188. p. 176. Przeworski notes that both rational choice and Marxist theorists tend to view the state as the site where the most powerful interests shape the rules imposed by the state by creating a "pact of domination" within the state apparatus and using the state to foist rules/regulations – institutions – on the public that favour their interests.

⁷⁰ An example of an analysis of Alberta's decision to privatize the ALCB from the Marxist left is: Laxer et al., *supra* note 42. For an analysis of Alberta's decision from the more rational choice oriented right see: West, Douglas, *supra* note 16.

the evolution of institutions and institutional change in contemporary capitalist economies. It will outline why we should look towards institutional frameworks and, in particular, HI, for guidance, since HI has the conceptual space to include the role of formal and informal institutions within its framework, and the ability to account for the pivotal role that provincial political ethos and context played in shaping the liquor distribution systems in each province. However, the chapter will also argue that the traditional HI framework must be modified slightly to fit both the Canadian provincial environment and the particular policy arena under study, alcohol distribution. The structure of our provincial governments, modeled on a Westminster Parliamentary political system, and the alcohol distribution policy arena are both conducive to highly centralized decision-making processes. This, of course, is in addition to a ‘natural’ propensity in Canada, even today, to use state institutions, and frequently, Crown corporations, to solve collective action problems. Finally, in order to provide some ‘fine tuning’ to the explanatory framework, John Kingdon’s multiple streams decision-making model will be interwoven into the HI framework. This will help explain the actions of the individual decision makers within their relative politicized contexts.

Rational Choice: Neoclassical Economic Theory Applied to Institutions and Politics

A rational choice framework is the application of neoclassical economic theory to the world of institutions and politics. Neoclassical economic theory is deductive in nature and starts with a number of universal assumptions on the characteristics and motivations of individuals. Individuals are assumed to be rational, self-interested materialists who seek to maximize their utility (or pleasure) by consuming goods and services.⁷¹

Individuals’ preferences are exogenously formed (i.e. separate from the institutional

⁷¹ Howlett and Ramesh, *supra* note 61, p. 22.

context)⁷² and people are assumed to make calculated choices based on their preference structure, since they have insatiable desires and yet are constrained by the inherent scarcity of inputs.⁷³ Axiomatic and ‘free’ individuals, thus, exchange goods and services in the marketplace, by selling their products (usually labour) and simultaneously purchasing goods and services needed to maximize their utility. The price of a particular product is established at the point where the supply and demand curves meet and reach an equilibrium price point. This is where sellers will part with goods at prices that reflect their costs and consumers will pay a price that reflects the amount of potentially derived utility from the purchase that is equal to the amount derived from other – foregone – purchases. The ‘Walrasian,’ silent auctioneer of the marketplace, then, will coordinate all individual behaviour by synchronizing all of the preferences of the buyers and sellers.⁷⁴ Further assumptions are that information and competition among firms are assumed to be ‘perfect’ in the sense that sellers and buyers know all of the pertinent information relevant to their transactions, and in the case of buyers, there is always a viable alternative to the services offered by one firm.⁷⁵ Perfect information, likewise, assumes that costs associated with transactions will be zero as well.

The marketplace is a pivotal institution for rational choice theorists.⁷⁶ It is, in their view, not only the most ‘efficient’ resource allocation system in an economic sense, in that all consumers will make transactions that will maximize individual utility, but it is

⁷² Thelen, Kathleen ‘Historical Institutionalism in Comparative Politics’ in *Annual Review of Political Science* 1999 Vol. 2, pp. 369-404, in particular pp. 374 and 375.

⁷³ Hodgson, Geoffrey M. ‘Varieties of Capitalism and Varieties of Economic Theory’ in *Review of International Political Economy*, Vol. 3, No. 3, 1996, pp. 382-385.

⁷⁴ Hodgson, Geoffrey M. ‘The Reconstruction of Economics: Is There Still a Place for Neoclassical Theory?’ in *Journal of Economic Issues*, Vol. XXVI, No. 3, September 1992 pp. 750-767, p. 751-754.

⁷⁵ Frank, Robert H. and Ian C. Parker *Microeconomics and Behaviour: First Canadian Edition* (Toronto: McGraw-Hill Ryerson, 2002,) pp. 308 and 309.

⁷⁶ Wolff, Richard D. *Economics: Marxian Versus Neoclassical* (Baltimore: Johns Hopkins University Press, 1987), p. 8.

also 'efficient' in a political sense, in that it maximizes individual freedom to consume (and/or sell) products that are in line with one's own individual values.⁷⁷ Markets, accordingly, will work best and will facilitate political and economic efficiency when there are as few 'distortions' of the market as possible, such as, for example, asymmetric information, taxes, monopolistic firm (or consumer) behaviour, unions or governmentally imposed regulations. In the eyes of rational choice theorists, the state should intervene in society as little as possible and where necessary it should only intervene in the economy to facilitate the efficient operation of the marketplace.⁷⁸ Regardless of the intention of state actors, the state will inevitably allocate resources in a manner that will conflict with some individual's own set of preferences, since states allocate resources according to predetermined criteria, and must extract resources from the economy in some manner in order to engage in this resource (re)allocation. Milton Friedman puts it succinctly: "The fundamental threat to freedom is the power to coerce, be it in the hands of a monarch, a dictator, an oligarchy, or a momentary majority... .[B]y removing the organization of economic activity from the control of political authority, the market eliminates this source of coercive power."⁷⁹

Some of the implications of the theoretical framework used by rational choice analysts on public policy are as follows: Rational choice theorists view all policy actors (especially policy makers and bureaucrats) as rational, self-interested individuals who are seeking to maximize their utility, much like consumers, by looking to increase their power, prestige and wealth at the expense of other individuals, and are able to do so because of the pivotal role the state plays in setting the ground rules, enforcing property

⁷⁷ Friedman, *supra* note 50.

⁷⁸ Howlett and Ramesh, *supra* note 61, p. 24.

⁷⁹ Friedman, *supra* note 50, p.15.

rights and, ultimately, enforcing its monopoly on violence.⁸⁰ Any distortions to the marketplace will create ‘rent seeking’ opportunities for parties to earn monies over and above the equilibrium level as would be established by the marketplace. This, not surprisingly, means that rational choice theorists tend to make normative judgments about markets, viewing them as the most efficient and effective way not only to allocate resources but also to solve collective action problems more generally. Organizing bureaucracies in ways that align the interests of the bureau and the (innate) material self-interests of individual bureaucrats is one way, in their eyes, to ensure that the effectiveness of any state agency is maximized.⁸¹ The emphasis placed by rational choice theorists on the marketplace, the axiomatic nature of individuals within it and their understanding of the innate motivations of individuals means that these theorists tend to underestimate the importance of institutional variables that shape both markets and individual preferences.⁸² Finally, their emphasis on the market also leads them to focus, in a comparative context, on factors of production that, for example, are felt to be responsible for economic growth in different countries. This focus and the belief that various mixtures of inputs (technology, land, labour and the like) are responsible for the varying growth rates implies that finding the ‘right’ mix of variables will lead to sustained economic development. They accordingly assume that advanced Western societies are becoming more alike or converging in terms of their institutional frameworks and their reliance on markets.⁸³ This final assumption, coupled with their

⁸⁰ Niskanen, William A. *Bureaucracy and Representative Government* (Chicago: Aldine-Atherton, 1971), pp. 38-41.

⁸¹ Howlett and Ramesh, *supra* note 61, pp. 23 and 24.

⁸² Howlett and Ramesh, *supra* note 61, p. 25.

⁸³ Coates, *supra* note 68, pp. 4 and 5.

view of human nature and their normative (negative) view of the state means that they will apply their theory in a universal manner regardless of place-specific factors.

Notwithstanding some serious limitations, it should be noted that a rational choice framework can offer us some valuable insights into the development of public policy and each of our case studies, but it has been portrayed in this manner to show that it will not help to explain the divergent outcomes between Ontario and Alberta. One key tenet of rational choice is that bureaucrats always will act in their own self-interest to preserve their jobs or expand their power, prestige and income.⁸⁴ This assumption may explain our LCBO case study and the actions of the senior bureaucrats (and it most certainly is one important variable), but it cannot explain the ALCB's senior management's actions, which not only resulted in a drastically different outcome, but also resulted in the elimination of their jobs and, eventually, their bureau as well. Others argue that governments exist primarily to be "manipulated" by market actors, so that the latter may engage in 'rent seeking' behaviour by, for example, altering regulations to suit their needs, and providing themselves with opportunities or outcomes that, in a perfectly competitive market, would not otherwise accrue.⁸⁵ The very lucrative right to place one's products on the LCBO's store shelves and the low transaction costs associated with selling to one retailer might help to partly explain our Ontario outcome (and, again, this is an important factor) but, in Alberta, suppliers would have been equally motivated to protect their rights, and these suppliers easily adapted to the new market structure once they saw that the government was steadfast in its decision to privatize. Rents earned by a monopoly, too, are antithetical to the rational choice school of theorists since monopoly

⁸⁴ Niskanen, *supra* note 80, pp. 38-41.

⁸⁵ McNutt, Patrick A. *The Economics of Public Choice*, 2nd edition, (Northampton: Edward Elgar, 2002), chapter 7.

rents are indicative of a highly ‘distorted’ marketplace. But, in our LCBO case, the value of monopoly rent takes on new meaning for a government such as Mike Harris’s that was set on lowering taxes and eliminating the deficit, and needed new sources of revenue. Finally, we would expect more provinces to follow Alberta’s lead, since its use of a market would promote both economic and political ‘efficiency,’ in addition to being a product of a neoliberal government, but so far, we do not see this in Ontario nor in any other provinces. In fact, all relevant stakeholders, including consumers, are, as previously mentioned, very happy with the distribution system in Ontario. This leads one to conclude that bureaucracies, at least with respect to the LCBO and liquor distribution, might actually be able to effectively solve collective action problems as well as market-based mechanisms. Our varying policy outcomes and the seminal importance of province-specific factors will preclude us from relying on a rational choice framework to explain the empirical data acquired in our two case studies.

Marxist: The State as a Servant of the Global Market

Marxism is a deductive theory that starts not with a set of assumptions respecting the motivations of individuals, but rather with a set of assumptions regarding the fundamental nature of social relations between individuals in a capitalist society. It is an individual’s class position (defined as one’s relationship to the means of production) and the interaction between opposing classes that is, for Marxists, the fundamental feature of all capitalist economies.⁸⁶ Marxism, in its crudest form, divides capitalist societies into two groups, the workers (who must sell their labour on the open market) and capitalists

⁸⁶ Brooks, Stephen and Lydia Miljan *Public Policy in Canada: An Introduction*, 4th edition, (Toronto: Oxford, 2003), p. 26.

(who are owners of the capital and employ the former).⁸⁷ This relationship between the capitalists and workers (and all economic relationships in capitalist societies) is inherently exploitative in nature, with the capitalists expropriating the surplus value derived from the efforts of workers. The most critical role of the state, for Marxists, is to reinforce and support this inherently exploitative relationship between workers and capitalists since the state "...is but a committee for managing the common affairs of the whole bourgeoisie."⁸⁸ The protection of property rights and the enforcement of contracts through the courts and the police, and ultimately, the military, illustrate that the state acts in the interests of the capitalist class to perpetuate the inherent inequalities brought about by the capitalist economic system. Governments in capitalist societies, for the modern-day neo-Marxists, have two critical responsibilities: to facilitate the "accumulation" of profits for capitalists and to regulate the harmonious social relations between social groups (classes) so that capital may continue to accumulate profits unobstructed by violent protest or revolution.⁸⁹

This view of the world and the role of the state has been developed and refined considerably over the last hundred or so years, in attempts by Marxists-oriented theorists to explain the increasing complexity of the modern world.⁹⁰ However, while the relations between the classes and the role of the state may be explained in a more complex fashion by current Marxist-oriented theorists than it was by the theorists of the past, at the heart of all Marxist analysis is an inherent skepticism as to the state's ability or willingness to act in the interests of the majority of its citizens. More recently, many Marxist-type

⁸⁷ Marx, Karl and Friedrich Engels *The Communist Manifesto* (Markham: Penguin Books, 1985), p. 79.

⁸⁸ Marx and Engels, *supra* note 87, p. 82

⁸⁹ O'Connor, James *The Fiscal Crisis of the State* (New York: St. Martin's Press, 1973), Introduction.

⁹⁰ Neo-Marxists have adapted Marx and Engels' theories to contemporary capitalist economies. See, for example: Miliband, Ralph *Marxism and Politics* (Toronto: Oxford University Press, 1977).

critiques have focused on the increasingly global nature of capital markets and the corresponding decrease in the power of states to impose rules, regulations or taxes on capitalists, as firms can play each jurisdiction off against each other, with the ‘race to the bottom’ being the result. The same argument is used to explain the decline in wages (and corresponding decline in unionization) within many developed countries. Globalization, for instance, has also eroded the power of the state to redistribute wealth among citizens and is increasingly used as an instrument that acts in the interest of market actors, usually firms.⁹¹ The resultant effect, according to Marxist theorists, has been that nation states have increasingly compromised their sovereignty, and the power and interests of the market has been accordingly augmented.⁹² In addition to employing measures such as tax reductions, privatization of Crown assets, welfare-state cut backs and enacting a host of other policies that ultimately limit the power of the state to insure against social risk and to restrain the influence of the market, states, in the eyes of many Marxists, have acted as the “midwi[ves] for globalization” and “as instruments of national and international capital in the construction of neoliberal globalization.”⁹³ The rise in power of markets and the structural shifts in the role of the state (often away from the postwar welfare ideal) is problematic for Marxists, since it is only through the state apparatus that the will of people (via democracy) can be exercised and that the marketplace and the companies within it can be controlled. A number of key Marxist scholars are calling for increased democratization of the political process so that, in essence, the will of people (as opposed to the will of the corporations) will be better reflected in political institutions

⁹¹ For two Marxist views on the role of the contemporary state see: Jessop, *supra* note 64 and Panitch and Gindin, *supra* note 63.

⁹² A Canadian version of such arguments can be found in: Shields, John and B. Mitchell Evans *Shrinking the State: Globalization and Public Sector “reform”* (Halifax: Fernwood, 1998).

⁹³ McBride, *supra* note 3, p. 201.

so that politicians themselves will be compelled to act in a manner that is (supposedly) more in line with the wishes of the individual citizens.⁹⁴ According to many modern-day Marxist theorists, including individual citizens and grassroots movements in the political and decision-making process will provide a practical means of developing control of the public sector “from below.”⁹⁵

A Marxist-oriented analytical framework would explain very plausibly our Alberta case study, but it would fail to explain the outcome in Ontario. The privatization of the ALCB, in fact, fits very well with the contemporary Marxist views on the evolution of provincial governments, and is particularly applicable to Ralph Klein’s Conservatives: privatization occurred quickly with no public input, unionized workers were fired, government assets were sold and, most critically, a private market was established to perform tasks previously performed by a Crown corporation.⁹⁶ However, this theoretical framework fails to explain the outcomes in the case of the LCBO and Ontario. Not only was the LCBO retained in public hands under the Harris Tories, but, in fact, the Tories did more than any other government to solidify the public ownership of this Crown corporation by pouring \$250 million over five years, 1998-2003, into the LCBO, in order to rebuild its store network.⁹⁷ A Crown asset was revitalized, union jobs were preserved and the government made a tangible (and highly visible) policy decision that the retailing of alcohol was best left in the hands of a publicly owned and operated monopoly. This outcome not only contradicts the general trend towards privatization and

⁹⁴Panitch, Leo ‘A Different Kind of State?’ in *A Different Kind of State? Popular Power and Democratic Administration*, Gregory Albo, David Langille and Leo Panitch, editors (Toronto: Oxford University Press, 1993).

⁹⁵ Albo, Gregory ‘Democratic Citizenship and the Future of Public Management’ in *A Different Kind of State? Popular Power and Democratic Administration*, Gregory Albo, David Langille and Leo Panitch, editors (Toronto: Oxford University Press, 1993), p. 31

⁹⁶ Laxer, *supra* note 16.

⁹⁷ Brandt, *supra* note 12.

'downsizing' in the public sector, but it also contradicts much of the academic literature written about and popular views of the Harris Tories. It is possible to argue that this type of reformation resembles 'in-house' privatization since private sector concepts (and personnel) were brought in to reform the LCBO, but the continued unitary (monopoly) nature of the distribution system is antithetical to the guiding philosophy behind most privatization ventures, even if the LCBO did change in ways that may be viewed as 'in house' privatization. This explanation, furthermore, fails the account for what appears to be highly contradictory behaviour on behalf of the Harris government. Regardless, literature on this topic that ascribes agency to state institutions and argues that they are dynamic entities in a Canadian context is virtually non-existent.⁹⁸

Is the State Shrinking?

These two sets of theoretical frameworks and our earlier discussion of neoliberalism imply that the state is, in fact, shrinking in relative strength and importance to the marketplace. For Marxists this is a dire fact, and they see evidence of this position in recent elections in Canada of many neoliberal governments that chose to privatize former functions of the state and generally attempt to 'downsize' its role. For rational choice scholars, the supposedly shrinking state is a welcome change, since, in their view, the KWS dominated and interfered with the economy and society more generally. These scholars believe that state needs to continue its steady decline. Other scholars, following an institutional framework, argue that globalization, in addition to promoting interdependence and sets of pan-national institutional arrangements, is having the most profound effect on national and sub-national state structures. "The epochal

⁹⁸ As of yet, there has been little academic literature on the reformation of Crown-owned corporations in Canada. As discussed, most of the academic literature on Crown corporations focuses on the privatization of Crowns. See, for example, McBride, *supra* note 3, pp. 102-105.

transformation we call globalization is taking place inside the national to a far larger extent than is usually recognized”.⁹⁹ This thesis and the empirical data garnered for it follows this latter more nuanced view of how provincial states are reconfiguring their institutional appendages. Since not only does it appear that the state in Canada may not be shrinking, at least in this particular policy arena, but that it also appears that it may, in fact, be expanding, in response to a myriad of social, economic and political factors. HI with its context specific focus on institutions and contingent analysis of the state is the only theoretical framework with the capacity to account for divergent outcomes or the possibility of an expanding (or at least an ‘evolving’) state.

In many areas of government, it is not clear that the state is in fact shrinking in size or in its ability and willingness to influence the economy and society in general. Rather, in recent years there is ample evidence to suggest that the state is ‘evolving,’ in light of current ideological, political and cultural pressures. The social welfare state of the postwar era – the KWS – may be diminished from its postwar ideal, but that does not mean that the state has necessarily shrunk. Government expenditures as a percentage of Gross National Product are, in most Western nations, including Canada, just short of their height during the 1980s.¹⁰⁰ Government intervention in society and the economy may be increasing in arenas such as tobacco control, the expansion of government owned gambling facilities, assistance to automobile manufacturing and the expansion of research at universities, among many other policy arenas.¹⁰¹ Canadian governments, while

⁹⁹ Sassen, Saskia *Territory, Authority, Rights: From Medieval to Global Assemblages* (Princeton: Princeton University Press, 2006) p. 1.

¹⁰⁰ Hay, Colin ‘Re-Stating Politics, Re-Politicizing the State: Neoliberalism, Economic Imperatives and the Rise of the Competition State’ in *Political Quarterly*, Special Issue on Restating the State, 2004.

¹⁰¹ Bird and Stoney, *supra* note 19; Molot, Maureen ‘Location Incentives and Inter-state Competition for FDI: Bidding Wars in the Automotive Industry’ in *Governance, Multinationals and Growth* Lorraine Eden and Wendy Dobson, editors (Edward Elgar, 2005); Keenan, Greg ‘GM to Pump \$2.5-Billion into Canadian

experiencing significant budgetary and staffing cuts in the mid-1990s (often as a result of the privatization of Crown corporations) are still increasing spending at rates that are far in excess of inflation.¹⁰² We also do not see states shrinking their spending levels internationally. Most national governments throughout the developed world continue to run significant budgetary deficits.¹⁰³ As an illustration, George Bush's government in the United States is not only running significant deficits, in spite of his neoconservative views, but has expanded federal government spending more than any other president since L.B. Johnson.¹⁰⁴ Even in Alberta, after a period of drastic expenditure reductions in the mid-1990s, per capita government spending has risen and, in fact, Alberta government per capita spending is currently the highest of all Canadian provinces.¹⁰⁵ Its growing population and booming economy have required the province to make significant infrastructure investments.

Even if the state, in general, is shrinking, growth can still be measured on the 'margins'. Public enterprises, the increasing use of statutory authorities, contracting out, public/private partnerships, and even the increase in user fees (as opposed to direct taxes) are a few examples of the state expanding 'at the margins' in arenas and by means that

Operations' *The Globe and Mail* 1 March 2005, p. B1; Association of Universities and Colleges of Canada *Momentum: The 2005 Report on University Research and Knowledge Transfer* (Ottawa: Association of Universities and Colleges of Canada, 2005), available at:

http://www.aucc.ca/momentum/en/pdf/momentum_report.pdf. For a more general argument on the evolution of the state in contemporary capitalist societies see: Vogel, *supra* note 63 and Weiss, Linda *The Myth of the Powerless State* (Ithaca: Cornell University Press, 1988).

¹⁰² Treff and Perry, *supra* note 59, p. A5 All three levels of government spent \$398.5 billion in 1998, eight years later total spending was \$568.5 billion, an increase of over five percent per year (calculations by author).

¹⁰³ Canada, for instance, is the only G7 member country to be currently running a budget surplus. *The Economist*, 'Trade, Exchange Rates, Budget Balances and Interest Rates', 27 October 2007, p. 114.

¹⁰⁴ *The Economist* 'Goodbye to the Permanent Majority' 4 November 2006, p. 28.

¹⁰⁵ Carpay, John 'Ralph Klein: an Elitist in Populist Clothing' *The Globe and Mail*, web edition, 21 September 2006 and Hebert, Chantal *French Kiss: Stephen Harper's Blind Date With Quebec* (Toronto: Knopf, 2007) p.165.

are not often considered core state activities.¹⁰⁶ The state might also be expanding because of the increasing complexity and interwoven nature of our world, including globalization, and the diminution of other institutions (i.e. churches, communities, families etc.) that had previously solved many collective action problems.¹⁰⁷ The recently enhanced concern for the environment and the effects of global warming, again, illustrates that in our increasingly interconnected and interdependent world, states, as opposed to the private or the third sector, are the ones left to solve society's most expensive and extremely complicated (not to mention often thankless) problems. It appears, therefore, that debates regarding the relative strength of the state in relation to the marketplace may not be as straightforward as they first appear, and that our understanding of the (supposed) effects of neoliberalism will need to be nuanced to account for the outcomes in our analysis of the two case studies.

Institutional Views: Flexible, Broad and Somewhere in the Middle

In contrast to rational choice and Marxist perspectives, institutional views encompass a very diverse group of theories. The theoretical and analytical divergence within institutionalism, however, makes calling it a school of thought, per se, difficult. Attempts to do so are further complicated by the fact that institutional frameworks have drawn in acolytes from both the Marxist left and the rational choice right. Having said this, institutional frameworks share a number of common features, as do their adherents. Most obviously, institutional theorists were not satisfied with the capacities of Marxism

¹⁰⁶ Sharkansky, Ira *Whither the State? Politics and Public Enterprise in Three Countries* (Chatham: Chatham House Publishers, 1979). For the rise of public private partnerships, see: De Bettignies, Jean-Etienne and Thomas W. Ross 'The Economics of Public-Private Partnerships' in *Canadian Public Policy* Vol. XXX, No. 2, 2004.

¹⁰⁷ Chodak, Szymon *The New State: Etatization of Western Societies* (Boulder, Col.: Lynne Rienner Publishers, 1989)

or rational choice to explain real world phenomenon and are critical of the assumptions of each perspective.¹⁰⁸ In the eyes of institutional theorists, economic problems in developing countries, for instance, were not merely the result of inadequate (and distorted) markets or, even if the primary cause was market distortion, it was due to poor incentive and governance structures. Nor were all of the institutional configurations in Western advanced capitalist economies the same, or converging towards one – market-oriented – ideal, as rational choice scholars’ models might predict. Finally, not all institutional structures imposed by states were designed to facilitate the inherent conflict between competing classes, as Marxists would assume. Culture, history, political ethos and structures and, of course, raw politics, among many other factors, play pivotal roles in how nations go about coordinating the behaviour of individuals. Institutions, very simply, are embedded entities that structure the behaviour of individuals through the prescription of rules and regulations; they are “humanly devised constraints that shape human interaction.”¹⁰⁹ As such, they are often reinforced by third parties and, at least partly, play an autonomous role in political life.¹¹⁰ This understanding of the role of the state and state institutions, the inclusion of a host of variables in the analysis of institutional theorists, and the inherent context-specific nature of their analyses not only make general assertions about institutionalism difficult (if not impossible), but also make the analytical waters considerably murkier.

¹⁰⁸ Coates, *supra* note 68, p. 20.

¹⁰⁹ North, Douglass C. *Institutions, Institutional Change and Economic Performance* (New York: Cambridge University Press, 1990), p.3.

¹¹⁰ March, James G. and Johan P. Olsen ‘Elaborating the New Institutionalism’ in *The Oxford Handbook of Political Institutions*, R.A.W Rhodes, Sarah A. Binder and Bert A. Rockman, editors (Toronto: Oxford University Press, 2006), pp. 3 and 4.

Neoinstitutionalism: Into the Institutional Framework (From the Right)

Neoinstitutionalism, as its prefix implies, is directly related to its neoclassical and rational choice cousins. Often referred to as ‘new institutional economics,’ it is a branch of rational choice that has some conceptual space to include institutions in its analysis, but only in relation to their role in structuring the marketplace. They wish, in a sense, to hold onto the assumptions (and value) of the market as the optimal way to allocate resources, but appreciate that in the real world, transaction costs are a significant factor (or problem) that cannot be ignored. Often referred to as ‘transaction costs analysis,’ the neoinstitutional economists are most concerned with how institutions affect transaction costs; that is why, according to these theorists, institutions exist at all. Its most important proponent, Douglass C. North, famously purported that “...when it is costly to transact, institutions matter.”¹¹¹ He applies his analysis to retarded economic performance in the developing world and argues, essentially, that the key is to design a set of institutional constraints (rules, regulations, norms etc.) that result in a set of payoff structures, both political and economic, that will encourage efficient economic activity.¹¹² Dismal pay for government officials in developing countries, for example, encourages corruption that stifles productive entrepreneurial activity.

Oliver E. Williamson, like North, views institutions as having a seminal role in structuring markets. His analytical model has four levels, moving from the broad to the more specific. The first, embeddedness, includes the institutions, customs and norms, such as those derived from a religious context, that contribute to shaping the second level,

¹¹¹ North, *supra* note 109, p. 12.

¹¹² North, *supra* note 109, p. 110.

the institutional environment.¹¹³ The institutional environment includes the formal rules of the game, especially property rights, but also the rules governing the judiciary and the bureaucracy – here it is vital to “get the institutional environment right.”¹¹⁴ The third level is “governance,” where “playing of the game” is foremost. This level includes ensuring that contracts are enforceable and where “aligning governance structures with transactions” is crucial.¹¹⁵ Finally, his fourth stage or level is “resource allocation and employment,” where prices and quantities are properly aligned.¹¹⁶ This is where the market takes over and ensures optimal resource usage. At this stage or level it is of primary importance to “get the marginal conditions right.”¹¹⁷ As is evident, there is some flexibility to this neoinstitutionalist model, allowing Williamson to take into account different contexts, and to acknowledge the importance of factors such as culture, for instance, that might have played a role in shaping the rules that govern a given market; however, the end result is a marketplace that resembles one characterized by a neoclassical set of assumptions. In the end, Williamson’s model is a mere adaptation of the position taken by neoclassical economists, as illustrated by his argument that “[o]nce property rights have been defined and their enforcement ensured, the government steps aside. Resources are allocated to their highest value as the marvel of the market works its wonders.”¹¹⁸

Interestingly, and somewhat ironically, because of the inherently costly nature of transacting in the real world and the very tangible benefits that the ‘rules of the game’

¹¹³ Williamson, Oliver E. ‘The New Institutional Economics: Taking Stock, Looking Ahead’ in *Journal of Economic Literature* Vol. XXXVIII, September 2000, pp. 595-613, pp. 596-600.

¹¹⁴ Williamson, *supra* note 113, p. 597.

¹¹⁵ Williamson, *supra* note 113, p. 597.

¹¹⁶ Williamson, *supra* note 113, p. 597.

¹¹⁷ Williamson, *supra* note 113, p. 597.

¹¹⁸ Williamson, *supra* note 113, p. 598.

bestow on certain actors, the institutional configuration, according to North, is shaped by powerful interests that are capable of pushing the government to adopt rules for their benefit.¹¹⁹ This is not too far removed from the position taken by Marxist-oriented scholars. Neoinstitutionalist models do not permit the agency of the state itself to be a determining factor; however, this factor was an important variable during the Ontario case study. In addition, neoinstitutionalists frequently under appreciate the fact that institutions are often the products of political and historical events, which have given them their own inherent character, and as a result, they tend to exclusively focus on how they affect costs associated with transactions. For example, the ALCB and the LCBO were created in response to the widespread failure of prohibition, a strong desire to limit the availability of alcohol (perpetuated by a very fervent temperance movement) and the fact that both governments desperately needed new revenue sources. Cultural, religious and political factors, in other words, were key variables in the creation of these two institutions since they were created and designed with the specific intention of raising transaction costs associated with alcohol availability. Politics and history simply do not have sufficient prominence in neoinstitutionalist frameworks to explain the divergent outcomes in our two case studies.

Varieties of Capitalism: Midpoint between ‘Neo’ and ‘Historical’ Institutionalism

The “Varieties of Capitalism” theoretical framework (VoC) is a branch of institutionalism that offers some very valuable insights into comparative political economy. Peter Hall and David Soskice wrote their influential piece “An Introduction to

¹¹⁹ North, *supra* note 109, p. 16.

Varieties of Capitalism” as an introduction to their edited anthology in 2001.¹²⁰ In it they examine a number of Western, advanced capitalist countries and focus on how firms go about solving coordination problems such as inter- and intra-firm interactions (supplier and customer relations); human resources (union/firm relations and employee training) and access to financial capital, among others. Their general argument is that countries can be divided in two main groupings: Liberal Market Economies (LMEs), exemplified by the United States, which rely on hierarchal systems of formal contractual relationships mitigated by prices and competitive allocation; and Coordinated Market Economies (CMEs), exemplified by Germany, which use more informal and non-market arrangements to coordinate activities among and between firms and workers. In the case of CMEs, states play a stronger role in helping to coordinate firms behaviour by, for example, providing vocational training schemes and coordinating industrial relations. They also are inclined to have more generous social welfare systems and are more involved in the economy through higher tax rates, for instance. Each system has its negative and positive attributes. LMEs, according to Hall and Soskice, tend to be better at more radical types of innovation than their CME counterparts, but CMEs tend to be better at facilitating more incremental types of development. The key insights provided by their argument are that institutional configurations have a decisive influence on how firms choose to solve coordination problems and that institutional structures are deeply embedded within the larger political, economic and cultural makeup of each country.

¹²⁰ Hall, Peter A. and David Soskice ‘An Introduction to Varieties of Capitalism’ in *Varieties of Capitalism: The Institutional Foundations of Comparative Advantage*, Peter A. Hall and David Soskice, editors (New York: Oxford University Press, 2001).

These variables (institutional structure and political, economic and cultural makeup) are mutually reinforcing and thus very difficult to change.¹²¹

VoC is a theoretical construct that illustrates that countries organize their economies in various manners, that these varying configurations have a tangible influence on the actions of firms and, most critically, that there is no one 'best' path towards economic development. Reducing the role of the state and liberalizing markets, for instance, is not the only way to achieve strong and sustained economic growth. The VoC framework reminds us that there are tangible comparative institutional advantages to each type of system, and that countries are not merely competing on the basis of purely economic advantage (or lowest cost production) as the neoclassical free trade policy framework often claims.¹²² In this sense, the VoC perspective gives credibility to a variety of national institutional configurations that include a strong (and interventionist) role for the state. VoC, in short, rejects Thatcher's famous mantra that 'there is no alternative' to liberalization and retracting the state from the economy and society more generally.¹²³

At first glance, the VoC view could be applied to our two case studies, since it is flexible enough to account for the diversity in outcomes in both studies, and does not automatically assume state intervention in the economy to be a negative phenomenon. We are, after all, looking at two different types of liquor systems that work well in their respective provinces and deviate, in an extreme manner, in the degree of state intervention used to coordinate the behaviour of private sector firms. However, a number

¹²¹ Howell, Chris 'Varieties of Capitalism: And then there was one?' in *Comparative Politics*, Vol. 36, No. 1, pp. 103-124, 2003b, p. 103.

¹²² Howell, *supra* note 121, p. 108.

¹²³ Howell, *supra* note 121, p. 104.

of implicit assumptions made within the VoC framework make it difficult to apply this framework to the two case studies.

While VoC does have a positive view of the value of state intervention in CMEs and the resultant efficient coordination between firms and workers occurring as a result of state intervention in these economies, the state intervenes, according to Hall and Soskice, in order to solve coordination problems of firms and thus has no distinguishable interests or autonomy outside of aiding firms.¹²⁴ Coordinating firms' behaviour, furthermore, is assumed to be a cooperative game where 'win-win' situations can be reached. This assumption negates the political dimension of the state and the fact that certain groups (especially classes) have interests that are antithetical to each other. It is this apolitical perspective that is most troubling, since states do not simply coordinate firm behaviour but must respond to political forces, which are largely removed from or unaccounted for in the VoC framework. VoC theorists minimize the importance of political forces in their framework due to their micro-relational view of firms and their understanding that institutional configuration is a context-specific solution designed, ultimately, to reduce transaction costs. This leaves the VoC framework open to charges that it is not institutionalist at all, but only a more advanced form of neoinstitutional or new institutional economics.¹²⁵ VoC's rational choice (and highly functionalist, in a market-oriented sense) reductive view of the role of the state is also partly why VoC cannot explain institutional change or the influential role politics plays in how and why

¹²⁴ Howell, *supra* note 121, p. 110.

¹²⁵ Hay, Collin 'Two Can play a That Game...or Can They? Varieties of Capitalism, Varieties of Institutionalism' in *Varieties of Capitalism, Varieties of Approaches*, David Coates, editor (New York: Palgrave MacMillian, 2005).

institutions adapt, morph and change – it is simply too static of a framework to use to look at our two case studies.

Historical Institutionalism: Tempering the Market (Institutionalism from the Left)

Given the limitations of the alternative theories, this thesis will draw upon a historical institutional (HI) theoretical framework to analyze our two case studies. HI's broad parameters make it less rigid and thus it is a framework with fewer normative assumptions when compared to other approaches to public policy and the evolution of the state.¹²⁶ HI appears to be the most suitable framework from which to explain the divergent policy outcomes we witness in the evolution of the Alberta and Ontario liquor distribution systems because of its emphasis on context and how context shapes institutional interactions and the formation of preferences, among other vital characteristics; it also appears to be especially relevant in explaining the unexpected outcome in Ontario and the revitalization of the LCBO.

To explain HI, this section will break it down into five defining characteristics. The five pivotal characteristics of HI are: its focus on context; its emphasis on institutions; its ability to accommodate the endogenous nature of preferences and institutional change; the seminal importance it confers to history and the temporal sequence of events; and, finally its focus on the state itself and how states and state institutions go about shaping policy and influencing institutional change relatively independently of external interests. A sixth characteristic is HI's normatively positive view of the state in respect to its ability to effectively solve collective action problems. This becomes important later in the thesis as we contextualize the two case studies into

¹²⁶ Sanders, Elizabeth 'Historical Institutionalism' in *The Oxford Handbook of Political Institutions*, R.A.W. Rhodes, Sarah A. Binder and Bert A. Rockman, editors (New York: Oxford University Press, 2006), p. 44.

broader trends and debates concerning the role and functioning of the state. HI will, however, have to be modified slightly in order to account for the characteristics of the particular policy arena (alcohol distribution) and some of the relevant characteristics of how decisions are made within a Canadian provincial governmental structure. Both of these modifications made to HI are intended to highlight the relatively autonomous actions of the provincial state in this particular policy arena. The remainder of this chapter will explain the fundamental characteristics of HI, but will not apply them to our two case studies; this will be done in the later chapters on the evolution (and devolution) of the LCBO and ALCB, respectively, and each will employ the HI description outlined in this section to reorganize the empirical data. This will demonstrate further why HI is the optimal theoretical framework for analyzing the two case studies.

HI is a particularly valuable theoretical framework because it places analytical emphasis on institutions, how they are products of their temporal epoch and political context and, can be used to make a strong case for the state and its potential to effectively solve collective action problems. According to HI theorists, the degree to which states intervene in society and the manner of their intervention demonstrates that states and state institutions do not just intervene for the purpose of making sure that markets work efficiently, but also intervene because of a myriad of temporal, social, cultural and political factors that cannot be discounted and must be included into any analysis. Consequently, HI is crucial to this analysis of the two cases since it focuses on state-society relationships and, by not reducing them to the teleological explanations offered

by more functional approaches, is better able to demonstrate the interconnected nature of institutions and organizations.¹²⁷

I: Context

As demonstrated by its focus on the interconnectedness of institutions, HI places particular emphasis on context and how different political, social and cultural conditions profoundly influence institutional formation and the changes that institutions undergo. HI concentrates on institutions themselves as the key site of inquiry and recognizes that universal generalizations are unable to adequately explain the diversity of institutional outcomes or how and why institutions change. To explain how institutions adapt, HI scholars focus on “contextual conditions” that shape institutions. This implies that institutions themselves “emerge from and are embedded in concrete temporal processes.”¹²⁸ HI often starts with empirical puzzles that do not appear to make sense:¹²⁹ In this case, why did Ontario retain and expand the LCBO while Alberta chose to privatize ALCB? The divergent nature of these outcomes and the puzzle they pose imply that contextual variables play an important part in the evolution of these two institutions. Context is broad and includes the political ethos and formal political system, in addition to the social and cultural norms of the particular area under examination. The role of other institutional actors is also a seminal contextual variable when the problem is viewed through HI’s analytical lens.

¹²⁷ Skocpol, Theda ‘Why I am an Historical Institutional’ in *Polity*, Vol. 28, No. 1, Autumn 1995, pp. 103-106 in particular p. 103.

¹²⁸ Thelen, *supra* note 72, p. 371.

¹²⁹ Thelen, *supra* note 72, p. 373.

II: History, Time and Sequencing

Second, as its name implies, HI is intimately interested in how time and history influence the creation and development of institutions. The sequencing of relevant events, for example, is often important in influencing how a particular institution acts or the relative context in which it operates. According to HI, relatively small events can, when magnified or added to incrementally over a period of time, have a profound influence on the institutional configurations and outcomes. This emphasis on time and history highlights one of HI's seminal concepts, "path dependency". Path dependency, essentially, means that once a choice or decision is made and has been adopted by an institution, it is difficult to change the course the institution is on; "path dependency refers to the causal relevance of preceding stages in a temporal sequence."¹³⁰ Increasing returns are derived from choosing one set of institutions over another or from the structure of one sector in a particular manner since it is difficult to change what already exists. Doing so can often mean incurring costs, in fiscal or political terms, which come with altering any types of systems; institutions have an inherent amount of inertia. Such inertia often precludes radical changes, since such changes could have unpredictable outcomes or impose significant costs on relevant actors. New paths are sought and followed at 'critical junctures' or when 'triggering events' occur. These new paths, once magnified over time, (often through 'positive feedback loops'), have a profound influence on the type and form of institutional arrangements.¹³¹ In this way, history, temporal epoch and the sequential nature of events all strongly influence the types of institutions created and the ways in which they change. The form that an institution takes

¹³⁰ Pierson, Paul 'Increasing Returns, Path Dependence, and the Study of Politics' in *The American Political Science Review*, Vol. 94, No. 2, June 2000, pp. 251-267, p. 252.

¹³¹ Pierson, *supra* note 130, pp. 263 and 264.

and the historical reason for the institution's existence are extremely pertinent factors. They must be taken as 'given' for any researcher trying to decipher how and why institutions change over a period of time. Again, this characteristic is a further illustration of HI's context-specific, institutional-focused framework.

III: Endogeneity: Preferences and Institutional Change

The third critical characteristic of HI is its view on the formation of preferences. Given the focus is on institutions and their surrounding context, then, it is not surprising that HI theorists view the creation of individual preferences as endogenously formed (i.e. they see them as shaped by the institutional structures and processes, and thus they are not uniform across different areas or policy arenas). Preferences are "socially and politically constructed," in the eyes of HI theorists and, thus, cannot be taken as 'given.'¹³² According to HI, institutions do more than merely set the 'rules of the game' and let markets, for example, operate within their parameters. They also shape the objectives and interests of the actors within the specific institutional contexts and the two variables, context and preferences, cannot be wholly separated from each other.¹³³ HI's context-dependent view of the preferences of actors makes sense when political variables (or political reality) affects the distribution of resources. The distribution of resources, in turn, influences the distribution of power that, finally, shapes those same political institutions.¹³⁴ Individuals and institutions are products of their environment and will have interests and will engage in strategic behaviour, for instance, that are shaped by the

¹³² Thelen, Kathleen and Sven Steinmo 'Historical Institutionalism in Comparative Politics' in *Structuring Politics: Historical Institutionalism in Comparative Analysis*, Sven Steinmo, Kathleen Thelen and Frank Longstreth, editors (New York: Cambridge University Press, 1992), p.8

¹³³ Thelen, *supra* note 72, p. 375.

¹³⁴ March, James G. and Johan P. Olsen 'The New Institutionalism: Organizational Factors in Political Life' in *The American Political Science Review*, Vol. 78, 1984, pp. 734-749, p. 739.

rules, regulations, norms and customs of the context within which they reside. As we will see, contextually shaped preferences such as the ones mentioned above play a pivotal role in our two case studies, thus making HI the most suitable framework capable of explaining how two such divergent outcomes can both be politically efficient and acceptable in their respective provinces.

HI's supposition that preferences are endogenously formed is intimately tied to the emphasis that HI places on the endogenous nature of institutional change.¹³⁵ According to HI, institutional change is primarily the product of internal and context specific factors, and fundamental change occurs incrementally, over long periods of time. External variables such as price shocks, caused by sudden increased oil prices, or international trade agreements or even 'globalization', as examples, have less influence, in the eyes of HI theorists, on governments than internal political factors such as the interests of strong institutional actors.¹³⁶ With the exception of military action, all institutional change occurs with the consent or active participation of internal, domestic actors and so the influence of supranational events or organizations is relatively muted in direct comparison to that of the internal actors. International trade agreements or external shocks, to name but a few variables on which other literatures focuses, are not coherent political entities, and as such, are incapable of significantly influencing the internal

¹³⁵ The endogenous nature of institutional change is a key characteristic of HI and is pertinent to this thesis' findings since most of the impetus for change in both provinces came from internal, province specific, sources. External impetuses such as the need to meet international trade obligations plays only a limited role in the structure of provincial liquor distribution regimes. The emphasis on the importance of internal factors will be apparent in the two descriptive chapters that explain Ontario and Alberta. Endogenous institutional change often occurs in an incremental fashion that gradually alters the role, functioning and value of a particular institution. The institution itself, furthermore, can play a pivotal role in causing and shaping how change occurs within a HI theoretical framework. Streek and Thelen, *supra* note 60, 'Introduction', p. 19.

¹³⁶ Pzeworski, *supra* note 69, p. 176. Endogenous (or internal) powerful actors are key to shaping the institutional framework to suit their own interests.

political ethos; external events and organizations do not vote. This endogenous view of institutional change makes sense given HI's focus on context, institutions and the malleability of preferences of both institutional actors and individuals.¹³⁷

The incremental nature of institutional change, however, does not make it less significant. On the contrary, a number of HI scholars view incremental change as having a profound influence on the composition and value systems of many Western advanced political economies. Few governments will radically alter any institutional regime by outright elimination, since to do so would require far too much (limited) political capital.¹³⁸ This is why a number of HI theorists argue that the most important change occurring in Western society is the gradual elimination of the social security net in many countries, especially in the United States, where institutions that once helped to protect individuals from social risk are weakening.¹³⁹ This is principally occurring because of the general liberalization of our economy, and the corresponding replacement of collective forms of protection with more individualized (read increased use of markets) types of protection.¹⁴⁰

According to HI theorists, the weakening of the social safety net in many Western countries has occurred in a more subliminal and ephemeral manner than otherwise supposed. Institutions designed to protect social security are changing in light of the

¹³⁷ Thelen, *supra* note 72, pp. 370, 371 and 374-376. Preferences are shaped by both institutions that, in turn, are products of contextual and temporal factors.

¹³⁸ Such a view is in direct conflict with what occurred in Alberta with the privatization of the ALCB. However, our theoretical framework is most applicable to our Ontario case study and, as will be argued in the fourth chapter, the Alberta government only had a limited amount of political capital that it chose to use to privatize the ALCB and that it did so mainly for political purposes, but also that once it had set up a new distribution regime such fundamental change was impossible since post-readjustment of the rules imposes its own constraints on the actions of the government. They too are 'locked in' to the parameters of the new – privatized - liquor distribution regime.

¹³⁹ Streek and Thelen, 'Introduction', *supra* note 60 and Hacker, *supra* note 60.

¹⁴⁰ Streek and Thelen, *supra* note 60.

general shift towards liberalization, and are doing so not radically or definitively (through the outright elimination of government sponsored healthcare, for example), but rather through the slow mechanism of atrophy, or what could be described as ‘benign neglect’. HI theorists outline three main forms of institutional change: drift, layering and conversion.¹⁴¹ Institutional ‘drift’ is when a policy or program is not updated or reformed to meet the changing political, economic or social context. As a result of such neglect, the policy or program, or the institution charged with implementing the policy or program, fails to fulfill its original purpose. ‘Layering’ is when one institution is introduced with the specific purpose of replacing or at least removing the political support for the original institution. Finally, ‘conversion’ occurs when a particular institution changes its internal operations to focus on a new function, deviating from its original purpose. Few institutions perform one specific task, but rather are charged with a multitude of duties and can shift their focus from one to the other. The key characteristic of these types of institutional changes is that they occur without any significant political debate or public awareness, yet still have long-term structural results. To illustrate, as citizens, particularly middle-class ones, come to understand that the state is less willing to provide universal coverage for certain policies, such as healthcare, they will start to appreciate that healthcare and social security, for instance, are not state responsibilities, but rather, individual ones. In other words, the preference structure, in the form of what citizens expect of the state, will be fundamentally altered. The change in preference structure will only serve to further undermine or erode the institution, as well as support for the institution, which was initially designed to protect individuals from social risk.

¹⁴¹ Streek and Thelen, *supra* note 60, and Hacker, *supra* note 60.

IV: Other Formal Institutions: Pushing and Pulling.

The fourth characteristic of HI is its focus on institutions and how and why they change over time; the “construction, maintenance and adaptations of institutions” is what HI is mainly concerned with.¹⁴² Focusing on institutions themselves rather than on class structures (Marxists) or on how individuals (should) behave given a number of stringent parameters (neoclassical economists) is, surprisingly, a relatively new avenue of research in modern political science, one that started in the mid-1980s.¹⁴³ HI theorists take institutions for granted as an integral part of the political landscape and do not attempt to explain them in terms of a pure functionalistic perspective (i.e. as an agent that has, as its primary purpose, the reduction of transaction costs).¹⁴⁴ Instead, they focus on the dynamic interplay between the external environment within which all institutions exist within and the internal makeup of the institution itself, and the influence these two variables have on each other. This component of HI is a little more focused than its initial characteristic of ‘context’ since it directs attention to the role and relative political power of other – formal – institutional actors in this particular policy sector. In the case studies, this means examining the relative importance and influence of the other distributors of alcohol, suppliers of alcoholic products and organized labour, among others, and how

¹⁴² Sanders, *supra* note 126, pp. 41 and 42.

¹⁴³ March and Olsen’s 1984 article (March and Olsen, *supra* note 134) marks the modern revival of the importance of looking at institutions. However, the importance of institutions was examined in the early 20th century by intellectuals such as Max Weber and Thorsten Veblen. See: Weber, Max *From Max Weber: Essays in Sociology*, H.H. Gerth and C. Wright Mills, editors (New York: Oxford University Press, 1946) and Veblen, Thorstein *The Theory of the Leisure Class* (Mineola, NY: Dover Publications, 1994)

¹⁴⁴ Pierson, Paul ‘The Limits of Design: Explaining Institutional Origins and Change’ in *Governance: An International Journal of Policy and Administration*, Vol. 13, No. 4, October 2000 pp. 475-499, in particular pp. 476.

they helped to shape both the context in general and the decisions made by each respective government in both of the provinces of Ontario and Alberta.

V: State Autonomy and Elite Policy Formation

Fifth, HI is often focused on the role and agency of the state, in and of itself, as a (the) critical component in the policy formation process. According to HI, the state is more than just a venue for diverse interest groups to impose their will(s) through the state onto the citizenry or the marketplace. The state is a set of institutions that has both the power and the ability to shape policy in the interests of the state itself. Institutional change and policy formation are often the result of efforts by groups within the state apparatus –bureaucrats and politicians – to solve real problems, and changes to institutions are often the result of decisions made by an elite group of individuals who are relatively insulated from direct political (or public) pressure. This focus on the state-employed elite is central to the position taken by many early HI scholars, who postulated that the government formulated policy and instituted institutional change because it suited its own set of prescribed interests.¹⁴⁵ This identity of a particular ‘problem’ may be relative to the long-term interests of the state and government itself. HI scholars often laud this state-oriented viewpoint as a positive development. It is important to note that HI scholars often use American examples to support their views of the state and state institutions as independent actors, and are still able to find examples of state agency and autonomy in the United States. This only further reinforces the suggestion that in Canada, a country with a strong executive and bureaucracy, which, in some cases, can impose losses on powerful actors, an elite view of policy formation within the state apparatus is

¹⁴⁵ Skocpol, Theda ‘Political Response to Capitalist Crisis: Neo-Marxist Theories of the State and the Case of the New Deal’ in *Politics and Society*, Vol. 10, No. 2, 1980, pp. 155-201.

even more relevant, and may be particularly relevant to the analysis of the two specific case studies of this thesis.¹⁴⁶

State Intervention is Acceptable

The general tone and form of HI theorists' analysis illustrates their normatively positive view of the value of the state. HI theorists argue that the state must intervene in both the society and the economy in order to ensure that economic, political and, some might argue, moral, goals are met. This presumption not only makes HI an effective tool for analyzing the real world, where politics and cultural and social considerations, along with resource allocation, are paramount, but also demonstrates HI's general social democratic leanings and its criticism of the materialist, rational, self-interested set of assumptions made by rational choice theory, in which goods are allocated primarily by markets. The HI view is useful for analyzing our case studies since it has the conceptual space to accept the Ontario outcome when the other theoretical positions, particularly rational choice and Marxism, would both reject the validity of such a model.

According to HI, states not only can, but must, intervene to solve collective action problems, in accordance with a set of non-market based criteria, in order to protect individual citizens from economic risk and support values such as equality among classes and genders.¹⁴⁷ State intervention can and should be used to shape preferences, away from the rational, materialist, individualistic bent of the neoclassical school, in order to achieve policy outcomes that are consistent with the social democratic values of many of HI adherents. Twelve-month – paid - maternity leaves in Canada or universal day care in

¹⁴⁶ Weaver, Kent R. and Bert A. Rockman 'Assessing the Effects of Institutions' in *Do Institutions Matter?: Government Capabilities in the United States and Abroad*, Kent R. Weaver and Bert A. Rockman, editors (Washington: The Brookings Institutions, 1992); Savoie, *supra* note 22; Jeffrey Simpson, *The Friendly Dictatorship* (Toronto: McClelland and Stewart, 2001)

¹⁴⁷ On gender and the importance of childcare policies see: Mahon, *supra* note 65.

Sweden are tangible illustrations not only of strong second wave liberal feminism, but also illustrate that governments are tempering the short-term needs of the market with the political desire to help families (and women) raise children and engage in employment outside of the home, without the risk of poverty. These readjustments of the institutional regimes surrounding childcare are soon integrated into the citizenry's conception of rights and expectations, and tangibly influence how families choose to balance home care and paid employment. No government would consider revoking such a 'right' once granted; citizens and, of course, soon-to-be-parents have taken these as 'givens' and would shudder to think that it could be taken away.

Kingdon's Multiple Streams Decision-Making Model

Combined with the fifth characteristic of HI will be John Kingdon's multiple streams decision-making model. Kingdon's model will help to illuminate how and why governments adopt particular policies, and serve as a means to better understand the process by which decisions were made within the institutions and political arenas under examination. Kingdon's theoretical schema, as will be explained, also illustrates the pragmatic and practical nature of the problems (and solutions and political milieu) that governments face and the decisions that they make. This pragmatism and the immediate context that the decision makers faced in the two case studies examined here, in turn, were shaped by the political, historical, cultural and institutional context of each of the provinces. Both of the theoretical frameworks used for this thesis, then, work together in helping to guide our empirical analysis.

Conceptually, the multiple streams theory is a compromise between rational policy models, where control and calculation are most vital, and other theories that

emphasize the anarchic nature of decisions, such as the garbage-can model, where serendipity and unpredictability are key features. It views governments as “organized anarchies” and thus has conceptual space for the firm structure of the policy process, yet at the same time makes allowances for randomness, surprise and unpredictability.¹⁴⁸

Kingdon’s theory, very simply, consists of three independent streams: problems, solutions/policies (alternatives) and politics. Governments make decisions and enact policy when there is a fusion (or coupling) of streams, creating a policy window. A policy window, as defined by Kingdon, is the most opportune time for a particular problem or condition to be addressed by state action.¹⁴⁹ These windows are opened by “compelling problems or events in the political stream”,¹⁵⁰ generally, and more specifically, by resourceful and hard working policy entrepreneurs who help push forward particular ideas, bringing problems, solutions and people together (consensus building) and thus prying open a policy window or prime opportunity for change when a particular problem needs a solution and the course of action has the attention and support of key political figures. A focusing event or a crisis can act as a catalyst to opening a policy window by both illuminating a particular problem and motivating decision makers to act.¹⁵¹

The first of Kingdon’s streams, problems, deals with how and why particular problems or conditions are defined as such. Governments have an infinite array of

¹⁴⁸Blankenau, Joe ‘The Fate of National Health Insurance in Canada and the United States: A Multiple Streams Explanation’ in *Policy Studies Journal*, Vol. 29, No. 1, 2001, pp. 38-55, pp. 38 and Ritchie-Dawson, Laura *Making Canadian Trade Policy: Domestic Decision Making and the Negotiation of the Autopact and the Canada/United States Free-Trade Agreement* (Unpublished PhD Dissertation, Carleton University, 2005) pp. 55 and 56.

¹⁴⁹ Teisman, Geert R. ‘Models for Research into Decision-Making Processes: On Phases, Streams and Decision-Making Rounds’ in *Public Administration: An International Quarterly*, Vol. 78, No. 4, 2000, pp. 941-943.

¹⁵⁰ Zahariadis, *supra* note 67, p. 79.

¹⁵¹ Kingdon, *supra* note 5, pp. 99-101.

potential issues to deal with, but yet, at the same time, have only a limited amount of time, energy and political will to expend dealing with them. Kingdon argues that to a large extent, the issues governments choose to define as problems are subjective in nature, and are determined by the perceptions and values within the political arena. Additionally, the categorization or framing of a problem, focusing events (such as crises), indicators, feedback and the symbolic value of the problems at issue, each plays a decisive role in the definition of a condition as a real, important problem in the eyes of politicians.¹⁵²

Kingdon's describes the second stream, policies/solutions (alternatives), as a "policy primeval soup,"¹⁵³ where ideas are generated by policy entrepreneurs, whom he describes as individuals (bureaucrats, academics and interest group members) who dedicate time and energy to engage in the policy process pushing ideas (or have ideas waiting for problems when they arise).¹⁵⁴ There is a Darwinian-type interaction between policy ideas in the "primeval soup" – some survive and prosper, while others wither and die. Through the course of interaction (which can be likened to molecules bumping into each other), ideas evolve and change, in accordance with the duration and intensity of their contact with each other. The likelihood of an idea surviving is dependent on a number of vital variables, such as its political and technical feasibility, personal interests and values of individual policy entrepreneurs, potential costs, and the public's likely acceptance of the solutions to problems that are put forth. Like problem definitions, possible policy solutions are subject to a myriad of factors that determine the likelihood

¹⁵² Kingdon, *supra* note 5, chapter 5 and Ritchie-Dawson, *supra* note 148, pp. 40-43.

¹⁵³ Kingdon, *supra* note 5, p. 123

¹⁵⁴ Kingdon, *supra* note 5, p. 129, and Ritchie-Dawson, *supra* note 148, pp. 43 and 44.

of their adoption. Accordingly, these solutions are, to a large extent, derived from social, cultural and political factors, as well as from purely rational factors.

Kingdon's final stream is politics. He lists a number of crucial factors that influence decisions in this arena. Public mood, election results, partisanship and ideology, the composition and relative strength of pressure groups, and changes in government are all factors that influence how (and if) the political sphere addresses problems, as well as the composition of the solutions proposed.¹⁵⁵ For example, policy makers, including politicians and bureaucrats, are keenly tuned to public opinion and election results. As a result, these factors, which policy makers read as indicators of how the public perceives their particular political ethos, will have a profound effect on the policies politicians propose and adopt. Regime changes are also a signal that the electorate is ready for new ideas and policy solutions. In addition, policy makers are concerned with the opposition (or support) that they may receive from vested groups that may or will be affected by a particular policy solution. The degree and composition of opposition to a policy will likewise have a profound influence on the actions of politicians. Of course, everything within the political arena is determined by partisan and ideological affiliations that influence the potential list of options and their salability.

Policy entrepreneurs, according to Kingdon, are absolutely key to opening policy windows. They bring solutions to problems in a politically expedient and acceptable manner; without them: "Good ideas lie fallow for lack of an advocate."¹⁵⁶ Policy entrepreneurs are individuals who are willing to invest time and energy (resources) in support of a particular view or policy position. They can be found in a variety of

¹⁵⁵ Kingdon, *supra* note 5, pp. 152-172, and Ritchie-Dawson, *supra* note 148, pp. 44-46.

¹⁵⁶ Kingdon, *supra* note 5, p. 191.

positions both inside and outside of government and, while they may not be solely responsible for a particular policy development, they play central role moving the subject (and solution) forward. Most importantly, a successful policy entrepreneur must be able to be ‘heard’ by important decision makers (often politicians) and this is usually because they hold some particular expertise or represent a powerful group or a particular position, or a combination of all three. Often they have a good political ‘sense’, connections and, of course, solid negotiating skills. Most critically, they are persistent and tenacious and use any and all means to promote their positions and ideas – writing papers, speaking, meeting people and the like. Such dissemination is key to ‘softening up’ both the policy community and the public at large in order to “...build acceptance for their policy preferences.”¹⁵⁷ They are willing to ‘push’ their ideas as well as to ‘lie in waiting’ for the opportune time to present their new policy solutions. They are willing to turn a ‘focusing event’ or crisis into an opportunity to hook problems with solutions and start the process of ‘coupling’ the different streams. Success in this process for a policy entrepreneur is both a product of tactful thinking and planning and, of course, luck at what types of events come up and how he or she is able to seize such an opportunity.¹⁵⁸ Kingdon’s theoretical decision-making schema helps to focus attention on the practical and pragmatic nature of governing and the types of problems governments face.

¹⁵⁷ Hart, Michael and Brian Tomlin ‘The Emerging Policy Shift in Canada-US Relations’ in *How Ottawa Spends 2004-2005: Mandate Change in the Paul Martin Era*, G. Bruce Doern, editor (Montreal: McGill-Queens University Press, 2004) p. 52.

¹⁵⁸ Kingdon, *supra* note 5, pp. 188-193.

Minor Adjustments to the Two Models: Liquor, Canada, and Centralized Decisions within Provincial Governments

We will have to adapt our theoretical frameworks to the Canadian provincial context and to the specific characteristics of our policy arena, alcohol distribution. Both of these adaptations will reflect the highly centralized nature of decisions made in both case studies. Canadian provincial governments are modeled on the federal government, which is a Westminster Parliamentary system. This means that a majority government controls both the executive and legislative branches of the government in political structure and practice. In Canada, majority government control is further augmented by strong party ties, which enforce the loyalty (and votes) of their members thus concentrating power in the hands of the leader of the political party.¹⁵⁹ At the federal level, it is the Prime Minister who wields a tremendous amount of power. He or she is head of his or her respective party and the government, and accordingly, is largely able to set the government's policy agenda. In a majority Parliament, he or she gets to carry out their agenda virtually unopposed. The Prime Minister, through his or her office, the PMO, not only controls the government's agenda, but also gets to choose the composition and chairs of influential committees and make patronage appointments (unchecked by external institutions) to government agencies, boards, tribunals and the courts. Other key areas of power in the federal government are the central agencies of the Ministry of Finance and the Treasury Board Secretariat. Their power, too, has substantially increased over the last twenty years.¹⁶⁰ This centralization of power has also led to a corresponding

¹⁵⁹ Heard, Andrew *Canadian Constitutional Conventions: The Marriage of Law and Politics* (Toronto: Oxford University Press, 1991) pp. 78-82.

¹⁶⁰ Savoie, *supra* note 22, and Savoie, Donald J. *Breaking the Bargain: Public Servants, Ministers and Parliament* (Toronto: University of Toronto Press, 2003).

diminution of power in the permanent bureaucracy with respect to policy creation and a corresponding increase in the power of partisan advisors centred in the PMO and in the relevant Ministers' offices responsible for the other two key central ministries.¹⁶¹

Provincial governments are modeled on their federal counterpart. Even more so than at the federal level, political power has historically been centralized in provincial executive.¹⁶² Such centralization of power has only grown stronger in the last twenty years, especially with respect to policies that require significant funding.¹⁶³ This was especially true of the Harris government where key political decisions were initially made in the Premier's office. The Premier's office was particularly dominant with respect to implementing a number of the CSR's principles.¹⁶⁴ By insulating decision-making from external institutions and groups, many key decisions were made outside of the purview of elected representatives in the legislature and, more generally, outside of any arena where meaningful public and interest group input could have occurred. This was true in many policy arenas, but was especially pertinent with respect to deciding the fate of both provinces' alcohol distribution systems. The centralized nature of the decisions made regarding the fate of the two liquor boards was further reinforced by the fact that alcohol is a narcotic, and that a relatively small group of marginal citizens consumes the vast majority of alcoholic beverages and that even the more politically active middle-class is unwilling to dedicate much energy to debating the merits of how alcohol is distributed.

¹⁶¹ While much policy still originates in the bureaucracy, the fact that partisan advisors now have increased power and influence over career civil servants has resulted in a more 'politicized' policy process.

¹⁶² Schindeler, F.F. *Responsible Government in Ontario* (Toronto: University of Toronto Press, 1969) p. 5.

¹⁶³ MacKenzie, *supra* note 22.

¹⁶⁴ Cameron and White, *supra* note 22, pp. 136-138, 111-113. The centralization of some key political decisions within the Premier's office slowed policy considerably; the Premier's office was often a 'bottleneck' which held up both the business of governing and running the civil service. Similar observations have been made respecting the governments of Stephen Harper, Ralph Klein and, in particular, Jean Chretien.

In addition, provincial governments make significant amounts of money selling this product do not wish to see this source of revenue threatened.

The characteristics of Canadian provincial governments and the alcohol distribution sector described above have an impact on how we apply Kingdon's multiple streams decision-making theory. The dominance of the executive over the entire provincial state, including the legislature, which is further reinforced by strong party loyalties, means that key decision makers do not have to engage in as much "consensus building" among members of the legislatures (usually taking the form of bargaining) as their American counterparts do.¹⁶⁵ There is less need to exchange support for particular propositions among legislators in the Canadian context ("You give me my provision, and I'll give you yours").¹⁶⁶ Once a decision has been made in the Premier's office, it is relatively easy to push it forward since the government holds a majority of the seats in the legislature and strong party control prevents individual members from publicly voicing dissent. In comparison to their American counterparts, individual members of Canadian legislatures are far less influential. Kingdon cites two examples during the Carter administration that illustrate the importance of the legislature and executive working together to pass a bill. In one instance, the administration attempted to impose a piece of legislation on the Congress without any consultation; it did not pass. Another bill that was created in conjunction with a majority of the members, however, was successful.¹⁶⁷ Such disjunction between the executive and legislature does not exist in Canada. There is no American equivalent to a Canadian 'backbencher' since, in theory and, to some degree in practice, all American legislators are fairly equal in their relative political power.

¹⁶⁵ Kingdon, *supra* note 5, p. 167.

¹⁶⁶ Kingdon, *supra* note 5, p. 167.

¹⁶⁷ Kingdon, *supra* note 5, pp. 168 and 169.

Interfacing between HI and Kingdon: An Unequal Union

This thesis does not draw upon HI and Kingdon equally. HI's key components will be used to structure the empirical data in the case study chapters, while Kingdon's multiple decision-making model will only be used to unpack the thought processes of the key decision makers in both provinces. The former will encapsulate the latter and, as such, Kingdon's analytical potential will not be fully utilized. This is partly due to space constraints, but it is also due to the characteristics of each theory and the usefulness of each theory in terms of explaining this thesis' empirical findings.

HI, as mentioned, is used because it emphasizes the importance of context, institutions, history, the sequencing of events, and the endogenous nature of preference formation. It is a broad, general theory, which privileges the macro sets of institutions over the roles of individual actors. These characteristics of HI, it is felt, make it the more relevant of the two frameworks, as context, institutions, history, sequencing of events, and so forth, are the most important reasons for the divergent outcomes between the two provinces. The individual decision makers made different decisions, but this was largely the result of the strength of the relevant factors that shaped the context in which the decisions were made. For example, the roles that the LCBO and the ALCB played in shaping their respective fates were very important, as was the relative strength of other actors in the alcohol distribution sector – the wine and beer manufacturers in Ontario and the hoteliers in Alberta. Ephemeral contextual variables, such as a greater apprehension in Ontario about making alcohol easier to acquire, and a stronger 'entrepreneurial' ethos in Alberta, also helped to make the final policy outcomes more politically palatable in each province. Macro forces and institutions were the factors most responsible for the

divergent outcomes. HI is better able to capture the importance of these variables than Kingdon's multiple streams-decision making model.

The writer acknowledges that Kingdon's theory can be used to explain a sequential series of events, such as the state of relations between Canada and the United States, and is not limited to a one-time set of decisions concerning one particular policy.¹⁶⁸ Accordingly, Kingdon's theory has characteristics that would have made it amenable to be able to explain the divergent outcomes in Ontario and Alberta. However, there are some additional reasons why HI is better suited for this thesis. As mentioned, both institutions shaped their respective fates, but what was critical were the types of changes that each institution had already undergone prior to the election of both the Harris and the Klein governments. The ALCB's push towards allowing the private sector a larger role in the distribution of alcohol and the LCBO's substantial internal organizational reforms were critical to shaping the options available to the decision makers. The sequencing of events was a very important factor in both case studies; HI places particular emphasis on this feature. Also, the fact that both liquor distribution systems work well and please most of the relevant stakeholders in each province implies that the preference structures of not only consumers, but also of suppliers and the governments, are endogenously formed and are largely shaped by the characteristics of the liquor marketplace. Because of the emphasis that HI places on the endogenous nature of preferences, it was felt that this dissertation would be better served by drawing on HI, rather than Kingdon, for most of the analysis. Finally, there is considerable overlap between these two sets of theories. Much of the significance of the term "context" in HI analysis is captured in Kingdon's model by the term "national mood." In a similar

¹⁶⁸ Tomlin and Hart, *supra* note 157.

fashion, Kingdon speaks of “organized political forces,” which is roughly equivalent to (formal) institutional actors in the HI framework.¹⁶⁹ Such overlap not only implies that either theory could have been used to explain the outcomes, but that one must choose which theory to emphasize, unless one wants to duplicate the analysis.

Conclusion: The Application of Theory to the Empirical Data

The HI framework will be used to explain the data derived from our two case studies. Using the five seminal characteristics of HI to structure the empirical data, this thesis will take the reader through both the reformation of the LCBO (chapter 2) and the privatization of the ALCB (chapter 3), and will apply the same theoretical structure to explain both cases. Starting with the broadest ‘level of analysis’, context, it will briefly explain the political history and culture of Ontario and Alberta, and will illustrate why each is consistent with the broader political cultures of the respective provinces. It will survey the institutional environment, including both the organizations under scrutiny and, more critically, other pertinent powerful actors in each province that contribute to the overall political context. Second, the thesis will take a longitudinal view of the pertinent events that transpired over the last twenty years, illustrating how history and the sequencing of events played essential roles in the type and form of institutional change in each province. Path dependency and critical junctures were key factors leading to the different outcomes in each province, and had a particularly important effect on the decision that was made to reform and revitalize the LCBO in Ontario and to keep it in public hands. Third, the thesis will show how the preference structures of vested interests, and particularly how the interests of consumers, were altered by the LCBO’s efforts to change how alcohol consumption is viewed, as well as how alcohol is consumed, in the

¹⁶⁹ Kingdon, *supra* note 5, p. 153 and 157.

province of Ontario. It is here that the specifics of the institutional changes at the LCBO will be explored in great depth. The endogenous nature of preferences, both in how individuals and organizations adapt to different contexts, and how internal, province-specific factors were critical to each outcome in each respective province, will also be highlighted. Finally, the actions of the decision makers will be examined. The thesis will illustrate both the political rationales behind the decisions made by these actors and argue that all relevant decisions took place outside of the public's purview, in the upper echelons of the respective provincial governments.

Chapter Two

The Rise of the LCBO: History, Politics and Context

There is a monument at 10 Scrivener Square in mid-town Toronto. It is not a monument celebrating the life of a prominent civic figure or commemorating fallen soldiers, but rather, it is a symbol for a revitalized state owned and operated agency once called the Liquor Control Board of Ontario – now, the LCBO. This monument – the LCBO’s flagship store in Summerhill – has a courtyard, water sculpture, benches and ample parking surrounding it (the refurbished Summerhill CPR train station) where 30,000 square feet of retail space is currently dedicated to selling wine, beer and spirits. The Summerhill LCBO store has a tasting and sampling venue, helpful and knowledgeable staff and well displayed products on all of its shelves. Such opulence is not typical of all LCBO stores; however, the entire LCBO store network has undergone many positive changes. LCBO stores now sell a wide range of reasonably priced alcoholic products with superb customer service and provide exceptional overall consumer value.¹⁷⁰ The Summerhill store, then, takes on a metaphorical meaning for the transformation of this provincially-owned Crown Corporation that, twenty years ago, was characterized by poor customer service and selection, dingy stores and overall low consumer value; the LCBO was meant, after all, to reluctantly provide alcohol to the consuming public.

The goal of this chapter is to explain how and why the drastic transformation of the LCBO occurred. In particular, the chapter will focus on why the Harris Tories not

¹⁷⁰ Ontario consumers are very satisfied with the LCBO since approval ratings are well over 70% in a variety of categories. LCBO, *Annual Report 2003-2004*, *supra* note 2, p. 29.

only chose to retain the LCBO in public hands, but also to reinvigorate it as a retailer. Very simply, consecutive Ontario governments, and the Harris Tories specifically, kept the LCBO in public hands because altering the structure of the liquor distribution market would require a significant amount of political capital since, most problematically, it would lead to conflict with a number of powerful actors. Given that altering the liquor system was not a viable policy option, reinvigorating the LCBO would maximize the government's revenue from this agency. The LCBO itself played a vital role in the Tories' decision. It had undergone some fundamental organizational changes over the previous ten years such that by 1995, it was a well-managed and dynamic organization, well able to meet the needs of the ruling government.

How did the LCBO meet those needs? It did so by providing an ever growing, steady stream of income to the government, and by actively promoting Ontario-made alcohol products. Other important factors that served to influence the decision of the Harris Tories to keep the LCBO in public hands were the political power of the other retailers in Ontario, principally The Beer Store (TBS) and the Ontario wine stores, which enjoy direct access to the consumer in this province's oligopolistic retail market. These retailers did not, and still do not, want to lose their special rights in the marketplace. Suppliers of alcohol, both domestic and foreign, also, for the most part, like the current unitary distribution system since it reduces transaction costs and promotes high-value products. Additionally, public health officials, the LCBO's union and, last, but most certainly not least, the Ontario consuming public for the most part support the current distribution system and the LCBO's central position within it. Other more ephemeral, yet seemingly important factors that played a role in the Tories' decision were the Protestant

temperance culture of Ontario, a history of an activist provincial state in business affairs, and a politically significant agricultural sector. While all three of these factors are somewhat less significant in recent times, they still were some historical and cultural variables that shaped the context within which all of the relevant decisions were made. In short-term political decision-making terms, the Harris government did not significantly alter or change the liquor distribution regime in Ontario because such a change would have required too much time and energy, and would have created a myriad of other significant political problems. Governments only have a limited amount of political capital, and as such, can only be proactive with a narrow number of policies. The Harris Tories (and previous and subsequent governments) wished to spend that capital on other issues, rather than attempt to alter the liquor distribution market.¹⁷¹

Privatization, then, was never a viable alternative since it would meet with significant opposition from both within and outside of the government; problems in the political stream, in Kingdon's terms, would prevent a policy window from opening. But a window would open to reinvigorate it as a retailer. Ultimately, the Harris Tories did alter the liquor distribution system in Ontario, but did so in a manner that solidified the public ownership of the LCBO and its key place in the liquor distribution regime. The decision to pour capital into the LCBO was motivated by the Tories' need to increase government revenues without increasing income and corporate taxes, which they had promised not to do in their first-term mandate. Other bureaucrats within the provincial government, as well as the LCBO's senior management, appreciated the potential to increase income

¹⁷¹ Hudak, Tim, MPP (PC), Erie-Lincoln, 1995-2007, Interview by phone, November 14, 2007.

from this particular arena.¹⁷² The Tories' two decisions regarding the LCBO, to retain it in public hands and to revitalize it, will be explained by drawing on Kingdon's multiple streams decision-making model. In the case of the former, despite an ideological predisposition critical of the level of the government's intervention in the alcohol sector, this was not a sufficiently strong motivating force to prompt the Harris government to privatize the LCBO, given the significant number of political problems such a policy would create. In the case of the latter decision, revitalizing the LCBO was a politically viable (partial) solution to the fiscal problems that the Harris government faced when it assumed power in 1995. The LCBO itself, under the guidance of a key policy entrepreneur, Andy Brandt, and with support from David Tsubouchi, the Minister responsible for the LCBO, would play a critical role in shaping the decisions that were made regarding its fate.

This chapter will provide empirical evidence to support the points made above by explaining the evolution of the LCBO within its particular Ontario provincial context. It will show that the policy outcome in the alcohol distribution sector, while it may appear exceptional, is actually predictable given the history and culture of Ontario, the structure of its liquor distribution regime and the needs and interests of the government. The decision made by the Harris Tories to retain and expand the LCBO was made in an intellectual and political milieu that must be closely examined. The condition of the LCBO, the political climate at the time of Harris electoral success in 1995 and the role of

¹⁷² Bureaucrats within the Ministry of Finance, most likely, appreciated that revenue from alcohol sales as a proportion of total government revenue has fallen significantly over the last forty years and that there was the potential to earn more revenues from this source. Similarly, policy advisors within David Tsubouchi's office appreciated the potential fiscal payoff from a revitalized retailer such as the LCBO. It was an under performing and undercapitalized public asset that could help the Harris government meet some of its election promises.

the other influential actors in this sector, among other variables, must be explained in order to understand the logic behind the government's actions. For the purposes of this examination, and in order to link this chapter to the theoretical framework chosen to explain the divergent outcomes in the liquor distribution regimes in Ontario and Alberta, the five-point description of HI will be used to structure this chapter.

The political forces – and political reality – that influenced the Harris government in the mid-1990s and the decisions that were made regarding the LCBO were much the same then as they are today. The processes and forces that have solidified the LCBO as a dynamic, state-owned and operated retailer within the liquor distribution system, more generally, have, over the last ten years, been only reinforced further by more recent phenomena and events.¹⁷³ The political struggles of the LCBO and others within the liquor industry are an iterative and on-going process.

The chapter will be organized in the following manner. It will start by briefly outlining Ontario's political history and general political ethos in order to familiarize the reader with the meta-contextual variables that shape the milieu in which the key decisions were made. Not surprisingly, the actions of the Harris government in the liquor distribution sector fit the general political and cultural ethos of the province. This ethos operated to compel the government to restrict the availability of alcohol (the easiest way to do this was to keep the agency that distributes and sells alcohol in public hands). Similarly, a history of state intervention in the economy, especially to assist Ontario's

¹⁷³ For instance, the LCBO continues to increase its revenues to the government each year and, more recently, has, in addition to actively promoting Ontario wines, it has started an aggressive program to promote small, Ontario-based brewers as well. The recent decision to charge a deposit on alcohol beverage containers (with refunds from The Beer Store) is an example of how the LCBO can adapt to help meet different needs of the government. In doing so, it only further reinforces the current liquor distribution system, its central place within it, and the more difficult it will be, in political terms, to radically alter the structure of the Ontario liquor distribution system.

agricultural sector, operated to induce the government to retain control of a state agency which plays a strong role in promoting that sector's products. Since HI concentrates on time, history and the seminal importance of the sequencing of events, the second section of this chapter will provide a succinct history of liquor distribution in Ontario, and, more critically, will outline the order of events in the LCBO's restructuring, from the mid-1980s to the mid-1990s.

Many of the vital institutional reforms to the LCBO occurred during this period. By the time the Harris Tories took power in 1995, the LCBO's head office and much of its organizational structures had been transformed. Had the Harris Tories acquired the LCBO in its previous – decrepit – condition, privatization would have been a logical and viable option.¹⁷⁴ The modernization that the LCBO had undergone meant that it was capable of meeting the needs of the government and, accordingly, any significant change, such as privatization, became a much less viable policy option. The third section of this chapter will describe the other significant institutional actors in this sector. The other retailers in the market, the suppliers of alcohol, the public health community and the LCBO's union all had their own motivations for supporting the public ownership of the LCBO and the current oligopoly that characterizes the distribution regime. Many of these institutions are powerful actors in Ontario and want to protect their interests. They were able to apply pressure to the government via formal and informal means to ensure that the system did not change significantly and thus limit the options available to the government. The fourth section of this chapter will explain the types of institutional changes that the LCBO underwent and how these changes resulted in a dynamic retailer.

¹⁷⁴ Gee, Larry, COO, LCBO, 1988-2001, Interview, December 20, 2005.

It will also explain that the LCBO sought to explicitly alter the preference structure of the alcohol consuming Ontario public. Selling more high-value alcoholic products and changing how individuals view alcohol consumption – it is no longer seen as a ‘sinful’ activity, but rather part of a sophisticated middle-class lifestyle, as long as that consumption is responsible – were necessary in order for the LCBO to meet its two objectives of revenue maximization and selling alcohol in a socially responsible manner.¹⁷⁵ This section will illustrate not just the retailing dynamism of the LCBO, but its political dynamism as well.

Such a discussion will be a natural segue into an explanation of how the LCBO and the Ontario provincial government, for the most part, both acted in a relatively activist manner. The fifth section of the chapter will examine the interests, context and actions of the Harris Tories, explaining how and why they made their key decision regarding the fate of this institution. Throughout this chapter, it will be shown that the LCBO underwent a substantial organizational reformation and was run by very capable (and politically-astute) individuals who understood what the politicians needed from this institution. This is an essential element to understand when analyzing the actions of key decision makers in the Harris government. The author will draw on Kingdon’s theory to structure this section of the chapter to demonstrate that all of the important decisions made regarding the fate of the LCBO were made in the upper echelons of the provincial government, with relatively little input from external sources (besides the LCBO itself, of course).

¹⁷⁵ Brandt, *supra* note 12.

I: Context: Protestantism, Statism and Agriculture

Ontario's history, inhabitants and political culture are important factors that influenced the decisions made by the Harris Tories regarding the LCBO. There are three characteristics in particular that help to explain our policy outcome. First, Ontario was founded and governed by a Protestant and British elite that ultimately sought to shape the province and its government according to its values. The temperance movement of the early twentieth century, which left, as its legacy even today, an enduring public apprehension towards eliminating government control of alcohol, is one result of this provincial characteristic. Second, the provincial government has played a critical role in the economic development of the province, especially in the postwar period. And third (and directly related to the second point) agriculture, the "most important basic industry in Ontario"¹⁷⁶ and the rural populations it supports, are important political forces in Ontario. Farmers have often been able to convince the provincial government to intervene in the marketplace in order to protect their interests. While the importance and power of these three characteristics have been somewhat diminished over time, our case study illustrates that Ontario governments, and especially the Harris Tories, were concerned with selling alcohol in socially 'responsible' manner. They were also interested in using the LCBO to promote Ontario alcohol manufacturers, especially the wine industry. Implicit, or perhaps more accurately, explicit state intervention in this sector is a foregone conclusion with the dominance of the LCBO. Mike Harris attempted to reform how Ontario was (and is) governed, but neither he nor his party, at least in this

¹⁷⁶ Rea, *supra* note 36, p. 138.

policy sector, was able to break with historically imposed political forces derived from Ontario's political culture.¹⁷⁷

Ontario's Protestant culture was a product of its early settlement patterns. Founded in 1791 when the British separated Quebec into Upper and Lower Canada, its earliest (non-native) inhabitants were American loyalists, escaping the war of independence. During the early nineteenth century, the war of 1812 and the resultant influx of more American loyalists, combined with the flow of immigrants from the British Isles, bolstered its population. By mid-century, Ontario had over 1.5 million people, 80% of whom were of various Protestant denominations.¹⁷⁸ Most settlers came to farm and start homesteads in southern Ontario's fertile soil. Right from the beginning, starting with Governor Simcoe, Ontario was to be a bulwark against American-style democratic republicanism. Instead, it would be ruled by a small group of aristocrats, adhering to the British constitution, with guidance from the Church of England, and it would show the Americans what "good government could do."¹⁷⁹ Its Protestant ethos, for our purposes, manifested itself in a strong temperance movement, led by the Christian Women's Temperance Union and the Ontario Temperance Association, which later in the early twentieth century, would help to persuade the Ontario government to impose prohibition from 1916 and 1927. Prohibition was repealed in 1927, with the establishment of the LCBO that same year, and alcohol consumption would henceforth continue "under watchful eyes."¹⁸⁰ Not surprisingly, Protestants also dominated the

¹⁷⁷ For a superb synthesis of the ideals and actions of the Harris Tories see: Ibbitson, *supra* note 37.

¹⁷⁸ Schull, Joseph, *Ontario Since 1867* (Toronto: McClelland and Stewart, 1978) pp. 20-28.

¹⁷⁹ Schull, *supra* note 178, p. 11. This early governing structure would also lay the foundations for the province's centralized decision-making political system within the Premier's office. This is a fourth historically imposed political reality.

¹⁸⁰ Heron, *supra* note 20, pp. 153-157, 270, 277-281.

political sphere. All of Ontario's premiers, except two, have been Protestants and all came from rural or small town Ontario.¹⁸¹ In the postwar period, Protestants, especially United Church members, were also significantly over-represented in the Ontario Cabinet.¹⁸² Its puritan, 'sober' ethos was perhaps most exemplified in the (apt) name of its capital: 'Toronto the Good.'¹⁸³

State intervention in the economy has been a consistent factor throughout Ontario's history. Starting with canals in the mid-nineteenth century, railroads a little later on and the development of its natural resources, government involvement in the economy has often been welcomed by the business class since there often was a dearth of adequate capital needed to finance such large-scale projects.¹⁸⁴ State involvement in the economy, in the modern era, started with the creation of Hydro Ontario in 1905, which was created to provide cheap and reliable power to industrial users.¹⁸⁵ The real thrust of state intervention in the economy, however, came in the postwar period. At the end of the war, Conservative Premier Drew declared that: "There must be planning." It was partly a political move meant to help stave off an offensive from the socialist CCF, but was also rhetoric that was followed by concrete action in an effort to build a stronger (and wealthier) Ontario.¹⁸⁶ The postwar period was a time of remarkable and sustained economic growth in Ontario and that economic growth was positively correlated to the expansion of the provincial state. Investments in infrastructure, the health and education sectors, in addition to more targeted direct interventionist projects, paralleled the

¹⁸¹ White, *supra* note 22, pp. 159-160. Dalton McGuinty is the province's second Catholic premier.

¹⁸² Schindler, *supra* note 162, pp. 37-38.

¹⁸³ Schull, *supra* note 178, p. 26.

¹⁸⁴ Schull, *supra* note 178, p. 31 and S.F. Wise 'Ontario's Political Culture' in *Government and Politics in Ontario*, 3rd edition, Donald C. MacDonald, editor (Scarborough: Nelson, 1985) pp. 171-172.

¹⁸⁵ Nelles, H.V. *The Politics of Development: Forests, Mines and Hydro-Electric Power in Ontario, 1849-1941* (Toronto: MacMillan, 1974) pp. 215-255.

¹⁸⁶ Schull, *supra* note 178, pp. 312-313.

development of Ontario's dynamic private sector in manufacturing and finance.¹⁸⁷ Direct state intervention in the agricultural sector was also pronounced during this period and represented a conscious attempt to moderate or diminish the influence of market forces often through the implementation of agricultural product marketing boards.¹⁸⁸ Decisions, on the part of postwar governments to undertake such interventionist measures were often the result of successful lobbying by farmer interest groups, such as the Ontario Federation of Agriculture, which were influential and more than willing to help shape state policy.¹⁸⁹ These interventionist measures, it is important to note, were taken by Conservative governments which led Ontario uninterrupted for well over forty years from the midpoint of the Second World War until 1985. Not surprisingly, their type of conservatism would differ from that of Mike Harris. Intellectually, both the interventionist agricultural policies and the provincial state's rapid growth and involvement in the economy, more generally, were products of a Keynesian inspired, 'red tory' philosophy. Emulating the interventionist policies of John A. Macdonald, direct state involvement in the economy was acceptable so long as it fostered business enterprise and general economic expansion.¹⁹⁰

Context, in a very broad historical, cultural, political and institutional sense, helped to shape the conditions within which the decisions regarding the LCBO were made. Despite all their neoliberal rhetoric, the Harris Tories never used the LCBO as a

¹⁸⁷ Rea, *supra* note 36 p. 17. Dr. Rea cautions the reader not to make a causative link between the phenomenal economic growth in Ontario in the postwar period and the growth in size and scale of the government and nature of its interventionist measures since "The results of such efforts [state intervention] are difficult to identify".

¹⁸⁸ Rea, *supra* note 36 p. 19 and pp. 134-150 and Bird, Malcolm G. *The Ontario Food Terminal Board as a Case Study in Postwar Ontario Agricultural Policy*, paper presented at the Canadian Political Science Association, Annual Conference, London, Ontario, June 2, 3 and 4, 2005.

¹⁸⁹ Rea, *supra* note 36, p. 143.

¹⁹⁰ Rea, *supra* note 36, p. 18.

vehicle or showcase for their philosophical, non-interventionist, private enterprise views. Pouring more money into this Crown corporation and perpetuating the state's heavy involvement in the alcohol distribution sector was the legacy of the Conservatives rule in this arena. The LCBO made too much (politically cheap) revenue, and was a valuable asset to Ontario's agricultural sector, supporting the Ontario wine industry, in particular. In addition, and maybe more importantly, a number of powerful actors preferred the status quo. Social conservatives ('law and order' types) within the party were also keen to keep firm control of alcohol in the government's hands. The historical and political ethos of Ontario did not dictate the types of decisions that the Harris Tories made per se; rather, it set limits on and constrained the ones that were (or were not) made. The importance of agriculture, Ontario's history of state involvement in the economy and a general antipathy on the part of a large segment of the population towards easy access to alcohol contributed, in a formal and informal manner, to shape the 'acceptability' – in a political sense – of the decisions made by the Harris government. It is for this reason that the policy outcome in the alcohol distribution sector roughly matches the general ethos of the province. 'The Good Old Province of Ontario' has yet to shed its historically imposed cultural, political and institutional baggage, and there was little the Harris government could do to change this in a politically acceptable and relatively cost-free fashion.

II: History, Timing and Sequencing

The composition of Ontario's liquor system and, indeed, the existence of the government-owned and operated LCBO appears perplexing at first glance. If the government were to design a liquor retailing system today, it would not, most likely, resemble the oligopoly shared by the LCBO, TBS and the Ontario wine stores. But, the

choice as to how a market, or, for that matter, any institutional arrangement is shaped, is determined by a myriad of factors – politics, political power and serendipity, among others – and is always the product, to a greater or lesser degree, of history; what happened in the past or, more precisely, how previous governments and society in general chose to solve collective action problems, will shape the types and conditions of the institutions that governments inherit. HI and its emphasis on history, timing and sequencing of events will help to explain why the LCBO exists and, perhaps, more relevant to our key question, will help explain why the Harris Tories chose to retain and expand the LCBO once they assumed power in 1995.

This section will first briefly explain the historical origins of the LCBO and the composition of the liquor distribution market and then will outline the early beginnings of the LCBO's reforms starting in the mid-1980s to the time of the election of the Harris government in 1995. While the LCBO had undergone some minor organizational changes prior to 1985, it was, for all intents and purposes, a flawed retailing institution. It was grossly over staffed (often due to patronage positions), was not employing any modern information technologies and, essentially, resembled an organization that had not changed since its inception in the 1920s.¹⁹¹ Had it not undergone its reforms starting in the late 1980s and had the Harris government inherited it in its former, dilapidated state, the LCBO would have not been able to respond to the demands from the Harris government to increase its revenues, and refurbishing the store network, for instance, would have taken far longer. Privatizing an archaic, dysfunctional and inefficient organization would have made much more pragmatic and political sense.¹⁹² However, by

¹⁹¹ Gee, *supra* note 174.

¹⁹² Gee, *supra* note 174.

the time the Harris Tories came to power, the LCBO had completely reorganized and it had a capable team of senior managers under politically astute leadership.¹⁹³ The relative autonomy of this institution and the sequential nature of the key events in its development – its institutional ‘path’ – are vital reasons for our interesting policy outcome.

The LCBO is a relic of Ontario’s Protestant temperance past. It was created in 1927 and was designed to ensure that the provincial government would be responsible for distribution and regulation of all alcohol within the province. In the words of Premier Ferguson who presided over its establishment, “We are not here to push the sale of liquor...we are here to restrict it within reasonable bounds.”¹⁹⁴ Government control and sale of liquor was a “vaulted middle way,” which balanced the interests of the temperance movement with the citizen’s need for access to alcohol.¹⁹⁵ With its establishment after Ferguson’s reelection in late 1926, and with the ‘wets’ winning a slight majority of votes over the ‘drys’ in a province-wide plebiscite the year before, Ontario had rescinded eleven years of official prohibition. The LCBO’s enabling piece of legislation, *The Liquor Control Act (Ontario), 1927*, set out the agency’s powers and gives the LCBO broad authority to control and regulate all aspects of alcohol consumption.¹⁹⁶ Alcohol was to be expensive and tightly regulated. For example, under the *Act*, all individuals wishing to purchase alcohol had to acquire a permit, all purchases were recorded, and data on individual consumption compiled.¹⁹⁷ The only exception to the government’s monopoly on alcohol was to be The Brewers Retail Inc. which was

¹⁹³ Lindsay, David, Chief of Staff, Mike Harris, 1995-1998, Interview, December 15, 2005.

¹⁹⁴ Oliver, Peter N., *G. Howard Ferguson: Ontario Tory* (Toronto: University of Toronto Press, 1977) p. 278.

¹⁹⁵ Oliver, *supra* note 194, p. 280.

¹⁹⁶ *The Liquor Control Act (Ontario), 1927*, chapter 257, pp. 3289-3342.

¹⁹⁷ Heron, *supra* note 20, pp. 277-281.

originally designed to be a cooperative among the Ontario-based brewers, created for the purposes of distributing domestic beer. However, since its establishment, the large brewers, principally Labatt and Molson, have bought out the smaller brewers and created a privately-owned firm, which is now called The Beer Stoner (TBS).¹⁹⁸ While temperance inspired controls were a significant part of the original motivation for creating the LCBO, the government of the day also saw the enormous revenue earning potential of owning and operating a liquor monopoly.¹⁹⁹

For almost sixty years, the LCBO fulfilled its original function, which was to (reluctantly) provide Ontario's citizens with alcoholic products. Some small changes were introduced and were indicative of a slight 'liberalization' of the liquor laws. For example, permits were no longer required by the early 1960s and some customer-oriented changes did occur in the mid-1970s with the introduction of self-serve stores. However, for all intents and purposes, and in comparison to other retailers, the LCBO by the mid-1980s was a stodgy, old government-run institution.²⁰⁰ Its modern-day reforms started with the election of David Peterson's Liberal government in 1985, which did not win a majority and so entered into an accord with Bob Rae's NDP party.²⁰¹ Peterson had campaigned on a promise to allow corner stores to sell beer and wine; however, once in government, Rae's NDP party would not permit this policy since it would threaten the unionized workers at the LCBO. However, both Rae and Peterson agreed that the LCBO

¹⁹⁸ For more specific details of the consolidation of the Canadian beer industry in the postwar period, see: Heron, *supra* note 20, pp. 302-308.

¹⁹⁹ Schull, *supra* note 178, p. 277.

²⁰⁰ Gee, *supra* note 174.

²⁰¹ White, Randall *Ontario Since 1985* (Toronto: Eastendbooks, 1998) pp. 101-104.

was in need of ‘modernization’ and so set about to reorganize this government agency.²⁰²

The initial impetus for change at the LCBO came from the political sphere.

The LCBO in the mid-1980s was an archaic organization. Its stores were dingy, poorly designed, and staffed with surly, male staff members who were not trained (or encouraged) to provide customers with high levels of service or product knowledge. They were also located in poor locations, a fact which was due, at least in part, to political interference with locations and leasing agreements, which often came from requests from the ruling government, but which also was due to the fact that the LCBO had been starved of the capital it needed to maintain its store network and corporate infrastructure. For instance, in 1988, the LCBO’s budget for repairs and capital improvements was \$7.68 million to cover a network of 630 stores.²⁰³ Its logistics network and head office, too, were inadequate. The LCBO had, for example, no effective human resources, information technology, accounting or marketing divisions.²⁰⁴ A tangible example of the LCBO’s feeble state at the time was that it had no computers in its operations, so all functions, such as accounting and payroll, were done manually and data was entered on large ledgers. The LCBO’s lack of adequate information technology systems meant that its senior management had no data on product movement, store sales or shrinkage; quarterly sales results took six months to reach upper management. The quality of its corporate staff, too, was weak, with few motivated or interested employees. In addition to being an undercapitalized asset in general, an additional difficulty, which aggravated all of its other problems, was that the LCBO had been a bastion of ‘petit’ and ‘grand’

²⁰² Gee, *supra* note 174.

²⁰³ LCBO, *Annual Report 1987*, (Toronto: LCBO, 1987), p. 25. The amount of money that the LCBO spends on infrastructure maintenance and improvement – its capital expenditures – is a decision made by the government, not its senior executives, regardless of the wording of its enabling legislation.

²⁰⁴ Gee, *supra* note 174.

patronage, with store workers and executives often getting their positions because of their connections to the ruling party. It was thus an overstaffed organization. The LCBO in the mid-1980s, by modern retailing and organizational standards, was in a shoddy state, and would require fundamental institutional reform.²⁰⁵ To be fair in our assessment of the status of pre-1985 LCBO, its staff and its organizational structure, it is important to remember that it was fulfilling its political mandate at the time, since it was never intended to be a dynamic retailer, but rather was supposed to ‘control’ and limit the sales of alcohol to the public.²⁰⁶

Before any significant institutional change could occur, the LCBO’s senior staff and board of directors had to be replaced.²⁰⁷ The first step taken in its modernization plan was the appointment of Jack Ackroyd, former Chief of Police of Toronto, to the position of Chief Executive Officer (CEO) in 1986. Initially, Len Pitura, a former and very capable senior civil servant, assisted him in the position of executive vice-president

²⁰⁵ Gee, *supra* note 174.

²⁰⁶ The evolution of the LCBO and Ontario’s liquor between 1927 and 1972 are topics explored in Sharon A. Jaeger’s unpublished thesis, *From Control to Customer Service: Government Control of Liquor in Ontario, 1927-1972*. In it, she argues that changes in Ontario’s liquor retailing regime, exemplified by the LCBO, and changes the regulations regarding alcohol consumption at bars and restaurants, controlled by the Liquor Licensing Board of Ontario (LLBO), demonstrate that the government was gradually relaxing the intensity of its control of alcohol over this period of time. There was, according to her, a general shift in the government’s policy from one that sought to severely restrict the citizenry’s access to alcohol, supported by moralistic/temperance arguments, to a government policy that was more ‘liberal,’ and helped to foster a regime where alcohol was less easier to purchase. I do not disagree with her argument, but believe that her assessment that Ontario’s adoption of a more liberal, customer oriented policy regime was a significant relative change from the days of prohibition and the early, very restrictive, rules and regulations that governed the sale and consumption of alcohol in the province. The organization and retailing operation of LCBO in the mid-1980s, as outlined by my primary source on the matter, Larry Gee, indicate at that time, the LCBO was still an archaic and dysfunctional institution when compared to other retailers. See: Sharon A. Jaeger, *From Control to Customer Service: Government Control of Liquor in Ontario, 1927-1972* (Unpublished PhD, University of Waterloo, 2000).

²⁰⁷ The removal of the board of directors and most of the senior management was an important first step in the reorganization of the LCBO. The use of the LCBO as a bastion of patronage meant that its head office was overstaffed with many individuals who lacked the necessary skills and motivation needed to operate a modern retailer. More problematically, there was a particular ‘culture’ amongst the LCBO’s staff which would make implementing any radical changes impossible and thus negate the possibility of turning it into a dynamic retailer. Gee, *supra* note 174.

(second-in-command). Many of the changes implemented at the LCBO were contained in a memorandum from the president entitled “Project 87.” The memorandum’s suggestions, in turn, were based on the findings of a report written by an external consulting company Mercer (aptly titled the *Mercer Report*).²⁰⁸ The *Mercer Report*, very simply, called for a reorganization of the LCBO’s managerial structure for the purpose of improving executive control and accountability. To do this, the report suggested the CEO and board of directors be granted increased powers, and that the LCBO focus on improving its merchandising and distribution systems in order to enhance financial returns to the government.²⁰⁹ Most of the report’s recommendations were adopted and implemented. Shortly after assuming their new positions, Ackroyd and Pitura fired almost all of the LCBO’s upper management personnel (vice-presidents and one lower level), and the entire board of directors. They then appointed a new board that was comprised of three very successful businessmen and one medical doctor, whose role was to temper the entrepreneurial instincts of her board colleagues and to ensure the LCBO did not lose sight of its obligation to sell alcohol in a socially responsible manner.²¹⁰ Ackroyd and Pitura and the new board assumed their new positions, however, with one very clear stipulation: that the government would not interfere with the day-to-day operations of the LCBO. Acroyd and Pitura specified that they would not tolerate political interference in areas such as human resources and the purchase and leasing of store property, to name two examples. They were only willing to take on the monumental task of reforming this institution if hands-on political interference with

²⁰⁸ The *Mercer Report*, (Toronto: LCBO, 1987).

²⁰⁹ Ackroyd, Jack W. *Project 87: The Change and the Challenge: A Special Report from the Chairman*, (Toronto: LCBO, 1987).

²¹⁰ Gee, *supra* note 174.

LCBO operations stopped.²¹¹ The days of using the LCBO to meet short-term political objectives were over.

The next step was to hire a new senior executive team. In 1988, Ackroyd and Pitura hired a former Dominion Store executive, Larry Gee, as the LCBO's Chief Operating Officer (COO).²¹² Mr. Gee, a very competent, hardworking professional, can be credited with implementing many vital changes at the LCBO from the time he was hired until his retirement in 2000.²¹³ Misterys Gee, Ackroyd and Pitura, then, went about hiring a new set of senior executives who had private sector retailing experience. Finding (and hiring) these executives was a difficult task, since the wages paid at the LCBO were relatively low and few business executives at the time were interested in working for such an archaic institution. Nevertheless, after a year and a half, the three were able to put together a solid management team and start the process of 'modernization'.

The entire organizational corporate structure of the LCBO had to be modernized. The new executive team had to either reconfigure and/or create entirely new divisions within this retailer, and so went about remaking the marketing, distribution (logistics), information technology and accounting/finance divisions. The store and wholesale facilities also required improvement. Accordingly, Ackroyd, Pitura and Gee created sub-sections that dealt specifically with social responsibility and environmental matters.²¹⁴ Other important innovations were the introduction of agency stores in southern Ontario, which provided better alcohol distribution service to rural Ontario (and

²¹¹ Gee, *supra* note 174.

²¹² The CEO in the LCBO hierarchy is the most senior position. The CEO acts as a liaison between the LCBO and its political masters. The COO is second-in-command and is responsible running its day-to-day operations.

²¹³ Lewin, Julian, senior executive, LCBO, 1986-1996, Interview, December 7, 2005.

²¹⁴ Lewin, *supra* note 213.

helped to quell calls for privatization) and the introduction of its own (very popular) *Food and Drink* magazine. In addition, the LCBO hired a public relations firm to redesign its stores, signage and general image. They also set about improving the quality of the staff by implementing training programs dealing with subjects like product knowledge and social responsibility. Ackroyd, Pitura and Gee had limited capital to dedicate to such changes, but were able to garner enough capital to implement substantial changes within the LCBO's corporate structure. They were not, unfortunately, able to solicit enough capital to rebuild the old and tired store network. Nevertheless, over time, the LCBO and its new senior staff were able to substantially improve the corporate infrastructure, making cosmetic (and cheap) changes to the store network as well, as much as their funds would permit.²¹⁵

The new corporate management team also had to improve the quality of the retail store staff and reduce the numbers of workers employed since the LCBO had been overstaffed, largely due to patronage appointees. A significant number of employees were made redundant and released with very generous retirement packages.²¹⁶ The union, interestingly, after a brief period of confrontation, accepted these redundancies, and, more generally, supported the reformation efforts of the LCBO's senior management. The key reason for the union's support was that it wanted to preserve its members' high wage jobs that, with the introduction of new computerized technology, were rapidly being deskilled. The union also ardently supported staff training initiatives in areas such

²¹⁵ Gee, *supra* note 174. Small (and cheap) improvements went a long way given the terrible condition of the LCBO's stores; but they also had another purpose, which was to show the government the potential payback if they were to give the LCBO more money to remodel its entire store network.

²¹⁶ Gee, *supra* note 174. The government was quite sensitive to this issue. It insisted that employees who were made redundant be treated fairly and given generous early retirement packages. Not only were many of the employees who were subsequently let go patronage appointees, but a large number were aging war veterans who had been given jobs at the LCBO upon their return from active service.

as product knowledge and social responsibility, since higher employee skill levels would help assist the union in solidifying and preserving the workers' relatively good wages in relation to other workers in the retailing sector.²¹⁷ The union also accepted more flexible collective agreements. Their acceptance paved the way for the hiring of more women, part-time workers, youths and those with specific product knowledge.

Finally, and perhaps most importantly, in 1991 the NDP government of Bob Rae appointed Andrew S. Brandt as the CEO of the LCBO, and gave him explicit instructions to improve its financial performance.²¹⁸ Mr. Brandt was a former businessman from Sarnia, Ontario who had spent the previous twenty years in municipal and provincial politics and, towards the end of his political career, had been a cabinet minister and the leader of the Conservative Party from 1987 to 1991. Mr. Brandt was a very capable leader who has excellent management and people skills. He is also, more importantly, very politically astute.²¹⁹ He was able to appeal to the LCBO's diverse stakeholder contingent while at the same time meet the varied needs of its political masters.²²⁰ Mr. Brandt, in a sense, created the political space for Mr. Gee to implement the modernization plans.

By 1995, "It was all done."²²¹ The LCBO was now an organization that had undergone a fundamental institutional transformation. It now operated and functioned much like any other modern retailer.²²² Because of this, it was in a position to rise to the new challenge of helping the government of Mike Harris meet its primary objective:

²¹⁷ Nielson, *supra* note 9.

²¹⁸ Brandt, *supra* note 12.

²¹⁹ Diamond, Stephen, Board Member, LCBO, Interview, December 13, 2005.

²²⁰ Brown, Duncan, CEO, Ontario Lottery and Gaming Commission, 2004-2007, Interview, December 19, 2005 and Lindsay, *supra* note 193.

²²¹ Lewin, *supra* note 213.

²²² Lewin, *supra* note 213.

eliminating the deficit. The LCBO was an undercapitalized asset that could increase the government's revenues without resorting to raising direct taxes or maintaining such taxes at their current level, both of which were seminal Tory election promises. All that was missing was a massive infusion of capital so that it could complete the makeover of its store network and set about altering the preferences of the Ontario consumers.²²³

III: Endogeneity at Work: The LCBO's Efforts to Change Consumers' Views on Alcohol and their Purchasing Habits

Among the most important of the LCBO's reforms was its successful efforts to change consumer preferences. These preferences had to be altered in order for the LCBO to meet its two (somewhat) contradictory mandates from the government: first, sell alcohol in a socially responsible manner and, second, maximize revenue for the provincial government.²²⁴ Reducing prices or overly flagrant promotions were not possible since the LCBO's political superiors would not tolerate promotions or intimations that the LCBO was 'pushing' more alcohol onto the citizenry.²²⁵ The solution to this dilemma was relatively simple: sell higher value products. The LCBO concluded that with its *ad valorem* (or percentage) margin on products, selling more expensive products would lead to higher profits while ensuring that its unit sales of alcohol would not rise in relative proportion to the value of its sales. The LCBO also took its mandate to responsibly sell alcohol seriously, by ensuring that minors, intoxicated individuals or third parties could not purchase alcohol at its stores. Fulfilling these two mandates – selling higher value products and doing so in a socially responsible manner – also helped

²²³ Tsubouchi, Hon. David, Minister of Consumer and Commercial Relations, 1996-1999, Interview, October 12, 2005.

²²⁴ O'Brien, Barry, Director, Corporate Affairs, LCBO, Interview, November 3, 2005.

²²⁵ Gee, *supra* note 174.

the LCBO curry favour with its suppliers, the public, the public health community and, most critically, with the politicians responsible for making decisions to fund it. Those in charge of the LCBO concluded that fulfilling these two mandates successfully would help to solidify the public ownership of this institution and ensure that no government would consider altering the liquor retailing market. The net effect of these changes would garner financial and, perhaps more importantly, political benefits to the LCBO.

Prior to the election of the Harris Tories in 1995 and in subsequent years until 1998, the LCBO underwent extensive internal institutional and organizational changes. However, these changes were limited by its meager capital funds. From fiscal years 1993/1994 to 1997/1998 the LCBO's average spending on capital improvement was only \$22.92 million.²²⁶ It was in fiscal year 1998/1999 that its spending on capital improvements increased to \$40 million, and since that time, its capital expenditures have stayed well above \$50 million/year.²²⁷ The altering of consumer preferences were made possible with these massive capital infusions above 'normal' allotments for a business of its type: in this sense the LCBO overcapitalized its store network in its efforts to change how consumers viewed alcohol consumption.²²⁸

A number of improvements were made to the LCBO store network and to its business model more generally in order to increase the sales of higher value products. To do this required the LCBO to greatly improve the consumers' overall shopping experience.²²⁹ Their goal, in short, was to "Create a shopping ambience that was not

²²⁶ LCBO, *Annual Report, 1997-1998*, (Toronto: LCBO, 1998) p. 35 and LCBO, *Annual Report, 2001-2002*, (Toronto: LCBO, 2002) p. 16. Calculations by author.

²²⁷ LCBO, *Annual Report 2003-2004*, *supra* note 2, p.16 and LCBO, *Annual Report 2001-2002*, *supra* note 226, p.16.

²²⁸ In comparison to other retailers, the LCBO spent more money on capital improvements than 'normal' accounting rules would suggest. Rappaport, Ben, CA, Interview, July 6, 2006.

²²⁹ O'Brien, *supra* note 224.

unlike all the other places where [consumers] shopped”. In this respect the LCBO wanted to emulate the high quality store environments of its private sector retailing counterparts that consumers frequented.²³⁰ As a start, many of its stores were expanded and rebuilt. They were thoughtfully designed and well laid out, all in a set of uniform colours, with ample lighting and display space. The uniform design and colour system were intended to differentiate LCBO stores from other retailers and to demonstrate this was a ‘new’ LCBO.²³¹ Many LCBO stores have tasting areas and specialty vintages sections where foreign (and expensive) wines can be purchased. Stores also have refrigeration for white wines and, most critically for increasing sales of domestic and foreign beers.²³² Training for staff, likewise, was improved, ensuring that they are helpful and knowledgeable and, most critically, were selling alcohol in a socially responsible manner. LCBO promotional material is well-designed, glossy and seeks to promote higher value wines, spirits and beer. Perhaps of the most successful innovation of the LCBO was the introduction of its *Food and Drink* magazine that is produced quarterly and is filled with cooking receipts, lifestyle articles and advertisements for high-value alcoholic products.²³³ The LCBO has

²³⁰ Gee, *supra* note 174.

²³¹ Gee, *supra* note 174.

²³² The LCBO has focused on increasing its sales of domestic and foreign beers. Not only do beer sales comprise one half of the total alcohol market, but they also provide an opportunity for the LCBO to grow its sales by taking market share from its main competitor, TBS (whose sales growth has been relatively flat). Efforts to tap into this market have been very successful and LCBO’s share of the beer market has grown from 3% to 4% in the late 1980s to almost 17% today. This is yet another example of the efforts the LCBO has made to promote higher value and Ontario-produced beer sales. Unsurprisingly, the LCBO’s decision to increase efforts to compete with the TBS in the sale of its only product has led to some bitter animosity between the two retailers. Larry Gee, *supra* note 174 and LCBO, *Annual Report 2005/2006* (Toronto: LCBO, 2006). http://www.lcbo.com/images/pdfs/lcbo_an_report.pdf (accessed November 5, 2007) p.26 (print version).

²³³ *Food and Drink*, Summer 2007, (Toronto: LCBO, 2007).

won numerous retailing awards as a result of the reform efforts outlined above, and these days, its customer satisfaction levels are at 80%.²³⁴

The LCBO deliberately targeted women shoppers.²³⁵ Women make the majority of a household's consumer decisions and, more critically, were a segment of the population that was underserved by the LCBO's previous corporate and retailing structure in the past, since the vast majority of its customers were men.²³⁶ Several changes that the LCBO introduced during its reform period, such as alcohol tasting and cooking classes, the *Food and Drink* magazine, and the improved ambience of stores, in addition to many product promotions, were deliberately meant to target and appeal to the unique needs and interests of female shoppers. This shift was purposely initiated by the LCBO senior management team, which had retailing experience and was well aware of the importance of appealing to female shoppers' specific needs. The LCBO also has specifically targeted aging baby boomers who are entertaining more and are willing (and able) to purchase more premium alcoholic products.²³⁷ The decision to target other consumers – women and middle-class individuals – has paid significant dividends for the LCBO in respect of its sales to individual customer. Sales to individuals per visit continue to grow, rising from an average of \$28.10 in 2001/2002 to \$31.57 in 2005/2006.²³⁸ For comparison, sales per customer, per visit in one of British Columbia's

²³⁴ Deloitte and Touche LLP *Liquor Control Board of Ontario: 2005 Operational Review* (Toronto: Deloitte and Touche LLP, 2005) Available at: (<http://www.solidwastemag.com/PostedDocuments/PDFs/2006/06Jun/Pages%20from%20Pages%20from%20LCBO%20'05%20Operational%20Review-Deloitte%20Touche%20Rep%20pgs%201-15.pdf>) (accessed November 5, 2007) p. 10.

²³⁵ Gee, *supra* note 174 and O'Brien, *supra* note 224.

²³⁶ Gee, Larry, *supra* note 174.

²³⁷ Rush, Curtis 'Baby Boomers Drink LCBO to Record Sales' in *The Toronto Star*, June 6, 2007. <http://www.thestar.com/printArticle/221680>.

²³⁸ LCBO, *Annual Report 2005-2006*, *supra* note 7, p. 28.

government run liquor stores are \$27.22.²³⁹ Interestingly, the LCBO's efforts to promote and sell higher value products have prompted other provincial liquor boards to mimic its strategy to varying degrees.²⁴⁰

The net effect produced by all of the changes outlined above was an alteration in how individual Ontarians view the consumption of alcohol. Alcohol consumption is no longer seen a 'sinful' activity by most people, but rather, so long as one consumes in a socially responsible manner, a normal part of a healthy, middle-class lifestyle. Consider, for example, the way that consuming premium alcohol is portrayed in the *Food and Drink* magazine; the message is that moderate alcohol consumption can enhance special home cooked meals or is an essential component when entertaining friends and family. Ensuring that alcohol is sold in a socially responsible manner, likewise, helps to solidify Ontarian's shift in perspective. The LCBO encourages its staff to check patrons' identifications (and proudly reports how many individuals were 'challenged' in its annual reports),²⁴¹ partners with public health organizations to promote responsible drinking, and runs an advertising campaign and works closely with MADD to help prevent drinking and driving. The LCBO not only touts its role as a socially responsible retailer, but also backs up its rhetoric with concrete action. They "put other liquor jurisdictions to shame" in their commitment and action towards selling alcohol in a socially responsible manner and this has earned it high praise from some of those in the Ontario public health community.²⁴² Not only has the LCBO altered the types of alcohol consumed and, more

²³⁹ British Columbia Liquor Distribution Branch, *2005/2006 Annual Report* (Vancouver: BCLDB, 2006) http://www.bcliquorstores.com/pdf/ldb_ar05_06.pdf (accessed Nov. 5, 2007) p. 22.

²⁴⁰ Dunning, Roland, Executive Director, Canadian Association of Liquor Jurisdictions, Interview by phone, November 2, 2005.

²⁴¹ LCBO, *Annual Report 2005-2006*, *supra* note 7, p. 20.

²⁴² Murrie, *supra* note 9.

generally, societal views on alcohol consumption and the manner of consumption, but perhaps more importantly, it has also succeeded in shifting the responsibility for using alcohol in a responsible manner away from the itself – the state institution that sells it – on to the individual consumer who purchases it. This fact, in conjunction with the LCBO’s specific efforts to market alcohol consumption as a sophisticated, middle-class activity (the ‘bourgeoisification’ of consuming alcohol) has thus served not only to justify the changes made to the LCBO (and the money spent on these changes) and to increase its sales, but has also helped the LCBO to improve its image and reputation in the eyes of the government. This, in turn, has helped to solidify the decision to retain public ownership of the LCBO, and the decision to maintain the structure of Ontario’s current alcohol distribution system.

The endogenous (malleable) nature of preferences, a key feature of our theoretical framework, HI, helps to account for the set of changes implemented by the LCBO designed to alter how consumers act. More importantly, however, the endogenous nature of preferences explains why the LCBO sought these changes; namely, to meet the political objective set by the government, and why it was very successful in doing so. The result was a self-reinforcing outcome. Better consumer value and the promotion of higher value goods assisted in meeting the needs of the LCBO’s political superiors by providing the government with more income. At the same time, these things garnered popular (and thus political) support for the LCBO as a publicly owned and operated entity, and as the most appropriate institution through which to supply alcohol to the citizens of Ontario.

III-The Institutional Framework: The Other Actors

The Ontario liquor arena has a number of very powerful actors within it. These actors were (and are) able to influence the decisions made regarding its fate. Before explaining the characteristics of the LCBO's fellow institutional actors, however, it is important to appreciate the layout and dynamics of the retail alcohol marketplace. The LCBO not only comprises a key component of the marketplace and, as mentioned, is used to promote Ontario products (especially wine), but the entire alcohol retail market is also designed to facilitate the sale of Ontario-made products. The resultant jobs created in the wine, beer and spirit manufacturing industries and the economic benefits arising from these activities are factors that loom large in the minds of decision makers. The entire alcohol beverage manufacturing industry in Ontario is characterized by a very rigidly defined marketplace and by very significant state intervention.

The Ontario beverage alcohol retail market is an oligopoly. It contains three main types of firms: the LCBO, TBS and the Ontario Wine retail stores. In 2005/2006 financial year the LCBO held 51.2% of the market (by product value) and operated 598 retail stores. TBS had a 30.1% share of the alcohol market, but only sells imported and domestic beer. It operated 441 retail stores and it maintains its own wholesale network. The third group of pivotal actors are the Ontario winery retail stores. In the 2005/2006 financial year, these stores had a combined market share of 2.5% and numbered in total 408.²⁴³ Ontario winery retail stores only sell products that they manufacture. The combined market share of these three sets of actors was 83.8%. The illegal segment comprised 6.6% and other legal channels represented 9.7% of the market. Other legal channels of alcohol retailing were the 14 duty-free stores located at airport and land

²⁴³ LCBO, *Annual Report 2005-2006*, *supra* note 7, pp. 25 and 40.

border crossings; 38 on-site brewery stores; 3 distillery stores and the homemade wine and brewing sector. There were also 194 agency stores.²⁴⁴ These stores are privately owned and operated grocery stores that have a special permit to retail the LCBO's products. They purchase through the LCBO and are usually located in small towns and rural communities where a full-serve LCBO is not viable. The total value of Ontario's alcohol marketplace during the 2005/2006 fiscal year was \$8.37 billion. To serve all of Ontario's 12.5 million citizens, there are a total of 1696 retail locations selling alcohol.²⁴⁵ For the purposes of comparison, Alberta's 2005 population was 3.26 million people and by July 2007 it had 1,157 retail outlets selling alcohol.²⁴⁶ Needless to say, owning and operating an alcohol retail store in Ontario is very lucrative privilege.

The Beer Store

TBS is owned and operated by three firms: Molson-Coors and InBev (Labatt), each of which have a 49.5% ownership stake, and Sleemans, which owns the remaining 1%. TBS is restricted to selling domestic and imported beer, and it operates its own warehousing facilities. While it is often criticized for being an exclusive monopoly or at least a privileged member in an oligopoly, TBS can also be viewed as an efficient conduit or 'beer commons' to distribute beer in Ontario. First, it fails to act like a 'true' monopoly because it does not have the ability to either set prices or to differentially price the same product for different consumers, i.e. to engage in price discrimination. Sellers to TBS set their product price, which includes a surcharge or fee for the using the TBS network, and

²⁴⁴ LCBO, *Annual Report 2005-2006*, *supra* note 7, pp. 25.

²⁴⁵ LCBO, *Annual Report 2005-2006*, *supra* note 7, p. 40 (calculations by author) and Statistics Canada, *Population by Year, by Province and Territory 2001-2005*, (Ottawa: Statistics Canada, 2005). <http://www40.statcan.ca/101/cst01/demo02.htm> (accessed September 6, 2007).

²⁴⁶ Statistics Canada, *supra* note 245 and Alberta Gaming and Liquor Commission, *Liquor in Alberta – Quick Facts* (St. Albert: AGLC, 2007) http://www.aglc.gov.ab.ca/pdf/quickfacts/quickfacts_liquor.pdf (accessed September 12, 2007).

these prices cannot be different from those charged for the same product at the LCBO. Second, there is a remarkable degree of openness to TBS's product list. Any brewer can have its products sold in any TBS stores it wishes and is simply charged a flat fee per unit sold. Third, TBS operates on a cost-recovery basis and no money is earned on the direct sale of beer products.²⁴⁷ It also charges producers slightly lower markups than those charged by the LCBO.²⁴⁸

Regardless of the specifics of TBS and whether or not it acts like a monopoly, it is an institution that has a privileged position in the Ontario liquor market. As with any actor that has a state-sanctioned special privilege, it must protect – in a political sense – this prized right. It does this in a number of ways. First, while the structure of TBS stores is designed to favour the products from its two main shareholders,²⁴⁹ TBS's policy of open access mentioned above allows small, often Ontario-based, brewers to get their products into retail stores, and small producers are even charged a lower margin rate than suppliers with higher product sales. Without this system in place, (for example, under a more traditional market system) small breweries would have a much more difficult time competing with the large and well-established brewers, which often have their own distribution and sales facilities. In Quebec, for example, which permits beer and wine to be sold in corner stores, large brewers have a very significant marketing advantage over smaller producers.

²⁴⁷ Newton, Jeffrey, President, East, Canada's National Brewers, Interview by phone, June 27, 2006.

²⁴⁸ Heaps, C., *supra* note 8.

²⁴⁹ The direct conduit to the consumer is very valuable to its two large shareholders, Molson-Coors and InBev (Labatt). Both companies have substantial sums of capital with which to highlight and promote their products, via advertising and other mechanisms. TBS gives each product an equal 'unit' of brand space at its stores (each product is listed, with its logo, on the wall of each TBS store, advertising both it and its price). Not surprisingly, this system favours firms with larger promotional budgets who can 'pull' their products through the marketplace.

Second, TBS operates a very efficient recycling program. All of its products are returnable, in any quantity, at all of its retail locations and, more recently, TBS has partnered with the LCBO to be the recycling facility for all of the LCBO's products that, as of Feb. 5, 2007, have a deposit added to their price. Third, TBS is very efficient at distributing alcohol and, at least some of the benefit of this efficiency is passed onto consumers in the form of lower retail prices. Fourth, TBS provides the provincial government with ample tax revenue and, unlike the LCBO, does not draw on public funds for its capital needs. Fifth, TBS, like the LCBO, strives to sell alcohol in a socially responsible manner and has policies to prevent underage and/or intoxicated individuals from purchasing alcohol.

These measures are specifically designed to help insulate TBS from political pressure to open up the alcohol market to outside actors and are an active means to resist any alteration to the alcohol retail market more generally. In addition, TBS is run by very capable and astute individuals who have a firm understanding of the political dynamics in the province. Because of this, TBS exerts a significant amount of influence on the upper echelons of the provincial government. The TBS and the LCBO, despite an often-acrimonious relationship²⁵⁰ (largely because the LCBO is encroaching on the TBS beer market) are in a symbiotic relationship in the sense that neither wants any changes to the marketplace or any kind of privatization initiative. Such an initiative would naturally nullify the value of their respective privileged market positions.

²⁵⁰ Heaps, Frank, Former CEO and owner of Upper Canada Brewing, Interview by phone, September 29, 2005.

The Ontario Wine Stores and the Ontario Wineries

Like TBS, the owners and operators of wine stores in Ontario occupy a privileged position in the alcohol retail market. And naturally, like TBS, they want to maintain this prized set of rights. This section will argue that both the wine store owners and the wineries themselves are significant beneficiaries of the current liquor distribution regime and that they do not want to see significant changes to this regime. The wine store owners and the vintners are, in this section, treated as one group since only vintners can own and operate wine stores, and the distribution system is structured in a manner intended to promote Ontario-made products. However, there are some significantly different views on the value of the LCBO and the liquor distribution regime, more generally, amongst this group, and the difference in views is (usually) related to the relative size of the firm in question. Smaller vintners, for the most part, have more criticisms of both the LCBO and the distribution system than the larger more established firms.²⁵¹

The wine store market is organized in the following manner and abides by a very specific set of government-imposed rules. All wine that is sold in these stores must be produced (or at least 'cellared') in Ontario and store owners may only sell their own products in their retail locations. Products that the wine stores sell directly to consumers are subject to a mere 2% provincial margin (or 'markup'), in contrast to the 58% margin that the LCBO charges on these same products at their stores.²⁵² Even when vintners do sell their products in the LCBO, they are priced with a lower margin, 58%, rather than the

²⁵¹ Mytelka and Goertzen, *supra* note 8. Mytelka and Goertzen argue that most of the Ontario wine that the LCBO sells is from large wineries, that 66.8% of the LCBO's Ontario listings come from 5 wineries, (p.59) and that the LCBO's listing policies discriminate against small and medium sized Ontario wineries. They assert that if the LCBO truly wanted to help encourage the growth of Ontario-based wineries it should provide more listing and shelf space to them since it is the key avenue through which they are able to sell their products in Ontario.

²⁵² Brandt, *supra* note 12.

64% margin that other – foreign – producers’ products are priced.²⁵³ In addition, vintners are permitted to retain their most valuable products for sale in their own stores, rather than being required to sell them in LCBO stores, where they would be subject to a much higher markup and, thus, return a lower profit to the producer. Considering that all prices for alcohol products are uniform in the province, being able to sell their most expensive wines in their own stores, and at a lower price, due to the much lower markup, the LCBO’s policies regarding wine sales result in significant amounts of profit for the vintners. It is important to note that other firms that have tried to limit sales to the LCBO, by, for example, selling their products in external markets where they can earn higher profits have been sternly rebuked by the LCBO for doing so, and were not permitted to limit their sales to the LCBO.²⁵⁴ Ontario vintners are also permitted to sell their products directly to restaurants and bars, something that other (foreign) vintners are not permitted to do.²⁵⁵ These policies, which led to increased profits for Ontario producers serve to complement the preferential treatment that Ontario products receive at the LCBO, which include special shelf space, as well as LCBO promotions and marketing schemes designed to promote Ontario wines. In fact, intervention by the LCBO and the Ontario

²⁵³ Brandt, *supra* note 12. The LCBO justifies this differential by arguing that they incur higher costs when purchasing foreign wines (increased transportation and administration costs, for instance). It has had to defend this difference vigorously to the federal government since a number of countries have complained to the World Trade Organization regarding the preferential treatment towards Ontario wine producers by the LCBO.

²⁵⁴ One large alcohol beverage supplier wanted to limit its wholesale shipments to the LCBO so that it could sell more of its products in Asia, where its products would sell for higher prices. The LCBO’s senior management informed this firm that it would either supply the LCBO with all that it needed or none at all; the firm chose the former option. This is a tangible indication that the LCBO deals with suppliers differently according to their national origins and size (treating small Ontario firms quite well), and that it will, at times, use its significant purchasing power to influence the actions of large supplier firms. Dunning, *supra* note 241.

²⁵⁵ Brandt, *supra* note 12.

government, more generally, are the principal reasons why Ontario has a wine industry centred on the Niagara peninsula.²⁵⁶

It is important to appreciate that two large firms dominate both the wine store market and the Ontario wine producing industry. In this sense, the wine store market itself resembles an oligopoly. Approximately 290 of the 408 wine stores are owned and operated by two large firms, Andres and Vincor. To provide some sense of scale regarding these numbers, the third largest owner of Ontario wine stores is Colio Estates, which has only 14 stores.²⁵⁷ The vast majority of the remaining stores (approximately 100 of them) are independent wine stores located on the sites of the wineries themselves. Each winery is granted one retail license to sell its products. There is no way to acquire a license to sell wine in Ontario except by opening a winery. In this way, the market is closed and is not open to any new competition.²⁵⁸

There are, however, a few important points to highlight regarding the relationship between the LCBO and the Ontario wine producers. First, the vast majority of the Ontario wine sales come from a few large Ontario firms. 66.8% of the LCBO's Ontario listings come from five companies.²⁵⁹ The dominance by a few firms of the LCBO's shelf space and the fact that, except for on-site wine stores, the LCBO is the sole venue Ontario wine producers have in which to sell their products, causes some members of the Ontario wine industry to feel resentment towards the LCBO and the structure of the Ontario retailing

²⁵⁶ Mytelka and Goertzen, *supra* note 8, p. 43.

²⁵⁷ *Strategy for Transforming Ontario's Beverage Alcohol System: A Report of the Beverage Alcohol System Review Panel* (Toronto: Government of Ontario, July 2005) Available at: <http://www.fin.gov.on.ca/english/consultations/basr/report.html> (accessed November 6, 2007) p. 48 and Davidson, *supra* note 8.

²⁵⁸ Mytelka and Goertzen, *supra* note 8, pp. 58 and 59.

²⁵⁹ Mytelka and Goertzen, *supra* note 8, p. 59.

market more generally.²⁶⁰ LCBO management has attempted to address this problem by, for instance, establishing a special program to give shelf space to small, Ontario-based wineries. But, in recent years, there has been significant growth in the number of wine producers in Ontario, and there is a limited amount of shelf space at the LCBO.²⁶¹ An additional complication or difficulty the LCBO encounters with respect to giving shelf space to smaller producers is that many of them do not have the corporate or manufacturing capacities to meet the enormous needs of the LCBO.²⁶²

The Ontario market, despite its flaws, is much more open to foreign wines than many other retail markets. Try, for example, finding an Ontario wine in California, Italy or France. Each of these countries has an elaborate system of distribution in place that effectively bars Ontario producers from entering their markets.²⁶³ This fact, in the eyes of Ontario producers, justifies the preferential treatment they receive from the LCBO and the structure of the Ontario retail market more generally. The LCBO must also balance slightly conflicting mandates between maximizing revenue and promoting Ontario products. For example, the LCBO could increase its profits if it allocated more shelf space to spirits, which are more expensive to purchase (and thus more profitable), rather than reserve shelf space for Ontario wine products. However, it is constrained from doing so because it must satisfy the government that it is, in fact, promoting Ontario products by making significant efforts to promote Ontario wines. This is only one of the many conflicts between varied objectives that the LCBO must manage.

²⁶⁰ Paterson, Larry, Former LCBO employee, Interview, by phone, November 21, 2005.

²⁶¹ Brandt, *supra* note 12.

²⁶² Brandt, *supra* note 12.

²⁶³ Franklin, Linda, President, Wine Council of Ontario, Interview by phone, December 5, 2005.

The Ontario wine producers are a very powerful, well-connected group that benefits from the LCBO's public ownership and from the configuration of the Ontario liquor market. Accordingly, these producers have added their voice to those of others in petitioning the government to preserve the status quo with respect to Ontario's liquor distribution system and to refrain from privatizing the LCBO. Big changes to the current distribution system could cause these producers to lose their privileged status with the LCBO and to lose their own retail locations. The political influence of the Ontario wine producers therefore represents one important reason why the LCBO was not sold, but rather was retained and modernized.

Suppliers to the LCBO

Most suppliers of alcoholic beverages support the publicly owned LCBO and the structure of the retail market. This includes the aforementioned large breweries and Ontario wineries, but also small Ontario-based brewers, manufacturers and suppliers of spirits, and importers of wines and other alcoholic beverages in to the province of Ontario.²⁶⁴ This is not, however, to say that suppliers do not have some complaints with respect to the Ontario alcohol distribution system or regarding the operations of the LCBO. Their criticisms generally revolve around the fees and margins that the LCBO charges. They also argue that the LCBO could be run more efficiently by, for instance, reducing its unionized workforce. In addition, they express concerns about shelf space allocations, promotions and, of course, the high taxes levied on alcoholic products. Many suppliers also support a minor reconfiguration of the retail environment by, for example, licensing more 'specialty' alcohol stores that would give them direct access to the

²⁶⁴ Heaps, C., *supra* note 8; Westcott, *supra* note 8; Campbell, *supra* note 29; Franklin, *supra* note 263; Newton *supra* note 247; Davidson, *supra* note 8.

Ontario consumer. It is also important to note that, as stated above, some small producers in Ontario, particularly small wineries, are not happy with the distribution system since they often have problems gaining access to the LCBO stores and meeting the needs of such a large retailer.²⁶⁵ Some small brewers resent the dominance of TBS in the Ontario market as well.²⁶⁶ None of the suppliers, however, advocates any serious structural changes to the marketplace or to the central position of the LCBO within it; nobody advocates the wholesale privatization of the LCBO, in a manner similar to what was done in Alberta.²⁶⁷

There are a number of reasons why suppliers support the public ownership of the LCBO and would resist attempts to change the structure of the Ontario liquor retail market. To start, once a supplier has secured shelf space with the LCBO (or, in industry terms, a shelf keeping unit, SKU) and has established a functioning relationship with the institution, it is a very good organization with which to conduct business.²⁶⁸ This is largely because suppliers only need to deal with one organization and because the LCBO has uniform business and sales policies. The LCBO also has a vast, province-wide store network, comprising of approximately 600 individual stores, its own wholesale distribution system, with six regional warehouses, linked together by its own logistics system. The LCBO's effective product promotion system is an additional bonus. Unlike Alberta or Quebec, where much of the retail network is in private hands, there is no need for suppliers to solicit individual storeowners for prime shelf space²⁶⁹ or, in the case of

²⁶⁵ Paterson, Larry, *supra* note 260 and, Mytelka and Goertzen, *supra* note 8.

²⁶⁶ Flavelle, Dana, 'Small beer makers 'hopping' mad' in *The Toronto Star*, September 26, 2007.

²⁶⁷ Heaps, C. *supra* note 8; Franklin *supra* note 263; Newton *supra* note 247; Davidson *supra* note 8; Campbell, *supra* note 29; Westcott *supra* note 8.

²⁶⁸ Westcott, *supra* note 8; Heaps, C., *supra* note 8; Davidson, *supra* note 8.

²⁶⁹ It is important to note that individual store managers still have a significant amount of discretionary power as to what products to carry and where they are placed in the store. This allows the LCBO to tailor

Quebec, for the suppliers of beer to distribute their own products; these increase supplier costs. A centralized, single portal system is efficient and simple. Suppliers receive one cheque a week, and it always clears. The unitary system in Ontario, in short, provides low cost (and consistent) marketing, distribution and administration rules and regulations that ultimately contribute to reducing aggregate industry costs.

Many suppliers, furthermore, support the efforts the LCBO has made, in recent years, to promote high-value alcoholic products. The sale of high-value products is, not surprisingly, more profitable for suppliers and promotion of such sales by the LCBO allows suppliers, especially spirit and craft brewers, to develop ‘brand’ loyalties with consumers (as opposed to consumer loyalties to one particular type of alcohol).²⁷⁰

Suppliers are also pleased with the efforts the LCBO has made to improve the retailing environment by creating well-designed stores, ensuring that its staff is helpful, targeting women consumers and, more generally, altering how people view alcohol consumption. All suppliers support the LCBO’s efforts to promote their products, as well as its efforts to promote the moderate and responsible consumption of alcohol.²⁷¹ The LCBO, in addition to promoting Ontario-made wine products, also has a specific program in place

its product selection to meet the particular needs of the area (and people) that its stores serve. However, once a supplier has secured the right to sell in the store network and convinced some store managers to carry their products, the uniform nature of the distribution and sales system makes conducting business much easier.

²⁷⁰ Westcott, *supra* note 8 and Heaps, C., *supra* note 8.

²⁷¹ While only a few participants explicitly discussed this point specifically, the industry representatives are politically astute individuals, who would be well aware of the public relations and legal problems facing large North American tobacco firms. Manufacturers and suppliers of alcohol would want to avoid the public relations and legal disasters that this industry faced by failing to ensure that the dangers involved in product consumption were well understood.

to promote Ontario craft beer. This program has yielded some significant gains in sales for brewers.²⁷²

Finally, while the LCBO is the dominant player in the retail market, in fact functioning as a monopoly (and monopsony) for imported wine and spirits, and thus possesses tremendous purchasing power, it treats its suppliers, especially small Ontario ones, very well. It could exert a significant amount of pressure on producers to lower costs and better the terms in which it acquires products (in a similar manner as Wal-Mart and Loblaws, for example), but it does not do so. This is partly due to constraints imposed on the agency by its political masters, who want the LCBO to treat Ontario suppliers well, but it is also due to a general corporate 'ethos' within the organization – it sees itself as working in 'partnership' with its suppliers.²⁷³ There are additional political constraints on LCBO activities in the market and its relationships with its stakeholders. Spirit suppliers, in particular, are avid supporters of the LCBO since it is their only avenue for product distribution in Ontario, and because the retailing changes and direction introduced by the revitalized LCBO have operated to increase sales of their products.²⁷⁴ Like the wine and beer industries, the spirit business and most liquor suppliers have effective lobbying organizations, capable of making their needs known to those in the high echelons of the provincial government.

²⁷² Volume sales of premium Ontario beers increased 34% from fiscal year 2004-05 to fiscal year 2005-2006. LCBO, *Annual Report 2005-2006*, *supra* note 233, p. 5.

²⁷³ Brandt, *supra* note 12; Heaps, C. *supra* note 8; Davidson, *supra* note 8. This is not to say, however, that when the LCBO negotiates with large multinational alcohol firms, it refrains from seeking the best terms possible. It is only to suggest that the LCBO does not exert as much pressure as it could on small, independent companies. A similar argument applies to the LCBO's treatment of its unionized labour force – it does not attempt to drive wages and benefits to low levels as many private sector firms do.

²⁷⁴ Gee, *supra* note 174 and LCBO, *Annual Report 2005/2006*, *supra* note 7, p. 39. It is important to note that spirit sales, by value, make up 39% of the LCBO's sales; wine comprises 36%, beer 20% and coolers 5%.

The Public Health Community and the Union

There have been many public debates with respect to what effect (if any) the retail mechanism chosen by a province to distribute alcohol has on the level of alcohol consumption. This is a very, very contentious issue and there is credible evidence available to support each side of the dispute.²⁷⁵ The debate on this subject is relevant to this dissertation only with respect to how it, and the positions different actors have taken on this topic, have influenced decisions made at the political level to privatize alcohol distribution or to keep distribution in state hands. By and large, the public health sector in Ontario supports a government-owned distribution mechanism and is hostile to the idea of increasing the role of the market in alcohol distribution. This is not to say, however, that they support the modernization efforts undertaken by the LCBO, since these have had the effect of giving the sale of alcohol a higher, more positive profile.²⁷⁶ The public health sector in Ontario is fairly well developed. There are some well-organized (and funded) groups and internal linkages among actors in this sector.²⁷⁷ However, the net influence of the public health community (and of health and safety issues more generally) on policy has been quite limited.²⁷⁸ Most of the ‘public health’ type concerns came from within the Tory party and were linked to the ‘law and order’ component within it. This

²⁷⁵Giesbrecht et al, *supra* note 43, p. 201. These authors argue that there is a causative relationship between the form of the distribution system (public monopoly-type versus private market mechanism) and the resultant social costs associated with alcohol usage. Principally, they argue that monopoly-type structures are best able to resist calls to increase availability, expand operating hours etc., steps, which taken, that would have a positive influence on demand (and thus increase the social costs of alcohol consumption). Other researchers, however, dispute that private market mechanisms lead to more problems associated with alcohol usage. Swaka, *supra* note 18.

²⁷⁶Giesbrecht, Norman, Room, Robin, Demers, Andree, Lindquist, Evert, Ogborne, Alan, Bondy, Susan Bondy and Stoduto, Gina, ‘Alcohol Policies: Is There a Future for Public Health Considerations in a Commerce-Oriented Environment’ in Giesbrecht et al, *supra* note 43, p. 312.

²⁷⁷ Giesbrecht et al., *supra* note 276, p. 309.

²⁷⁸ Giesbrecht et al., *supra* note 276, p. 307.

component of the party is distrustful of using private mechanisms to distribute alcohol.²⁷⁹ The LCBO has often emphasized this point to bolster its arguments that it should remain a publicly owned institution and that the current retail market structure should be retained.

The union that represents the LCBO's unionized workers, as discussed previously, ardently supported the modernization process. They have also been supportive of continued public ownership.²⁸⁰ While some researchers have credited the union's opposition (and very public advertising campaigns directed against) privatization as being an important variable to for explaining the government's decision to keep the LCBO in public hands, the research of this author does not support that supposition.²⁸¹ As will be explained in the following section, the Tory government never seriously considered selling the LCBO. Even if it had, it most certainly would not have permitted a labour union to influence government policy.²⁸²

V: Decisions in the Harris Government: HI and Kingdon

The Harris Tories' decision to retain and expand the LCBO was made in the upper echelons of the provincial government. It was not, however, one decision, but rather two. The first (although it could perhaps be better characterized as a non-decision) was to keep the LCBO a Crown corporation. The second, more active decision was to allow the LCBO to retain some of its earnings for the purposes of improving its capital infrastructure. This section will analyze these two decisions in detail. It will also illustrate

²⁷⁹ Tsubouchi,, *supra* note 223.

²⁸⁰ Neilson, *supra* note 9.

²⁸¹ Giesbrecht, Norman, Gina Stoduto, and Lynn Kavanagh, 'Privatization Postponed? Ontario's Experience with Convergence Interests and Extensive Alcohol Marketing,' in Giesbrecht, *supra* note 43, p. 192.

²⁸² Tsubouchi,, *supra* note 223.

that the choices made by the government were influenced by the LCBO itself and, in particular, by the efforts of its CEO, Andy Brandt, who was a competent policy entrepreneur.

By the time the Harris Tories came to power, the LCBO had undergone significant organizational reforms and was able to demonstrate its value to the government. Both decisions were made in a context that was relatively isolated from the influence of individual citizens, via the legislature, for example, and reflected the interests of most of the powerful actors in this policy arena. The actions of the provincial government and the LCBO itself, as will be explained, illustrate a relative degree of state autonomy and demonstrate that provincial states make, and Ontario during this particular time and in this specific policy arena made, decisions congruent with their long-term interests. HI has the conceptual space for this set of assumptions. Kingdon's multiple streams decision-making model will be employed to structure the sections explaining each decision.

We have applied Kingdon's multiple streams decision-making model to our case study because it offers some insight into how decisions are made in governments. However, it is important to note that most of the important decisions made regarding the fate of the LCBO were made within the Premier's office is consistent with the historical evolution of political power with the Ontario state system ("provincial politics is really the Premier's politics"²⁸³). It is also consistent with a trend in both the Ontario provincial government and its federal counterpart to have most key policy and financial decisions

²⁸³ White, *supra* note 22, pp. 158-159.

made by the senior levels of the executive branch, especially the Prime Minister's Office, or its provincial counterpart, the Premier's Office.²⁸⁴

i: Privatizing the LCBO: a Non-Decision Decision

The first stream in Kingdon's multiple stream decision-making model is the problem stream; all governments have a myriad of problems that need to be addressed. For many individuals within the Conservative Party of Mike Harris, public ownership of the LCBO was a substantial problem. This was particularly true for its more neoliberal oriented members, as opposed to its more moderate red tory constituency. However, the problem was not a significant problem in pragmatic terms. Rather, for those for whom it represented a problem, it was a problem in ideological/philosophical terms. Such an issue might not have caused much consternation in the Tory party ten or twenty years before 1995, but during the late 1980s and early 1990s, the party attracted a number of bright, young university students who had been influenced by neoliberal economists and intellectuals from the United States. They, not surprisingly, wanted to shift the party's policy and ideological focus away from the centrist, red tory platform of yesteryear and reorient the party's ideological underpinnings.²⁸⁵ These young intellectuals surrounded and advised Mike Harris and their tireless efforts, in addition to a brilliant campaign, led to Harris's – surprise – election in 1995. This campaign was based on their platform, the Common Sense Revolution (CSR), which was "...both an election strategy and a neo-conservative [neoliberal] political philosophy."²⁸⁶ The primary, political focus of the CSR

²⁸⁴ This assertion is supported by both secondary and primary sources, and is both a characteristic of Ontario's institutional history and contemporary political changes, see: Morton, Desmond 'Ontario People and their Politics' in *The Government and Politics of Ontario*, Donald C. Macdonald, editor (Scarborough: Nelson, 1985) pp. 10-12. Primary sources that support this position include Tsubouchi, *supra* note 223 and MacKenzie, *supra* note 22.

²⁸⁵ Ibbitson, *supra* note 37, pp.19-42.

²⁸⁶ Ibbitson, *supra* note 37, p.63.

was to eliminate the deficit, cut taxes, and convince voters both that these were achievable goals and that the Harris Tories would implement them. Shrinking government, privatization of Crown assets, cutting welfare benefits and the like that constitute the bulk of the CSR platform. Reducing the role of the provincial state and providing citizens with significant tax cuts would, according to its supply-side logic, help to stimulate the Ontario economy that was just recovering from a significant recession.²⁸⁷ Few things were as antithetical to the values of the young members of the Tory party than the public ownership and monopoly position of the LCBO.²⁸⁸

The 'solution' to this perceived 'problem' would be to privatize or liquidate the LCBO and reconfigure the Ontario liquor retailing market. A wide range of possible options was available as to how this marketplace could be restructured, but the key point is that the strong state intervention would have ended and market forces would be unleashed to provide people with alcoholic products. However, the government of Mike Harris never seriously considered selling the LCBO.²⁸⁹ This was largely because the LCBO's senior management was able to convince the Harris government that any change to the liquor distribution system would reduce the government's revenue;²⁹⁰ changing the LCBO's dominant position in the market would threaten the monopoly rent expropriated by it and remitted to the government. Serious discussions about privatizing the LCBO never got past this revenue point.²⁹¹

²⁸⁷ The Progressive Conservative Party of Ontario, *supra* note 35.

²⁸⁸ Giorno, *supra* note 13 and Toogood, John, Deputy Chief of Staff, Mike Harris, 1995-1999, Interview by phone, December 9, 2005

²⁸⁹ Giorno, *supra* note 13. Some reforms or changes to the liquor distribution system were discussed in the Premier's office, but none of the plans made it past the initial discussion phase. The researcher was not privy to the content or substance of any possible reform proposals.

²⁹⁰ Giorno, *supra* note 13.

²⁹¹ Giorno, *supra* note 13.

To illustrate this, and to show the pragmatic nature of decision-making in the Harris government, let us imagine for a moment that the government of Ontario wanted to privatize the LCBO. It would face some very significant political problems. To start, it would first have to figure out what to do with the LCBO retail and wholesale network. Should it be sold off or franchised? Should some stores be retained or should they all be closed down? Even before investing substantial sums of capital in the store network, how would you explain these now stranded assets? How would you structure this new market? Whose interests might you privilege? The government would then have to address the concerns of the Ontario wine industry regarding the potential loss of its privileged position under the new system. And what about the private wine stores? The owners of these stores invested capital in them under the assumption that their rights were relatively secure. Would it be fair to change the rules on them mid-stream? And then there is the TBS. What would you do with its 430-store network and wholesale operations? Would you compensate two large foreign-owned breweries for their losses? (A current estimate of the value of the Brewers' distribution network is approximately \$4 billion).²⁹² The government would also likely face an outcry from the LCBO's union and relatively influential public health organizations such as MADD. Another factor to consider would be the impact of the decision on the customers, many of whom had adjusted to the 'new' LCBO and quite liked it. In addition, the government would have to face the possibility that by privatizing, its revenue would go down. No government wants that. It seems likely that the government would conclude that by choosing to

²⁹² Campbell, *supra* note 29.

privatize the LCBO, it would, in effect, be wasting valuable political capital on a “problem people didn’t even know they had.”²⁹³

Privatization would, in short, create some political difficulties; such a ‘problem’ did not warrant, nor could it have warranted, the political maneuvers that would have been necessary to introduce changes to Ontario’s liquor distribution regime. Despite the free market leanings of many of Harris’ advisors, they were able to distance themselves from their personal views on the efficacy of the government owning and operating a business, and instead provide the Premier with advice on how to avoid political problems. Privatizing the LCBO was never a priority for the Harris government (despite its privatization rhetoric) since such a move would result in the expenditure of a substantial amount of political capital for marginal gain.²⁹⁴

In addition, the LCBO itself played a key role in influencing the decisions of the Harris government. A simple metaphor will help explain the how individuals in the Tory party balanced their philosophical views regarding the role of the provincial state with political reality. Imagine the ideological or philosophical position that governments should not own or operate businesses that could feasibly be in private hands as a constellation. Surrounding this constellation are all of the practical reasons or assumptions that support this supposition: government-owned businesses provide poor product selection; high prices; low overall consumer value; are inefficiently run with low profit margins and, perhaps most importantly, do not maximize revenue for the government. They are far less efficient than their private sector counterparts. However, once the LCBO started to address all of these – valid – reasons, assumptions and

²⁹³Toogood, *supra* note 288.

²⁹⁴Toogood, *supra* note 288.

concerns, successfully implementing corporate and retailing reorganizations and returning greater profits to the provincial government, they became less relevant, even, in the eyes of some, untrue. Thus, all that was left was the philosophical position that governments should not be retailing alcohol. This position was not a compelling enough reason, in a political sense, to rationalize the expenditure of the amount of political capital that would have been necessary for the Harris Tories to privatize this valuable public asset.²⁹⁵

ii: An Active Decision: Capitalizing the LCBO

ii(a): The Problem

The most significant problem that the Harris Tories faced when they came to power, and one that they based much of their 1995 election campaign on, was the dismal state of Ontario's finances in the mid-1990s. The government's annual deficit in 1995/1996 was \$9.1 billion and unemployment was at 8.9%, because Ontario lost manufacturing jobs in the recession of the early 1990s.²⁹⁶ The Harris Tories, however, were determined to eliminate the deficit and to cut taxes,²⁹⁷ principally corporate and personal income taxes. For the most part, the Harris government implemented these electoral promises. To reach their goals, they cut spending dramatically, particularly in places such as social welfare, the environment and public transit.²⁹⁸ Cutting the deficit without increasing taxes was the foremost problem in the minds of the key decision

²⁹⁵ Lindsay, *supra* note 193.

²⁹⁶ Ministry of Finance, *1996 Ontario Budget Financial Highlights*, (Toronto: Ministry of Finance, 1996) <http://www.fin.gov.on.ca/english/budget/ontariobudgets/1996/finhil.html> (accessed November 8, 2007)

²⁹⁷ Ibbitson, *supra* note 37. The Harris Tories cut taxes and spending in an effort to eliminate the deficit. In this sense, tax cuts that were aimed at the suburban middle-class came at the expense of social welfare payments to the poor. p. 121.

²⁹⁸ McKenzie, Judith I. *Environmental Politics: Managing the Commons into the Twenty-First Century* (Toronto: Oxford University Press, 2002) p. 117. Operating expenditures for the Ministries of the Environment, Community and Social Services, and Transportation were cut 39%, 20% and 10%, respectively, between 1995/1995 and 2000/2001.

makers in the Harris government and this problem shaped many of the initial policy decisions the nascent government made.²⁹⁹ There was no real ‘problem’, then, in the liquor distribution policy arena. Liquor distribution in Ontario was working just fine. Rather, the most serious problem facing the government was in its larger macro-fiscal framework.

ii(b): The Solution

One possible solution to the government’s financial difficulties was to increase revenues from government-owned assets, such as the LCBO. Cutting expenditures only solved half of the Harris government’s problem. Without being able to raise taxes, the Harris Tories needed to secure new sources of revenue in order to meet their election promises.³⁰⁰ The key decision makers appreciated the value of this under capitalized asset and understood that the LCBO could potentially increase the revenue it delivered to the government if it were given enough capital to rebuild its store network and more fully implement its modernization plan.³⁰¹ The LCBO’s modernization plan was technically feasible, given that the LCBO had undergone a substantial organizational reformation over the last ten years and had demonstrated its institutional competence. Thus, the Tories’ plan to increase the amount of capital available to the LCBO represented a partial solution to their larger political and financial problems. With increased amounts of capital, the LCBO could now more fully implement its modernization plan, which included better targeting of female consumers, selling higher value products and

²⁹⁹ Tsubouchi, *supra* note 223.

³⁰⁰ Tsubouchi, *supra* note 223.

³⁰¹ Tsubouchi, *supra* note 223.

improving consumers' overall shopping experience. Investing more money in the LCBO would mean higher remittances to the government in the future.³⁰²

ii(c): The Politics

This plan, furthermore, made excellent political sense. The plan had the ardent support of the Minister responsible for the LCBO at the time, the Hon. David Tsubouchi, the senior management of the LCBO, and most of the key interest groups and actors in the marketplace. Nor would the plan require any legislative changes. Accordingly, it could be implemented with few popular or political repercussions, since all that was necessary for implementation was for the government to allow the LCBO to retain a higher share of its income; income that otherwise would have gone to the government.³⁰³ The public, most likely, would not be aware of the government's decision to increase the LCBO's available capital until they entered their newly reformed liquor stores, and when the public finally did, they responded with strong support for the changes made.

There are two additional critical factors behind this decision: first, the form that this new income took and, second, the vital role that the LCBO itself played in shaping

³⁰² The need for increased revenues was one of the key factors that convinced politicians to invest capital into the LCBO's store network. However, the causal relationship between the LCBO's capital investment and higher revenues is tenuous. Stores in the north (where less capital was invested) increased sales equally to those of their southern counterparts. Much of the growth in the LCBO's sales could be attributed the fact that the economy has grown and become stronger in the last fifteen years. The government's heavy investment, then, in the LCBO was used by the LCBO to meet some of its own political objectives: altering the preference structures of consumers and solidifying the LCBO's the public ownership. See chapter four for more discussion.

³⁰³ Toogood, *supra* note 288. The LCBO's capital expenditures are determined by the government. However, the specific mechanics of this process are not clear. What is critical for our purposes is that the amount of capital allotted to the LCBO and possible political fallout from such a decision, in relative political terms, would have been limited, considering the controversy caused by other policy initiatives of the Harris government. Furthermore, the LCBO's funds its capital expenditures by retaining a portion of its 'profit,' which would otherwise be remitted to the provincial government. It did not, then, have to borrow capital, or repay this money to the government or any specific lender. Improving its capital stock was a priority for the LCBO's management, but they appreciated the constraints put in place by the government, and the government's decision to increase the LCBO's capital funding took some time for the Harris government to implement. It was not until the 1998/1999 financial year that capital spending increased to over \$40 million (See: *supra* note 227).

the government's decision. The decision of the Harris Tories to keep the LCBO in public hands and expand and improve its store network were largely based on the government's need to provide the provincial treasury with a consistent (and growing) stream of revenue. However, the form of the revenue and means by which the LCBO earns its profits were particularly important to the decision the Harris Tories made to expand and improve the LCBO's store network. The amount of revenue generated by the LCBO is significant and has been steadily increasing over the last 15 years. In the fiscal year 2005/2006, the LCBO handed over \$1.2 billion to the provincial government on sales of \$3.53 billion (which equates to a 31.56% 'profit' on its sales) – an extraordinary sum.³⁰⁴ This sum also represents a considerable increase from the amounts handed over in previous years. In 1996, for instance, the LCBO handed over \$680 million in revenue to the provincial government. Thus, it has increased its returns to the government by 76% in the succeeding 11 years. This works out to an annual average increase of 6.9%.³⁰⁵ It is also important to note that the profit margins (or markups) that the LCBO charges on its products are set by the provincial government and are not flexible (except perhaps upwards), and that such decisions, again, lie in the political sphere since they are made by the Ministry of Finance.

Most critically, however, this 'profit' is comprised of three separate components. The LCBO does not delineate between each of the divergent components. It simply hands the money over to the provincial government. How much each component contributes to the overall profit given to the government is an extremely contentious issue. One's views on this matter depend on one's political and ideological orientation.

³⁰⁴ LCBO, *Annual Report 2005-2006*, *supra* note 7. Calculations by author.

³⁰⁵ LCBO, *Annual Report 1999/2000*, (Toronto: LCBO, 2000) p. 43. Calculations by author.

The first component of LCBO's revenue is an operating profit. This is the income left over after all fixed and variable costs have been covered, and is a profit akin to one that any other business might earn.³⁰⁶ The second component consists of a 'sin' tax charged on alcohol. This part, like the operating profit, represents part of the margin that the LCBO charges on its products and is, again, lumped into its overall 'operating' profit. The third part is a monopoly rent.³⁰⁷ The monopoly rent is derived from a number of sources. It, for instance, reflects the under-servicing of the market due to the LCBO's exclusive market position (nobody who is not already in Ontario's liquor distribution market can enter it). It also includes the increased transportation and time costs (and constraints) that are passed onto consumers, who must travel farther to acquire beverage alcohol, and obviously, can only do so when the LCBO's stores are open.³⁰⁸ It also includes the value of centralized marketing (promotion) systems, as well as unitary distribution and administration processes and structures, which reduce aggregate transaction costs of firms in the marketplace. Perhaps most importantly, however, the monopoly rent stream takes into account the purchasing power of the LCBO; it is, in many liquor markets, a monopsony (or single) buyer. This means that it has enough

³⁰⁶ This 'operating profit' is actually the entire amount that the LCBO remits to the government since the LCBO first covers its costs and then gives any excess (minus capital expenditures) to its political masters. However, it is described as an 'operating profit' because the LCBO, like many other firms, performs a service to citizens: it provides them with alcoholic products. It is the 'distorted' composition of the marketplace and the 'sinful' nature of the product that lead to such significant 'operating' profits.

³⁰⁷ The LCBO is not a monopoly per se, but is rather a dominant player in the retail beverage alcohol industry. The term 'monopoly rent' in this context is a term used to describe an actor who operates in an oligopoly and thus does not face a perfectly competitive environment.

³⁰⁸ While the LCBO is permitted to keep its stores open until 11:00 pm on weekends, the vast majority of its stores close much earlier. In Ottawa, for instance, it is impossible to purchase alcohol past 10:00 pm on a weekend night and there is only one store in the region open till that time. These constraints will naturally alter individuals purchasing habits and are examples of the both the LCBO's dominant market position and its ability to impose welfare losses onto consumers via its monopoly position.

purchasing clout to negotiate solid prices and terms with suppliers, many of whom are large, multinational purveyors of beverage alcohol.³⁰⁹

Rough estimates peg the monopoly rent portion of the LCBO's profits at \$545 million in 2003/2004 or approximately half of the amount it remitted to government that same year.³¹⁰ The LCBO's senior management often emphasizes the monopoly rent portion of the LCBO's profit when communicating with the government, particularly when the subject of privatization comes up, or when those in charge of the LCBO are attempting to forestall any type of radical market change that would be to its disadvantage. As the monopoly rent portion of the LCBO's revenue has, in practice, generated high returns for the government, such points have tended to resonate with the LCBO's political superiors.³¹¹

Regardless of how its income is derived, all of the LCBO's profits are handed over to the government. However, the most important political component with respect to the revenue earned is the fact that most consumers very much like shopping at the LCBO. They have observed the changes it has made to its operations and they support them. Most consumers believe the LCBO provides them with high overall value. Yet at the same time, very few consumers appreciate how distorted the retail price of the alcohol they purchase from the LCBO is from its 'natural' equilibrium level. In addition to the monopoly rent component of the price, both the federal and provincial government garner significant amounts of revenues from this the alcohol distribution industry. They also

³⁰⁹ *The Economist* 'Local Tastes: Pernod has Ambitious Plans for the Global Drinks Industry,' 10 November 2005. http://www.economist.com/business/displaystory.cfm?story_id=E1_VTPJPDV (accessed November 9, 2007)

³¹⁰ Deloitte and Touche LLP, *supra* note 234, p. 6. Even to a trained eye, the Deloitte report is short on specifics as to how the authors arrived at their conclusions regarding monopoly rent. (Rappaport, *supra* note 228). Nevertheless, the Deloitte report is the only source that attempts to quantify the value of the LCBO's monopoly rent.

³¹¹ Giorno, *supra* note 13.

closely regulate its activities. Thus, the money that the LCBO hands over to its political masters is earned relatively cheaply, in political terms, because very few individuals appreciate how much of this revenue is derived from a monopoly rent and/or represents a sin tax on alcohol. Even fewer people appreciate that the LCBO has successfully altered their preference structures, convincing them to purchase higher value products than they otherwise would have purchased, had they not been exposed to the LCBO's beautiful stores, slick marketing efforts and helpful staff. What could be a more valuable form of revenue for a government than money from citizens who eagerly and willingly pay it? Revenue generation schemes like the LCBO are simply hard to find.

Having said all this, perhaps the most important reason why the Harris Tories decided to retain and expand the LCBO was that capable people were managing the LCBO. Andy Brandt, its CEO from 1991 to 2006, was an exceptionally dynamic individual and very much played the role of a policy entrepreneur who helped to create, and to take advantage of, the opening of a policy window which would allow the LCBO to complete its modernization process. Personable, charming, intelligent and highly politically astute, this former businessman from Sarnia, Ontario had been in politics for twenty years prior to becoming the CEO of the LCBO, and had been a cabinet minister in previous Tory governments and Conservative Party leader prior to the selection of Mike Harris. He was well connected within the Conservative Party. Bob Rae, who appointed him, wanted to tap his political and business acumen. Brandt knew how Queen's Park worked and what were the needs of Ontario's governments, regardless of their partisan stripes. Returning higher revenues to the government was one component, but he also made sure that the LCBO assisted Ontario's wine and, subsequently, Ontario's micro-

beer producers as well. Addressing the concerns of public health officials and public interest groups was also important to Mr. Brandt. At public speaking engagements, Brandt would never miss an opportunity to remind citizens that the LCBO's profits funded schools and hospitals; important public goods that citizens valued.³¹² He earned the loyalty of his staff as well. Not prone to micro-manage, Brandt had faith in people's abilities to do their jobs. The long tenure of most of the senior staff is testament to this. The manner in which, under his guidance, the LCBO modernized its stores, furthermore, demonstrated to the ruling government that he could balance their concerns and needs with the interests of the LCBO. Brandt could help governments solve some of their problems. Given the enormity of problems and issues that ministers and premiers face, why would any government get rid of someone who could help them solve problems? The evolution of the LCBO has been examined. Let us now turn our attention to the Alberta case study, where we witness a starkly different decision and corresponding policy outcome.

³¹² Gee, *supra* note 174.

Chapter Three

Fast, Pragmatic and Ideological: The Privatization of the ALCB

“We will soften the beaches with liquor privatization...that is what I used to tell the Premier”³¹³

By “the beaches,” the Honourable Steve West, former Minister of Municipal Affairs and minister responsible for the Alberta Liquor Control Board (ALCB) was referring to what he and many of his fellow Tory Party members saw as the bloated and overly interventionist provincial state built up over the postwar period. The selection of Ralph Klein as leader of the Conservative Party in December of 1992 and his subsequent majority victory in the provincial election in June of 1993 were events that marked a radical change in the province. Under the Klein Tories, the role of the public sector would be substantially reduced and an unencumbered private sector would be seen as the key to economic revitalization.³¹⁴ On September 3, 1993 to the surprise of all Albertans, the Hon. Steve West announced in the Legislature that the ALCB would be liquidated and a market would be established to allow private retailers to take over the sale of all

³¹³ West, Hon., *supra* note 14.

³¹⁴ For explanation of the changes that the Klein government imposed see: Lisac, *supra* note 16; Cooper, *supra* note 16 and especially Bruce, *supra* note 38. Ralph Klein won the leadership of the Conservative Party on December 5, 1992 and with that he assumed the Premiership of the province on December 14, 1993.

³¹⁵ Alberta Liquor Control Board, *supra* note 42, p. 1.

alcoholic beverages in the province. By March of the following year, the last of the ALCB's stores were closed and West's wish had become reality. For better or for worse, Albertans had a new liquor-retailing regime, and one that would be radically different from all other provinces.

This chapter will explain how and why the nascent government of Ralph Klein chose to sell off the ALCB. It will argue that the privatization initiative was partly the result of a provincial ethos and culture that values individualism, often leans towards populism, and ardently supports private enterprise. More specifically, however, the decision to privatize the sale of alcohol in Alberta was a one that, at the time, made good political sense for the new government, allowing it to show the citizenry that this government was radically different from previous Conservative governments and was dedicated to shrinking the role of the provincial state. Privatization affirmed the government's view that "the business of running [a] business should be the role of the business community."³¹⁵ Low prices for hydrocarbons brought about hard economic times in Alberta during the early 1990s, complete with high government deficits (and debt) and significant unemployment rates. By privatizing the ALCB the government would earn money by selling assets, reduce public (unionized) pay roles while increasing employment in the private sector, provide opportunities for small business and, most importantly, reduce the size of the provincial government in a visible policy arena. The decision makers reasoned that there was little need for the government to sell alcohol, that the private sector could provide higher consumer value, and that the creation of a competitive marketplace would be popular with the electorate. It was a policy decision that embraced the tenets of neoliberal economic reforms.

The resultant liquor market created in Alberta was specifically organized to favour the interests of small-scale independent businesses. Political concerns, not merely 'efficiency' orientated arguments, determined how the government structured the alcohol beverage marketplace. The decision was not made on a whim. Rather the idea of privatizing the ALCB was one that had been percolating in the minds of government officials since 1990, when the ALCB began to open the liquor market to more private sector actors. The privatization initiative was, in many respects, a solution that was awaiting the opportune problem and moment in time in order for the policy window to swing open; it was a policy shift that had ample support from a number of important policy entrepreneurs in addition to strong support among many Albertans. This chapter will demonstrate the importance of the political, cultural and temporal contextual factors that shaped the decision-making context and the resultant policy outcome. To make the comparison to Ontario and the LCBO easier, this chapter will be organized in a manner similar to the structure of the previous case study and thus will follow our HI theoretical framework. Kingdon's theory will help organize the final section.

The chapter will start with a brief sketch of the history and political culture of the province of Alberta. This section of the chapter will argue that the decision to privatize roughly fits with Alberta's cultural of individualism, its tradition of privileging small business enterprises and, more ephemerally, its distinctive regional identity. Despite the popular rhetoric surrounding Alberta's political and cultural ethos, Alberta has a functioning (and well funded) public sector and the government has, in the past, intervened in the economy to stimulate economic development, much like any other province in Canada. The value and role of the provincial state and its relationship to the

private sector is complicated in this province and, thus, Alberta is more of an enigma; it is not, as its popular reputation might indicate, a place of unbridled free markets.

The next section of the chapter will illustrate how the history of liquor retailing in Alberta came to shape the institutional actors in the liquor retailing trade. It will also show how some seminal decisions in the early 1990s, particularly, the appointment of Bob King as head of the ALCB, and his early partial privatization initiatives, helped to pave the way, in political terms, for the imposition of full-scale privatization of the ALCB. Mr. King was the essential policy entrepreneur who steered this policy from its inception to its ultimate successful implementation. Prior to Klein's electoral victory, the ALCB was already on a 'path' towards privatization. This fact helped to shape its fate.

The third section will explain the structure of the new liquor distribution system. As with any structural change, this new system altered how individuals perceive and consume alcoholic beverages. These changes led to a market structure that favours lower value alcoholic products. This outcome is particularly important when comparing the liquor distribution systems of Alberta and Ontario, and is the reason why, despite radically different distribution systems, both are able to provide good value to their respective consumers. The fourth section will look at the views of pivotal interest groups in the province. It will argue that the government's quick implementation of its privatization plan meant that there was little opportunity for opposing parties (except the ALCB's union) to attempt to influence the government. Few interest groups were able (or willing) to publicly voice their opposition to the government's plan. The last section will put all of these factors – geographic and temporally conditioned contextual variables – together and will explain the government's specific rationale for deciding on and

implementing such a drastic policy shift. Like the Ontario case study, this chapter will show that the decision that was made in the upper echelons of the Alberta government.

The final section of the chapter will follow the three-part framework – problems, solutions and politics – of Kingdon’s multiple streams decision-making model. Apart from the ideological perspective that the state should not engage in business activities that could be performed by the private sector, there were no problems with the liquor distribution system in Alberta prior to 1993.³¹⁶ The real ‘problems’ facing the Tories of the early 1990s were hard economic times, very poor public finances and an unhappy electorate; the government needed to be seen to be doing something different. Privatizing the ALCB would show everyone that this was a ‘new’ government that represented a new era in Alberta’s political history. Shrinking the state in the alcohol sector was a part of a larger ‘solution’ to the tough economic problems the province and its people faced. Its success was due to the skills of Mr. King, our critical policy entrepreneur, and the stern support of Steve West, the Minister responsible.³¹⁷ With that political support, the identification of the ‘problem’ and the ‘solution’, a policy window opened and the provincial government embarked on creating a new liquor distribution regime.

³¹⁶ The inherent ‘sinful’ nature of consuming alcohol and marginality of many consumers of alcoholic beverages limits the calls for substantial changes to any liquor distribution system. The ALCB’s consumer data reports that a majority of consumers were happy with the liquor distribution system prior to privatization. It was not in as dysfunctional state as its Ontario counterpart. Gross, Barry, Director, Inspections, Alberta Liquor and Gaming Commission (ALGC), Interview, March 9, 2006 and Peterson, Norm, CEO, Alberta Gaming and Liquor Commission, and Deputy Minister, Ministry of Gaming, Interview, March 8, 2006.

³¹⁷ Steve West, Jack Davis and Bob King were the three individuals responsible for this policy change and can be accurately described as policy entrepreneurs. However, they fulfilled different roles. Mr. King was the bureaucrat in charge of the ALCB who developed and implemented the privatization plan. Mr. Steve West steered the proposal through various political obstacles and was responsible for pushing this idea through caucus and the Premier’s office. Mr. Davis was the deputy minister and the critical link between the bureaucratic and political components of the provincial state.

I: Context: The Paradox of Alberta: The Roles (and Value) of the Public and Private Sectors

Alberta is an interesting and more complicated place than is often assumed. It is relatively new province, joining confederation in 1905 and is far from central Canada, sandwiched between the prairies and the Rocky Mountains. With the exception of aboriginal peoples, it was also a relatively uninhabited place at the turn of the last century: A mere 73,000 people resided in the province in 1901. Ten years later, its population had expanded considerably – 374,000 people called it home – and it has continued to grow quickly ever since.³¹⁸ It is also a province that, from its beginnings, has been marked by economic booms and busts primarily related the strength of the agricultural sector and, in the postwar period, by the demand for and price of hydrocarbons.³¹⁹ Ostensibly and in much popular political commentary, Alberta is a province of small ‘c’ conservative values where government is (supposedly) small; where independence is revered, and where citizens have a positive view of business as the key to economic growth.

These popular views, however, are somewhat contradicted by economic and political realities. Alberta’s provincial government has played (and continues to play) an essential role in the development of the province’s economy and, much like other

³¹⁸ Palmer, Howard and Tamara Palmer *Alberta: A New History* (Edmonton: Hurtig Publishers, 1990) p. 78. Alberta is currently in a boom cycle and its population is growing quickly: in 2001 its population was 3.056 million inhabitants, in 2005 it grew by 200,000 people to 3.256 million. Statistics Canada, *supra* note 245.

³¹⁹ Mansell, Robert L. ‘Fiscal Restructuring in Alberta: An Overview’ in Bruce, *supra* note 38, p.33. Alberta has the highest variability of GDP of any Canadian province according to data collected from 1961-1993.

provinces, it intervenes in society by providing health, education and social services to the citizenry. Alberta, then, is more of a paradox - a puzzle – a place where citizens and its government has held conflicting views regarding the role of the state in the economy and society more generally.³²⁰ One side of this puzzle, a general skepticism of the value of the state, comprises an essential part of the rationale used by decision makers to privatize the ALCB. Klein’s government used this policy initiative to remind Albertans of their unique political identity among the provinces, one that values competitive markets as the best means of satiating consumers’ demands. Having said this, however, the Klein government imposed (and enforced) a particular set of regulations on the new private market; regulations designed to create a marketplace that matched their idealized view of how a competitive market should operate. It appears, then, that culturally imposed, historical artifacts shaped both the decision to privatize the ALCB and the structure of the new liquor market. These artifacts are the product of seeds sown long before the Klein Tories seized power in the early 1990s.

i: A Brief Political History of Alberta: 1905 to the Present

After joining Confederation but prior to World War Two, Alberta was a province comprised mostly of rural inhabitants. 70% of its population resided in rural areas during that time.³²¹ Farming and agrarian concerns, then, largely “set the tone” of its political

³²⁰ Examples of the contradictory nature of Alberta see: Barrie, Doreen. *The Other Alberta: Decoding a Political Enigma* (Regina: Canadian Plains Research Center and University of Regina, 2006) and Tupper, Allan and Roger Gibbins ‘Alberta Politics: Change and Continuity’ in *Government and Politics in Tupper and Gibbins*, *supra* note 38. For the best explanation of the role of the state in the economic development of the province, particularly the role the state played in economic development in Peter Loughheed’s government, see: John Richards and Larry Pratt *Prairie Capitalism: Power and Influence in the New West* (Toronto: McClelland and Stewart, 1979). The concluding chapter will contain more discussion of Alberta’s conflicting views of the role of the state, and how the decision to privatize the ALCB fits into Alberta’s cultural and political ethos.

³²¹ Palmer and Palmer, *supra* note 318, p. 106.

and cultural debates.³²² From 1905 until 1921, a succession of Liberal premiers ruled the province. They appealed to the populace with an ardent stance against the National Policy (that protected domestic – Ontario - industry from foreign competition, helping to increase input costs for Alberta’s farmers) and also spread the spoils of political patronage (and pork barrel politics).³²³ Liberals were also more amenable to immigrants, women’s rights, prohibition and direct democracy than their Conservative rivals.³²⁴ The Tories’ links to the urban, established elite (and the CPR) was repugnant to many Albertans.³²⁵

A collapse in prices for agricultural products (especially wheat) and a number of drought years during the early 1920s were pivotal events for Albertans. These events helped to shift the support of Albertans from the Liberals to the United Farmers of Alberta (UFA).³²⁶ The UFA would attempt to unite farmers by bringing about policies such as limited debt relief programs and the establishment of the Alberta Wheat Pool in 1923.³²⁷ In a political and cultural sense, the election of the UFA “illustrated the development of a province-wide agrarian identification that embodied and stimulated a strong provincial and regional consciousness.”³²⁸ Not surprisingly, many of the seminal characteristics of the province, such as western discontent (alienation) brought about by resentment towards external capital, a single political party dominating the political landscape, concerns regarding transportation (especially freight rates), resource

³²² Palmer and Palmer, *supra* note 318, p. 106.

³²³ Palmer and Palmer, *supra* note 318, pp. 129,130,133-135.

³²⁴ Palmer and Palmer, *supra* note 318, p. 137.

³²⁵ Palmer and Palmer, *supra* note 318, p. 135.

³²⁶ Palmer and Palmer, *supra* note 318, pp. 198-199.

³²⁷ Palmer and Palmer, *supra* note 318, pp. 211-212.

³²⁸ Palmer and Palmer, *supra* note 318, p. 199.

development and agrarian protest movements, in addition to the boom-bust economic cycles, were products of, and have their roots in the province's early, formative years.³²⁹

Alberta suffered greatly during the depression. Debt, in particular, was a critical problem. Many municipalities and even the Alberta Wheat Pool had to be bailed out by the provincial government. In 1936, the province itself defaulted on some of its loans; many farmers were not so lucky – they had no one to bail them out and subsequently lost their livelihoods. These economic difficulties manifested themselves politically with the election of William “Bible Bill” Aberhart and his Social Credit Party, which, in 1935, wiped out the previous UFA government.³³⁰ Aberhart's party proposed a number of radical solutions, in particular, a substantial reconfiguration of Alberta's financial system, to help the plight of Alberta's farmers. Aberhart combined social credit policies with Protestant evangelicalism, often through his weekly radio address. These formed the basis of his party's platform. While few of his policies were fully implemented (a notable exception was the establishment of Alberta Treasury Branches), Aberhart and his party exploited the anger brought about by economic deprivation. This anger was directly largely at external financial interests, such as the central Canadian banks and the federal government (which disallowed many of Aberhart's policies).³³¹ The depression had a lasting effect on the entire province, but perhaps most importantly, it had an enduring influence on a young Peter Lougheed. He saw his well established and wealthy Calgary family lose everything with the collapse of commodity prices and a sharp decline in property values. He remembered well the foreclosure of the family estate. It would teach

³²⁹ Palmer and Palmer, *supra* note 318, pp. 128 and 129.

³³⁰ Dyck, Rand, *Provincial Politics in Canada* (Scarborough: Prentice-Hall, 1986) pp. 465-467.

³³¹ Dyck, *supra* note 330, pp. 464-469.

him the seminal importance of diversifying the Alberta economy, moving away such strong reliance on primary agricultural products.³³²

Like other Canadian provinces in the postwar period, Alberta developed a modern, Keynesian welfare state. Ernest Manning, who succeeded as leader of the Social Credit party upon Aberhart's death in 1943, set the foundations for the birth of the Alberta welfare state. Bolstered by increasing government revenue from the large scale discovery of oil and the introduction of American capital to exploit it,³³³ Manning invested in new schools, hospitals, roads and social services; by the 1950s, the Alberta government was spending more money per capita than any other province.³³⁴ Despite his ardent anti-socialist stance, Manning expanded the role of the state with interventionist social policies.³³⁵

Peter Lougheed's Conservatives, elected in 1971, continued to expand role of the provincial state in the Alberta economy. Lougheed won a landslide majority against Harry Strom, who assumed the Premiership upon Manning's death in 1968, by appealing to Alberta's new, urban middle-class. Once in power, Lougheed engaged in "province building." He sought to include and expand the role of the indigenous (as opposed to Eastern) bourgeois in Alberta's economic development, with the goal of creating a new industrial power in the West.³³⁶ Lougheed increased the government's royalties from the petroleum industry and greatly expanded the civil service.³³⁷ His government also sought to diversify the petroleum industry to ensure that more processing and refining took place

³³² Richards and Pratt, *supra* note 320, pp. 153-155.

³³³ Dyck, *supra* note 330, pp. 470-471.

³³⁴ Dyck, *supra* note 330, p. 472.

³³⁵ Dyck, *supra* note 330, p. 470.

³³⁶ Dyck, *supra* note 330, p. 481.

³³⁷ Dyck, *supra* note 330, p. 478 and Hustak, Allan *Peter Lougheed: A Biography* (Toronto: McClelland and Stewart, 1979) p. 242.

within the province so that Albertans could reap more of the benefits, especially well-paying jobs. He created the Alberta Energy Corporation (AEC), NOVA Corporation and, in 1974, his government bought Pacific West Airlines (PWA). These quasi-state enterprises were used to develop the province. AEC, in particular, was used, along with direct government incentives, to develop a petrochemical industry and the oil sands in northern Alberta.³³⁸

Lougheed's government also expanded Alberta's university system, assumed more of the costs of basic education, and introduced environmental legislation and conservation measures. In addition, it spent significant sums of money on social housing, programs for the handicapped, programs designed to assist aboriginals, and light rail projects in Calgary and Edmonton, among many other initiatives.³³⁹ In 1975, the Lougheed government created the Alberta Heritage Savings Trust Fund, a pool of capital financed from oil royalties that was to help build infrastructure, fund medical facilities and oil sands research.³⁴⁰ In the late 1970s and early 1980s, Lougheed would get into a bitter fight with the Liberal government of Pierre Trudeau over control of, and taxation levels on, Alberta's hydrocarbons.³⁴¹ Trudeau's introduction of the National Energy Program (NEP) was met with extreme resentment in Alberta,³⁴² embodied, perhaps a bit forcefully, by the bumper sticker "Let the eastern bastards freeze in the dark." Peter Lougheed was a visionary who attempted to break Alberta's precarious dependence on primary resources and to create an industrially autonomous and wealthy province in the

³³⁸ Richards and Pratt, *supra* note 320 pp. 215-247 and Dyck, *supra* note 330, pp. 476-487.

³³⁹ Dyck, *supra* note 330, pp. 480 and 483.

³⁴⁰ Dyck, *supra* note 330, p. 480.

³⁴¹ Meekison, Peter J. 'Alberta and the Constitution' in Tupper and Gibbins, *supra* note 38, p. 250.

³⁴² Dyck, *supra* note 330, p. 482.

“New West.”³⁴³ Lougheed retired from provincial politics in 1985 and was replaced by Don Getty as the new leader of the Conservative Party and Premier of the province.

Getty lacked Lougheed’s media charisma and strong leadership qualities.³⁴⁴ However, perhaps more importantly, Getty inherited a province that was heavily dependent on revenues from oil and gas. At the time he assumed power, low energy prices sharply reduced the province’s revenues; oil in 1986 was \$13 a barrel and the budget was based on \$40 a barrel projections.³⁴⁵ In addition, the fact that Albertans were holding substantial positions in Brian Mulroney’s Tory government in Ottawa, coupled with the federal government’s decision to dismantle the NEP, meant that Alberta’s Premier could no longer present himself as a staunch defender of the province’s interests against an encroaching federal government; attention would inevitably shift towards provincial issues.³⁴⁶ High unemployment and government deficits would plague the Getty government³⁴⁷ and his rule would be remembered unceremoniously as “the Getty years.” Getty retired from politics in 1993.

ii: Alberta’s Political Culture

Alberta’s interesting political history has produced an equally interesting political culture. In *Democracy in Alberta: Social Credit and the Party System*, C.B Macpherson argues that Alberta was comprised of a relatively homogenous populous of petit bourgeois commodity producers (farmers) who viewed themselves as semi-colonial subjects on the periphery of the capitalist system centered on the manufacturing and

³⁴³ Dyck, *supra* note 330 pp. 476-484 and Richards and Pratt, *supra* note 320.

³⁴⁴ Archer, Keith Voting ‘Behaviour and Political Dominance’ in Tupper and Gibbins, *supra* note 38, p.125 and Savage-Hughes, Denise and David Taras ‘The Media and Politics’ in Tupper and Gibbins, *supra* note 38, pp. 209 and 210.

³⁴⁵ Mansell, *supra* note 319, p. 31.

³⁴⁶ Archer, *supra* note 344, p. 124.

³⁴⁷ Mansell, *supra* note 319, pp.26 and 28.

financial interests of central Canada.³⁴⁸ In response to these structural inequalities, Albertans opted to support new political parties, such as the United Farmers of Alberta (UFA) and Social Credit. He also asserts that these parties embodied a new form of plebian democracy and that they eschewed normal partisan, cabinet-style representative governance. According to Macpherson, new political parties and methods of governing were needed to stand up to the external forces of outside capital.³⁴⁹ As such, Alberta developed a “quasi-party” system of governance that is a product not of its internal divisions, but rather, of the division between it and the external capitalist economy. Macpherson’s theory explains, at least in part, why Albertans tend to vote in strong, majority provincial governments – such governments are seen as necessary, in the eyes of Alberta’s citizens, to stand up to both the federal government and the central Canadian establishment since both represent (in a Marxist framework) the interests of external capital.³⁵⁰ Macpherson’s theory also helps to explain Albertans’ penchant for choosing to be governed by a single party (often a single leader) for long periods of time.³⁵¹ The political and economic reality of ‘Western alienation’ felt (or experienced) by many Albertans, in other words, has specific political effects and has formed the basis of populist protest movements originating with the petit bourgeois producers.³⁵²

³⁴⁸ Macpherson, C.B. *Democracy in Alberta: Social Credit and the Party System* (Toronto: University of Toronto Press, 1953).

³⁴⁹ Dyck, *supra* note 330 p. 488.

³⁵⁰ Macpherson, *supra* note 348, pp. 237-250.

³⁵¹ Dyck, *supra* note 330, p. 488.

³⁵² The dominance of the electorate by farmers (petit bourgeois) and their semi-colonial status also explains why both the UFA and Social Credit would oscillate between radicalism, calling for structural changes to the financial system, for example, and conservatism, in that such parties would not threaten defined property rights. Farmers were highly critical of eastern capital interests and wanted to use the state to intervene on their behalf, but, at the same time, viewed themselves as independent entrepreneurs and, as such, did not want significant changes to the established property rights regime. Hence, this oscillation is a direct result of the ambiguous class nature of the petit bourgeois farmers as neither laborers nor independent capitalists. This inherent contradiction in how to rectify the plight of the farmers might be

There are, of course, a number of variables that Macpherson's theory fails to consider. For example, he fails to account for some significant divisions within Alberta, like cleavages in region, ethnicity and class (in particular, his argument fails to account for the indigenous bourgeois in Calgary). It also fails to recognize the diversity of Alberta's economy in comparison to the economies of Manitoba and Saskatchewan, for instance.³⁵³ Macpherson also may have overestimated the amount of political support for ruling parties that existed in Alberta (and thus have portrayed Alberta society as more homogenous than it really was) because he chose to look at elected seats, rather than (the significantly lower) percentages of the popular vote.³⁵⁴ Nevertheless, Macpherson captures much of the political ethos of the province: an inherent skepticism directed towards central Canada (and the federal government) and its motives; the populist bent of its political culture; and long periods of one party rule with that one party being led by strong, dominant leaders.³⁵⁵ Most critically, he identifies the emphasis placed in Alberta on independent business enterprises (which were initially family farms, and today are more typically small businesses in the oil and gas sector.) Alberta's penchant for long periods of one party rule under the same leader limits the influence of external actors. It also means that opposition in the legislature is weak. Accordingly, the legislature's ability in Alberta to act as public forum in which opposition forces can question and criticize the actions of the ruling government is limited.³⁵⁶ Alberta's legislature is more of

partly responsible for the paradoxical nature of Albertans' view of the value and role of the state. Dyck, *supra* note 330, pp. 488 and Macpherson, *supra* note 348, pp. 215-230.

³⁵³ Richards and Pratt, *supra* note 320, pp. 149-153.

³⁵⁴ Bell, Edward 'Reconsidering Democracy in Alberta' in *Government and Politics in* Tupper and Gibbins, *supra* note 38, p. 91. Bell offers a very critical analysis of Macpherson's argument.

³⁵⁵ Pal, Leslie A. 'Political Executive and Political Leadership' in Tupper and Gibbins, *supra* note 38, pp. 22-25.

³⁵⁶ Engelmann, Frederick C. 'The Legislature' in *Government and Politics in* Tupper and Gibbins, *supra* note 38.

a “quasi-party legislature” and thus lacks “some crucial qualities of legislatures under the Westminster model of responsible government.”³⁵⁷

Alberta’s governments have also traditionally been quite populist. The ruling party, and in particular, the Premier, have often established strong, personal connections with the average citizen.³⁵⁸ Ralph Klein is perhaps the best example of a Premier who successfully did this; he was superb at being able to speak to people in “the language of their shared virtue” and refused to let “special interests” (in our case, the ALCB’s union) dictate government policy.³⁵⁹ Klein had a keen sense of public opinion and used his ‘folksy’ demeanor to his political advantage. When discussing his ‘Alberta Revolution’, Klein responded that it was not a revolution at all, but rather, that he and his party were “simply renewing our commitment to the basic values on which we built our province. Alberta stands for common sense.”³⁶⁰ A populist slant on the part of the Premier and his party and an unsophisticated – practical - approach to policy solutions has great public appeal in Alberta.

Klein and his followers had adopted many of the values of the neoliberal reformers throughout the western world, but he had to balance his new ideological imperative with the historical and cultural legacies of his province. While Macpherson’s argument has some significant problems, his first and most important insight, and one that continues to be relevant to this day, is the perception – one might even argue myth – that Alberta is a province comprised of independent entrepreneurs, and that these

³⁵⁷ Engelmann, *supra* note 356, pp. 137 and 161.

³⁵⁸ Pal, *supra* note 355, pp. 23.

³⁵⁹ Laycock, David *The New Right and Democracy in Canada: Understanding Reform and the Canadian Alliance* (Toronto: Oxford University Press, 2002) p. 36.

³⁶⁰ Klein, Ralph *Taking with Albertans: Reinvesting in Albertans*, 17 January 1995, quoted from Cooper, *supra* note 16, p. 11.

entrepreneurs are the backbone of both its agricultural and petroleum industry. His second key observation, that Albertans are inherently skeptical of external political powers and Ontario-based capital, such that an ‘us’ versus ‘them’ mentality developed in the province, is still relevant today. Third, there continues to be a distinctive populist bent to Alberta’s political discourse. The liquor store privatization initiative and the subsequent establishment of Alberta’s new liquor market tapped into these provincial myths and characteristics. The elimination of a public agency appeased the anti-government elements in the province and those acquainted with neoliberal discourse, and the structure of the new market provided entrepreneurial opportunities to small businesses. The decision to privatize the ALCB was, perhaps most importantly, a policy shift that was congruent with simple common sense: why should government be in a business that could easily be performed by the private sector?³⁶¹ Finally, by deciding to privatize the ALCB, Alberta differentiated itself from all other provinces, demonstrating that it had the political courage to take real steps to alter the role of the provincial state, at least in one policy arena. Albertans were (and are) proud of their distinctive liquor distribution regime. The fact that the Alberta government did not establish a free market regime to replace the government-owned monopoly, but instead intervened in the market to privilege small businesses would be defended as the best way to ensure high consumer value since they created a de facto “level playing field” among all retailers regardless of their size.³⁶² In Alberta’s current liquor distribution regime, the provincial state is still exerting its influence on the market, but in ways that are congruent with the popularized – even mythologized – view of the province and its people.

³⁶¹ West, *S. supra* note 14.

³⁶² Szumalas, John, President, Alberta Liquor Store Association, Interview, March 13, 2006.

II: History, Timing and Sequencing: The Privatization Process in Alberta

Existing institutions will influence the choices made by those in power and the manner in which they implement public policies. The structure of the liquor distribution market and the ALCB's key place within it, naturally, shaped the institutional and political landscape facing decision makers in Alberta in the early 1990s. It is therefore important to explore the history of liquor distribution in Alberta, the Alberta government's decision in the mid-1920s to establish the ALCB, and the makeup of the liquor distribution system in Alberta prior to privatization. It is also necessary to appreciate how Alberta's liquor distribution system was altered just prior to privatization by the addition of more private sector distributors. The fact that these distributors were successfully introduced into the ALCB system, without arousing much political or public opposition, was central to the government's decision to implement full-scale liquor privatization. The ALCB had already made it halfway down an institutionally imposed path with the selection of Bob King as CEO and Chairman in 1990, due to the nature of the instructions he received from the government. Path-dependent institutional (re)configuration occurred in Alberta as well.

The ALCB, like its Ontario counterpart, is a product of a temperance past. Between the years of 1916 and 1924, Alberta was officially 'dry,' since the government had legislated prohibition on all alcoholic beverages with a few minor exceptions.³⁶³ However, throughout the prohibition era, alcohol was still readily available in Alberta via an elaborate network of illegal channels. These channels helped to fuel criminal

³⁶³ Alcohol was illegal except when acquired by prescription for medical, scientific or religious purposes. Weak beer (2% alcohol content) was also permitted. Alberta Liquor Control Board, *supra* note 42, pp. 2 and 3.

syndicates and violent acts.³⁶⁴ Despite relatively strong support for prohibition among rural residents, Alberta's urban citizens were more likely to oppose it, and the UFA government, while comprised of many ardent temperance supporters, succumbed to public demands to repeal prohibition. They did so in 1924, and established the ALCB in May of that same year.³⁶⁵ The government also saw the money generating potential of owning and operating the sole liquor conduit in the province. In fact, liquor revenues would help the province out of some significant financial difficulties in the mid-1920s.³⁶⁶

For nearly 70 years, the retail market in Alberta was served by the ALCB and by beer "off-sales" from hotel taverns.³⁶⁷ Like the LCBO, the ALCB was responsible for the direct retailing (and wholesaling) of alcohol and the regulation of licensed establishments that served alcohol. The rules and regulations that governed the purchase and consumption of alcohol were as restrictive as those in Ontario and were consistent with a general apprehension regarding easy access to alcohol.³⁶⁸ By the postwar period, however, in a manner similar to that of the rest of the country, the rather stringent rules and regulations regarding alcohol sales and consumption at retail and licensed establishments were relaxed.³⁶⁹ For our purposes, it is important to understand the composition of the liquor retailing market and the condition of the ALCB in the eight years just prior its privatization in September of 1993.

Starting in 1985, the government began to undertake modest reforms of the ALCB and its store network. Reforms at the ALCB included improved store layouts and

³⁶⁴ Palmer and Palmer, *supra* note 318, pp. 212-214.

³⁶⁵ Palmer and Palmer, *supra* note 318, pp. 212-214.

³⁶⁶ Heron, *supra* note 20, p. 274.

³⁶⁷ "Off-sales" refers to the special right of hotel taverns to sell canned or bottled beer from their bars to customers for off premise consumption.

³⁶⁸ Alberta Liquor Control Board, *supra* note 42, p. 2-7 and Heron, *supra* note 20, pp. 277-283.

³⁶⁹ Heron, *supra* note 20, p. 332-338.

product presentations, improved customer service and staff training (including conducting consumer surveys)³⁷⁰ and the establishment of two large, ornately designed specialty stores, one in Edmonton and another in Calgary. Many of these changes were possible because the ALCB was in possession of a reasonable amount of capital which had been earmarked for the purpose of maintaining organizational and store infrastructure. From 1986 to 1989, the ALCB had approximately \$13 million appropriated for capital improvements.³⁷¹ It also sought to reduce its operating costs by closing a number of stores, reducing its staff and shutting down its second warehouse in Calgary.³⁷² The ALCB, like many government organizations, had some difficulty separating its functional duties from its political mandates. For example, while some individuals working there had been hired on a patronage basis, the ALCB had been undergoing a process of modernization for some time and was not a 'broken' institution per se.³⁷³ In fact, by way of comparison, it was in not as feeble a state as its Ontario counterpart prior to the efforts made to reform it.³⁷⁴

³⁷⁰ MacKenzie and Giesbrecht, *supra* note 16, p. 152.

³⁷¹ Capital allotments to the ALCB in 1986 were \$13 million and rose to \$13.8 million for the succeeding four years. This is substantially more than the approximately \$8 million that the LCBO had to maintain its store infrastructure during the same period. The Alberta Liquor Control Board, *62nd Annual Report*, (St. Albert: Alberta Liquor Control Board, 1986) p. 11; The Alberta Liquor Control Board, *63rd Annual Report*, (St. Albert: Alberta Liquor Control Board, 1987) p.11; The Alberta Liquor Control Board, *64th Annual Report*, (St. Albert: Alberta Liquor Control Board, 1988) p. 7; The Alberta Liquor Control Board, *65th Annual Report*, (St. Albert: Alberta Liquor Control Board, 1989) p.22; The Alberta Liquor Control Board, *66th Annual Report*, (St. Albert: Alberta Liquor Control Board, 1990) p. 29.

³⁷² Liquor Control Board of Alberta, *67th Annual Report*, (St. Albert: Alberta Liquor Control Board, 1991) pp. 2-4 and Liquor Control Board of Alberta, *68th Annual Report*, (St. Albert: Alberta Liquor Control Board, 1992) pp. 4 and 18.

³⁷³ Peterson, *supra* note 316.

³⁷⁴ Gross, *supra* note 316. Mr. Gross is a lifelong ALCB employee. Organizational changes at the board started in the late 1970s and continued throughout the 1980s. During this time the ALCB became a modern retailer, one that made use of information technology and had a marketing department. It was never as riddled with employees appointed through patronage as the LCBO. It was also never in as terrible an organizational state as its LCBO counterpart once was.

As part of its efforts to improve customer service and increase government revenues, the government also began, in 1985, to allow private enterprise to play an increased role in the liquor distribution retail sector. By December of 1990, there were 13 wine and 27 cold beer stores in the province, in addition to the 212 ALCB stores and 497 hotels that were permitted beer “off-sales.”³⁷⁵ Just before full-scale privatization in September 1993, the number of private retailers was even higher. At that time, there were 202 ALCB stores (10 fewer than in 1990 and 22 fewer than in 1988),³⁷⁶ 23 wine stores, 30 cold beer stores, 532 hotel “off-sales” locations (that, as of, June 1, 1990 were permitted to sell wine and spirits)³⁷⁷ and 49 agency stores, which were stores in rural parts of the province that could sell alcohol alongside their other products.³⁷⁸ Other changes with respect to how alcohol was sold in Alberta included Sunday openings for cold beer and wine stores, and accepting credit cards for alcoholic purchases.³⁷⁹

This expansion of the role of the private sector was important in a practical sense because it illustrated that it was possible (and profitable) for private stores to sell alcohol and that there were no negative social and/or public health issues directly associated with increased access to alcoholic beverages.³⁸⁰ More importantly, in political terms, the

³⁷⁵ MacKenzie and Giesbrecht, *supra* note 16, p. 151.

³⁷⁶ Alberta Liquor Control Board, *65th Annual Report, 1989*, *supra* note 371, p. 4 and MacKenzie and Giesbrecht, *supra* note 16, p. 151.

³⁷⁷ Alberta Liquor Control Board, *supra* note 42, p. 11.

³⁷⁸ MacKenzie and Giesbrecht, *supra* note 16, p. 151. This is a listing of all of the alcohol retailers in the province of Alberta at this particular time. It does not include other licensed establishments, such as bars and restaurants, that are permitted to sell alcoholic beverages to their clients, but they must remain on the licensed premises in order to consume it. What makes the hotel “off-sales” significant (and makes this right a unique in comparison to hotel owners in Ontario) is the right to sell bottled beer (and in 1990, all types of alcohol) that can be taken from the premises and consumed elsewhere.

³⁷⁹ King, Bob, Chief Executive Officer, Alberta Liquor Control Board, 1990-1993, Interview, March 14, 2006.

³⁸⁰ The allocation of the beer store licenses was not an open and transparent process and it was, in fact, one that was tinged with political and partisan favouritism. Minister Steve West was given a list of ‘eligible’ individuals for beer store licenses (it is not clear where the lists originated or how individuals acquired a place on them). It was “not suppose to be that way but it is difficult not to be” since it was almost

expansion demonstrated to decision makers that an increased role for the private sector would not lead to significant popular backlash or political outcry – opposition to the changes that had already been made was not vigorous. With partial privatization working so well, it was now time to put forth a policy proposal to introduce full-scale privatization.³⁸¹

These later stages of privatization and reform of the ALCB retailing network were led by the ALCB's CEO and Chairman, Bob King. Mr. King was a career civil servant, who had no partisan affiliations. After a stint as deputy solicitor general, he was appointed to the ALCB in January of 1990. When he was appointed, he was instructed by those in power to assess the operations of the ALCB, to examine its internal workings, its staff and, more generally, to see if it "all made sense." His orders from the government were to look for ways to improve the ALCB's efficiency and overall effectiveness and, if possible, to increase the private sector's role in the distribution of alcohol; he was not to settle into a tenured position as head of the ALCB.³⁸² Following his appointment, King scrutinized the ALCB's corporate culture and personnel, made changes to its organization and corporate operations in order to reduce costs, and, most critically, enlarged the role of the private sector in the retailing of alcohol. Once it became apparent that partial privatization was a success, Mr. King orchestrated, organized and implemented the

impossible for the governments to allocate these prized rights in an open and fair manner; they were expected to use such licenses to reward party members and other faithful supporters. The open system of licensing liquor stores in Alberta, whereby any individual who met the minimum requirements could open and operate a liquor store, was specifically intended to eliminate any partisan-type favouritism. They wanted it to be a "clean process." (West, S., *supra* note 14).

³⁸¹ King, *supra* note 379. Mr. King had increased the role of the private sector in the alcohol distribution system and upon realizing that such expansion did not meet any real opposition decided that it was time to expand the role of the private sector in the marketplace so that eventually it would replace the publicly run ALCB. This next step would require political support from the minister and others within the executive, many of who were ardent supporters of liquidating the ALCB and establishing a private system to sell alcohol. Mr. King was fulfilling his employment mandate by looking for opportunities to increase the role of the private sector and, if possible, eliminate the public sector's strong role in this particular policy arena.

³⁸² King, *supra* note 379.

wholesale privatization of the ALCB's retail operations, warehousing and distribution and inventory management of liquor products. He did so, of course, with the full approval of members of the government, especially Minister Steve West, who was responsible for garnering and maintaining political support for this dramatic policy move.³⁸³

With adequate political support and a plan in place, the government announced its decision to privatize the ALCB on September 3, 1993. This decision came as a total surprise not only to the public generally, but to all of the alcohol interest groups as well.³⁸⁴ The plan to privatize was a well-kept secret. There were no public or private consultations with any groups prior to privatization, since it was felt that any type of open consultation could impede the privatization process.³⁸⁵ Speed and decisiveness were critical to implementing the privatization plan with as little opposition as possible. Within six months, all of the ALCB's stores had been closed, its staff of 1,500 fired (with reasonable severance packages) and most of its assets (owned and leased properties, and store equipment etc.) sold through a competitive bidding process.³⁸⁶ Alberta was on the road to establishing an alcohol distribution system that was markedly different from the systems in place in all other Canadian provinces.

III: Endogeneity at Work: Private Liquor Markets and Consumer Preferences

The new liquor distribution system in Alberta was to be vastly different from its predecessor, not only because there would be far more locations where one could purchase alcohol and new - more relaxed - rules governing pricing, marketing and hours

³⁸³ King, *supra* note 379.

³⁸⁴ Blumenthal, *supra* note 28.

³⁸⁵ West, S., *supra* note 14.

³⁸⁶ West, D., *supra* note 16. On the sale of properties and treatment of employees see: 'Privatization Process' pp. 1-3.

of operation,³⁸⁷ but also because such a shift in the institutional configuration of the market would naturally alter the preference structures and purchasing habits of consumers. This section will explain the characteristics of Alberta's current liquor distribution system (the new rules and regulations), the changes to the taxation system and how this, ultimately, affected the nature of the types of products sold and consumed in Alberta. It will also illustrate two important points. First, it will demonstrate that the new system in Alberta was not a 'free-market' system, but rather, one governed by a strict set of rules and regulations explicitly designed to favour small, independently owned retailers. Appeasing particular constituents and designing a market that matched their own idealized view of competitive capitalism were the foremost considerations in the minds of key decision makers. Political concerns, in other words, helped shape the regulatory structure of Alberta's new liquor market.³⁸⁸

Second, this section will show that the new system promotes the sale of higher volume and lower valued products. While the key decisions makers did not intend this outcome, the result has had significant repercussions on the characteristics of the marketplace and the positions of relevant actors within it (particularly suppliers). This outcome is one critical reason why there is little support for full-scale privatization of liquor distribution regimes elsewhere in Canada. Appreciating how privatization has altered the structure of the liquor distribution market is important since it serves as a basis for comparison between the two provinces and partially explains why it is not particularly fruitful to compare alcohol prices in Ontario to those in Alberta. Preferences in this particular sector are social constructions dependent on the institutional context. The fact

³⁸⁷ West D., *supra* note 16, see: 'Privatization Process' pp. 3 and 4.

that consumers in Ontario and consumers in Alberta are both largely satisfied with their respective liquor distribution systems is proof of this. Additional reasons why both groups of consumers are satisfied will be explored in the next chapter.

The new liquor distribution system in Alberta was (and is) specifically designed to protect and promote the distribution of alcohol by small, independent businesses. Any individual can now own and operate a liquor store so long as the minimum requirements are met.³⁸⁹ There is now only one type of retail license and all holders can sell any type of alcoholic beverage. This open form of liquor licensing was necessary since it was the only way to eliminate the possibility (and probability) of politically motivated favouritism in the awarding of liquor store licenses.³⁹⁰ This form of liquor licensing, it was thought, would also facilitate the development of a truly competitive open market.³⁹¹ Except for zoning rules imposed by municipalities, there are no restrictions on the location or the number of stores in a given area.³⁹² Liquor stores must be ‘free standing’

³⁸⁹ The license criteria were not onerous. Any Canadian citizen over the age of 18, without a criminal record, who had submitted a floor plan of the store and had met standard business (building, fire code and health) regulations and could provide a valid business license from the municipality, would, after an inspection from the ALCB, be issued a liquor retailing permit. (Alberta Liquor Control Board, *supra* note 42, p. 24). This effectively placed the decisions regarding liquor store locations in the hands of the municipalities. Unsurprisingly, municipalities resented being stuck with this potentially contentious issue. Leaving some flexibility with respect to liquor laws in the hands of individual municipalities can, however, help to dissipate opposition to provincial policy, especially for those few remaining ‘dry’ communities.

³⁹⁰ Provincial governments have historically used the right to sell liquor as a political tool. Whether it is used to reward the political faithful or help small-town retail centers compete with larger stores, the right to sell alcohol is a lucrative privilege (particularly in rural and northern locations by the granting of agency licenses), and one that is bestowed at the sole discretion of the provincial government.

³⁹¹ West, S., *supra* note 14. Anything short of this open process would have inevitably led to inflation of the value of a liquor retail license and limited the competitive nature of the market. Had the government not taken steps to ensure that the market was as open as possible, it would have been pressured to favour its political allies in the awarding of these (lucrative) rights. The government wanted to eliminate any form of politically imposed favouritism.

³⁹² Allowing municipalities to determine the location and concentration of liquor stores was a pragmatic political move. Some municipalities resented being burdened with a potentially very contentious issue. However, it gave socially conservative municipalities or ones that opposed a high concentration of liquor stores some flexibility to determine where and how many stores could open and operate. The results, however, were interesting. In Edmonton, the city council imposed few restrictions respecting liquor store locations, and thus Edmonton often has high concentrations of liquor stores. In contrast, Calgary imposed a

in the sense that they cannot be connected to an additional retailing network³⁹³ (such as a grocery store) and stores are restricted to selling alcohol, a few condiment type items such as juice or pop, and alcohol related products such as corkscrews. They cannot, for example, sell cigarettes. Ninety percent of store sales must come from the sale of alcoholic beverages.³⁹⁴

Once in possession of a liquor license and a physical location, liquor stores must then purchase all of their products from the ALCB warehouse³⁹⁵ (except for the domestic brewers, who operate their own wholesaling network). The ALCB subcontracted the operation of its St. Albert warehouse to a private firm, Connect Logistics, which, effectively, acts as a conduit for manufacturers and distributors of alcoholic beverages.³⁹⁶ Connect Logistics does not own the product (like a normal wholesaler), but rather charges a per case/ per diem charge on all products that come through their warehouse.³⁹⁷ The manufacturer or distributor, then, owns all products, until the retailer orders them and

300-metre limit between stores in 2003. As a result, the area just south of the downtown core in Calgary, a poorer section of the city, has few liquor stores (two), both of which are formerly ALCB stores. More recently, the Alberta Liquor Store Owners Association's representative, John Szumalas, expressed his support for placing restrictions on both the spacing of liquor stores and their hours of operation. This is partly in response to highly visible problems associated with the consumption of alcohol, concentrated around bars and restaurants on Edmonton's Whyte Avenue, but is also because liquor storeowners want to limit immediate (geographically proximate) competition in a marketplace that is very competitive. Reducing operating hours would also lower their operating costs, as long as all stores had to abide by the same rules. Gordon, Kent, 'This has got to stop,' *The Edmonton Journal*, 23 November 2006.

³⁹³ Alberta Liquor Control Board, *supra* note 42, p. 9.

³⁹⁴ Alberta Liquor Control Board, *supra* note 42, p. 26.

³⁹⁵ Alberta Liquor Control Board, *supra* note 42, p. 13. Just prior to privatization, the ALCB had poured a significant amount of money modernizing the St. Albert warehouse facilities and such money could not be recouped by the sale of the asset at the time of privatization. In order to avoid the loss (and any accompanying embarrassment) the government opted to retain ownership of the warehouse and leases it to Connect Logistics to operate it.

³⁹⁶ Connect Logistics, a division of the United Kingdom based Tibbett and Britten Group, won the competitive bid to operate the ALCB's warehouse in St. Albert. (West, D. *supra* note 16, 'Privatization Process' pp. 5-7.) The government, however, continues to own the building, leasing it to Connect Logistics. It is unclear how the renewal process for the operating contract is conducted.

³⁹⁷ Becigneul, Joe, Director of Marketing, Connect Logistics, Interview, April 20, 2006

pays the ALCB for them in cash.³⁹⁸ All retailers pay the same wholesale prices for alcoholic products. There are no volume discounts for large purchases.³⁹⁹ The supply price is set by the manufacturers (or distributors) and the wholesale price is established by the ALCB (later the AGLC) and includes the supply price, taxes, bottle deposit and markup. Delivery charges throughout the province are uniform. It is a so-called “postage stamp delivery system”.⁴⁰⁰ This ensures that all stores, regardless of their size or location, pay the same wholesale prices.⁴⁰¹

The new system also liberalized the process for listing products at the wholesale level. Any licensed agent can list (have a supply of) products in the ALCB’s warehouse. It is the responsibility of alcohol suppliers,⁴⁰² however, to convince retailers to stock their products. They must ‘pull’ their products, or the products of the companies they represent, through the marketplace. ‘Inducements’ or bribes to retailers are strictly forbidden.⁴⁰³ There are no minimum prices for alcohol. Accordingly, retailers can offer discounts and specials,⁴⁰⁴ and are free to set prices according to market conditions. The government also lengthened allowable opening hours, permitting retailers to stay open until two a.m.⁴⁰⁵

Along with privatization, the government drastically altered and simplified the taxation regime on alcoholic products. A uniform tax would now be levied only on the

³⁹⁸ The ALCB remits payment to the suppliers of the alcoholic beverages within seven days of purchase by a retailer. Also note that Alberta amalgamated its alcohol and gaming boards, including the ALCB, to create the Alberta Liquor and Gaming Commission (ALGC) in 1995.

³⁹⁹ Alberta Liquor Control Board, *supra* note 42, p.13.

⁴⁰⁰ West, Douglas, Professor, Economics, University of Alberta, Interview, March 2, 2006 and Douglas S. West, ‘Double Marginalization and Privatization in Liquor Retailing’ in *Review of Industrial Organization* 16: pp. 399-415, 2000, p. 406.

⁴⁰¹ West, D., ‘Double Marginalization and Privatization in Liquor Retailing,’ *supra* note 400, p. 405.

⁴⁰² These could include manufacturers, importers or agents representing alcoholic beverage firms.

⁴⁰³ Gross, *supra* note 316.

⁴⁰⁴ Alberta Liquor Control Board, *supra* note 42 p. 26.

⁴⁰⁵ Alberta Liquor Control Board, *supra* note 42 p. 26.

alcoholic content of a specific type of product (wine, beer and spirits), rather than on the product's value. A flat tax replaced an *ad valorem* tax. Nor would there be any differential pricing between foreign or domestically manufactured products.⁴⁰⁶ The new tax was much easier to administer and resulted in significant cost savings for the government.⁴⁰⁷ Additionally, this new system created a "level playing field" for all types of alcohol and would be significantly more transparent.⁴⁰⁸ One effect of this shift was to increase prices of lower value products and, correspondingly, reduce those of higher value products.

Despite the changes to the tax regime and the distribution system, the government was committed to revenue neutrality and to maintaining its \$454 million annual income from alcohol sales.⁴⁰⁹ The new tax was effective and it, combined with an improving economy, meant that the government extracted significantly more than the \$454 million. Any revenues over and above this amount were remitted to the liquor manufacturers and/or distributors.⁴¹⁰ The 'profit,' then, once remitted by the former ALCB to the government, was transformed, in the new private market, into a direct tax levied on alcoholic beverages. As in the case of LCBO profits, the 'profit' that the former ALCB returned to the government was made up of three components: an operating profit, a sin tax on alcohol and a monopoly rent. With the ALCB no longer acting as a distributor in Alberta's new market, and with the loss of the monopoly rent⁴¹¹ (the ALCB was no longer a monopsony buyer), Alberta's change in taxation policy represented an increase

⁴⁰⁶ Alberta Liquor Control Board, *supra* note 42 p. 42.

⁴⁰⁷ Peterson, *supra* note 316.

⁴⁰⁸ Alberta Liquor Control Board, *supra* note 42 p. 42.

⁴⁰⁹ Peterson, *supra* note 316.

⁴¹⁰ West, S., *supra* note 14.

⁴¹¹ Flanagan, Greg, Assistant Dean, University of Lethbridge, Interview by phone, March 28, 2006.

in the taxes levied on alcoholic products and thus helped to push up aggregate industry costs.⁴¹²

These changes, of course, affected the structure and composition of the retail marketplace. After privatization, the number of liquor retailers in Alberta increased dramatically. By the end of 1994, the province had 530 retail outlets. This number had almost doubled by June of 2007 when Alberta had 1,157 alcohol retail distribution points.⁴¹³ Alberta's alcohol retailing market is also highly fragmented, with no large firms that dominate the industry. Less than 10% of liquor stores are part of a larger chain store enterprise.⁴¹⁴ Alberta's market, then, is one that is primarily composed of a large number of relatively small, independently owned firms.⁴¹⁵ The Alberta market differs slightly from a perfectly competitive market in that each store's products are slightly different from those of its competitors (usually due to geographic location). This allows stores to exhibit some pricing power. Each store tries to differentiate itself from the others in its neighbourhood. The result is a significant amount of variation among the retailers in terms of prices, quality of staff and store ambience, etc. While some stores in

⁴¹² This is a contentious statement. Such a finding does partially explain why average prices in Alberta remained relatively higher, when compared to pre-privatization era, after privatization. It also helps to explain why suppliers in other provinces are ardent supporters of the status quo. Greg Flanagan argues that the structure of the Alberta's new marketplace has increased industry (and consumer) costs; however, he suggests that the taxation shift resulted in lower taxes on alcoholic beverages and less per capita revenue from alcohol for the provincial government. Douglas West, by contrast, claims that provincial government revenues have increased under the new regime. It is not clear which of these views is more accurate. Bear in mind that there are two fundamental policy shifts taking place, a restructuring of the liquor market and a reconfiguration of the taxation regime, and that separating the effects of these two shifts is difficult, if not impossible. Comparative pricing is further made difficult by the variability of the prices in Alberta. By and large, smaller, independently run stores are more expensive than larger stores associated with a chain store, such as Loblaws. Price differences between Ontario and Alberta will be explained in the following chapter. Flanagan, *supra* note 42, pp. 23-27 and 42-44 and Douglas West, *supra* note 16, 'Economic Impacts of Privatization.'

⁴¹³ Alberta Gaming and Liquor Commission, *Quick Facts*, *supra* note 246.

⁴¹⁴ West, D., *supra* note 16, 'The Economic Impacts of Privatization', pp. 3. Flanagan in 2003 notes that the proportion of liquor stores that are members of a chain store had increased to 13.5%. Flanagan, *supra* note 42, p. 42.

⁴¹⁵ Flanagan, *supra* note 42, p. 39.

urban markets cater to consumers wishing to purchase higher value products (especially wine) and have skilled staff, and many grocery stores have simple, functional stores, most of the independent stores in Alberta's new liquor marketplace are small, offer little variety in terms of the type/brands of alcohol stocked, and are staffed by people that have not been particularly well trained.⁴¹⁶ The low skill level of workers is largely due to the substantial drop in average wage rates. The ALCB's average wage for its employees was approximately \$14 per hour. Following privatization, wages fell significantly, to an industry average of approximately \$7 per hour in private retail outlets.⁴¹⁷ Selection, too, at most stores is more limited than prior to privatization. While the number of products available from the warehouse has increased substantially since privatization, many stores stock considerably fewer products. And, because they must pay cash for them, there is additional incentive to sell products with higher turnover, often the most popular brands.⁴¹⁸ Alcohol prices, on average, rose after privatization.⁴¹⁹ Having said this, there is substantially more price variation in the Alberta system than there is elsewhere. Accordingly, it is possible to purchase significantly cheaper products.⁴²⁰ Prices also fell after privatization for higher value products (largely due to the imposition of a flat tax on the content of alcohol).

⁴¹⁶ The ease of access into the marketplace and its monopolistically competitive characteristics means that a high number of firms can enter the marketplace and still manage to (barely) remain solvent. This excess capacity results in low average sales (and profit) and thus little income (or incentive) to invest in store capital to improve their ambience. See, Flanagan, *supra* note 42, p. 41, for more explanation on excess capacity caused by monopolistically competitive structure.

⁴¹⁷ West, D., *supra* note 16, pp. 16 and 17, 'The Economic Impacts of Privatization'. Please note, however, that there are far more jobs in the industry (3,000-4,000) than prior to privatization.

⁴¹⁸ Flanagan, *supra* note 42, p. 39. Note that Douglas West comes to an opposite conclusion. Author's own experience confirms general minimal selection at most independent stores and poor store quality and staff. Again, to offset this shift, there are far more stores from which to purchase products.

⁴¹⁹ Flanagan, *supra* note 42, pp. 32-35 and West, D., *supra* note 16, pp.10 and 11, 'The Economic Impacts of Privatization.'

⁴²⁰ West, D., *supra* note 16, p. 12, 'The Economic Impacts of Privatization'

One of the resultant effects of Alberta's new liquor system is that it tends to favour lower value alcoholic products more than its Ontario counterpart.⁴²¹ This is particularly true for spirits, but is true for beer and wine as well. Lower quality staff and less impressive stores, coupled with intense price competition and the introduction of private label products, has meant that spirit producers who sell in Alberta have difficulty creating brand loyalty and differentiating their products from one another. Private label products (where a distributor or retailer contracts with a manufacturer to make a generic bottle of a specific type of alcohol), in particular, severely undermine efforts to build brand loyalty since these products are significantly cheaper than normal brands of spirits. (Consumers could then start to view alcoholic products as commodities, choosing to purchase 'vodka' for instance, rather than a specific brand, such as 'Absolut', that retails for a premium price.) Private label spirits do not exist in Ontario.⁴²²

Premium beer, likewise, is difficult to purchase in Alberta. This is not because such beer is unavailable, but because the structure of the system in Alberta discriminates against beer brands that have lower product turnover. Premium beer, oftentimes, is brewed without preservatives and, thus, has a shorter shelf life than conventional beer. Because there are so many stores in Alberta, each store has relatively fewer sales than stores do in a more concentrated retail market (like Ontario's). As a result, stores in

⁴²¹ This is a relative comparison between the two liquor distribution systems and is a result of two separate factors. The first is that the privatized system in Alberta facilitates the sale of lower value products. The second is that the LCBO has made it a policy to promote the sale of higher value products at its stores through an assortment of marketing techniques, like impressive stores, helpful staff and targeted advertising (for example, *Food and Drink Magazine*). As a result of these two factors, the difference in the types of alcohol sold in Alberta stores and in LCBO stores is substantial. This makes direct comparison between the two systems impossible. This point will be discussed in the succeeding section.

⁴²² The fact that Alberta sells private label products while Ontario does not is a result of policy choices made by the respective governments of each province, and is not a reflection on the form of the liquor distribution system per se. Quebec, for example, carries private label spirits in its (government-owned) SAQ stores. It is not clear how, when or where this type of decision was made in both Alberta and Ontario. What is important, however, is that the spirit producers do not support the introduction of private label brands since it undermines efforts to create strong brand loyalty among consumers.

Alberta tend to sell and promote beers with higher turnovers (these also tend to be of a more commercial variety). Higher priced, lower volume premium beer move more slowly than other beer products. It is thus more difficult to purchase 'fresh' product since it may well have spent considerable time on a store's shelves. Non-uniform pricing, furthermore, means retailers may sell premium beer for below cost (or lower cost) and thus might undermine its premium status.⁴²³ The existence of private label spirits and the difficulty with purchasing premium beer are two examples that serve to illustrate that the structure of the Alberta liquor system can influence the behaviour of individual consumers. These two examples demonstrate that the composition of the liquor distribution system in and of itself will influence the types of products sold by altering the choices available to the individual consumer. The way in which a liquor retailing market is organized will naturally alter preference structures of individual consumers.

IV: Relevant Institutions: Limited Opposition

The role played by relevant interest groups in and responses to the privatization of the ALCB is important. An examination of these roles will help to illuminate the political landscape that the decision makers faced. However, the influence of interest groups in the actual decision was substantially mitigated by the speed and decisiveness with which Alberta's government privatized the ALCB and the secrecy that surrounded this policy move. This is not to say the interest groups did not have views on the matter, that they did not try to influence either the decision of the government or the manner in which it chose to reconfigure the marketplace, but only to illustrate that they played a minor role as far as input into the actual decision itself goes. This section of the chapter will outline the positions the pertinent interest groups took towards privatization. It will

⁴²³ Heaps, C., *supra* note 8.

argue that some interest groups ardently supported the government's move (and the way in which it subsequently structured the marketplace), but that there were also groups that fervently opposed these policy choices, and they had neither the time nor the opportunity to contest the government's decision. This section of the chapter will also explain the rationale behind each group's position and, in particular, will explain why suppliers of alcoholic beverages strongly opposed privatization.

The Alberta Hotel and Lodging Association (AHLA) and the Alberta Restaurant and Foodservice Association (ARFA) were strong supporters of the government's decision to privatize the ALCB. The former supported it because its members saw privatization as a prime opportunity to expand a segment of their alcohol sales business, since many members already sold beer through hotel bar "off-sales" or served alcohol in hotel-owned bars and restaurants. Many hotels also had the necessary infrastructure already in place to enter the alcohol retail market, either a familiarity with selling alcohol (since many operated restaurants and pubs) and/or the physical facilities required to establish an alcohol retail store (retail space and existing parking lots). The fact that a hotel based liquor store would offer greater convenience to tourists and business travelers, and thus might make these clients more likely to stay at their hotels if they offered such service. While some members of the AHLA resented losing their privileged right to sell cold beer, the fact that they would have an opportunity to enter the market early, coupled with the fact that many of its members had a general free-market perspective, precluded the AHLA from supporting the old government-dominated system.⁴²⁴ Not surprisingly, the AHLA supports the current structure of Alberta's new

⁴²⁴ Kaiser, Dave. President and CEO, Alberta Hotel and Lodging Association, Interview, March 21, 2006. It is interesting to note that over the last thirty years income, from alcohol sales has made up a proportionately

alcohol distribution system and the limitations it places on the ability of large, grocery store chains to distribute alcohol.⁴²⁵ The latter association, ARFA, also supported the new system since many members welcomed both increased retail competition and the accompanying improved selection and lower prices that would follow privatization. They, like most of the AHLA members, were ardent supporters of competitive markets.⁴²⁶

Suppliers, distributors and manufacturers of alcoholic products were – initially – very unhappy with the government’s privatization initiative.⁴²⁷ Suppliers of alcoholic beverages, by and large, prefer a government-owned and operated liquor distribution system. However, these actors did not air their views publicly, nor did they form any sort of coalition intent on opposing the government’s actions. They were upset that the ‘rules of the game’ had changed, but focused their efforts on adapting to the new market

smaller share of revenue for AHLA members. Income from gaming, in contrast, has substantially increased, and many members are focusing their efforts on entering this marketplace. The AHLA is well funded, staffed and enjoys solid support from its constituent members – over 80% of the eligible industry actors are paying members.

⁴²⁵ Kaiser, *supra* note 424.

⁴²⁶ Rollingson, Lindy (Ms.), President and CEO, Alberta Restaurant and Foodservice Association, Interview, April 5, 2006. Interestingly, restaurants cannot purchase products directly from the Alberta Gaming and Liquor Commission (AGLC). While they can apply for and acquire retail licenses, there is a 25 case delivery minimum for all orders from the AGLC. This restriction is designed to prevent restaurants and bars from purchasing alcohol directly from wholesalers. It thus helps to provide a larger market to retailers of alcoholic beverages. A quick note on methodology: it is often difficult to quantify the relative political power and influence of interest groups on governments and the decisions that they make. A number of participants identified powerful interests in both provinces, but did so ‘off the record’. A researcher, after studying and examining a subject for a period of time and discussing this topic with a diverse range of individuals, does get a sense for the relative importance (or non-importance) of actors with respects to a government’s decisions. Such assessments of relative power and the conclusions drawn from them, then, must rest on faith in his or her reasoning and research capacities.

⁴²⁷ For the purpose of simplicity, this section will refer to manufacturers and distributors of alcoholic beverages as ‘suppliers.’ This includes the many firms that manufacture and distribute their own products and others that distribute those made by others. Also, this section will have few named attributions. This is because many participants did not want to have their opposition and criticisms of the Alberta model made public; all conduct a significant proportion of their business in the fast growing province of Alberta. The author respects their wishes by not attributing statements to particular individuals and/or interviews.

structure as quickly and as effectively as possible.⁴²⁸ Once the Alberta government announced privatization of the ALCB and demonstrated that it was intent on implementing a privatized distribution system, these actors adapted quickly to it. Firms, while nervous about fundamental change, are highly pragmatic entities. They simply want fair and consistent marketplace rules.⁴²⁹

There are a number of reasons why suppliers of alcoholic products were apprehensive about the changes that privatization would bring about. To start, most enjoyed a secure and stable relationship with the ALCB and, with the exception of some of the beer and wine distributors, who also dealt with the few wine and cold beer stores, they only had to have business dealings with a single distribution portal. This limited their marketing and administration expenses. A large and diversified retail store network would mean that many suppliers would have to expand their sales staff in order to convince each individual store owner to stock (or continue to stock) their particular items. The need to 'pull' products through a greatly expanded independent store network would increase marketing and administration costs for supplier firms.

The new configuration of the market would make entering it significantly easier for new suppliers. While this was one reason why the government sought to introduce a private distribution system, the newly privatized marketplace was more competitive, with the competition coming at the expense of firms already entrenched in the system. Finally,

⁴²⁸ Evidence from beverage alcohol suppliers in Ontario supports this assertion. Suppliers of spirits, in particular, support a government-owned retailer such as the LCBO because one large, dominant retailer reduces distribution and marketing costs. However, they also support the LCBO because it is pushing higher value products (such as spirits) and thus is reducing the negative stigma attached to the consumption of hard liquor. Ontario is one of the very few markets where spirit sales are growing (albeit slowly). This is in contrast to other jurisdictions, particularly ones where private retailers play a significant role, where lower value spirits tend to be more popular, and wine and beer sales are eroding the market share held by spirit manufacturers.

⁴²⁹ Anonymous participant, Interview by phone, May 5, 2006.

and perhaps most importantly, a privatized system would promote lower value alcoholic products. The monopolistically competitive nature of the retail system would result in far more retail stores engaged in intense competition with one another. Lower capital investment (in store furnishings, for example), mediocre staff and intense competition among stores, both in price and non-price arenas, would make selling higher value products more difficult.⁴³⁰ The promotion of lower value products, in addition to the introduction of private label products, would hurt manufacturers of spirits especially hard. The restructuring of the retailing industry and the increased number of stores would help to contribute to increasing aggregate industry costs.

Having said this, it was the changes to the form and structure of the taxation system that caused the greatest consternation among suppliers. While these changes would initially complicate their business dealings and increase their costs, there were some very tangible longer-term benefits that diminished their initial frustration with the imposed changes. Remember that the 'profit' that the ALCB remitted to the government was comprised of an operating profit that included a sin tax on alcohol and a monopoly rent in proportions that were never clearly delineated. The Klein government was committed to collecting the same amount of revenue from liquor sales after privatization as before (\$454 million in 1992/1993) and so set the taxation rate, now changed to a flat rather than an *ad valorem* tax on alcohol, to ensure that it received the same income from alcohol sales. (In fact, the government earned substantially more under the new taxation regime, but returned any monies above 1992/1993 levels, \$454 million dollars, to the

⁴³⁰ Flanagan, *supra* note 42, pp. 39 and 40, argues that in monopolistically competitive markets, firms are in intense non-price competition as each tries to differentiate itself from its competitors. He also argues that advertising is one means firms use to distinguish themselves from each other. However, the focus of most advertising is on price, not on service or convenience offered by each particular store. It is a little unclear, in the author's eyes, how this market differs in substance from a perfectly competitive one.

manufactures as part of their promise of revenue neutrality).⁴³¹ However, under the new system, there would be no monopoly rent (the structure and composition of the wholesaling network would ensure that)⁴³² and there would be no operating profit (the ALCB would not handle any product at all). This is why privatization, in addition imposing extra costs resulting from the shift from a unitary distribution system to a private, dispersed system, further increased industry costs.

There were, however, some tangible, long-term benefits to the new taxation regime for suppliers. The fact that the tax on alcohol became a flat tax under the new system was the most important reason for this. A flat tax is a tax charged on the alcohol content of a beverage. This is in contrast to an *ad valorem* tax, which is charged on the value of an alcoholic beverage. A flat tax structure means that a product's price does not increase above the rate of inflation. As such, flat tax regimes accordingly limit the erosion of consumers' purchasing power.⁴³³ Not surprisingly, the alcohol suppliers much preferred a flat tax structure. For example, imagine that input cost rise \$1 per unit. With an *ad valorem* tax system, the retail price would rise by \$1 plus the percentage of the *ad valorem* tax of say 50%, for a total increase in cost of \$1.50 per unit. With a flat tax, it is possible to pass only the cost of the increase (the \$1) on to the consumer and thus the firm can maintain its profit margin. Flat tax systems also make higher value products significantly more profitable for firms, since the increased marginal retail price (largely linked to its premium status) does not increase the taxes paid, but rather is goes directly to the manufacturer. The Alberta government's decision to shift to a flat tax on alcohol

⁴³¹ West, S., *supra* note 14. It is not clear exactly where and when this decision was made, but it is clear that such a promise was a key part of the total 'package' put forth by the team of policy entrepreneurs. Such a promise would most certainly help to quell one segment of opposition to the government's plan.

⁴³² Flanagan, *supra* note 411.

⁴³³ Anonymous participant, *supra* note 430.

made the changes to the alcohol distribution system in Alberta much more palatable to the suppliers of alcoholic beverages.

Although this point is perhaps a bit ephemeral, it is also important to note that it would be difficult - in a philosophical and political sense – for private firms to criticize the government for introducing a more market-oriented system to distribute alcohol. It would be difficult in a political sense for alcohol suppliers to publicly support a government-owned and operated monopoly, rather than a new competitive market. This is not to suggest that suppliers were unhappy when the ALCB was Alberta's primary liquor retailer and distributor (most suppliers are happy with the LCBO arrangement in Ontario, and the government-run liquor distribution systems in other provinces). It is only to say that because the liquor suppliers are privately owned firms themselves, it is unlikely that they would have joined forces with other opposition groups (say, the union) to form an effective opposition to the government's privatization initiative, had they wished to oppose the government's decision. This is why the manufacturers were 'strategically neutral' at this time in Alberta; they might not have liked the new system and may have tried to (quietly and privately) oppose it, but they would never admit to doing so publicly and would never have mounted public opposition to the government's initiative. Instead, the manufactures concentrated their efforts on adapting quickly to the new regime and conducting their business.

The Alberta Liquor Store Association (ALSA) is also an important interest group in the liquor distribution arena in Alberta. While the ALSA did not exist prior to the privatization initiative – it was established on January 17, 1994 – it has played (and continues to play) an important role in maintaining the current structure of Alberta's

liquor distribution system.⁴³⁴ Like the AHLA, the ALSA is an influential institution, run by a very competent and politically astute individual, John Szumalas, who had a previous career working in the Alberta public service. The ALSA's constituency is the small and medium-sized alcohol retailers (as opposed to the large grocery store retailers, with which it has an acrimonious relationship). It was established to ensure that the current rules and regulations governing alcohol distribution in Alberta (that limit the market power and growth potential of the large grocery store chains) remain in place.⁴³⁵ The uniform wholesale price for alcohol and the "postage stamp delivery system" are the two key criteria for maintaining a 'level playing field' among retail outlets. The ALSA considers this type of marketplace to be truly competitive, because it is one in which small and medium-sized businesses can compete with large grocery stores.⁴³⁶

It is interesting to note that even the official opposition in the legislature was not opposed to the decision to privatize the ALCB per se. When the decision to privatize was announced, Mr. Michael Henry, a Liberal MLA for Edmonton Centre, announced, "All members of this House, I believe, are free enterprisers." Liberals' criticisms of the government over the privatization initiative were focused on the process, rather than the actual content of the policy shift.⁴³⁷ The Liberals were concerned about the plight of the ALCB's unionized workers, the configuration of the marketplace, the possibility that privatization would yield negative social and health related problems and, most importantly, the lack of a clear (and public) plan to guide the whole process.⁴³⁸ But, the

⁴³⁴ Alberta Liquor Store Association, *Vendor Magazine* 2 September 2003 p. 20.

⁴³⁵ See for instance: Alberta Liquor Store Association, 'Liquor Industry in Skirmish Over Cross-Marketing' in *Vendor*, *supra* note 434, pp. 9-10.

⁴³⁶ Szumalas, *supra* note 362.

⁴³⁷ *Alberta Hansard*, October 26, 1993, p. 1068.

⁴³⁸ *Hansard*, *supra* note 437, p. 1062-1069.

actual policy of turning the ALCB monopoly into a competitive market was acceptable to the Liberals.

There were three other groups that were directly concerned about the government's privatization plan: The ALCB workers union (a unit of the Alberta Union of Government Employees, AUGE), the municipalities, and the Alberta Alcohol and Drug Addiction Commission (AADAC). The first two groups were staunchly opposed to the government's privatization initiative, and the third, AADAC, was somewhat reluctant to support this change because it feared it could lead to significant negative social and public health repercussions; none of these groups, however, was able to influence the government's decision. The workers union, not surprisingly, was bitterly resistant to the change since privatization would mean the elimination of a significant number of well-paying civil service jobs. Upon privatization, 1,866 employee jobs were eliminated (90% of the ALCB's workforce) with each employee receiving a severance package in accordance with his or her duration of employment and seniority.⁴³⁹ Opposition to the privatization was to be expected from the workers union. Unfortunately for the workers, elimination of unionized government jobs was one key reasons the government decided to privatize the ALCB in the first place – it wanted to shrink the size of the provincial government.⁴⁴⁰ Needless to say, opposition from the worker's union did not influence the decisions of the key players.

The municipalities were also upset at the government's plan since it would place a politically sensitive issue, the location of liquor stores, in the municipal forum. Under the new initiative, they would be the only level of government to have control over the

⁴³⁹ Alberta Liquor Control Board, *supra* note 42, pp. 22-23.

⁴⁴⁰ West, S., *supra* note 14.

number and location of retail liquor stores. Like the workers, however, the municipalities were, at that time, engaged in a bitter conflict with the provincial government over cuts to municipal transfers imposed on them as one of Klein's fiscal austerity measures.⁴⁴¹ The provincial government did not view the cities in a positive light at this time. As a result, their opposition would not, and did not, influence the decision makers. Cities, after all, are creatures of the provinces, and are forced to deal with the problems provinces compel them legislatively, and oftentimes politically, to deal with. Finally, AADAC was critical of the suddenness of the government's decision to privatize. It felt that change should be imposed in an incremental manner since that would have permitted AADAC to measure the resultant effects of the marketplace changes on individual consumption patterns. At the very least, early notice of the privatization plan would have permitted AADAC to conduct a study on how market structures influence individuals' drinking behaviour; a drastic change in the liquor distribution regime would have provided a setting for a perfect natural experiment.⁴⁴² Like the municipalities, the union and all of the other pertinent interest groups, AADAC was unable to exert any influence over the government's decision to privatize the ALCB. Once the government had decided to eliminate the liquor board, no groups would have been able to change the course of its policy in this arena.

V: Making the Decision: Alberta's New Government

i: The Problem: The 1980s, 1990s and a New Ruling Government

As noted above, the 1980s were a hard decade in Alberta. A serious recession in the early part of decade signaled the end of the booming 1970s, and a modest recovery,

⁴⁴¹ Davis, *supra* note 15.

⁴⁴² Blumenthal, *supra* note 28.

commencing in 1984, was short lived. Alberta's economy slipped back into tough times when oil prices bottomed out in 1986, falling to half their value in the previous year.⁴⁴³ As the value of Alberta's oil exports fell, so did government revenues. Despite some respite and growth in the early 1990s, by 1993 Albertans were facing difficult times once more. Oil and gas prices were low and accordingly, so were government revenues from resources. Revenues from resources fell from \$4.5 billion in 1981 to an average of \$2.4 billion from 1989 to 1994.⁴⁴⁴ By 1993, the unemployment rate in Alberta was just under 10%,⁴⁴⁵ and government deficits had grown at a disconcerting rate, which meant that the new Klein government was facing a large provincial debt. In 1993, Alberta's average annual deficit was \$2.3 billion, and borrowing, in 1992, accounted for 20.1% of all government revenue. The provincial debt required a tenth of the government's revenue to service it.⁴⁴⁶ To provide some perspective on the growth of the debt, between 1986 and 1991 per capita debt rose 340% in Alberta, while in Quebec, it rose 42%.⁴⁴⁷ The variable income levels provided by Alberta's primary resource economy had reduced the government's revenues, but political apprehension (and a demand for the state's services) prevented a similar cut in spending. Accordingly, the Getty Tories did not reduce spending to ensure it matched the government's diminished revenues.⁴⁴⁸ Much of the

⁴⁴³ Mansell, *supra* note 319, p. 27; on the condition of Alberta economy see pp. 27-32. The severity of the financial condition the province faced when Klein came to power, and the value derived from the drastic actions subsequently taken by the Klein Tories to reduce the debt is disputed, see: Greg Flanagan, 'Not Just about Money: Provincial Budgets and Political Ideology' in Trevor W. Harrison, editor, *The Return of the Trojan Horse: Alberta and the New World (Dis) Order* (Montreal: Black Rose Books, 2005) However, for all intents and purposes, in the minds of most Albertans and the province's key decision makers, Alberta faced an acute financial 'crisis' in the early 1990s.

⁴⁴⁴ Mansell, *supra* note 319, p. 29.

⁴⁴⁵ Mansell, *supra* note 319, p. 28.

⁴⁴⁶ Mansell, *supra* note 319, pp. 30 and 38.

⁴⁴⁷ Mansell, *supra* note 319, p. 42.

⁴⁴⁸ Mansell, *supra* note 319, p. 39.

1980s and early 1990s were 'bust' times in the province's natural cyclical economic rhythm.

On the political front, the Alberta Tories faced an unhappy electorate. The Alberta-based federal Reform Party was gaining strength under Preston Manning, and was calling for significant spending cuts, tax cuts and deficit elimination, in addition to substantial changes to the parliamentary system. While not a provincial party, one poll showed strong support for the Reform party if it had had a provincial wing.⁴⁴⁹ The popularity of the Reform party's fiscal policies and policy platforms, gave legitimacy to similar ideas when they were espoused by members of Alberta's and Ontario's Conservative parties, although many of the socially conservative ideas of the Reform party were not adopted by the Conservative parties of either province.⁴⁵⁰ In order to diminish the possibility that the Reform party would create a provincial wing, and, at the same time to reduce concern at the federal level regarding the province's fiscal position, the Klein Tories sought to distance themselves from the previous (Getty) regime, adopting much of the rhetoric of the neoliberal right: they called for reduced spending and taxation and, more generally, a for gradual reduction in the scope and role of the state. Such a shift in governing ideology became complete when Ralph Klein was elected as leader of the Conservative Party in Alberta and was surrounded by a group of likeminded politicians. These individuals would set about reshaping the province.⁴⁵¹

The shift in governing ideology of the Tory party was a politically pragmatic move, responding to both the political threat represented by the Reform party and the

⁴⁴⁹ Mansell, *supra* note 319, pp. 44 and 45.

⁴⁵⁰ For more on the relationship between Alberta Conservatives and the Reform Party, see: Laycock, *supra* note 359, pp. 174-175.

⁴⁵¹ Harder, Lois *State of Struggle: Feminism and Politics in Alberta* (Edmonton: University of Alberta Press, 2003) pp.119 and 120.

burgeoning government debt.⁴⁵² It was also an indication of a more fundamental shift in thinking on the partisan right, which sought to attack the Keynesian welfare state structure of Canada's postwar economy due to its belief that government intervention in the economy was stiffening economic growth.⁴⁵³ The privatization of the ALCB would assist the Klein Tories in differentiating themselves from the previous Conservative government and, at the same, demonstrate their faith in markets and smaller government in accordance to tenets of neoliberalism. Liquidating the ALCB served as a highly visible strategy of showing the electorate that both a policy and a paradigm shift had occurred. It would help the Tories reach both political and ideological goals.

Klein *et al* were proud of their distinctive governing style and their newfound political philosophy. They accordingly set out to alter fundamentally the relationship between citizens and the provincial state in Alberta with the onset of the "Klein Revolution."⁴⁵⁴ The Klein government closely analyzed all government operations and decided that it wanted direct government involvement limited to 'core' functions. Where appropriate, services should be privatized, contracted out or eliminated. Klein's Tories privatized motor vehicle registries and other licensing offices, the sheriff's office, contracted out highway maintenance, and sold off other government assets.⁴⁵⁵ A link -

⁴⁵² Government debt and significant deficits were serious economic and political problems confronting many governments in the 1990s. Klein, Harris and later, Gordon Campbell in BC, espoused staunchly neoliberal policies in attempts to limit government spending. Other governments, such as Chretien's Liberals and Roy Romanow's Saskatchewan NDP government, also reduced expenditures, but did so without using avid neoliberal discourse. How different governments dealt with the deficit crisis of the 1990s and the role that neoliberalism played in justifying their policy actions are complicated subjects. See: McKinnon, Janice *Minding the Public Purse: The Fiscal Crisis, Political Trade-offs and Canada's Future* (Montreal: McGill-Queen's University Press, 2003).

⁴⁵³ Laycock, *supra* note 359. This work provides superb examination at the rise and values of the New Right in Canada.

⁴⁵⁴ Cooper, *supra* note 16, Lisac, *supra* note 16, and Bruce et al, *supra* note 38. Bruce's anthology provides an excellent explanation of the rationale for changes in how Alberta was governed, and manner in which the changes those changes were carried out.

⁴⁵⁵ West, S., *supra* note 14 and Bruce et al, *supra* note 38.

however problematic – had been made between the cyclical state of Alberta’s economy and the overly interventionist provincial state; the stage was now set for Klein to liquidate the ALCB in partial fulfillment of his electoral (and ideological) promises.

ii: The Benefits of Privatization: The Solution to Big Government

On a more practical level, the privatization of the liquor regime would be a means by which some of Ralph Klein’s philosophical views on governance could be turned into visible and tangible policies. Differentiating between direct ‘political’, ‘fiscal’ and ‘optical’ value is a bit difficult since the privatization initiative with respect to Alberta’s liquor board helped the Klein government on a number of fronts. But what is critical is that the accrued benefits of the privatization exercise helped to convince people that there would be less government intervention and activity in this particular sector. Once Bob King, who had put together the privatization plan after three years of careful study and experimentation, presented the ‘solution’ to the government, they were more than willing to implement his idea.

The privatization plan had many tangible benefits for the government. To start, the plan would eliminate approximately 1,500 full-time, well-paid, unionized, civil service jobs in the retailing sector. This sector is almost wholly dominated by private capital, employers who hire comparably skilled individuals for substantially lower wages (and provide them with few, if any, benefits). A decision to privatize the ALCB would put an end to the ‘privileged’ status enjoyed by the ALCB’s unionized workers as employees in this sector.⁴⁵⁶ The move would also help to solidify the government’s claim that it was committed to shrinking the public sector. Eliminating jobs had some

⁴⁵⁶ West, S., *supra* note 14.

additional, tangible financial benefits for the government since it would eliminate longer-term commitments to public pensions and health and dental plans for these employees, thus reducing the government's 'legacy' costs. At the same time, eliminating a large number of union jobs would show other public sector unions that the government was serious about making significant cuts to the public payroll. Eliminating jobs at the ALCB was thus a metaphorical 'shot across the bow' of other unionized government employees.

As an additional advantage, the newly reconfigured liquor market would create significantly more jobs. The approximately 1,500 jobs eliminated would be (and were) replaced by between 3,000 and 4,000 new jobs in the private sector at wage rates, for non-management employees, who were approximately half of those paid to the ALCB's unionized employees.⁴⁵⁷ Jobs would be created in the marketing and distribution sectors as well since suppliers, for instance, would require more sales staff to promote their products. Further, the new market would provide opportunities for Alberta-based entrepreneurs to create their own small businesses.⁴⁵⁸ In the lexicon of the Tory elite, these jobs would be in the 'productive' private sector rather than the stodgy, 'inefficient' public sector. At the time that the decision to privatize the ALCB was made, Alberta was suffering from high unemployment. Much of its population was imbued with an inherent antipathy towards both the public sector and unions. Thus, the decision to eliminate union jobs had some popular appeal. Why should, many people asked, a liquor store clerk earn so much more than their private sector, grocery store counterpart?

⁴⁵⁷ There are some slight discrepancies as to how many people were employed by the ALCB. D. West argues that there were 1,394 individuals employed in the store network (excluding the warehouse) and that some of these were part-time employees. Accordingly, he suggests there were 950 full-time equivalents (FTE) at the ALCB (pp. 16 and 17 of 'The Economic Impacts of Privatization', *supra* note 16) Laxer et al argue that the ALCB (including warehouse staff) employed 1650 FTEs. Despite the discrepancies, both sources agree that the privatization led to the employment of significantly more low wage jobs, than fewer high wage unionized jobs prior to privatization. Laxer et al, *Out of Control*, *supra* note 42, pp. 20-21.

⁴⁵⁸ Szumalas, *supra* note 362.

There would be other benefits to privatization as well. Privatizing the ALCB allowed the government to divest itself of a significant number of assets. Former ALCB properties were sold and leases were either sub-leased or terminated. The resultant income, \$59 million, was put directly towards the province's deficit.⁴⁵⁹ In addition, the government would no longer be responsible for the maintenance or capital improvements to the stores or the wholesale warehouse. There were further savings with the divestment of the ALCB's alcohol wholesale inventory.⁴⁶⁰

On a more ideological/philosophical level, privatization would show all Albertans that the private sector could provide superior consumer value. Decisions as to retail prices, selection and warehouse listings, for example, would be in the hands of firms and consumer preferences, rather than bureaucrats, who would determine the types and prices of alcoholic products.⁴⁶¹ An open licensing system, furthermore, would eliminate any possible political favouritism in the selection of possible retailers. The prescribed structure of the market, furthermore, would prevent the emergence of dominant (corporate) players, and true competition between small firms would maintain high consumer value. Naturally, these moves would increase consumer satisfaction, since the marketplace would be more responsive to their needs and they would have significantly more choice. The decision to privatize would also illustrate that the government was committed to the elimination of provincial and national trade barriers (and would comply with the General Agreement on Trade and Tariffs, GATT) since the taxation policy for all products would be uniform.⁴⁶² Such a move, additionally, would show the citizenry

⁴⁵⁹ Alberta Liquor Control Board, *supra* note 42, p. 56 and West, S., *supra* note 14.

⁴⁶⁰ West, S., *supra* note 14.

⁴⁶¹ West, S., *supra* note 14.

⁴⁶² MacKenzie and Giesbrecht, *supra* note 16 p. 154 and West, S., *supra* note 14.

that the government ‘trusts’ them to make good decisions when purchasing and consuming alcohol, that there was no need for a paternalistic state to impede consumer decisions.⁴⁶³ Finally, a privatized market would provide better incentives for retailers to sell alcohol in a socially responsible manner. It was thought that an independent business owner would enforce age and sobriety purchasing requirements more thoroughly than a tenured government employee, since failure to do so could result in high fines and a loss of business for the retailer.⁴⁶⁴ For a group that was trying to demonstrate that their reign would signify a new era in Alberta governance, and graphically illustrate its commitment to free markets, the privatization of the ALCB was a relatively easy policy move for the Klein Tories; one that would provide many tangible benefits.

iii: A Policy Window Opens: The Politics and Centralized Decisions

Once the ‘solution’ and ‘problem’ had been identified, the privatization initiative needed substantial political will to move it forward. Much of that political will came from Minister Steve West, who was responsible for guiding the idea through the senior echelons of the government, in caucus, cabinet and ultimately the Premier’s Office. Like Mr. King, Minister Steve West fits the archetypal policy entrepreneur role since he played a seminal role in pushing the ALCB privatization to fruition. He was dogmatic in his determination to reduce the role and scope of the provincial state and, in particular, was incensed that the government played such a pivotal role in the liquor retail market with the ALCB.⁴⁶⁵ He resented its overpaid, unionized workers, limited operating hours, restricted store locations and, especially, the use of public resources build ‘flagship’

⁴⁶³ Szumalas, *supra* note 362.

⁴⁶⁴ West, S., *supra* note 14. Whether or not this was (or is true) is debatable, but it did comprise a small part of the rhetoric used to justify the introduction of a private market mechanism.

⁴⁶⁵ Davis, *supra* note 15.

ALCB stores. He also did not like that fact that consumer choices were being guided and shaped by bureaucrats, rather than by independent businesses. There was no good reason, in his mind, why the government was involved in a business that clearly could be carried out, and perhaps much more effectively, by the private sector. Finally, privatization of the ALCB was one of the easiest, in political terms, privatization initiatives available to the Klein government.⁴⁶⁶ Minister West, originally born and raised in southern Ontario, had immigrated to Alberta in early adulthood. He remarked on the fact that this province was profoundly different from its stodgy central Canadian counterpart. Upon arrival, he recalled a completely different ‘feel’ of the province – it provided a metaphorical breath of “fresh air,” with its culture of independence and free enterprise.⁴⁶⁷ In his mind, there was simply no reason that the government should be involved in the liquor business.

Such a strong advocate for ALCB privatization in the political sphere virtually assured that the privatization policy would be implemented. There are a number of reasons for this. The structure of the provincial government in Alberta, as is the case elsewhere in Canada, concentrates power within the executive branch of government, and strong party discipline ensures that party members follow their leader. These structural variables, coupled with other pertinent contextual factors, such as the perception of a mounting fiscal ‘crisis’ in Alberta in the early 1990s very much acted as a “focusing event” that helped to push the Klein Tories’ to differentiate themselves from earlier Tory governments.⁴⁶⁸ Their adoption of a set of neoliberal-type values, furthermore, provided a sense of urgency with respect to privatization; the provincial ‘mood’ was ripe for some

⁴⁶⁶ West, S., *supra* note 14 and Davis, *supra* note 15.

⁴⁶⁷ West, S., *supra* note 14.

⁴⁶⁸ Kingdon, *supra* note 5

radical changes in the liquor distribution arena.⁴⁶⁹ Once Bob King's efforts had demonstrated that it was possible to turn liquor retailing over to the private market, that such a move would be met with limited political opposition, and that, indeed, privatizing the ALCB might be quite popular with the average Albertan, it was time for the government to act.

The key to the success of this privatization initiative was to be the speed and decisiveness that with privatization was undertaken. Attempts to engage in public (or even private) talks with interested stakeholders would delay, and perhaps even ultimately derail the process.⁴⁷⁰ The suppliers of alcohol and many other interest groups only found out about the privatization plan when they met with Minister Steve West just prior to him walking into the Legislature to announce the government's intentions. The government had learned from other governments' experiences. Liquidation plans for the ALCB had been developed previously, and the structure of the new market had been well researched. The rules and regulations had been prepared for quick implementation. Newspaper advertisements for bids on the former ALCB's stores and equipment and calls for new licenses appeared very soon after Minister West's announcement.⁴⁷¹ Cold beer and wine stores, after September 4th, were permitted to sell all types of alcohol.⁴⁷² The government wasted no time in moving forward with its ambitious plans.

⁴⁶⁹ Hart and Tomlin, *supra* note 157.

⁴⁷⁰ West, S., *supra* note 14.

⁴⁷¹ 'Store Properties and Leases for Sale' (Advertisement) in *The Edmonton Journal*, 11 September 1993 p. 4.

⁴⁷² Crockatt, Joan and Panzeri, Allen 'Cold beer stores got early jump on liquor sales' in *The Edmonton Journal*, 8 September 1993, p. B3.

Chapter Four

Explaining our Outcomes: Different Contexts, Different Outcomes

This chapter will compare and contrast the relevant variables for the two case studies and articulate an answer to our key question: why did the governments of Alberta and Ontario choose such different alcohol distribution systems? It will be organized in the same manner as the two descriptive chapters. The first section will argue that the respective decisions in each province regarding the fates of their liquor distribution systems, and the way the liquor distribution systems in each province were structured following the making of the crucial decisions are congruent with the political history and cultural ethos of each province. A prior record of state intervention in the economy in Ontario, along with a Protestant ethos, among other factors, helped to impel the Harris government to keep the LCBO in public hands and to invest more money in it. These factors are juxtaposed to the individualistic, entrepreneurial ethos of Alberta, which informed the Klein Tories' decision to liquidate the ALCB.

History, timing and the sequencing of events were, likewise, critical factors in both case studies. The second section of the chapter will argue that despite the differences between provinces, each institution, the ALCB and the LCBO, were, prior to the election of either Harris or Klein, already moving down predetermined 'paths' towards radically

different ends. The selection of Bob King and Andy Brandt, two critical policy entrepreneurs, to head each organization, and the specifics of the orders each received from the government help explain why the Alberta and Ontario governments made divergent decisions regarding the fate of their liquor boards. In Ontario, and, to a lesser extent, in Alberta as well, the institution itself, enmeshed in a feedback loop with the government, shaped its ultimate destiny.

The third section of this chapter will argue that each system altered the preference structures of its respective consumers. In Ontario, the alteration was undertaken deliberately for the purpose of selling higher value alcohol to consumers. In Alberta, by contrast, the alteration was an unintended effect of the new structure of the distribution system. Regardless of the intention behind the changes, each system has strengths and weaknesses and manages to provide high consumer value. The different structures of the distribution systems make a comparison difficult. This third section will outline the reasons for the challenges associated with comparison. By doing so, it will illustrate why one system is not superior to the other.

The fourth section will deal with the role and influence of powerful interest groups on the decisions made by each government. While the views of these interest groups did not directly influence the immediate decisions regarding the fate of the liquor boards in each province, they did serve to limit the viable options available to each government. The presence and power of the various interest groups, in other words, helped to shape the political context in which the decision makers acted. This section will show that in Ontario the TBS and Ontario wine industry were formidable groups, and the fact that they benefited from the presence of a government-owned monopoly reduced the

possibility that the government would choose to privatize the LCBO. The relative strength of other pertinent interest groups in each province will be assessed throughout the section.

The fifth section will show that the decisions made in each province were congruent with their respective provincial contexts. Despite the fact that each government faced a similar problem, an economy in recession and poor public finances, the role of each respective liquor board in providing a solution to this problem and its political viability depended on province-specific contextual factors. The events leading up to the opening of a policy window and the resultant policy outcome, then, had its own province-specific characteristics. Even in Alberta, the decision to liquidate the ALCB was, first and foremost, driven by its political pragmatism (it was a relatively easy change to implement in addition to providing a visible and tangible symbol of transformation) rather being motivated by an attachment to neoliberal ideology *per se*. It just so happened that in this context, pragmatism and ideology aligned. An important piece of evidence in support of the pragmatism that guided the Klein Tories is the evolutionary path of ATB Financial, Alberta's government-owned bank. The government of Ralph Klein chose not to privatize it during the same period of time but rather to reinvigorate it (much like the LCBO); this decision illustrates that not all Crown corporations in Alberta met the same fate, since privatizing ATB Financial would have been met with some stern opposition in rural Alberta. Comparing all the pertinent factors will help to solidify this thesis' general – and theoretical - supposition that geographically specific, contextual and temporally relevant factors were responsible for the divergent outcomes in Alberta and Ontario in how they chose to distribute alcoholic beverages.

I: Applied Context: The Political Culture and History of Alberta and Ontario

Historical and cultural factors create political culture, and political culture had an important influence on the policy outcome in both Alberta and Ontario. Each province adopted a liquor distribution system that aligns itself with what each had historically privileged. Alberta's political culture has traditionally emphasized individual agency and responsibility, as well as small business entrepreneurship. Ontario political culture has the conceptual space to accept direct state intervention in the economy. Historical and cultural factors did not in and of themselves cause the policy outcomes. Rather, they helped to shape and limit the realm of possibilities for change to the distribution systems in each province. In addition, the Alberta and Ontario governments used these historical and cultural factors, or, at least the rhetoric surrounding them, to justify their respective actions. This section of the chapter will highlight some politically relevant historical and cultural factors that help to explain our divergent outcomes, in addition to emphasizing some other key differences between Ontario and Alberta. What is critical to our analysis here is that the decision makers' understanding of popular views, derived from the political culture, influenced how they acted. Whether or not these cultural variables actually exist and the strength and form of their existence is irrelevant, so long as there is evidence that supports the fact that they influenced how politicians and their acolytes acted.⁴⁷³ There is ample data to show that these factors did indeed exert some influence on politicians in each province. The divergent outcomes in Ontario and Alberta are at least partly due to each province's unique history and culture.⁴⁷⁴

⁴⁷³ White, Graham, Professor, Political Science, University of Toronto, Interview, November 2, 2005.

⁴⁷⁴ Wiseman, Nelson, Professor, Political Science, University of Toronto, Interview, October 20, 2005.

There is a general sense of caution surrounding alcohol consumption in Ontario. Such an apprehension is partly a product of Ontario's Protestant past. It manifests itself in the more socially conservative elements of both the civil service and the Ontario Tory party. Protestant immigrants founded Ontario, and its social and cultural development was shaped by a set of staunchly 'puritan' social values, which supported its relatively strong temperance movement. These values remained relevant to some of the socially conservative members of Mike Harris' Conservative Party when it came to power. Accordingly, individuals in the 'law and order' segment of the party were very critical of any efforts designed to make alcohol easier to acquire.⁴⁷⁵ A personal tragedy strengthened apprehensions about providing the public with easy access to alcohol: in 1996, Ernie Eves' son, Justin, was killed in an automobile accident that, most likely, involved alcohol. Ernie Eves and Mike Harris were close friends, and the loss was devastating to both men.⁴⁷⁶

Fear about providing the public with liberal access to alcohol has been a constant feature of political life in Ontario. Prior to 1995, many individuals in the government and bureaucracy had reservations regarding improvements to the LCBO's store network. They worried that such improvements might increase alcohol sales and the corresponding problem associated with excessive alcohol consumption (or were at least concerned that a move to improve the LCBO's store network might be perceived by the public as contributing to increased alcohol consumption and the social problems resulting from it). This apprehension was evident in the orders given to the LCBO's senior executives during its modernization phase: they were instructed to increase revenues to the

⁴⁷⁵ Tsubouchi, *supra* note 223.

⁴⁷⁶ Ibbitson, *supra* note 37, pp. 136-137 and Tsubouchi, *supra* note 223.

government by promoting higher value products, rather than by increasing the volume of alcohol sold.⁴⁷⁷ But these apprehensions were perhaps most evident in the manner in which the LCBO set about modernizing its stores and business practices between 1988 to 1995. Moves like the introduction of refrigeration units, product tasting, credit cards, Sunday shopping and the like were each implemented one at a time, and in a careful, incremental manner. This was done to diminish the possibility of any unwanted publicity regarding the improvements being made to the LCBO.⁴⁷⁸ The staff at the LCBO would come up with a proposal for an improvement to the store system, say, for instance, introducing refrigerators to LCBO stores. Andy Brandt, the CEO, would take the proposal to Queen's Park and, if the measure was approved, the politicians would authorize a trial run. The LCBO would then place refrigerators in a few select stores in the Ottawa area (Ottawa's proximity to Quebec and higher concentration of (Catholic) French Canadians would translate into more tolerant views towards alcohol; the LCBO never ran trials in the London area) and would hire a private market research firm to conduct in-store consumer surveys on people purchasing cold alcoholic beverages. Results from the surveys would then be used to prove to the government that the specific improvement at issue would not increase consumption, but rather would increase consumer convenience and value and bring the LCBO's practices more in-line with those of other modern retailers; increasing the volume of sales was never used to justify improvements to the store network to the LCBO's political superiors.⁴⁷⁹

⁴⁷⁷ O'Brien, *supra* note 224.

⁴⁷⁸ Gee, *supra* note 174.

⁴⁷⁹ Gee, *supra* note 174. While this process was frustrating to many of the LCBO's senior executives (many of whom came from the private sector), in time, they improved their techniques of communicating with and persuading the government, appreciating and addressing the interests and concerns of their political masters.

As the above narrative demonstrates, the government of Ontario approached all of the improvements to the LCBO store network with a considerable sense of caution. It did not want members of the public to view the LCBO as ‘pushing’ alcoholic beverages onto consumers. Nor did the LCBO’s political masters want any public attention drawn to the improvements made to the LCBO store network. Decisions regarding these improvements were made in the executive branch of the government, in conjunction with the LCBO’s senior management, and thus were outside the purview of the opposition in the Legislature.⁴⁸⁰ Even today, Ontario’s Premier, Dalton McGuinty, has defended the publicly-owned LCBO by saying “Thinking like a parent...I felt comforted by the fact that the Beer store and the LCBO was carding anybody who looked to be under the age of 25.”⁴⁸¹ Ontario also has a larger and better-interconnected public health community than Alberta, one that staunchly opposes increased availability of alcoholic beverages.⁴⁸² It is apparent from the above analysis that inherent socially conservative views towards alcohol still exist in Ontario today, and that they were facts that shaped the context in which the Harris Tories made decisions regarding the LCBO’s fate. Socially conservative views about alcohol and fears about increased consumption did not cause the Harris government to retain the LCBO in public hands, but rather were considerations that made radically altering the distribution system somewhat politically unpalatable. Furthermore, rhetoric regarding the role the LCBO played, and continues to play, in limiting access to alcoholic products, and other ‘public health’ type arguments made by both the

⁴⁸⁰ Gee, *supra* note 174.

⁴⁸¹ Pearson, Craig and Lee Greenberg, ‘McGuinty won’t support private liquor stores’ in *The Ottawa Citizen*, 25 September 2007, p. A5.

⁴⁸² Giesbrecht et al., *supra* note 276, p. 309. This includes MADD Canada, based in Oakville, the City of Toronto’s Department of Health, and the Centre for Addiction and Mental Health (CAMH) affiliated with the University of Toronto. These organizations enjoy a close working relationship.

government and LCBO, are ways of addressing these fears. By resorting to this rhetoric, the government is also able to obscure the more concrete reasons for choosing to keep the LCBO in public hands (for example, the revenue it provides to the government).

By contrast, the popular aversion to increasing the availability of alcohol in Alberta is weaker than it is in Ontario. The key decision makers in Alberta therefore felt no need to placate public health officials when they made the decision to privatize the ALCB, and were not particularly concerned that privatization could increase social and health problems related to alcohol consumption.⁴⁸³ In fact, it was believed that the newly configured private market would be better equipped to ensure compliance with liquor laws and reduce consumption-related social problems, since independent operators would have more incentive to restrict access to alcohol by underage or intoxicated individuals; failure to do so could leave them facing stiff fines and/or the potential loss of their businesses.⁴⁸⁴ The Alberta government placed emphasis on individual responsibility for responsible consumption, and the volume of alcohol purchased was framed as a factor that was wholly independent from the structure of the system that provided alcohol to consumers.⁴⁸⁵ Getting rid of a paternalistic state institution that, by definition, limited individual choice was popular with many in Klein's government. It was also popular with the average Albertan.⁴⁸⁶ With little public support for some form of limitation on the distribution of alcoholic beverages, it was difficult to justify continued government-ownership of the liquor distribution system. From there, given the electoral promises

⁴⁸³ Blumenthal, *supra* note 28.

⁴⁸⁴ West, S., *supra* note 14.

⁴⁸⁵ West, S., *supra* note 14. This position is not surprising considering Minister Steve West's deep commitments to unencumbered markets and individual freedom. Such a perspective would lead to skepticism about the possibility that institutional arrangements (in this case liquor availability) could influence individual choices. Separating the formation of an individual's preferences from the influence of the institutional context is also a key characteristic of a rational choice theoretical perspective.

⁴⁸⁶ Szumalas, *supra* note 362.

made by Klein's party, it was simply a matter of "common sense" for the government to turn liquor distribution over to the private sector.⁴⁸⁷

There are some additional cultural and political factors that help to explain the divergent outcomes between Alberta and Ontario. Alberta is a province that prides itself on its entrepreneurial acumen of its citizenry. This pride is derived from Alberta's small entrepreneur farmer heritage and has been nurtured by its Tory government. As a result, people in Alberta like to believe their province was largely built by individual initiative and effort.⁴⁸⁸ This is partly due to the nature of Alberta's agricultural industry (which is oriented on wheat and cattle production as opposed to Ontario's more established and diversified agricultural sector). While the Alberta provincial state expanded in the postwar period, creating a modern welfare state, it took a less interventionist approach towards that agricultural sector than did its Ontario counterpart, which established specific product marketing boards.

A history of direct state involvement in the economy, using Crown corporations is also less established in Alberta than in Ontario. Peter Lougheed used quasi-state corporations, loans, grants and subsidies to municipalities and improvements to Alberta's infrastructure (especially transportation) among many other initiatives,⁴⁸⁹ rather resorting to direct state involvement (such as the use of Crown corporations) in his efforts to

⁴⁸⁷ West, S., *supra* note 14. In comparison to Ontario, criticism in Alberta of the ALCB often centred on the needless 'paternalistic' role of the government in the distribution of alcohol. Critics of the LCBO, however, do cite its needless 'paternalistic' role in limiting alcohol beverage choice, but tend to focus their criticism on its monopoly position or the government's highly interventionist role in this sector that could be performed by private interests. This rhetorical difference could also be due to both a post hoc rationalization of the privatization initiative in Alberta and the popular perception in Alberta that the government plays a smaller role in society and the economy than the rest of the country, especially Ontario.

⁴⁸⁸ Whether or not Albertans really are more entrepreneurial than their Ontario counterparts is not the critical issue; what is important is that there is a strong popular perception that Alberta is a place built by hard-working, independent business people.

⁴⁸⁹ Smith, Peter J. 'Experiments in Governance – From Social Credit to the Klein Revolution' in Brownsey and Howlett, *supra* note 38, pp. 286 and 287.

diversify and intensify the Alberta economy.⁴⁹⁰ By contrast, Ontario has a relatively rich history of state involvement in the economy, be it in manufacturing (such as the fabrication of buses and other public transit vehicles), electrical generation and distribution or the agricultural sector.⁴⁹¹ As a result, Ontario (and Ontarians) tend to look more favourably on state intervention in the economy than Alberta (and Albertans) do. So long as it is effective, Ontarians are more likely than their Albertan counterparts to be indifferent as to which entity is actually supplying goods or service to them. Another variable that served to differentiate Alberta from Ontario was the fact that Ontario had a large and powerful grape-growing constituency eager to use the state-owned and operated LCBO to expand the market for its products in Ontario.⁴⁹² A parallel group did not exist in Alberta. Both of our policy outcomes, then, suited the stereotypical or mythologized popular views regarding alcohol consumption and the benefits to be derived from state intervention in the economy extant in each province.

II: History, Timing and Sequencing: Institutions Shaping their Fates

In both Alberta and Ontario the ALCB and the LCBO played essential roles in influencing their fates at the hands of their political masters. This was an expected outcome in our Ontario case study, but was an interesting surprise in Alberta. The ALCB and LCBO helped to shape their own futures by altering their internal operations and their functions and positions in the marketplace in accordance with the directives from their respective political superiors. The two most critical events for each of these liquor board was the appointments of Andy Brandt as CEO of the LCBO in 1991 and Bob King as CEO and Chairman of the ALCB in 1990. Bob Rae's NDP government in Ontario, and

⁴⁹⁰ Dyck, *supra* note 330, p. 481.

⁴⁹¹ Rea, *supra* note 36.

⁴⁹² Mytelka and Goertzen, *supra* note 8.

Don Getty's Tories in Alberta, gave Mr. Brandt and Mr. King, respectively, the explicit orders and the necessary powers to implement changes at their liquor boards. In Alberta, Mr. King was directed to increase the efficiency of the organization and to increase the role of the private sector in the alcohol market.⁴⁹³ In Ontario, Mr. Brandt was instructed to keep the LCBO in public hands, but to ensure that it was operating more like other retail businesses, by continuing the modernization process already underway.⁴⁹⁴ After three years in Alberta, Mr. King had developed a plan to liquidate the entire bureau with limited anticipated public outcry; in Ontario Mr. Brandt's reforms meant that the LCBO by 1995 was a dynamic modern retailer.

The appointments of Mr. Brandt and Mr. King to head these organizations and the role they both played in fulfilling the directives of their political superiors were important factors in determining the fates of both liquor boards. In this respect, it was not the election of either the Harris or Klein governments that would causatively determine the future of the LCBO and the ALCB, but rather, the decisions that previous governments had made regarding the role and function that each board would play. These two institutions had been started down the paths towards their eventual ends before either Harris or Klein assumed power. The pivotal role that temporal and institutional factors played in our case studies further disposes this author to draw from a HI theoretical framework to make sense of this thesis' empirical findings.

Initially, the LCBO and the ALCB shared a number of common traits. Both were created in the 1920s as a response to the repeal of prohibition, and both were responsible for the regulation of alcohol in bars and taverns as well as retail sales. Both institutions

⁴⁹³ King, *supra* note 379.

⁴⁹⁴ Gee, *supra* note 174 and Brandt, *supra* note 12.

enforced a plethora of stringent rules designed to make consuming alcohol more difficult; the liquor boards were “moral guardians” charged with controlling this drug.⁴⁹⁵ Once alcohol was legalized, each board also provided the treasuries in their respective provinces with significant new revenue.⁴⁹⁶

In the postwar period, a more tolerant view of alcohol consumption corresponded with a general moderation of the formerly strict regulatory regime imposed on the public by these provincial liquor boards.⁴⁹⁷ One important (and ironic) difference between the two organizations, however, was that by the mid-1980s, the ALCB was a more effective and efficient organization than its Ontario counterpart.⁴⁹⁸ One reason for this was that the ALCB had been able to engage in more capital expenditures than the LCBO. The ALCB’s capital appropriation for 1986, for instance, was \$13 million, almost twice the \$7.7 million the LCBO spent in the same year on its assets, yet it was charged with maintaining one-third the number of stores.⁴⁹⁹ Until the mid-1980s the ALCB and the LCBO, for all intents and purposes, were comparable organizations, ones that provided the citizenry with alcoholic beverages and, more generally, did so by meeting the needs of their respective political superiors.

The modernization and reformation that occurred at the LCBO from 1985 to 1995 was critical in determining its ultimate fate. Prior to this period, the LCBO was a disaster as a retailer and modern commercial organization. It provided low consumer value and

⁴⁹⁵ Heron, *supra* note 20, p.278.

⁴⁹⁶ Heron, *supra* note 20, pp. 274 and 276.

⁴⁹⁷ Heron, *supra* note 20, pp. 332-338. The regulatory regimes governing alcohol consumption, tobacco use and gaming have changed drastically in Canada over the last forty years, see: Bird and Stoney, *supra* note 19.

⁴⁹⁸ Gross, *supra* note 316 and Peterson, *supra* note 316.

⁴⁹⁹ The Alberta Liquor Control Board, *62nd Annual Report*, (1986), *supra* note 371, p. 11. LCBO, *Annual Report 1987*, *supra* note 203, p. 25.

did not operate an efficient distribution system.⁵⁰⁰ Starting in 1985, under CEO Jack Ackroyd and continuing under Andy Brandt, who was appointed in 1991, the LCBO set about to rebuild itself. The goal was to ‘modernize’ this inefficient beast. All aspects of the firm had to be improved. After a ten-year period of reform, it finally resembled a modern retailing organization (reform was also accomplished on a limited capital budget).⁵⁰¹ Most critically, the fact that it had been reformed meant that it was in an excellent position to lobby the government for more capital to further upgrade its stores, completing its modernization process. The LCBO was effectively able to argue that investing more capital in the LCBO would result in higher remittances from the LCBO to the government.⁵⁰² By the early 1990s, it was also employing a number of bright individuals, starting with Mr. Brandt, who understood the political milieu in which the

⁵⁰⁰ Gee, *supra* note 174.

⁵⁰¹ Between 1993/1994 and 1997/1998, the average annual allotment for LCBO capital expenditures between 1993/1994 and 1997/1998 was \$22.924 million. LCBO, *Annual Report 1997-1998*, *supra* note 226, p. 35 and LCBO, *Annual Report 2001/2002*, *supra* note 226, p.16. Calculations by author. Capital spending in 1988, for instance, was \$9.97 million and other years in the late 1980s it was similarly as small. LCBO, *Annual Report 1988/1989* (Toronto: LCBO, 1989) p. 30

⁵⁰² The connection between the growth in the LCBO’s remittances and its capital spending is not clear. It is possible that there is not a directly correlative (or causative) relationship between these two things. D.K. Foot argues that for every one billion dollar increase in disposable income in Ontario, everything else being equal, LCBO profits rise \$8 million and, as unemployment rates rise by one percent, profits decrease by just over \$10 million. If one believes this, it would seem that economic conditions are the dominant variables influencing liquor sales and, hence, the LCBO’s profits, and that capital investment in the store network is irrelevant or, at best, has a limited effect. One source also pointed out that sales growth at the LCBO’s northern stores, which had received less in the way of capital upgrades, was similar to sales growth in their southern counterparts. At the very least, these positions suggest that the relationship between profits and capital expenditures might not be very strong. However, given that the LCBO set out to alter consumer preferences regarding how alcohol consumption is viewed, and, for instance, wanted to attract more female consumers, they had to spend above ‘normal’ allotments of cash to spruce up their stores. Such large investments were necessary in order for the LCBO to reposition itself in the marketplace, by increasing sales of higher value products and ultimately changing its role to that of an organization which functions as purveyor of products that enhance a middle-class (bourgeois) lifestyle rather than functioning as a retailer of a ‘sinful’ dangerous drug. Such investment would also help to insulate the LCBO from possible privatization, if any government ever considered such an option. See: Foot, D.K. *Provincial Public Finance in Ontario: An Empirical Analysis of the Last Twenty-Five Years* (Toronto: Ontario Economic Council, 1977) p. 146 and Menzies, David ‘Booze Binge: A taxpayer-funded spending spree on palatial new liquor stores raises questions about Ontario’s priorities’ in *Canadian Business*, 10 June 2002. Available at: http://davidmenzies.ca/Articles/LCBO%20Reports/booze_binge.htm (accessed Nov. 12, 2007).

LCBO operated. By turning itself into a modern retailer, the LCBO was able to ensure that it received the necessary capital to complete its revitalization efforts. It convinced politicians then that retaining and expanding the LCBO would serve their interests best. Or, perhaps more accurately in political terms, the LCBO was able to convince politicians that attempts to alter the existing liquor market would create a host of political problems for the government that it could well do without. Had the LCBO not been modernized under previous governments, Mike Harris would have inherited an ineffective and inefficient retailer. Under these circumstances, privatization might have been a much more viable (and politically sound) option.

The ALCB in Alberta followed a different path. Prior to 1985, the ALCB functioned similarly, and played a congruent social role as the LCBO. However, as stated previously, it had already had undergone some modernization initiatives, and thus more closely resembled a normal retailer than the LCBO.⁵⁰³ Beginning in 1985 and accelerating after 1990 when Bob King became its CEO and Chairman, the ALCB started to open up the Alberta retail market to the private sector. Wine specialty shops, cold beer stores and agency stores bringing alcoholic beverages to small rural communities were introduced into the market.⁵⁰⁴ In addition, a number of the ALCB's stores were modernized, and the ALCB set about improving the quality of the shopping experience for consumers through store upgrades and upgrades in employee knowledge. The ALCB also underwent some organizational changes designed to help reduce costs and improve overall efficiency of the organization.⁵⁰⁵ Mr. King followed the will of the government. He developed a viable plan for privatization, which was presented to the new Klein

⁵⁰³ Gross, *supra* note 316.

⁵⁰⁴ MacKenzie and Giesbrecht, *supra* note 16, pp.150-152.

⁵⁰⁵ MacKenzie and Giesbrecht, *supra* note 16, p. 152.

government. His three years of preparation creating the plan were absolutely key to ensuring that the Klein government implemented the privatization policy and that the government's policy shift was received successfully.

In both of our case studies, then, the institutional leaders, as well as the institutions themselves, played essential roles in determining their fates. Under the direction of politically savvy leaders, the ALCB and LCBO altered their operations and functions to suit the needs of their political superiors. The alterations they carried out critically influenced decisions made about the ultimate fate of both institutions by the Klein and Harris governments. The short-term history of these organization prior to the respective governments making final decisions and the overall timing of the changes at both the ALCB and the LCBO assist us in understanding why two governments, with similar ideological leanings and problems confronting them (the need for revenue being foremost among these problems in particular), made such different choices. HI allows us to fully examine the significance of the institutional and temporal factors as outlined above.

III: Endogenous (and Relative) Preferences: Citizens are Happy and Price Doesn't Matter

Alberta's privatized liquor distribution system and Ontario's publicly owned and operated LCBO (and accompanying beer and wine stores) both serve consumers, their respective political superiors and relevant interest groups well. The fact that this is true, despite very different market configurations in each province, demonstrates that preferences of all groups - but especially consumer preferences - are malleable social constructs that can be adapted to fit the relevant institutional framework, at least in this

particular policy arena.⁵⁰⁶ People adapt to the characteristics of their liquor distribution system, since they often have little with which to compare it. They are also unlikely to raise concerns over access to and price of alcoholic beverages. Inhabitants of both provinces see the systems in place in their respective provinces as improvements over the systems that existed there in the past, despite the fact that the systems are quite different from each other, and the fact that each system has some particular strengths and weaknesses.

Each of our distribution systems, as we have seen, has a unique set of characteristics. For example, Ontario's liquor distribution system, dominated by the LCBO, is designed to promote higher value products. Promoting such products was the only viable way for the LCBO to increase profits while limiting the volume of alcohol sold. Alberta's private system, in contrast, tends to favour lower value products. While the decision makers in Alberta did not intend this consequence when they chose to privatize Alberta's liquor distribution regime, it is a resultant effect of this policy shift, perpetuated by the lower quality of staff at the private stores, and a greater number of stores, each with a limited amount of capital, among many other factors. The unique market structures in each province have helped to shape the preferences and purchasing habits of individual consumers. This is why it is difficult to make direct comparisons in price, selection, convenience and, more generally, overall consumer value between Ontario and Alberta's liquor distribution systems.

⁵⁰⁶ The governments' making decisions regarding the structure of their respective liquor markets were obviously satisfied with the outcomes in their own provinces, and while suppliers, manufactures and other interest groups may have strong preferences regarding the structure of the distribution system, they will adapt to the new structure, whatever it is, and are often loath to provide public opposition to structural change. See the next section.

When comparing two liquor distribution systems and the effects of privatization, one might wonder what happens to retail prices of alcohol: which system provides cheaper alcohol? The answer, as will be explained, is complicated, but it will be argued that each system provides its customers with good selections of alcohol at reasonable prices; both Albertans and Ontarians are very happy with their respective systems.⁵⁰⁷ There are four key points, explained in ascending order of importance, which will explain why and how this is so. However, bear in mind that viewing lower alcoholic beverage prices as something positive and higher prices as negative, is, in and of itself, a critical value judgment. Alcohol is a drug. Its narcotic properties make it somewhat unique among other consumable products; its use (and misuse) causes significant social and economic problems in our society. Thus, lower prices (and by definition, higher consumption, if one acknowledges its positive demand elastic nature)⁵⁰⁸ might not be a desirable public policy outcome. At the very least, there are some solid arguments in support of high prices for alcoholic products.⁵⁰⁹

As has been demonstrated throughout, this thesis is not focused on strictly comparing the liquor distribution systems of Ontario and Alberta. Rather, it is interested in explaining why we see such different policy outcomes with respect to liquor

⁵⁰⁷ Alberta Gaming and Liquor Commission, *Quick Facts*, *supra* note 246 and LCBO, *Annual Report 2003-2004*, *supra* note 2.

⁵⁰⁸ There is considerable debate as to the true demand elasticity of alcohol. One source argues that demand is quite elastic - 1.8 (meaning a 1% increase in price will result in a 1.8% decrease in consumption). However, it is important to appreciate that different classes of consumers will have different demand elasticities. Consumers who are alcoholics (or problem drinkers) are more likely to change their consumption habits if prices increase, because they purchase a significant amount of alcohol relative to their incomes and because their incomes tend to be lower than average. This means that, given a specific amount of money, many alcoholics will, with higher prices, be forced to consume less alcohol or a different form of alcohol than their preferred form. Other types of consumers, say middle-class ones, are less affected by price increases. Remember that if price does affect consumption, lower consumption levels could be viewed as a positive public policy outcome for some. Frank and Parker, *supra* note 75, p. 144 and Murrie, *supra* note 9.

⁵⁰⁹ Barbor, *supra* note 33.

distribution systems in these provinces; the political landscape and rationale behind the key decision makers' actions are this thesis' areas of interest. Accordingly, the author did not have the time required to conduct methodologically sound research that could provide an independent price comparison between the two provinces. Secondary sources have been used, but this data is, by and large, too connected to normative views on Alberta's privatization regime change (privatization is seen as either a 'good' or a 'bad' thing), which makes the conclusions drawn in these sources somewhat suspect.⁵¹⁰ Interestingly and somewhat ironically, all authors, regardless of their normative views on privatization admit that prices initially rose after privatization.⁵¹¹ One source argues that they increased an average of 4% (in real terms) from October 1993 to January 1996⁵¹² and that today in the average Alberta liquor store, alcohol prices are slightly higher than they are in LCBO stores.⁵¹³

However, there are some very important considerations that serve to compensate Albertans for the slightly higher prices they pay for alcohol. For instance, at the wholesale level, consumers have more products from which to choose (but they might have to visit more stores since the average Alberta store carries fewer products than the average LCBO store). However, there are many more liquor stores in Alberta, which

⁵¹⁰ Flanagan, *supra* note 42; Laxer, et al., *supra* note 42; and West, D., *supra* note 16. The first two sources are critical of the Alberta's privatization initiative, while the latter is supportive.

⁵¹¹ Alberta Liquor Control Board, *supra* note 42, pp. 35-39. This government source does not provide average prices for alcoholic beverages, but rather a range of low and high prices. Two other sources argue that prices have increased due to privatization. West, D., 'The Economic Impacts of Privatization', *supra* note 16, p. 11 and Flanagan, *supra* note 42, p. 32.

⁵¹² West, D., *supra* note 16, p. 11.

⁵¹³ The researcher's own evidence (which was gathered in a non-scientific, experiential manner) shows that in the average Alberta liquor store, prices are 5% to 10% higher than prices for the same products at the LCBO. However, the price *variation* between the stores was significant. It is possible, if one goes to stores that target the 'discount' liquor market segment, to find alcohol that is significantly cheaper than is available at the LCBO, by a margin of 10% to 15%. The prices of premium products, such as high-end wines and single malt scotch, were remarkably cheaper. Other researchers would dispute this position with respect to liquor prices in Alberta's market. Flanagan, *supra* note 42, pp. 34 and 35.

makes purchasing alcohol more convenient for consumers and reduces their personal transportation costs. In addition, stores offer price specials (sales), free products (such as pop) and free services (such as delivery). The prices for premium products are also substantially lower. Furthermore, increased price dispersion (variation) means that if consumers shop around, they can find markedly lower prices on many products.⁵¹⁴

Intense competition between stores helps to keep prices low.

Secondly, consumers are not simply purchasing an alcoholic product per se, but, as with any purchase, are purchasing a basket of goods. This basket includes the product, store location, hours of operation, quality and quantity of staff and store layout and ‘ambience.’ Each province has strengths and weaknesses when it comes to filling this basket. Alberta’s stores, for the most part, are well located and open much longer than LCBO stores, but the quality of service in Alberta stores, their layout and general ambience are noticeably poorer than in Ontario. The converse is true in Ontario. The staff in LCBO stores are generally quite knowledgeable and helpful (largely because they are relatively well-paid)⁵¹⁵ and LCBO stores are, for the most part, well-designed and clean, offering a pleasurable shopping experience. Their hours of operation and numbers, however, leave something to be desired. It depends on what particular consumers in each province value as to whether they prefer one system to the other.

Thirdly, and directly related to the second point made above, Ontario and Alberta residents purchase different alcoholic products. Differences in purchasing patterns in

⁵¹⁴ Alcohol available on special is remarkably cheap. At Liquor Barn or Liquor Depot they advertise a 750mL bottle of Beefeater Gin for \$19.99 and Schenly’s Silver Wedding Vodka for \$14.99. See, Advertisement Insert from the Liquor Barn and Liquor Depot in *The Edmonton Journal*, 3 November 2007.

⁵¹⁵ Starting wage for a casual employee is \$13.44. *Collective Agreement between The Liquor Control Board of Ontario and OPSEU Liquor Board Division*, p. 65
<http://www.opseu.org/lbed/lbedcollectiveagreement2006.pdf> (accessed Nov. 12, 2007).

these two provinces are intimately related to structures of the liquor markets in each of them. Two examples, discussed in chapter 3, help to illustrate this point. Alberta's private system makes a wide variety of private label spirits available to consumers. These generic products are available at very low prices -- \$15 to \$17 per 750mL bottle. Comparable products are not available in Ontario since the LCBO does not stock private label products. Accordingly, if an Alberta consumer wants a cheap bottle of spirits and is not concerned with the brand, he or she will be able to purchase such a product. Ontario consumers do not have the same choice available to them, as all 750 mL bottles of spirits are priced in the mid-\$20 range at the LCBO. The converse occurs with premium beer. Premium beer is often made without preservatives and thus has a limited shelf life. It is available in some stores in Alberta, but one should exercise caution in purchasing it unless one is sure that it is relatively fresh. Because there are such a large number of liquor stores in Alberta relative to its population, and because premium beers tend to sell in lower volumes than regular, commercial beers, there is often an insufficient turnover of these types of products in Alberta and it is harder for a consumer to purchase premium beer product that is not past its shelf life. As a result, it is often difficult (if not impossible) to purchase premium beers in Alberta. These two examples illustrate that the nature of alcohol distribution system has a tangible influence on the types of products made available to consumer. This makes a direct comparison of products stocked in liquor stores in Alberta and Ontario, as well as product price comparisons, more difficult.

Fourthly, and most importantly, the nature of the distribution system used (private market or public distribution) does not have a causative effect on the price at which alcohol products are sold. This is principally because a high proportion of the price of

alcohol is actually a tax. The price, therefore, does not accurately reflect of the true costs of the product – the production, distribution and retailing costs of the product are significantly lower than the actual retail price in stores. Changes in alcohol prices in Alberta following privatization were not a result of privatization per se, but rather, were a result of the difference in the method of collecting and calculating the tax rates on alcoholic products. In other words, changes in pricing occurred as a result of the shift from an *ad valorem* to a flat tax regime. The Alberta government did not have to change the alcohol taxation regime when it decided to privatize the ALCB (although, as explained previously, such a change made the new regime more politically palatable, particularly to alcohol suppliers). The government changed the tax regime to ensure it continued to receive the amount of revenue from the private system that it had received from the ALCB prior to privatization. Changes in alcohol prices (and changes to the overall price of alcohol) are causatively related to the type, form and intensity of the markup that both the federal, and especially the provincial, governments impose on this product, rather than the form and specific characteristics of the systems used to distribute alcohol. Alcohol beverage prices in Canada are largely determined by a series of political decisions regarding how much tax to impose on the product and upon how much money governments can expropriate from the alcohol industry.

The liquor distribution systems in Alberta and Ontario each possesses a unique set of characteristics that influences the choices made by the alcohol consuming public. The relative or endogenous nature of preferences in this particular policy arena means that both systems are capable of providing high-value to the consuming public, despite the fact that the markets in each province are structured differently. It is important to

understand this point, because it helps to mitigate normative claims that one system is superior to the other, and serves to highlight the importance of contextual variables such as political culture and political imperatives in the decisions that were made about the fates of the LCBO and the ALCB. It is fortunate, therefore, that our theoretical framework, HI, has the conceptual space to include the contingent nature of preference formation.

IV: Other Actors: Shaping the Formal Institutional Context

A number of important actors within the liquor distribution arena shaped the political context that faced decision makers in each province. These actors did not directly influence the actions of key decision makers, but, as in the case of the cultural variables, they helped to shape the context within which the decisions in each province were made by narrowing the range of politically viable policy choices available to the respective governments. This section will specifically examine the role that other distributors of alcoholic beverages in both provinces played in influencing the decisions in Ontario and Alberta. Of these distributors, the TBS and wine producers in Ontario, and the hoteliers in Alberta, probably had the most significant influence. The positions taken by worker's unions, public health agencies, and suppliers of alcohol towards possible changes to the liquor distribution regimes in each province had significantly less influence on the relevant contexts in which the decisions were made.

The most critical interest groups, in terms of influence, were the TBS and the wine storeowners in Ontario and the AHLA in Alberta. The TBS is owned and operated by Canada's two major breweries, Labatt and Molsons, and 290 of the 408 wine stores are owned by two major vintners, Vincor and Andres. They share Ontario's oligopolistic

retail market with the LCBO and are not in favour of alterations to the composition of the Ontario liquor retail market. Were the LCBO to be privatized, these actors would lose their privileged status within the marketplace. In order to protect their position in the current marketplace, the Ontario wine producers and the TBS operate trade associations, the Ontario Wine Council and Canada's National Brewers, respectively. These are well organized and well funded associations, run by intelligent and politically savvy individuals who are connected to and understand the political workings of the province of Ontario. They are able to make their views known to key bureaucrats and politicians within the Ontario government both formally and informally. In addition to lobbying the government to protect their rights, these trade associations also work to diminish calls, on the part of the public, for changes to Ontario's current liquor distribution system. They do so by taking actions for the purpose of currying favour with the government. Steps taken by these distributors and/or their trade associations include, in the case of the TBS, running a very successful recycling program,⁵¹⁶ distributing alcohol in a socially responsible manner and providing shelf space to small Ontario brewers in their stores. In the case of Ontario wine producers, these organizations and their trade associations take steps to promote tourism and to create jobs. These initiatives serve to remind key decision makers that the TBS and Ontario's wine producers perform useful functions and help the government solve and cope with potentially contentious problems in this sector. The relative strength of these two interest groups, and the actions they have taken to

⁵¹⁶ This is particularly true in the case of the expansion of the TBS's recycling program whereby they accept all types of alcoholic beverage containers for recycling regardless of where they were purchased. This program was mandated by the provincial government, but would have required the cooperation of all of the parties, especially the TBS. It would be difficult for the government to force a private company to implement a recycling program if it was not in its – short- and long-term - self-interest to do so. Each one of the stakeholders would have had a particular interest in the expansion of the alcohol beverage container-recycling program in Ontario.

create jobs in the wine and brewing sectors and promote recycling, made it much more likely than not that the key decision makers in Ontario would not seriously consider privatizing the LCBO, despite the small government rhetoric espoused by the Harris Tories. The key decision makers knew that changes to the liquor market's oligopolistic structure would result in stiff resistance from these two groups.

While the views of the spirit producers in Ontario probably had less of an impact, in terms of shaping the context in which the decisions to retain the LCBO in public hands and modernize it were made, they are a significant interest group in Ontario, and accordingly, their views probably had some effect. Of the \$1.6 billion in spirits sold out of the LCBO in 2005/2006, \$960 million worth of sales came from Canadian-based spirit manufactures.⁵¹⁷ The distilleries are also large exporters and employ a substantial number of people. The LCBO is the only avenue through which they can reach Ontario consumers (as opposed to beer and wine producers, who have direct access to consumers). Accordingly, the spirit producers probably have the most interest in how the LCBO operates. Remember, too, that for most of its life, the LCBO sold mostly spirits, rather than wine and beer, and that its wine and beer sales have risen in the postwar period.⁵¹⁸ The intense capital investment in the store network, specifically, and the LCBO's deliberate attempts to alter the way consumers view alcohol consumption have helped to ensure that sales of spirits at the LCBO have remained strong. In many other jurisdictions, sales of spirits are falling. Like the TBS and Ontario wine producers and

⁵¹⁷ LCBO, *Annual Report 2005/2006*, *supra* note 7 pp.44 and 45.

⁵¹⁸ Originally, the LCBO mostly sold spirits, but over the last thirty years it has expanded its product offerings into the beer and, especially, the wine markets. The former is an important market because beer sales is the largest segment of the alcohol market and also because it was sold by the LCBO's main competitor, the TBS, and thus represented a possible 'growth' segment. The wine market was important to expand since women are key wine consumers and were less attracted to higher alcoholic products such as dark spirits.

their trade associations, the spirit producers are a well organized and influential group, capable of making its views and interests known to the government.

Turning now to the situation in Alberta, the AHLA staunchly supported the privatization of the ALCB. This is interesting since, prior to privatization, many of the AHLA's members already had the right to sell bottled beer for off-site consumption, and after 1990, they had the right to sell all other types of alcohol from their hotel taverns for off-site consumption. However, they supported the government's privatization initiative, because many of them planned to open liquor stores at their hotels. They accordingly viewed privatization as a new business opportunity. Many hotels already had the infrastructure necessary (parking lots and retail space) for an on-site liquor store, and because hoteliers were familiar with the alcohol retailing business, they were ready to enter the market as soon as privatization occurred. Hoteliers also saw on-site liquor stores in a favourable light because such a store, located in their hotels, would allow them to provide an additional service to their visiting guests. The AHLA was also supportive of the rules and regulations imposed by the government on the new private marketplace, particularly the rules and regulations that effectively limited the market power of the large grocery stores. Like the TBS and the wine stores in Ontario, the AHLA is a well funded organization, managed by intelligent and politically astute individuals are familiar with the workings of the provincial government. The AHLA was thus able to make its views on privatization known to key decision makers both before and after privatization occurred.⁵¹⁹ The fact that the hoteliers were granted a place in Alberta's liquor market in

⁵¹⁹ For instance, in 1988 the ALCB eliminated the 7% surcharge on wine and spirits. Special acknowledgement was given to the role of the Alberta Hotel Association and the Alberta restaurant and Foodservices Association played in this decision. Alberta Liquor Control Board, *65th Annual Report*, (1989) *supra* note 371, p. 1.

1934, when the ALCB was the dominant player in the market, shows their power as an organization historically.

Other interest groups in Alberta also had a role (albeit a lesser one) to play in shaping the context in which the decision to privatize the ALCB was made. The Alberta Restaurant and Foodservice Association (ARFA), the Alberta Alcohol and Drug Addiction Commission (AADAC), the municipalities, the Alberta Union of Public Employees (AUPE), the suppliers of alcoholic products, and the Alberta Liquor Store Owners Association (ALSOA), which came into existence after privatization all played a part in shaping the context. The ARFA was supportive of the privatization of the ALCB and the new structure of the liquor distribution system since it would improve the selection of products available to its members. The ARFA often has interests that are congruent to those of the AHLA, as well as some persuasive influence over the positions taken by the latter organization, but it lacks the resources and industry wide support that is enjoyed by the latter group.⁵²⁰ AADAC and the municipalities were apprehensive about privatization and the newly reconfigured market, because they were concerned that the changes would lead to increased alcohol consumption, and a corresponding increase in the social problems that excessive consumption creates. Suppliers of alcohol in Alberta did not support changes to the liquor distribution system, because they knew that shifting to a private market system would increase their costs and competition within the marketplace. However, neither the suppliers, nor AADAC and the municipalities had any opportunity to alter the government's decision to privatize, because of the speed with which privatization occurred. They were forced to adapt to the changes introduced after

⁵²⁰ Rollingson, *supra* note 426. ARFA has a lower proportion of its eligible constituents as paying members than the AHLA has, and thus has a significantly smaller staff and resources from which to draw upon.

the fact. This is perhaps an indication that they possessed insufficient influence over or access to key decision makers. Finally, the ALSOA, while created after the privatization initiative to represent the interests of small and medium-sized liquor stores (not the grocery stores), has proven itself to have some influence, since their lobbying has effectively limited the ability of the large grocery stores to sell alcohol in their stores.

The ALCB and LCBO workers' unions played marginal roles with respect to the influence they exerted over the decisions made by each government. Interestingly, the workers' union in Alberta played a more significant role than the workers' union Ontario, because of the antipathy towards unionized government workers within Alberta's Tory party. The ability to eliminate unionized government jobs, thus reducing the size of government, made privatizing the ALCB even more attractive to key decision makers in the Klein government. Reducing the size of government allowed them to fulfill their election promises, and demonstrate their faith in neoliberal principles. In the case of Ontario, while it has been claimed that the union representing LCBO's workers significantly influenced decision makers in the Harris government,⁵²¹ the author's research does bear this out. The Harris Tories never seriously considered privatizing the LCBO or altering the role it played in the liquor distribution market and, so in this respect, the decision makers never had to consider possible reactions from the LCBO's unionized workers because the decision making process never arrived at such a point.⁵²² Even if it had, the Harris Tories did not consider the union particularly militant, and, even if it had been a strong union, it would not have swayed the government's actions.⁵²³

⁵²¹ MacKenzie, and Giesbrecht, *supra* note 16, p. 186.

⁵²² Tsubouchi, *supra* note 223.

⁵²³ Tsubouchi, *supra* note 223.

The different outcomes in Alberta and Ontario cannot be causatively linked to the power and influence of stakeholders within this policy arena. Some of the actors described above might have had more of an influence on the outcome in Ontario, had the Harris Tories actually seriously considered privatizing or attempted to privatize the LCBO. East of the prairies, the interest groups were not only more cohesive, in the case of the public health community and the spirit manufacturers, but in the case of the large Ontario wineries and, most critically, the TBS, they also had a lot to lose if the government changed the liquor distribution regime. Had the government proposed any real changes to the liquor system, these two latter groups would most likely have fought such change with all of their available resources, causing a substantial political problem for the Harris government. The key decision makers in the Harris government were aware of this, and this is partially why they never seriously considered privatization.

V: Decision Making in the Ontario and Alberta Provincial Governments

The ways in which the Harris and Klein governments chose to distribute alcohol are causatively related to province-specific contexts in which decision regarding the LCBO and ALCB were made. As has been illustrated in this chapter, the unique, province-specific cultural, historical, institutional and political variables were the critical factors influencing the decision makers, so much so that contextual factors, to a large extent, pre-determined the specific policy outcome of both the Harris and Klein governments' decisions in the mid-1990s. While each decision was different and resulted in a polar opposite policy outcomes, each decision made quite reasonable sense given a full appreciation of the province, and the temporal variables confronting each government. The divergent outcomes were not simply due to the different individuals

who made the decisions, but rather were outcomes causatively influenced by the contextual epochs.

This is interesting, since our decision makers in both provinces shared a number of key characteristics, and the decision-making processes in both places were remarkably similar. Both groups of decision makers were heavily influenced by neoliberal-type principles, espoused pro-market and anti-government rhetoric, and were elected on promises of instituting structural change in their respective provinces. Such structural changes, too, were felt necessary since both provinces (and Canada generally) were coping with difficult economic times and high annual government deficits. More interestingly, both governments – even in Alberta – made their decisions, not on ideological grounds, but first and foremost, on political pragmatic grounds that reflected the context each faced. And, despite rhetorical claims, there was no real ‘problem’ with the LCBO or the ALCB, in terms of the way each organization was providing service to the public – rather, what motivated each government to act was the larger, macro financial problems that confronted them.

Analyzing the set of decisions made by each government in terms of Kingdon’s theoretical framework, both governments were focused on addressing the fiscal problems they faced in the mid-1990s, principally the large annual budgetary deficits. This was the key problem with which each government had to cope. The fiscal difficulties in which both governments found themselves during the early to mid-1990s and their similar ideological views, interestingly, did not equate to similar policy outcomes. Liquidating the LCBO was never a viable policy option for the Harris Tories given the power of the interest groups that would be affected by such an outcome; the socially conservative

elements within the Conservative Party that would oppose such a move and the dynamism of the LCBO and its CEO, Andy Brandt, among many other factors, all limited the viability of drastically altering the Ontario liquor retail market. It was never high on the Harris government's policy agenda. Retaining and reinvigorating the LCBO, then, was the optimal way in which to help increase the government's revenues and to protect the monopoly rent portion of the LCBO's profit. It was a solution that was easy to implement (Andy Brandt would ensure that), would not cause any significant public outcries and, most critically, would have the support of some powerful interests, and could (and was) implemented in a relatively stealth-like manner.

In Alberta, selling off the ALCB comprised a key part of the Klein government's ambitious plan to reformulate the role and scope of the provincial government. This option was made more viable since the revenues that the ALCB handed over to the government – including the monopoly rent portion of it – was turned into a direct tax on alcohol. This meant that the government would not lose any revenues from the sale of alcohol and, in addition, privatization would eliminate some long-term costs and fiscal resources that were tied up in physical assets and product inventory, for instance. But, it was not the immediate (or even long-term) fiscal savings (or gains) that drove the Klein government, but rather, the political value of appearing to radically alter how the province was governed (although the fiscal savings did help to balance the budget, but in grand scheme were relatively minimal); it was the optics of such a move and especially during the fiscal 'crisis' in which the government found itself. Each government faced similar problems, but, as we have seen, the unique temporal and institutional contexts dictated that the decisions each government would make would be very different.

The fact that the Alberta government not only continues to own and operate a provincial bank, ATB Financial (formerly Alberta Treasury Branches),⁵²⁴ but also that the bank underwent an organizational reform in the 1990s similar to the reforms made at the LCBO, serves to support the significance of political variables as being paramount in the decision-making process of the government of Ralph Klein. Ontario, too, owned a bank, the Province of Ontario Savings Office (POSO), but sold it to Desjardins in 2003⁵²⁵ and retained the LCBO; Alberta did the exact opposite.⁵²⁶ The rationale behind retaining and reinvigorating ATB Financial tells us, then, about how policy outcomes are shaped by political, historical and cultural factors specific to a geographic place. When they interact with a different formal institution in Alberta (such as a bank) the outcome will be radically different than when they interact with a liquor board. Contextual factors, and thus pragmatic political considerations, were, as with the decision to liquidate the ALCB, the key motivating factors in the decision to retain ATB Financial in public hands.

There are three key reasons why ATB Financial was not privatized by Klein government. First, ATB Financial conducts most of its business in rural and small town Alberta. It focuses on lending to the agricultural sector and to small and medium-sized

⁵²⁴ Alberta Treasury Branches (now known as ATB Financial) was created in the height of the depression in 1934 by William Aberhart's Social Credit government. Its function was to provide rural Albertans with a safe place to invest their money and an alternative bank from those based in central Canada. It was not a bank per se since a provincial government was not empowered by the Constitution to charter a bank, but rather was a division of the Treasury department with branches scattered throughout the province especially in small towns and rural communities. Ascah, *supra* note 34.

⁵²⁵ Ministry of Finance, *New owners of Province of Ontario Savings Office (POSO) to invest \$170 million* (Toronto: Ministry of Finance, 2003) <http://www.fin.gov.on.ca/english/media/2003/nr-poso.html> (accessed Nov. 16, 2007).

⁵²⁶ Lindsay, *supra* note 193. Raising the issue of ATB Financial and the course of its institutional evolution, naturally, illustrates the importance of its Ontario counter part, POSO. While not the focus of this thesis, the government of Ontario most likely sold POSO because they could see no policy or immediate political need for the Ontario government to be in this particular business and, most critically, selling the asset would not cause a popular or political backlash among any influential interest groups.

businesses (often in the oil and gas sector) where it holds a significant share of the market, and it has 100 of its 150 branches located outside of the cities of Calgary and Edmonton. Any sort of privatization initiative would inevitably result in rural bank closures, something the Tory government wanted to avoid.⁵²⁷ It is from rural Alberta and from the owners of small and medium-sized businesses that the Conservative Party draws its base support. Second, it earned a substantial amount of ‘goodwill’ among its customers and politicians during the 1980s when Alberta was in the midst of a recession. Many Ontario-based banks stopped providing money to smaller Alberta-based businesses as oil and gas prices fell, and ATB expanded into this market segment by providing loans with lower interest rates and good terms.⁵²⁸ They were also ‘gentler’ with repossession and default criteria than their central Canadian counterparts. Many people were grateful for the help from the government-owned financial institution during these tough economic times.⁵²⁹ Finally, starting in the early 1990s, ATB was embroiled in a legal fight with the owners of the West Edmonton Mall over \$300 million in loan guarantees. There were accusations of political meddling in the financial arrangement between ATB and the owners of the Mall, and the government did not want too much attention brought to this financial and legal debacle.⁵³⁰

The ATB was not only retained in public hands, but was actually reinvigorated during Klein’s tenure. Starting in 1995 ATB underwent a fundamental organizational transformation. In that same year, a new enabling Act was passed that, among other things, established an independent board of directors that was selected by an external

⁵²⁷ West, S., *supra* note 14.

⁵²⁸ Ascah, *supra* note 34.

⁵²⁹ Ascah, *supra* note 34.

⁵³⁰ West, S., *supra* note 14 and Ascah *supra* note 34.

consultancy. ATB reorganized its internal operations and improved the quality of its workforce. There would no longer be any administrative patronage within the organization (in fact, by the 1990s there was no evidence of any political involvement in hiring processes at ATB), and candidates for jobs would be hired strictly on merit. ATB also enhanced its in-house employee training programs, including ethics components.⁵³¹ An external examiner was hired to examine the quality of its loans, and it established industry standard loan evaluation practices such as separating its loan adjudication from origination so as to have second appraisal of business dealings with potential clients.⁵³² It also established an asset recovery division, a revitalized marketing department and enhanced its information technology capacities. Such reforms protected ATB's business activities from potential influence from its political masters. By 1997, it had become a Crown corporation and was to act much like any other financial institution.⁵³³

ATB's continued public ownership and organizational reforms illustrate that there were limits to the extent to which the Klein government acted to alter the role of the provincial state in business. Changing ATB's ownership structure would have produced a myriad of political problems for the Klein government from constituencies that are influential and comprise a key part of the support for the Tory party. In addition, the Klein government was, during the 1990s, preoccupied with balancing the budget and instituting a more palatable set of reforms (including the privatization of the ALCB). It simply had a limited amount of political capital, time and energy to dedicate to other policy initiatives. The government had to focus its energy in areas where it knew it could be successful implementing its ideas, since "We weren't going to die on all of the

⁵³¹ Ascah, *supra* note 34.

⁵³² Ascah, *supra* note 34.

⁵³³ Ascah, *supra* note 34.

mountains” and had to choose where implement radical change.⁵³⁴ All governments have a limited amount of time and energy; this factor – perhaps above all others – was the key variable that shaped the decisions regarding liquor distribution in both Alberta and Ontario.

⁵³⁴ West, S., *supra* note 14.

Chapter Five

The Significance of our Cases: Canada, the State and Liquor

“Get out of the booze biz”⁵³⁵

“Ontario’s liquor board should be sent packing”⁵³⁶

It might seem odd that Canada’s two leading daily newspapers, *The National Post* and *The Globe and Mail*, would, on the same day, express congruent views in support of eradicating the Liquor Control Board of Ontario (LCBO). Their response to and endorsement of the Liberal government’s Beverage Alcohol System Review panel’s findings,⁵³⁷ which called for the liquidation of the LCBO and the auctioning of its retail infrastructure, is noteworthy, particularly given these papers’ divergent philosophical views on the relationship between the state, the market and citizens. The LCBO receives a fair amount of coverage in the popular press and the authors usually remind readers of the high degree of state control – through the LCBO – that exists in this particular

⁵³⁵ *National Post*, ‘Get out of the booze biz’, editorial, 19 July 2005, p. A16.

⁵³⁶ *Globe and Mail*, ‘Ontario’s liquor board should be sent packing’, editorial, 19 July 2005, p. A12.

⁵³⁷ *Strategy for Transforming Ontario’s Beverage Alcohol System: A Report of the Beverage Alcohol System Review Pane*, *supra* note 257. The review panel, which was commissioned by Dalton McGuinty’s Liberal government, was charged with examining the alcohol retail industry in Ontario. The panel’s four members urged the government to reduce its direct presence in the market, calling for the auctioning off of the LCBO’s retail and wholesale assets, as well as those of the TBS and the wine stores. They felt that through this process the government could collect an additional \$200 million. The panel did not carefully consider the potential political and financial challenges that might arise from their plan; it was an ill-conceived idea. The Liberal government rejected its recommendations immediately. Benzie, Robert ‘Liberals refuse to scrap LCBO: Report claims radical change could bring in more revenue Queen’s Park won’t auction of province’s liquor stores’ in *The Toronto Star* 19 July 2005 p. C1.

industry.⁵³⁸ For many, the revitalized and publicly owned LCBO just does not seem to make logical sense: it provides high-value to consumers and ample revenues to the government. However, despite the peculiar nature of the LCBO, a lot of people, some of whom are influential, like it. Its existence vividly demonstrates that state-owned and operated institutions can be both efficient and effective, in a sector where these functions could – at least, theoretically – be performed by private interests, as our Alberta case study clearly demonstrates. The outcomes from our two case studies, particularly the Ontario government’s decision to retain and revitalize the LCBO, provide some important and interesting insights into how provincial governments organize liquor retailing markets. When it comes to liquor distribution systems, Canadian provinces, led by Ontario, opt for a strong dose of state intervention into the marketplace. Bureaucracies, rather than markets, it appears, are the default manner for distributing alcohol in Canada.

This concluding chapter will outline the significance of this dissertation’s findings. It will illustrate how these findings, partially drawn from Kingdon’s multiple streams decision-making model, embedded in a historical institutional (HI) framework, can contribute to both theoretical and more practical policy debates over the evolution of the state and the sets of institutions, like the LCBO, which function as appendages to it. At its heart, the findings of this thesis illustrate two vital points. First, they highlight the importance of contextual variables - especially political factors – in government decision-

⁵³⁸ Critics of the LCBO include: Campbell, Murray ‘Queen’s Park LCBO could use splash of competition’ in *The Globe and Mail* 9 February 2006; Eric Reguly Ontario’s liquor stores look good but where’s the profit? In *The Globe and Mail* 19 July 2005, p. B2 and Brent, Paul Our \$10B Hangover in *The National Post* 2 July 2005 p. FP1. More supportive pieces of the LCBO include: Olive, David ‘Privatization, eh?’ in *The Toronto Star* 31 July 2005, p. A18 and O’Dell, Susan ‘LCBO Works’ (letter to editor) in *The National Post* 14 March 2005, p. FP19.

making processes. With respect to the decisions to retain the LCBO in public hands and transform it in Ontario, and the decision to privatize the ALCB in Alberta, ideological imperatives, in these cases, neoliberalism, were of secondary importance. And second, the two case studies demonstrate that each government made its decisions on fairly logical and pragmatic grounds, given the limitations imposed on both by contextual variables, be they political, cultural, historical or institutional in nature. The contextual and pragmatic nature the decisions made by Alberta and Ontario's governments regarding the fate of their liquor boards can lead to some important insights into how Canadian governments govern. All governments face a range of significant problems, have limited amounts of both time and energy, and must make decisions within very delicate and specific contextual frameworks.

The central argument made in this chapter is that this dissertation's findings demonstrate that states, and their appendage sets of institutions, can and do play a vital role in shaping not only public policy, but also society more generally. Vilified by both the rational choice right and the Marxist left, much of the academic research in Canada tends either to laud the value of the marketplace or, in the case of the left, uphold the value of either third sector institutions, such as voluntary or 'community' associations,⁵³⁹ or more direct forms of democracy (in an attempt to circumvent traditional bureaucracies and appeal directly to the will of the people).⁵⁴⁰ Despite calls to "Bring the state back in" few Canadian public policy academics, it appears, have ever followed this advice.⁵⁴¹ The

⁵³⁹ Restakis, John and Evert A. Lindquist 'Introduction: Government Restructuring and the Co-operative Alternative' in *The Co-op Alternative: Civil Society and the Future of Public Services*, John Restakis and Evert A. Lindquist, editors (Toronto: IPAC, 2001) p. 5.

⁵⁴⁰ Rebick, Judy *Imagine Democracy* (Toronto: Stoddart, 2000).

⁵⁴¹ Skocpol, Theda 'Bringing the State Back In: Strategies of Analysis in Current Research' in *Bringing the State Back In* Peter B. Evans, Dietrich Rueschemeyer and Theda Skocpol, editors (New York: Cambridge University Press, 1985).

points that are raised in this chapter, then, serve to solidify its HI perspective. Whether federal and provincial governments merely have a natural penchant for intervening in the economy through state-owned enterprises, regardless of ideological affiliations they espouse, or whether state institutions, like the LCBO, are able to influence their fates at the hands of their political masters, and thus ensure continued state intervention in the economy and society, the findings of this thesis force us to reevaluate some widely held assumptions about the role of the state in Canada. And, when assessing the actions of any government, to look for pragmatic, contextually derived explanations for why governments do what they do.

Collective Action Problems, Decisions and the State

The contextually dependent nature of the decisions made in Alberta and Ontario regarding the ALCB and the LCBO serve to highlight some inherent structural problems all provincial governments face. The outcomes in our two case studies, in other words, are, in part, products of how modern provincial governments are forced to operate. Provincial governments face two main types of problems. First, the executive, including the Premier's office and ministers' offices, faces a myriad of significant acute political problems. Provincial governments must deal with a host of such problems, such as natural disasters, such as floods and storms, aboriginal protest movements, labour strikes and plant closures, to name but a few. These types of problems are critical in nature, as they can gravely affect the material well being of individuals or groups in an adverse manner, if not immediately dealt with. They force governments to make quick, calculated decisions in order to (attempt to) resolve them. A constant, unrelenting

barrage of these types of problems comes across ministers' desks, and these individuals have significant 'work load' issues as a result.⁵⁴²

Second, governments must allocate precious and limited resources to provide an enormous number of public goods and services to citizens. Citizens demand an ever-increasing amount of (free) public goods and services from their governments, such as healthcare, education, public transportation and public security, while remaining, for the most part, almost completely unaware of how much it actually costs to provide these items. The collective consumption of and payment for public goods, in comparison to privately consumed goods, clouds the citizenry's view of their true cost.⁵⁴³

Governments' attempts to provide all the services that citizens demand are made even more difficult by the fact that raising taxes (the most obvious way to pay for the public goods and services demanded) is, and always has been an extremely unpopular move.

Citizens' under-appreciation for the true costs of public goods and services, coupled with their overall skepticism towards the value of the state in general, means people resent paying more taxes to cover the state's burgeoning costs. This is particularly problematic

⁵⁴² Brown, *supra* note 220. A quick glance at a daily newspaper will illustrate the scope and form of the problems that governments face. Two recent examples are the shortage of judges and court space in Ontario, which is drastically hindering the resolution of many family disputes, and the longer-than-planned-for shut down of Atomic Energy of Canada Ltd. (AECL)'s reactor in Chalk River, resulting in a shortage production of medical isotopes required for medical tests. Both of these issues, unsurprisingly, have caused some serious consternation among many citizens. To resolve these problems, the state will have to spend extensive amounts of money on both capital investments and operational costs in these two policy arenas. The long time it takes to build (or repair) nuclear reactors and court houses will mean that, even if the state takes immediate action, the results of this action, and the amelioration of these problems, will not occur for years. And even if (or when) the relevant governments do direct state resources to solve these problems, what political capital do they gain? How many people are grateful for cheap and available medical isotopes or a speedy conclusion to their divorce? Campion-Smith, Bruce 'Ottawa to force reactor restart' in *The Toronto Star* 12 December 2007 <http://www.thestar.com/printArticle/284816> (accessed December 12, 2007) and Diebel, Linda 'Family court in crisis' in *The Toronto Star* 9 December 2007 <http://www.thestar.com/printArticle/283909> (accessed December 12, 2007).

⁵⁴³ Downs, Anthony 'Why the Government Budget Is Too Small in a Democracy' in *Private Wants and Public Needs: An Introduction to a Current Issue of Public Policy* Edmund S. Phelps, editor (New York: W.W. Norton, 1965) p. 82.

for provincial governments, since they are responsible for providing healthcare and educational services to citizens, two very expensive public goods; moreover since 1995, provincial governments have seen the funding levels they receive from the federal government to assist with the provision of these services drastically reduced.⁵⁴⁴

Such an environment places constraints on the ability of a government in power to act when combined with a provincial version of a Westminster parliamentary structure, where much of the decision making power is, and traditionally has been, concentrated in the senior executive of the premier and senior ministers offices. Such a concentration of power, furthermore, has increased recently.⁵⁴⁵ This trend, coupled with the constant flow of problems, whether they be acute, crisis type problems, or issues of resource allocation, means that the few individuals having the ultimate authority to make decisions have an increasingly diminished amount of time and energy to tackle issues proactively. Two or three matters that the government wishes to deal with will garner the attention of key decision makers, and completely absorb their limited amount of non-discretionary time, energy and political capital. The rest of their energies will be dedicated to solving both the acute political problems they face and the more mundane, yet very important, resource allocation problems. Key decision makers spend much of their time, in metaphorical terms, ‘putting out fires.’

The financial problems that each government faced were paramount. What was different were the assessments made by politicians and bureaucrats within the governments in each province as to how and what types of changes to the alcohol

⁵⁴⁴ McKinnon, *supra* note 452, see chapter 10.

⁵⁴⁵ Savoie, *supra* note 22. Power and decision-making in provincial governments has traditionally been even more concentrated in the executive branch in comparison to its federal counterpart. However, even in provincial governments more and more key decisions are being made in the Premier’s or relevant minister’s office. MacKenzie, *supra* note 22.

distribution sector could help in resolving the financial crisis facing both governments. In Alberta, liquidating the ALCB was a part of a larger plan to hive off services currently performed by the government which could be performed by the private sector, giving the private sector control in those areas (as explained in earlier chapters, contextual factors did not preclude the government from making such changes in Alberta, at least as far as the ALCB was concerned) in order to show the citizenry that this really was a ‘new’ government. Naturally, the Klein Tories choose arenas for privatization that would not raise too much criticism (easy targets, in political terms) such as highway maintenance, sheriff services, and permit and vehicle registry offices.⁵⁴⁶ By contrast, in Ontario, retaining the LCBO was a logical policy choice, since outright privatization was not a viable policy option, and reinvigoration offered the Harris Tories an opportunity to increase government revenues, since the LCBO was an undercapitalized and underutilized public asset.⁵⁴⁷

The fact that the Alberta and Ontario governments never seriously considered any other solutions but the one which each of them adopted is thus, at least partially, due to the myriad of other complex problems each government was facing at the time. Each chose to opt for the easiest, most logical, and most pragmatic policy in this particular issue arena. There was simply not the time or political capital to dedicate to reshaping the state to any ‘ideological’ ideal that is outside of those shaped by political constraints. Accordingly, state institutions that are not causing any significant problems for the

⁵⁴⁶ West, S., *supra* note 14 and Bruce, *supra* note 38, p. 448.

⁵⁴⁷ Barry O’Brien who was a senior policy advisor to David Tsubouchi wrote a policy paper that argued that the LCBO was an undercapitalized and underutilized public asset. It argued that if the government was to sell it off and a private company (or set of companies) could reinvigorate it and earn significantly large profits, not only would the government miss out on much needed money, but would also suffer some popular and political embarrassment from such an outcome. Senior advisors to members of the executive, most likely, helped shape the decisions made regarding the LCBO. O’Brien, *supra* note 224.

Crown, or in the case of the LCBO or ATB Financial, pose problems only in an ideological sense, can often times elude the notice of politicians. A centralized decision-making institutional structure, combined with the barrage of problems provincial governments face, might actually serve to enhance the abilities of state institutions, like the LCBO, to shape their fates because their political superiors are otherwise occupied with more pressing concerns.

Lauding a Reformed LCBO

The LCBO case study shows that publicly owned and operated Crown corporations can effectively solve collective action problems. It demonstrates that there are alternatives to the wholesale privatization of public assets and that the productivity of state-owned corporations can be improved while the institution remains in public hands.⁵⁴⁸ All of the key stakeholders within the Ontario alcohol retailing sector are, for the most part, satisfied with both the structure of Ontario's liquor market and how the LCBO conducts business. The stereotypical view that all government organizations are ineffective, inefficient or simply too 'bureaucratic' to function well simply does not apply to the present-day LCBO. The fact that the LCBO was able to effectively reform itself, transforming itself into a modern retailer, capable of providing customers with high consumer value shows that public ownership, even in a sector where the services provided by the state-owned institution could be provided by the private sector, shows that public ownership does not by definition have to mean poor service, selection and

⁵⁴⁸ It is often argued that the threat of privatization, particularly from the Harris Tories, was the key factor motivating the LCBO to improve its organizational efficiency. While the LCBO management did use the possibility of privatization to encourage its employees to accept organizational change (for example, stressing the need for employees to provide customers with excellent service and high consumer value), most of the key reformations at the LCBO occurred under the Peterson and Rae governments (1988 to 1995) when privatization was not considered to be a real threat.

price, as is often assumed. More generally, while it would be difficult to create a Crown corporation in today's political atmosphere, the fact that the contemporary LCBO operates effectively and efficiently shows that it would be possible for governments to choose to use a Crown corporation to meet political and economic objectives in a particular area, regardless of the political difficulties it might face in doing so. The LCBO could, accordingly, serve as a model for remaining Crown corporations in Canada in how to survive the chopping block.

The effectiveness of the LCBO is largely due to the structural reforms that it underwent over the last twenty years. However, it is also due to the nature of the collective action problem it is charged with solving. Retailing alcohol is, in many respects, a pretty straightforward affair. Products are moved from manufacturer to retail outlets, monies are collected, and helpful staff is on hand to assist consumers in an organizational structure that is capable of coordinating all the behaviours of individual employees. Compare liquor retailing with administering criminal justice, distributing social welfare or operating an immigration system and the ease of operating a liquor board appears in stark relief. All of the former collective action problems are much more complex. They are also, to some extent, politically thankless tasks (few people appreciate the efficacy of the criminal justice system, welfare system or immigration system when it operates well – it only enters the public consciousness when mistakes or problems arise). States, after all, are left with all of the problems that markets, families and communities cannot effectively solve, or alternatively, all the problems that are not profitable to solve. For the state to retain one collective action problem, such as alcohol distribution, that is not only relatively easy to solve but also earns the state large sums of

money at a relatively small political cost makes sense, given the tremendous problems and resource constraints that all governments face.

The ‘New Right’ and Neoliberalism in Canada

Our case studies show that two governments with similar neoliberal convictions can choose very divergent ways in which to solve similar collective action problems. They reveal that ideological views espoused by governments may have a marginal influence on what decision makers choose to do and on the policies they adopt. In the case of the LCBO and the ALCB, their ultimate fates were determined largely by contextually derived historical, social and political factors. It was these factors which made the solutions adopted by the key decision makers in each province the most logical, least costly ones for them to implement. Nevertheless, how neoliberalism as an ideology has interacted with Canada’s political culture, institutions and, of course, history have yielded some interesting results. The two case studies in and of themselves illustrate the divergent ways in which neoliberalism can manifest itself in the political sphere. They also provide some insights into the contemporary conservative movement in Canada.

In Canada’s recent history, political parties on the right have moved away from the more moderate ‘red tory’ Macdonald-type conservatism, which held that the state had a pivotal role to play in economic development so long as it fostered the expanse of private enterprise. They have instead embraced a more radical neoliberal-type of conservatism that, at its heart, reveres the market and eschews the value and role of the state.⁵⁴⁹ Our two case studies both provide interesting perspectives on the intellectual

⁵⁴⁹ Some scholars have argued that neoliberal ideological and political views entered the Canadian political sphere with the election of Brian Mulroney in 1984. His government’s inability to eliminate the deficit, for instance, is a vivid illustration of how difficult it can be to adhere strictly to neoliberal principles in Canada. One could argue that Mulroney’s Conservative government, in many respects, embodied the last of the

problems and issues confronting the ‘New Right’ when neoliberal conservatism is imported into Canada. Such observations are relevant to understanding the actions of provincial governments of the ‘New Right’ such as Gordon Campbell’s Liberals in British Columbia and, of course, Ralph Klein and Mike Harris’s governments in the mid-1990s, but, more interestingly, to understanding the actions of the minority Conservative government of Stephen Harper. Any ideological view must be tempered with political reality; watching the ‘New Right’s’ philosophical views meet historically and institutionally imposed political reality is interesting, particularly when state intervention is required. There are perhaps two important observations to be gleaned from the outcomes in Alberta and Ontario with respect to liquor distribution.

The first point is that competitive markets often require strong and consistent state intervention. The policy makers in Alberta were keenly aware of this and knew that if no controls were placed on the structure of the liquor distribution marketplace following privatization, particularly with respect to the type and form of retail locations store owners were permitted to operate, the larger grocery store chains would soon come to dominate the marketplace.⁵⁵⁰ (This is exactly what happened in Iowa when it liquidated its liquor board and introduced a market mechanism to sell alcohol; within a few years, the retail market was concentrated in the hands of a few large grocery stores chains). A ‘competitive’ market in Alberta did not mean a ‘free’ market, but rather one governed by a myriad of rules and regulations that had the effect of limiting the market power of large

MacDonald ‘red Tory’ ethos in Canada. The implosion of his government and the Conservative Party following Mulroney’s resignation in 1992, and the fifteen years of organizational turmoil within political parties on the right that followed his resignation, are indicative of problems associated with carving out a new ideological pathway in Canada. For a view of ‘red Tory’ Macdonald type conservatism see: Rea, *supra* note 35, pp. 17-18. On the ideological shift in the conservative movement in Canada see: Laycock, *supra* note 359 and Ibbitson, *supra* note 37, ch. 2.

⁵⁵⁰ King, *supra* note 379.

grocery store firms. This critical distinction between ‘free’ and ‘competitive’ markets is critical since the terms are often used synonymously. For Ralph Klein, ensuring a competitive market was critical, not only for the purposes of selling his new privatization policy to the public in a pragmatic sense, since more competition would equal more selection and consumer choice, but, also in a political sense in order to appease small business owners, such as the hoteliers. The Harper government’s recent decision to reserve a large segment (40%) of the wireless spectrum auction for smaller firms, and to force the large established carriers (Bell, Rogers and Telus) to share their infrastructure with new entrants shows a similar support, on the part of the Harper government, for competitive, rather than simply free markets,⁵⁵¹ and, as one would expect, given Mr. Harper’s orthodox training in economics, a natural disdain for oligopolies. The problem, in philosophical terms, for neoliberal adherents, is that competitive markets often require more regulation and state intervention.⁵⁵² Conservative pundits, less concerned with political reality or hypocrisy, such as Terence Corcoran of *The National Post*, not surprisingly, blasted the Harper government for its recent decision in the telecom industry: “This is a mockery of a free-market plan, and from a government that still seems to be a mockery of free-enterprise conservatives.”⁵⁵³

It is, however, our Ontario case study, that offers the most important philosophical challenge to the rise of the ‘New Right’ in Canada. Ostensibly, the reformation of the LCBO by the Harris Conservatives runs counter to many of the tenets of neoliberal philosophy, but, as explained, the action of the Harris Tories made good

⁵⁵¹ Shecter, Barbara ‘Shares of wireless incumbents take hit’ in *The National Post*, 30 November 2007, p. FP1 and FP3 and ‘Question and Answers: Canada is beginning to fall behind: Industry Minister’ in *The National Post*, 30 November 2007, p. FP3.

⁵⁵² Vogel, *supra* note 63.

⁵⁵³ Corcoran, Terence ‘Minister from Quebecor’ in *The National Post* 30 November 2007.

political sense given the particulars of the historical, institutional and cultural context that faced the decision makers. However, and perhaps more likely, our outcome in Ontario might reveals an incomplete embracing of neoliberal principles by the political right in Canada or, at the very least, reveals that some of the ‘red-tory’ vestiges continue to live on in Canada’s political culture and institutions. So perhaps Andrew Coyne is quite right when he declares:

Perhaps we should simply say that the conservative moment has passed in Canada. There was a time some years ago when conservative parties were willing to advocate for smaller government and freer markets, for cutting spending, ending subsidies, deregulating prices and privatizing government services. At the time conservatives believed they were in the vanguard of history. But it appears now to have been a blip.⁵⁵⁴

Mr. Coyne forgets that much of the interventionist ethos that exists in Canada is a result of policies adopted and carried out by Conservative governments. The “tory touch” derived from our (small ‘c’) conservative and monarchial heritage has often resulted in interventionist state policies; it was, after all, Conservatives such as R.B. Bennett that created the CBC and the Bank of Canada in the 1930s.⁵⁵⁵ Strong, interventionist state action has been a part of our history since the National Policy of John A. Macdonald, and a twenty-year onslaught of neoliberal discourse will not serve to dislodge such a fundamental, and indeed, structural, characteristic of Canadian governments. All ideological views must, as some point, bump into political, historical and institutional realities.

⁵⁵⁴ Coyne, Andrew ‘An idea without a party’ in *The National Post*, 16 June 2007, p. A18.

⁵⁵⁵ Tom Traves ‘Business-Government Relations in Canadian History’ in Rea and Wiseman, *supra* note 40, p. 12.

Watching how governments from the right reconcile political and institutional reality with philosophical, neoliberal idealism raises more general issues with respect to the extent neoliberal thought has influenced how governments act in Canada. By and large, neoliberal thought has had a less pronounced effect on how Canadian governments act than it has had in other Anglo-Saxon countries such as Britain, New Zealand, Australia and, of course, the United States.⁵⁵⁶ The divergent outcomes in our two case studies, and in particular, the outcome in Ontario vividly illustrate how provincial contextual variables will mitigate, and in many respects, completely eradicate, the impulse towards standard types of neoliberal reforms. The country's large territory and scant population are two structural reasons for our "public enterprise culture",⁵⁵⁷ in addition to English Canada's tory heritage that – ironically – meshes well its British socialist legacy in that both support a strong and interventionist state.⁵⁵⁸ We live in an "efficient society" where state intervention,⁵⁵⁹ often through public monopolies, is seen as an acceptable and efficient mechanism for governments to use when solving collective action problems. Unlike our American neighbours, we have no historically imposed cultural and political biases against using the state in this manner. At its heart, neoliberalism is an American inspired philosophy. Americans have an inherent distrust of the state, and accordingly, find it less desirable to use the state to solve problems.⁵⁶⁰ The fact that the United States has adopted neoliberal policies and values, then, only reflects a

⁵⁵⁶ Peter Aucoin, *The New Public Management: Canada in Comparative Perspectives* (Montreal: IRPP, 1995) and Pal, *supra* note 55, ch. 5. The adoption of NPM principles can be used as a proxy variable to gauge the degree to which states have adopted neoliberal values. A direct connection between NPM and rational choice literature, which advocates many types of neoliberal-type reform, is made by Savoie, *supra* note 160, pp. 12-13.

⁵⁵⁷ Hardin, *supra* note 45.

⁵⁵⁸ Horowitz, *supra* note 46.

⁵⁵⁹ Heath, Joseph *The Efficient Society: Why Canada is As Close to Utopia as It Gets* (Toronto: Penguin, 2001) Introduction.

⁵⁶⁰ Brands, H.W. *The Strange Death of American Liberalism* (New Haven: Yale University Press, 2001).

change of degree in antipathy towards the state in that country. Neoliberalism exploits an antipathy that was already extant there. By contrast, when Canadian governments attempt to embrace neoliberal-type principles, they are engaged in an attempt to fundamentally change the governing structures in this country, because neoliberalism, in its purest form, calls for the state to withdraw from involvement in all areas where its intervention is not absolutely necessary (who gets to define what types of areas are necessary is, of course, open to question). This tenet runs counter to the political, historical and institutional legacies of this country.⁵⁶¹

Preference Formation: The LCBO and the Market

As stated earlier in this dissertation, our Alberta and Ontario case studies serve to demonstrate the malleable nature of individual preferences. Despite the fact that Alberta and Ontario have adopted radically different systems for distributing alcohol, consumers and stakeholders in each province are, for the most part, satisfied with their respective liquor distribution systems. While both sets of retail systems altered the preferences of consumers, it is in Ontario where this shift is most profound. It is also the case study where efforts to shift preferences were intentionally made by institutional actors. The changes in preferences in Alberta were more of a ‘default’ consequence of the new distribution system, rather than a result of conscious efforts made by the government to shift preferences. The LCBO has altered how individuals view alcoholic products in a cultural and social sense that affected the types of products that individuals purchase and consume. Once thought of as a ‘sinful’ activity primarily engaged in by men, consuming alcohol (so long as it is done in moderation) is today viewed by most Ontarians as a

⁵⁶¹ Wilson, H.T. *No Ivory Tower: The University Under Siege* (Richmond Hill, Ontario: Voyageur Publishing, 1997) p. 13 and 14.

normal component of a healthy middle-class lifestyle.⁵⁶² Any consumer who can recall the LCBO of the mid-1980s and compares it with today's LCBO will appreciate just how much it has evolved as a retailer. It is now an organization that provides high-value for every consumer dollar. Furthermore, even in Alberta, where the government, in its decision to privatize, did not deliberately set out to change consumer's perspectives with respect to alcohol purchasing, the state's reorganization of the marketplace had a tangible effect on the purchasing habits of individual consumers.

The capacity for the state to change how individuals act is remarkable. Think, for example, of how public attitudes and the accompanying rules and regulations have changed in the last twenty years with respect to smokers and tobacco consumption more generally.⁵⁶³ The LCBO was able to alter preferences of individual consumers through a variety of means: advertisements against drinking and driving, the publication of its *Food and Drink* magazine and the improvements to its store networks and staff at its over 600 retail points were some of the methods used. The LCBO made a conscious and long-term effort to change individual perceptions both of the product itself (alcohol) and the manner in which it is consumed. The state's capacity to alter preferences, as revealed in this case study, provides a number of important lessons to any group trying to change social values. The environmental movement, for instance, which at its heart, seeks to convince individuals to make choices that are more congruent with long-term 'sustainable' energy and resource use, needs to appreciate the seminal role that the state can, and indeed,

⁵⁶² Whether or not the actual consumption patterns of individuals in Ontario have changed dramatically is arguably debatable since, as mentioned elsewhere in this dissertation, a relatively small segment of the population continues to consume the vast majority of alcohol. What is key about the shift in preferences is that it has resulted in a shift in how alcohol consumption is viewed by the middle and upper classes. Whether or not actual sales patterns have dramatically changed at LCBO stores in the last twenty years is of lesser importance. It is the perception of alcohol by the politically active middle and upper classes that is critical, and that has led to a more tolerant view towards alcohol consumption generally in Ontario.

⁵⁶³ Bird and Stoney, *supra* note 19.

arguably must play in order for change to occur quickly enough to do the planet any good. Only the state has the full panoply of policy ‘levers’ available to it, including the ability to change rules and regulations. The state is also able to utilize its vast resource base to influence how individual citizens behave.

Ultimately, a significant proportion of what states do through their institutional appendages, rules and regulations is to alter or reorder individual preferences. Such alterations are necessary to ensure that a large and diverse group of individuals, all employed in specialist occupations, can live together in a (relatively) harmonious society. Few theoreticians from the Marxist left or the rational choice right adequately acknowledge the role the state can, and indeed, does play in preference formation. And of those who do recognize it, many are bitterly opposed to the state performing it. In the eyes of the Marxist left, the state generally alters preferences for the purpose of furthering the capitalist system of exploitation. Alternatively, in the eyes of those who have a more moderate socialist perspective, state efforts to alter preferences are seen as paternalistic, furthering elitist notions of power and control. For the rational choice right, which adheres to the view that preferences are constructed exogenously, state efforts to alter preferences inevitably conflict with a citizen’s innate, self-formed sets of desires. True ‘freedom’ is only possible in a society totally governed by the marketplace.⁵⁶⁴ Further,

⁵⁶⁴ There appears to be a number of inherent contradictions embedded in rational choice theorists’ views on preference formation, and the role that institutions play in shaping how individuals act. For example, sophisticated new technology and software has allowed market actors, such as retailers, to gather a host of information on the activity and habits of consumers in their retail stores. Such technology has allowed retailers to track where consumers enter the store, where they go upon entry, and how long they spend in each section. Retailers are able to link this data to the purchases made and, in some cases, are even able to link it to information about consumers’ gender, age and race. Retailers use this information to reorganize their stores and to choose which products they offer – they attempt to alter how consumers think and act in a conscious effort to increase sales. Such actions, or so it appears, amounts to attempts to alter individual preferences and thus, appear to be an admission, on the part of market actors, that preferences are, in fact,

efforts to extol the desirability of using the state to shape preferences will often be viewed, by both left and right theorists, as a dangerous precursor of totalitarianism or a move towards a fascist state and society. However, such views tend to downplay the fact that, regardless of whether one likes or dislikes it, the state continues to play a pivotal role in society and the economy, and that accordingly, one might wish to enlist the state to one's side when trying to create social change. Who could disagree that the state has been used, in Canada at least, to promote the values of ethnic diversity and gender equality through legislation, policies and programs? And who could fail to see the state's efforts in this regard as anything other than admirable? It is often difficult to alter long-held, structurally imposed sets of assumptions. But it can be done, if one utilizes all available tools, including the state, to do so. Public policy, in many respects, is a discipline dedicated to examining the various means by which states control and shape the actions of individual citizens.

The Rise and Fall of Institutions in Canada

In the two case studies, the role that the institution itself played in shaping its fate was pivotal. Both institutions, the LCBO and the ALCB, were able to meet the objectives of their political superiors. This is particularly evident in the Ontario case study, but is relevant in the Alberta one as well (ironically, in that case, in order to fully please its political superiors, those managing the ALCB were charged with researching the political feasibility of eliminating it, and the steps necessary to do so). In Ontario, the LCBO, particularly under the reign of Andy Brandt, was able to understand the needs of its political superiors and, most critically, was able to meet those needs. The most important

inherently endogenous and malleable in nature. See: *The Economist* 'Watching as you shop', 8 December 2007 p. 28 and 29.

needs of its political superiors were for the LCBO to continue to hand over consistent sums of money, collected at a relatively low political cost, to the province's coffers. Obviously, being the seminal wholesaler and retailer of alcoholic beverages in the province of Ontario made it much easier for the LCBO to meet this goal. However, the LCBO implemented a number of programs and policies designed to both insulate its operation (and existence) from public criticism and to curry additional favour with its political masters: for instance, it strove to sell alcohol in a socially responsible manner, sponsored various charitable activities (including a number of activities in support of environmental issues), promoted Canadian made products in general and, more specifically, assisted the Ontario wine and, a little latter, the craft beer industry in their efforts to have their products reach consumers. The LCBO's decision to implement a deposit levy on its products in order to reduce waste in landfills and encourage recycling is yet another example of actions the organization took to maintain good relations with its political superiors. These efforts were undertaken by the LCBO as part of an overall plan to help the government cope with the myriad of problems and issues that they face, at least in the sphere of alcohol distribution. The LCBO was able to consistently please its political masters regardless of their partisan and/or ideological leanings, since all governments value money and assistance in solving the problems confronting them.

The ability of the LCBO to influence its fate and to successfully appeal to the needs of its political masters provides a lesson to leaders of all state agencies, such as hospitals and universities and especially remaining Crown corporations, such as those in the power generation and public automobile insurance sectors. The most critical of all questions these leaders should strive to answer, if they are interested in entrenching or

even expanding their role is: what are the needs of my political superiors, in raw practical, political terms, and how can the institution I run help them to meet their needs and responsibilities? This question, unsurprisingly, will be easier for some institutions to answer than for others, since some institutions are charged with solving much more difficult and expensive collective action problems than others. The LCBO, in many respects, was endowed with a natural set of ‘assets’ that many other institutions lack, on which it was able to capitalize. However, understanding the types of problems that governments face and being able to ‘sell’ the value of your institution to them, often in terms that speak to their partisan or ideological leanings, can greatly help institutions to garner the political support – and resources – they need in order to maintain their programs and infrastructure. All public institutions, in this respect, are in a competitive market in terms of garnering revenues from government, and understanding the needs of one’s political superiors can help institutions to better appeal for moneys, new powers and political support from those that ultimately decide their fates.

Some state institutions have shown themselves more capable of garnering public resources than others. Speaking very generally, among the sets of institutions that have had a difficult time appealing to the needs of their political masters have been social welfare, social housing and public transit.⁵⁶⁵ Despite the fact that these institutions deal with difficult problems, and possess inherently little political appeal, those who lead and manage institutions that deliver these services desperately need to understand the needs of their political superiors. For instance, despite a groundswell of concern for the

⁵⁶⁵ These three problems in Canada have been ‘dumped’ by both the federal, but especially, the provincial governments onto the municipalities without provision of adequate levels of either operational or capital funding. And, they also are a set of institutions that serve, almost by definition, marginal groups, be they immigrants, the poor, students and aged – groups that have a limited degree of political influence.

environment, public transit has not been able to garner much substantial or sustained political support and resources in Canada.⁵⁶⁶ At the federal level, VIA Rail and the Canadian Forces, were, until very recently, state organizations that were unable to garner adequate resources to function even at a minimal level. However, as of mid-2008, they have been able to raise their profiles with politicians and the public and garner more revenues.⁵⁶⁷ Despite a significant round of cuts in the mid-1990s, institutions that deliver healthcare and post secondary education have also been able to garner public resources. Universities, for example, have been able to convince governments that they, through the products they produce, the students they educate and their new (and sometimes commercially successful) ideas are a vital component of the knowledge-based economy.⁵⁶⁸ Police departments, likewise, have been able to expand their budgets by tapping into fears of crime and terrorism. For those concerned with institutions and, perhaps far more importantly, for those who advocate for a strong and interventionist

⁵⁶⁶ The Toronto Transit Commission and OC Transpo, Ottawa's regional transit system, have not been able to garner adequate ongoing (operational) or capital funding. Ottawa's city council, for instance, has canceled a fully funded, ready-to-proceed plan to build a Light Rail system linking the south part of the city to the downtown. This year's budget calls for an increase to transit fares of 7.5%. Things in Toronto are not much better. Despite concrete action taken by all levels of government to build an extension to the Spadina-University subway line, the TTC is in a constant state of financial difficulty and has had to raise fares at rates far in excess of inflation. See: Wieclawski, Tim 'Finding the funding balance' in *The Metro* 13 December 2007 p. 3 and Wattie, Chris and Patrick, Kelly 'TTC fares will rise in November' in *The National Post* 13 September 2007, <http://www.nationalpost.com/news/toronto/story.html?id=a1c2fbc7-b3b6-441d-bc06-9148cf804441> (accessed Dec. 15, 2007).

⁵⁶⁷ Transport Canada, News Release, *Canada's New Government Revitalizes Inter-city passenger rail service in Canada* 11 October 2007 http://www.viarail.ca/investmentprogram/pdf/en_transport_media.pdf (accessed Dec. 16, 2007) and 'Funding our forces', Editorial, in *The National Post* 15 December 2007 <http://www.nationalpost.com/opinion/story.html?id=169847> (accessed December 16, 2007).

⁵⁶⁸ Bird, Malcolm G. 'Intellectual Property, Technology Offices and Political Capital: Canadian Universities in the Innovation Era' in *Universities in the Knowledge-Based Economy: Policy, Regulations and Innovation*, G. Bruce Doern and Christopher Stoney, editors (Toronto: University of Toronto Press, forthcoming) and Bird, Malcolm G. 'Harmful Distraction: the Commercialization of Knowledge at Canada's Public Universities' in *Innovation, Science, Environment: Canadian Policies and Performance, 2007-2008*, G. Bruce Doern, editor (Montreal: McGill-Queen's University Press, 2007).

state, the ability of and the techniques available to public institutions for the purposes of garnering popular and political support are of the utmost importance.

Alberta: A (Mis) understood place

Our Alberta case study both confirms and disputes common stereotypes held about this province. On the one hand, our case study confirms Alberta's fiscally conservative governance regime and its adherence to neoliberal-type reforms. A public entity, the ALCB, was liquidated, unionized workers were fired and a private market was established to do what was formerly being done by a public agency. On the other hand, however, the market that supplanted the preexisting regime was highly regulated, and taxes on alcohol actually increased as a result of the privatization program. The revitalization of ATB Financial, as discussed in the previous chapter, likewise illustrates the somewhat anomalous (and politicized) nature of the decision made by the Alberta government to privatize the ALCB. While Ontario has a history of state intervention in both the economy and society, a strong argument can be made that it is in Alberta, perhaps more than anywhere else in the country, where the provincial state is the most dominant. Alberta, contrary to what many believe, is place of lavish government spending and strong (and growing) state institutions. This is largely due to its strong economy, bolstered by high energy prices, and resultantly healthy provincial finances. Regardless of the causes, however, Alberta has led, and continues to lead, all Canadian provinces in per capita government spending.⁵⁶⁹ Alberta has excellent post secondary and health services, including a recently established, state-of-the-art heart institute at the University of Alberta Hospital. Its post secondary education system, too, is expanding and, in a few years, Alberta will add two new degree-granting universities, Mount Royal

⁵⁶⁹ Dyck, *supra* note 330, p. 576 and Herbert, *supra* note 105, p. 165.

College in Calgary and Grant MacEwan in Edmonton. While other governments eschew funding public transit, Alberta is currently building more miles of light rail, than the rest of the country combined. Its highway infrastructure, likewise, is first-class. Driving from Edmonton's airport to the city center on highway two, one passes under the Gateway Boulevard overpass, a structure that can only be described as a beautiful piece of modern art. Alberta, like the rest of Canada, is a place governed by a strong and interventionist state.

Lauding our Governance Structures

Very few individuals, and even fewer in academic circles, link our natural penchant for state intervention to our high standard of living. Canada is rich, peaceful and pluralistic; its citizens are the envy of the world. How governments decide to distribute alcoholic products is a relatively inconsequential matter, in the grand scheme of public policy. But our two case studies do, however, show that governments and the state apparatuses they control can adapt to the political, historical and institutional variables they face. Mediating differences among stakeholders in the liquor industry and ensuring that consumers have access to alcoholic products is, likewise, also a relatively inconsequential affair. But, the effective operation of both Ontario and Alberta's liquor distribution systems provide a microcosm, an example, of how our states can successfully tackle a host of far more important collective action problems. Education and healthcare are not peripheral to people's lives, but rather, are seminal components of our entire society and economy. The skills of politicians and bureaucrats, and the institutional structures that they operate within are thus the true test of how well our state operates. Organizing markets, enforcing contracts and property rights, collecting taxes,

redistributing resources and, most importantly, enforcing its monopoly on violence and mediating differences between groups to ensure that these differences are resolved through peaceful means are the hallmarks of Canada's incredibly effective state structures.

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