British Columbia's Residency Requirement on Welfare:
A Rational Choice Case Study

by

Amy D. K. Olmstead
B.A. McGill University, 1995

A THESIS SUBMITTED IN PARTIAL FULFILMENT OF
THE REQUIREMENTS FOR THE DEGREE OF
MASTER OF ARTS
in
THE FACULTY OF GRADUATE STUDIES
Department of Political Science
We accept this thesis as conforming to the required standard

THE UNIVERSITY OF BRITISH COLUMBIA
August 1996
© Amy D. K. Olmstead, 1996
In presenting this thesis in partial fulfilment of the requirements for an advanced degree at the University of British Columbia, I agree that the Library shall make it freely available for reference and study. I further agree that permission for extensive copying of this thesis for scholarly purposes may be granted by the head of my department or by his or her representatives. It is understood that copying or publication of this thesis for financial gain shall not be allowed without my written permission.

Department of **Political Science**

The University of British Columbia
Vancouver, Canada

Date **Sept 13, 1996**
Abstract

This paper examines British Columbia’s residency requirement on social assistance implemented by the NDP government on December 1, 1995. The policy created a three-month waiting period for newcomers to the province before they could apply for social assistance. Because it violated the Canada Assistance Plan (CAP), the residency requirement put the BC government at risk of losing, through federal penalty, many millions of dollars more than the intended savings. To explain the BC government’s decision-making, I use a rational choice nested games approach.

I argue that the residency requirement policy produced two sets of interactions in two separate policy arenas. In the principal arena, the British Columbia Social Services Ministry negotiated with the federal Department of Human Resources Development (HRD). The negotiations centred on the possibility of federal concessions in exchange for BC withdrawing the residency requirement. In the secondary arena, the federal Department of Finance was consulting with its provincial counterparts regarding the long-term funding formula for the Canada Health and Social Transfer (CHST) set to replace CAP on April 1, 1996. Social Services interacted with the federal Department of Finance to influence the outcome of the funding decision.

I propose that the BC government risked minimal resources in the primary arena to gain substantially higher payoffs from the CHST funding formula. The government linked these two arenas through a ‘trade-off’ strategy that allowed them to apply the political pressure and communication generated by the residency requirement and negotiations with HRD to the Finance arena. This
enabled them to increase the possibility of a favourable payoff in that arena. I find that the rational choice approach produces an explanation that reflected the government's actual decision-making more closely than other theoretical approaches.
# Table of Contents

Abstract .................................................. ii

Table of Contents .......................................... iv

Chapter One  Introduction .................................. 1
Alternative Theoretical Approaches ...................... 3
The Rational Choice Approach ............................ 17
Methodology .............................................. 25

Chapter Two  Rational Choice in the Residency
Requirement Case ......................................... 31
The Principal Arena: Social Services .................... 37
The Secondary Arena: Finance ............................ 43
Two Arenas ............................................... 45

Chapter Three  Introduction .............................. 47
The Game Begins ......................................... 49
The Finance Arena ........................................ 74
The CHST Allocation Formula Decided ................... 83
The Residency Requirement in Multiple Arenas ....... 86

Chapter Four  A Summary of Findings .................. 90
The Counter Explanations ................................ 92
Evaluation of the Theoretical Approach ................. 95

Bibliography ............................................... 102

Apendix 1  Interviews ..................................... 105
Chapter One: Theoretical Approaches

Introduction

On November 3, 1995, the NDP government of British Columbia implemented a residency requirement on welfare— the first in Canada in almost thirty years. While supported by most British Columbians, a storm of controversy erupted over the policy in the rest of the country. The residency requirement placed a three-month waiting period on new-comers to the province before they could apply for social assistance. The BC government anticipated that the policy would save $2 million a month. However, it went against the conditions of the federal-provincial cost-sharing agreement for social assistance and would likely result in the loss of well over $30 million in federal transfers for the 1995-96 fiscal year. In this thesis, I will attempt to explain this puzzling policy choice.

On the surface, the residency requirement policy could simply be dismissed as a mistake or an imprudent risk. It could also be filed under the category of 'fed-bashing', a popular electoral ploy, or 'province building'. Upon closer examination, these explanations do not reflect the actual decision-making of the BC government. Consequently, an explanation must be found for the choice of the residency requirement that allows a focused examination of decision-making and policy determinants.

Much of the literature on Canadian social policy takes an institutional approach to understanding the timing and content of policy and its development over time. Scholars have revealed how institutions structure roles, information, resources, access to decision-makers, and decision-making processes. Institutions
affect Canadian social policy in systematic and generalizable ways.\textsuperscript{1} Pluralist-influenced approaches have also played a important role in expanding our understanding of social policy development. Neo-Marxists have probed the pervasiveness of capitalist influence on the state. Each approach has something valuable to offer Canadian social policy analysis.

The evidence surrounding the residency requirement policy points to a complex decision-making process influenced by risk calculations, the behaviour of other governments, and electoral opinion. The unique way these and other factors were weighed encourages us to look beyond the above theoretical approaches. I propose an approach that is not yet commonly used in Canadian social policy analysis. This approach emphasizes a key element lacking in the others by centring the theory around a model of human agency. The rational choice framework of policy analysis is based on the premise of government pursuit of policies with maximum electoral utility within the various constraints on its decision-making. I argue that the British Columbia government rationally chose the residency requirement in accordance with preferences determined by the pursuit of electoral success. Lured by the possibility of substantial payoffs in the federal Finance Department's discussions about the Canada Health and Social Transfer funding formula, the BC government sought to use the residency requirement to influence the CHST outcome.\textsuperscript{2}


\textsuperscript{2}The CHST was set to replace the Canada Assistance Plan in 1996-97 and the Finance Minister had to decide by March 1996 on the funding formula to begin in the 1998-99 fiscal year.
In the next section, I will briefly review the alternative theoretical approaches, some of their contributions to the study of Canadian social policy, and show why they are sub-optimal theories for analyzing the residency requirement policy. Then, I will explain the rational choice approach to identifying government policy preferences and explaining decision-making.

**Alternative Theoretical Approaches**

Perhaps the least useful theoretical approach for examining the residency requirement is neo-Marxism. In neo-Marxism, the state is considered the instrument of the dominant capitalist class. State policy is used to benefit capitalism directly, through policies that preserve or promote the conditions favouring capital accumulation or indirectly, through policies that grant some concessions to labour, to preserve the long-term stability of the capitalist order.³ Broadly considered, government policy is the product of society's class struggle.

Neo-Marxism's application to the residency requirement case is limited. The residency requirement amendment is merely a minor component of Canada's social policy. In addition, a residency requirement has conflicting effects on capitalist interests. It restricts the mobility of labour and thus acts against the interests of business by diminishing the labour pool available to it. At the same time, it reduces the costs of social programs and therefore has a favourable impact on the tax burden carried by the corporate sector. In the end, the policy change may simply be too small to be evaluated using neo-Marxist theory.

In Canada, pluralism has an important place in public policy

---

analysis. The mainstream of pluralist debate views the public policy process as a set of interactions between government and society where government is typically unable to overcome the multiplicity of societal constraints on its behaviour. The American school, dominated the development of pluralism. It proposed an atomistic view of groups with one-on-one relationships with government and which grew and weakened in response to environmental change. The Canadian approach has evolved differently.

Presthus' accommodation theory proposed that "policy decisions are the result of negotiation and consultation among elites", with elites defined as legislators, top bureaucrats and private interest group leaders, with resources and interest in a policy area. Government is not a simple 'cash-register' (as some of the American literature of the time suggested); it has its own interests stemming from the desire to maintain power and from its significant and unique resources.

Building upon this "partial theory" of interest group behaviour and criticising some of the characteristics of the earlier American theories, Paul Pross developed a theory of policy communities. The policy community (made up of relevant government agencies, institutionalized interest groups, and the attentive public) has the dominant voice in determining policy due to its

---


functional responsibilities, vested interests and specialized knowledge. In his theory, the state has long-term influence and is more autonomous than other actors but is not consistently dominant over them. Pross has constructed a powerful, if not uncontested, tool for understanding policy development.

Pross argues that the policy community model is prevalent in policy development, although to different degrees in various Canadian governments. Certain types of policies are more likely to be influenced by interest groups than others. The origin of a policy and the nature of its impact are key factors in determining the role of interest groups. Interest groups are more likely to have established relationships with bureaucracies than with cabinet and therefore they generally have a greater ability to influence long-term policy trends deriving from bureaucratic initiatives. In addition, policy that is intended primarily to respond to social problems or flaws in existing policy is more likely to be influenced by knowledgable interest groups than policy intended as a tool for broader political purposes.

The residency requirement, I will argue, was a policy created as an instrument to address a policy area beyond the issue of migrants applying for welfare. As such, it was not simply intended as a response to the problem its content appeared to address (the cost of new-comers applying for BC social assistance) because it was used in a specific way to address broader issues of social assistance financing. The policy demonstrated that the state possesses its own interests and pursues activities not open to

---

7Pross 98.
8Pross 241.
interest groups or opposition parties.\(^9\) The policy was not the product of an evolutionary bureaucratic process and was only a sub-optimal remedy to the social and fiscal problem it most directly affected (migration and escalating Social Services costs). Most importantly, as I will show in Chapter Three, the case for using a neo-pluralist model to examine the determinants of the residency requirement is hampered by the lack of interest group activity in its development.

The institutional approach has been the dominant one in social policy analysis in Canada. By a variety of scholars, institutions have been attributed great influence in Canadian social policy. Institutionalism differs from pluralism and Marxism in that the state, through the institutions that create and maintain it, can be accorded a significant degree of autonomy from society. However, autonomy is not the crux of the debate between these theories. It is more useful to focus on which variable is to be the theoretical starting point and, consequently, which one shapes and influences the other variables.\(^10\) Due to the resources, pervasiveness, and longevity of the various institutions of the state, many scholars have tipped the balance of influence as a starting point for analysis in its favour.

To fully understand policy determinants, the institutional approach deems that "you must pay attention to the manner in which the political system is organized to produce policy outcomes".\(^11\)

\(^9\) Nordlinger 882.

\(^10\) Nordlinger 876.

By structuring the decision-making process, institutions affect interest group access to policy decision-makers; the interests, incentives and preferences of individuals; the type and amount of resources available to actors; the patterns of interaction among actors; and the accumulated norms and perspectives of in-groups.\textsuperscript{12}

In short, institutions influence the content of policy, although the causal relationship is neither simple nor uni-directional.

For example, the institutional structure of federalism has an impact on social policy by affecting the interests of decision-makers and their preferences over time. It has also been attributed the power to influence policy scope and redistributive impact, the timing and speed of implementation, accountability, and the balance of interests that shape policy.\textsuperscript{13}

Michael Atkinson identifies three variants of institutionalism - rational choice, structural, and organizational. The theoretical approach Atkinson labels 'rational choice institutionalism' is different from the rational choice approach I will be using. His variety of rational choice examines only the institutional constraints on rational decision-making, and therefore has a different focus and narrower scope than the approach I label rational choice. I will only review the rational choice and structural variants here because between them they illustrate the explanatory abilities of institutionalism. These

\textsuperscript{12}Pal, \textit{State, Class and Bureaucracy}, 4-11.

\textsuperscript{13}Frederick Fletcher and Donald Wallace, "Federal-Provincial Relations and the Making of Public Policy in Canada," \textit{Division of Powers and Public Policy}, Richard Simeon, research coordinator, (Toronto: University of Toronto Press, 1985), 134-5.
two prominent variants can be combined in different ways to produce other institutional variants.

In the first variant (rational choice institutionalism), institutions are structures made up of negotiated rules that constrain the behaviour of individuals with preferences, which are considered to be independent variables. Individuals seek to maximize their preferences within procedural rules which allow for collective action. Institutions are "congealed power relationships" and policy outcomes are determined by accountability rules, agenda control, access to resources, and opportunities for intervention in decision-making. A number of stable policy outcomes (driven by different preferences) can be produced from a given institutional arrangement. While this variant provides a good theory of the evolution from preferences to policy, it is relatively silent regarding the origin of those preferences and what end they are used to attain.

In the second variant (structural), the structure of institutions (including formal structures and informal rules and norms) are examined for their ability to transform preferences and beliefs. Over time, institutions are able to influence preferences, and therefore policy outcomes, in specific directions. The focus of study is often on the relationship between a given institution and the ideas and preferences that accompany it. This type of analysis is often accompanied by the normative objective of moulding an institution to achieve the desired policy outcome. The emphasis on institutions such as federalism means that

---

14 Atkinson 30.

individual decision-makers tend to get lost and institutional change can be difficult to explain.\textsuperscript{16}

One difference between the first and second variants of institutionalism rests in the type of power possessed by institutions. In the first, institutions create contractual relationships and responsibilities that allow or promote certain types of collective action and in the second, institutions have the power to transform preferences and beliefs.\textsuperscript{17} In the first, the weight of history has little bearing on current preferences while in the second the power of the institutions comes in part from values transmitted through time and accumulated policy outcomes. In the first, sources of government policy preferences are not explained. In the second, institutional and policy change are difficult to explain.

Structural institutionalism has had a large impact on the analysis of social policy in Canada. Alan Cairns, for example, has stressed the ability of government to shape society through the definition of decision-makers' roles and through the preference of some values, priorities, cleavages, interests and actors over others.\textsuperscript{18} Calling the historical weight of institutions "generational imperialism", Cairns examined the impact of federalism on Canadian political culture, identities and policy development.\textsuperscript{19}

\textsuperscript{16}Atkinson 31-4.
\textsuperscript{17}Atkinson 27.
\textsuperscript{19}Cairns, "Author's Introduction," 18.
For example, in "The Government and Societies of Canadian Federalism" published in 1977, Cairns argued that provincial governments created by the division of powers in 1867 have developed into actors intent on expanding their resources, power, jurisdiction, and distinctive provincial identities. The general impact has been to make provincial interests dominant over other political actors in policy formation (like labour), to reduce the coordinating ability of the federal government, and to impede policy cooperation in the face of recognized social problems.\textsuperscript{20} A normative thrust was evident in many of Cairns' structural institutional analyses. In "The Other Crisis of Canadian Federalism" (1979), Cairns named this institutional structure as a factor in the declining capacity of the government to attain public goals.\textsuperscript{21}

Institutionalism places a great emphasis on the constraining role of institutions in ruling out certain policy options. In this case—where an institution had been violated for the first time in thirty years—institutionalism can provide valuable insights. The institutional arrangement created by CAP had successfully prevented provincial residency requirements, once relatively common, by provinces since 1967.\textsuperscript{22} Indeed, only one other violation of any

\begin{footnotes}


\end{footnotes}
CAP rule has been noted.\textsuperscript{23} Theoretically, the rare violation of an institutional rule can serve simply to underline the importance of that rule.\textsuperscript{24} Consequently, evidence of a contravention of CAP and of a nation-wide commitment to voluntary labour mobility does not necessarily rule out such an institutional approach as a useful explanation in general, but it does rule it out in the residency requirement case. Alternatively, with institutional change from CAP to the CHST on the horizon and with a great deal of institutional uncertainty, policy that violated existing rules would not necessarily be surprising. A rational choice institutional approach could reveal what objective a government could be pursuing during institutional upheaval that would cause it to break one of the existing rules.

The institutions of federalism and bureaucracy have played key roles in the analysis of social policy, although there continues to be disagreement about the precise nature of their influence. The treatment of the two institutions provides important background for anyone attempting social policy analysis in Canada. I will examine several studies in order to more closely examine how neo-institutionalism has contributed to our understanding of Canadian social policy.

The bureaucratic structure in a given policy area has been identified by Canadian scholars as an institution with generalizable effects on policy. Leslie Pal, for one, has proposed that the bureaucracy structures such variables as relationships


\textsuperscript{24}Atkinson 31.
between agencies, access to resources and information, and the creation of particular in-groups which allow experts within the bureaucracy to largely determine the nature of policy.\textsuperscript{25}

Pal examined the development of the Unemployment Insurance policy and found that it was dominated by the bureaucracy. It structured the availability of information, resources, and expertise in a way that allowed a small group of experts to determine the bulk of the policy. Factors such as organizational ideology and the primacy of inter-agency conflict (as opposed to agency-interest groups relations) allowed policy decision-making an important degree of insulation from social and political interests. It also created a large degree of continuity over time in policy content. The policy preferences of the experts were independent variables in this case and program development demonstrated the autonomy of the state from competing social interests.\textsuperscript{26}

Keith Banting has argued that federalism as a contractual relationship between governments has constrained the growth of social security spending, and has created an elite-dominated, insulated decision-making process requiring high levels of consensus.\textsuperscript{27} Others argue that two levels of government actually increase access to political decision makers and, hence, policy influence. In addition, two levels of government competing against

\textsuperscript{25}Pal, \textit{State Class and Bureaucracy}, 171.


\textsuperscript{27}Banting, \textit{The Welfare State}, 115 and 175-7.
each other for power, jurisdiction, and resources may produce a larger public sector and greater policy innovation than a single level of government. Persuasive arguments have been made for both cases.

In his study of the Canada Pension Plan in particular, Banting emphasized the influence of the institutional structures on the decision-making process. Federalism as divided authority slowed the pace of policy development by creating a process dominated by competing governmental interests. In addition, the bureaucratic processes constrained public access to decision-makers and directed the influence of ideological forces underlying pension policy.

The Canada Assistance Plan (CAP) has been studied for both explanatory and normative purposes. In his 1983 study, Derek Hum concluded that the divided fiscal and policy jurisdiction for social assistance produced by the institution of CAP prevented provinces from making certain qualitative changes to policies. He found that provincial initiatives that attempted to respond to the problem of poverty among the working poor by extending social assistance programs were blocked by the institutional arrangement with the federal government. CAP had the power to constrain policy options.

From this brief examination, the primary weakness that emerges

---


29Banting, "Institutional Conservatism," 69.


31Fletcher and Wallace 140.
from the above institutional approaches is the lack of explanation of why actors are motivated to act and how motivation is related to policy outcomes. While structural institutionalism attributes government policy preferences (in a circular way) to the institutions themselves, the first variant treats them as independent variables. In Hum's analysis of CAP, the factors that produced the provincial government's preference to act for the working poor, an independent variable, were generated by a process specific to that particular policy. In Pal's study of UI, he mentioned that at certain points in the process, decision-makers were sensitive to the public mood. At the same time, the public's effect on decision-makers' incentives to act and government policy preferences was not integrated into a causal relationship with policy outcome. Banting was more candid about the explanatory limits of the institutional approach. He admitted that although institutions are "the key influence of the politics of pensions", they do not determine basic principles. Several years later, he concluded that institutions are not the most important determinants of social policy in Canada.

Unfortunately, neither neo-institutional variant provides adequate tools for the analysis of decision-making in the residency requirement case. As a result, possible counter explanations derived from them are persuasive but upon closer inspection are not convincing, a point to which I will return in the final chapter.

---

33 Banting, "Institutional Conservatism," 62.
34 Banting, "Institutional Conservatism," 69.
For example, a Cairns-type structural institutional argument could explain the policy as a product of the tradition in BC of bombarding the federal government with economic claims as compensation for long-term federal discrimination. The NDP government in British Columbia inherited a place in an institutional structure which transmitted government policy preferences for province-building and fed-bashing. These preferences may have been enough to have produced the residency requirement policy.

Alternatively, the BC government's actions could be explained as a response to institutional uncertainty, as I mentioned above as a possible rational choice institutional perspective. The termination of CAP and the uncertainty surrounding the principles and funding of the CHST could have motivated the BC government to break existing rules to influence institutional change. These factors were cited by BC during the period under examination, although there were many others.

Using a non-institutional rational choice approach similar to the one I propose, one could also posit that the financial costs of the policy were so minimal in comparison with the overall budget of the province and with government spending prior to an election that the policy's political advantage itself may have outweighed the costs. Powerful public rhetoric, high profile policy statements, and dramatic confrontation in the months prior to the election were purchased at the relatively small cost of $39 million (money that did not come out of campaign funds). Considered this way, there really is no policy puzzle at all.

While each of these explanations, on the surface, removes the puzzle, they are not consistent with the BC government's decision-making on the issue. The problem with explanations driven by other theoretical approaches boils down to the absence of a causal chain of relationships that begins by explaining the incentives of government policy preferences and ends with the policy outcome. Certain policy trends or general policy direction may be identified as the product of institutions, but in operational terms policy is the product of individuals weighing preferences.\(^{37}\) For individual policies, it is essential to examine how and why government policy preferences are ranked and to what end. When considered in this way, institutions play a more marginal, less than determining role in the generation of government policy preferences and proposals.

One likely incentive to government behaviour, public opinion, is alluded to by some institutionalists but denied habitual influence on government policy preferences and policy outcome. This is true even during election periods, where we find clear examples of how the desire to win elections influences parties to publicize policies that appeal to a plurality of the electorate.\(^ {38}\) Although its influence varies with timing and the size and nature of policy, electoral considerations must underlie policy decisions in a democracy, according to rational choice. A theory must be able to incorporate the electorate into the policy process.

In sum, the explanation of how and why a certain policy is chosen must include an explicit causal process between the electorate, incentives, government policy preferences, constraining

\(^{37}\)Almond 858.

\(^{38}\)Banting, "Institutional Conservatism," 59.
variables, and policy outcome. While institutional variables are
a relevant part of this explanation, they are not the most
productive starting point for analysis. I propose that the
rational choice explanation of policy formation is capable of
uncovering the determinants of the residency requirement policy by
bringing to light the incentive structure and decision-making
process that produced it.

The Rational Choice Approach

The rational choice approach to policy analysis rests on a
micro-analytical explanation of policy formation. The unit of
analysis is the individual decision-maker and the starting point
is the manner in which she makes decisions. In this approach,
politicians' policy preferences are driven by the pursuit of
electoral victory. A government or party chooses policy
preferences to best achieve this primary objective and a government
implements policy preferences within institutions that structure
interactions with other actors. In this way, rational choice can
be considered a synthesis of neo-institutional variants and neo-
pluralism since it recognizes the influence of institutions and
other actors, including interest groups. More importantly,
rational choice takes the independent variables of public
preferences and creates a causal relationship, through desire for
electoral support, with the dependent variables of government
policy preferences and decision-maker actions.

In this section, I will examine the key aspects of rational
choice for the following analysis of the residency requirement.
First I will consider the relevant actor under examination and what
drives its behaviour. Next, I will review the relationship between
the voter and government decision-making, including the role of
ideology. Then, I will examine the institutions and other actors that influence BC's decision-making through strategic behaviour.

The decision-making unit is an individual or a group that acts as a team. In a parliamentary system, this team is the government (represented by cabinet). 39 In different policy areas, the decision-making team can be represented by a variety of like-minded individual actors. The decision-maker has a rational, consistent ordering of preferences that will produce policy designed to maximize the votes of individuals seeking to maximize their utility income. 40 The party pursues first election and then, as the government, pursues re-election. Through the instrumental act of voting, electoral competition creates a causal relationship, with intervening variables, between voters' utility calculations and policy. 41 To act rationally, the government must make the "optimal adaptation to an institutional environment" where "the interaction between individuals is assured to be an optimal response to each other." 42 This requires strategic behaviour, including the weighing of risks produced by the possibility of other actors' behaviour (an independent variable). 43 Under analysis is the rationality of the decision-making, not the

40Downs 31 and 37.
41Downs 31.
42George Tsebelis, Nested Games, (Berkeley: University of California Press, 1990), 40.
eventual success of the actor's chosen policy course.\textsuperscript{44}

Actual policies are typically only partial alterations to previous policy. This allows parties and voters to measure only the marginal impact of policy on expected utility, a simpler calculation than the alternative.\textsuperscript{45} When calculating the expected utility of future policies, voters compare the governing party's past policy and promises for the future against opposition parties' promises.\textsuperscript{46}

Rational choice theory emphasizes the role of the marginal voter in determining election outcomes, and hence the role of the marginal voter in the creation of government policy. In order to simplify this component of policy decision-making, I will consider the marginal voter to be the median voters in the middle class. I will assume that low income earners tend to vote for left-of-centre parties and high income earners for right-of-centre parties.\textsuperscript{47} In BC, the post-1952 party system has been dominated by one party on each side of the left-right political spectrum, making it not a gross distortion to assume that the median voters in the middle class are the determining voters in election outcomes.

Another factor that must be considered regarding electoral competition is the time frame voters use when determining which party offers the preferred combination of policies. There is no

\begin{thebibliography}{9}
\bibitem{44}Downs 6.
\bibitem{46}Downs 52-4.
\end{thebibliography}

definitive answer here, but there is agreement that when voters measure expected utility, past policy performance has a large impact on their calculations.\(^{48}\) How far in the past voters remember depends on the theorist's conception of the forgetfulness of the voter. Government behaviour shows that governments believe that voters remember the months or year before an election much more clearly than the year or two after an election.\(^{49}\) We see this when new governments implement the most unpopular policies in the year after election and announce highly popular ones in the months before an election. Voters often appear to validate the assumption by re-electing first-term governments that behave this way. Without conclusive evidence, we will assume that voters remember more clearly, and are thus more influenced by, the events in the year up to the election than by the year after the previous election.

We must also examine which policies influence voters' utility calculations. Again, there is no clear agreement on this point. Today, the issue cleavages in society are cross-cutting and few individuals will weigh the same policies in the same way. Much of the literature argues that fiscal policy has the greatest impact on voter utility calculations.\(^{50}\) Policies regarding unemployment, interest rates, spending levels, economic growth rates, and tax levels affect the economy in ways that directly and visibly erode or bolster the quality of voters' lives through income, possibility of employment, and costs of living. We will assume that fiscal

\(^{48}\) Mueller 299.

\(^{49}\) Mueller 286.

\(^{50}\) Mueller 277-8; Peterson and Rom 56.
policy has the greatest impact on utility calculations.

Social assistance policy and the amount of resources devoted to it affect many of these fiscal variables. Voters, consequently, have reason to consider social assistance policy closely when calculating expected utility paths for various parties. This makes a more explicit connection within rational choice between social assistance policy, which does not affect each voter directly in the form of benefit cheques, and each voter's preference calculations.

On the policy proposal side, the variety of spending options for potential governments are limited at a given time by a narrow spectrum of possible available resources. When parties court the same voters, the policy proposals can narrow even more. This makes it difficult for parties to produce distinctive and more popular policy platforms than their competition. In contrast, substantial electoral advantage can come from the creation of economic growth or new resources without taxation.\textsuperscript{51} For provincial governments, the federal government is a significant source of revenue and revenue possibilities.

When formulating policy and ranking policy preferences, the government is acting under conditions of uncertainty which constrain its behaviour. Information is costly regarding public preferences, the future actions of its competitors and other government actors, and election outcomes. Voters also act under conditions of uncertainty. The costs of information are high and the future behaviour of the chosen government is unknown.

Ideology is an important variable in the relationship between government, parties, and voters. While party behaviour designed

\textsuperscript{51}Mueller 278.
to maximize votes would suggest a uniformity among party platforms, that is not what we see. Instead, ideology continues to play a role in determining policy. Ideological positions are produced by the need for distinction and the need to cut the costs of information gathering for parties and voters. In this sense, ideology is a dependent variable.

Electoral competition means that parties must differentiate themselves in a meaningful way or voters will lack the incentive to choose between them. Under conditions of costly information, some voters will vote ideologically instead of by performing utility calculations. This short-cut is rational as long as the behaviour of parties is different from each other and that difference is consistent with their respective ideologies. Evidence exists that in systems where the left-right ideological dimension is significant, parties take different approaches to economic policy, including social assistance. Keeping policy consistent with ideology also allows short-cuts for the party because it does not need to perform voter opinion polls for each policy.

The need for consistency means that a party will create a flexible but coherent ideology which allows it to attract the plurality of a population divided into social groups. The tension between social groups, between labour and capital or between poor and rich for example, prevents parties from appealing to all groups

---

52 Tsebelis 156.


54 Downs 97-9.
simultaneously. Uncertainty regarding the exact nature and numerical strength of each shifting and cross-cutting social group, the need to distinguish itself from other parties, and cost-cutting help prevent the convergence of ideologies.

However, it would be misleading to suggest that ideology is simply a dependent variable, created based on public preferences. In its ability to constrain policy shifts, the weight of ideological tradition can also make it an independent variable at any given time. The ideological inheritance can sometimes be problematic for parties. Ideologues who join political parties may push ideological positions that may be unpopular among the electorate because of preference for policy purity over electoral victory. Ideological inertia or lag can also produce ideological positions, and policy consistent with it, that are politically unpopular. As seen above, several ideological positions - no matter what their origin - can be electorally competitive at the same time due to uncertainty. Holding an unpopular ideological position temporarily can also be rational because long-term competitiveness must be taken into consideration as well as short-term. Since distinguishable ideologies are important over the long-term, maintaining a consistent ideology is valuable enough for the future to subsume a short-term reduction in electoral competitiveness. In the long run however, parties that

---

55Mueller 290.
56Downs 100-2.
57Downs 97.
58Tsebelis 156.
59Downs 112.
consistently choose unpopular ideological positions will cease to play an important role in electoral competition and voters' utility calculations.

Other actors also constrain decision-making. Rarely does an actor have complete control over the behaviour of actors with whom it interacts, and consequently, complete control of the outcome of policy decisions. Policy is used strategically by the government to attain its desired ends. The government pursues electoral victory in relation to other parties who affect the government's preferences, options and choices. The government is linked to other governments through federalism generally and through specific institutional arrangements in different policy areas.

Competition with other parties for electoral victory is structured by electoral laws, the most significant of which is the first-past-the-post system in Canada. This and multi-party competition mean that a party only has to win a plurality of seats to gain power. Other relevant electoral variables structuring electoral competition are non-periodic elections and spending limits.

The above provides an outline of the rational choice approach I use in this study. In addition, I propose that the most fruitful way to understand the B.C. government's implementation of the residency requirement is as if it were engaged in a nested game in multiple arenas. In such a game,

the observer considers the game in the principal arena without taking contextual factors into account, whereas the actor perceives that the game is nested inside a bigger game that defines how contextual factors (the other arenas) influence
his payoffs and those of the other players.\footnote{Tsebelis 8.}

Briefly, the payoffs in the principal arena (the Social Services arena) were determined by the events in the secondary (Finance) arena. To the observer, the nature of the relationship between the two arenas might not be fully visible.\footnote{Tsebelis 10.} However, the government clearly intended the residency requirement policy to have an impact in both arenas. Once this relationship is identified, the impact of the relevant institutional context on the decision-making process of the BC government can be evaluated. Rational choice allows the residency requirement to be explained as the product of the government decision-making process which is the result of a causal relationship between public opinion, other actors, institutions, and government preferences and actions.

\section*{Methodology}

The residency requirement policy appears to be an appropriate case for the application of a rational-choice based analysis. The policy was not a product of the bureaucracy which means that policy stimuli can be more simply linked with the decision-maker (cabinet). In addition, the relevant institutional variables and policy stimuli can be identified in communications between the relevant actors. The proximity to an election and the high visibility of the policy means it was likely that the residency requirement was considered carefully for its impact on electoral
competition. Each of these factors makes the residency requirement an appealing subject for rational choice theory.

Critics of the rational choice approach alert students to certain problems within the theory. Two primary concerns are whether rational choice produces tautological explanations and whether policy decision-making can actually be considered rational. As Brian Barry and others have pointed out, rational choice explanations of policy decision-making can be in danger of being tautological and explaining a situation merely by redescribing it. Downs himself recognized the error of falsely attributing rationality to an actor without a rigorous application of the conditions of rational behaviour.

The potential of reaching a tautological conclusion is even greater with a nested game—the type of rational choice approach used in the following case study. In an attempt to demonstrate that a particular political action fulfils the conditions of rationality, it may be tempting to search the surrounding political environment for factors which tip the utility calculations in favour of rationality. Tsebelis makes an important theoretical distinction when he argues that a nested game is the recognition of the institutional context that is consistent with the actor's own perspective, not simply an arbitrary shift of the examiner's

---

62 This is, of course, something which must be determined, but the likelihood is strong.


64 Downs 6.
sphere of observation. The adherence to process-tracing methodology, aided by careful examination of the actor’s communications, will hopefully strengthen the legitimacy of the causal relationship in a nested game to prevent a tautological or spurious conclusion.

The process tracing method of analysis is particularly useful for this single-case study where I will not engage in prediction but will use a model to guide analysis. What is being examined in this case is the rationality of the residency requirement policy; that it confers enough benefit on the government to compensate for the risks and losses. Without the benefit of comparison with other cases, the determination of causal relationships between dependent and independent variables requires that a theory be used to evaluate the outcomes "on the basis of specified initial conditions". The requirements of rationality as set out by Tsebelis will be used to establish the conditions of inquiry and define the characteristics of a rational policy decision-making.

Tsebelis proposes strong and weak requirements of rationality which I will adopt to measure the actions of governments as they pursued re-election. Tsebelis’s weak requirements of rationality are straight-forward. To conform to the weak requirements of rationality, an actor’s beliefs and preferences must be consistent, not contradictory and preferences must be

65Tsebelis 7.


67Tsebelis 24-30.
transitive. In addition, the actor must seek to maximize the expected utility of electoral gain she will derive from an event or action. The actor would be willing to pursue an event if the expected utility multiplied by the expected probability of it occurring is equal to or larger than the costs multiplied by the probability of the event not occurring. These all refer to the actor's beliefs only at a given moment. As information changes an actor will alter her preferences, beliefs and probability calculations.  

Because this analysis does not utilize formal game theory, we will not employ the strong requirements of rationality because they are based on behaviour in equilibrium. This is a reiterated game and actors were able to act after seeing the behaviour of other actors. While interests, probabilities of action, and payoffs can be identified, incorporating them into a formal game theoretic structure is beyond the scope of this essay. However, the essence of the strong requirements of rationality is useful because it "establish[s] a correspondence between beliefs or behaviour and the real world." Preferences, probability calculations and beliefs about other actors must approximate reality if actors are to undertake any activity with more than a blind reliance on luck. It is also the foundation for the usefulness of rational choice as an ideal-type model. For the purposes of this case, the amount of communication, the familiarity of the actors with each others' behaviour and interests, and their access to information initially

---

68 Tsebelis 24-7.

69 Tsebelis 27.
bolsters the presence of strong rationality. This will be revisited in the concluding chapter.

The conditions established by rational choice theory as articulated above will form the conditions of analysis. The path of rational government action will be set by the requirements of rational decision-making within the framework of a multiple arenas nested game. Government decision-making will be compared with the decision-making of an actor under the conditions of rationality to determine if the government itself acted rationally.

Finally, it may be asked whether governments actually behave in the way that rational choice theory suggests that they do. There is evidence to suggest that when deciding on policy cabinet considers the policy's popularity, its timing, its ideological consistency, and the behaviour of other governments and parties. However, it is important to remember that rational choice is simply an ideal-type or analytical model and is not a reflection of reality, although I argue it is a more accurate reflection than other theories.

One can argue, as Downs does, that "theoretical models should be tested primarily by the accuracy of their predictions rather than by the reality of their assumptions." I believe that the usefulness of rational choice for understanding Canadian public policy is dependent upon how closely, and under what circumstances,

---

70 New Brunswick cabinet minister, confidential personal interview, June 1996.

71 Almond 854.

72 Downs 21.
government decision-making actually approaches the conditions of the theory. It would be futile and mis-directed to attempt to show that there is a perfect match between theory and reality. However, I hope that by applying rational choice to this particular case of government decision-making, we can learn something about how governments do behave.

In the next chapter, I will examine the independent variables which affected the BC government's residency requirement policy. These include ideology, other parties, other governments, the public's preferences, and relevant institutions. I will also present a sketch of the Canada Health and Social Transfer discussions and of the BC Social Services Department, including the financial pressure it was under and earlier NDP attempts at social assistance reform. I will conclude with a brief look at the relationship between the two arenas under consideration.
Chapter Two: Framework and Background

In this chapter, I will examine more closely how the conditions of the rational choice theoretical model apply to the residency requirement policy. I will analyze the electoral situation, relevant institutional structures and government actors, and the role of ideology in BC politics. I will also provide a picture of the pressures for policy initiatives in the Social Services Department and the forces at work in the Canada Health and Social Transfer discussions. In BC, the situation in Social Services provided the impetus for the BC government to reform social assistance according to its own preferences. The residency requirement was a part of these wider reforms. Lastly, I will present a general outline of the application of nested games theory to the two arenas (Social Services and Finance) affected by the residency requirement policy.

Rational Choice in the Residency Requirement Case

In this case, the actor in question is the cabinet of the NDP government in British Columbia which was seeking to retain power in an election less than a year away. During the fall of 1995 and prior to the announcement of the residency requirement, it was speculated that the government would soon call an election. The election was not called in the fall but the government (and the public) knew that there would be one within a year, as per electoral laws. Because of the proximity of the election and the place new policies would have in electoral competition, the policies announced during and after this time had increased significance for voters and the government.

The BC government acted as a decision-making team with two
sets of actors— the Social Services Department and the Finance Department. The BC government dealt with three other sets of actors in this case— the parties competing with it to form the government, voters, and other governments. There was no interest group involvement.

The BC government was linked with these actors through a set of institutions that constrained its behaviour. The BC government has been linked by federalism for over a century of policy interaction to the other provincial governments and the federal government. In the social assistance field, the Canada Assistance Plan linked these governments in policy development and financing for social assistance. CAP structured the quality of relations and processes of interaction between the actors. The interaction with other governments influenced the benefits and costs borne by the BC government. Because of this, the government had to formulate preferences for action with respect to other governments' behaviour within the constraints of federalism and CAP.

The government woos voters in competition with other parties through the electoral system. The BC government attempted to mitigate the uncertainty of electoral support and public preferences through polls and like its main competition, the Liberal Party, it vied for the support of the large middle class.

Ideology has played an important role in past electoral competition. There had been a left-right ideological divide in BC politics since 1952. There had been one main party on either side of the centre line and several other small parties between the centre and the right during that period.¹ Predominantly a two-

party system, no party had formed a government except the NDP or Social Credit. These conditions held after the defeat of the Social Credit party in 1991, except that the Liberal Party had moved to replace Social Credit, ideologically and demographically, as the dominant party on the right.\textsuperscript{2}

Like rational choice theory suggests, ideology has served as an important tool in distinguishing the parties from one another. The consistency of the ideological positions of the NDP and Social Credit parties has helped voters cut the costs of gathering information. The recent changes on the right (most importantly the competition between the Liberals and the Reform Party) erode some of the cost-cutting advantage overall. However, the NDP still benefits from its unique centre-left ideology since its competitors are clustered to the right of centre.

The institutional context for the interaction between BC and the other governments in social assistance was the product of the Canada Assistance Plan. CAP was created in 1967 and was the outcome of a long set of sometimes contentious negotiations between the federal government and the provinces. Some provinces, like British Columbia, were reluctant to enter into an agreement that constrained their policy-making power. The residency requirement condition was a particularly contentious issue for BC. The province had used residency requirements frequently in the past due in part to its long-time popularity as a destination for unemployed Canadians.\textsuperscript{3}

\footnotesize\textsuperscript{2}Donald Blake, "Parties and Elections," (unpublished draft July 1995), 10 and 17.

\footnotesize\textsuperscript{3}Lesley Bella, "The Provincial Role in the Canadian Welfare State," Canadian Public Administration, vol. 22 (1979): 450.
CAP instituted a hierarchical relationship between the federal and provincial governments. It made the provinces dependent on Ottawa for funds at the same time as they were constrained by federal regulations in their capacity to respond to fiscal pressures. Under CAP, the provinces were incapable of dictating the nature of federal participation, as demonstrated by the cap on CAP implemented in 1990-91 and the program's termination in 1996. The cap on CAP reduced the amount of social assistance spending for which Alberta, Ontario and British Columbia could claim 50% federal government support. It imposed a ceiling of 5% on the annual increase in federal CAP payments to these provinces. The 'have' provinces resented the cap and, as the federal government tightened its spending in the 1990's, the hierarchical relationship increasingly became a hostile one.

The joint responsibility for social assistance created by the federal CAP agreement also acted as an institutional constraint on welfare reform. The two sets of partially independent actors often had differing policy objectives, which made acting on internal reform pressures difficult. The institutional structure also shielded social assistance policy from external demands for change.⁴ In addition, CAP divided the provinces between those who were willing to maintain the current arrangement of federal influence in order to secure federal funding and those who claimed that the continued federal policy role was impeding the effectiveness of social assistance reform. Because of inter-provincial dissent and policy overlap, only incremental program change occurred in the face of social and fiscal dynamics in the

1990’s. The reduced influence of the federal government due to its diminishing transfers reduced its ability to coordinate the restructuring of the social safety net required by government deficits and new socio-economic conditions. As a result, the federal government terminated CAP with only a skeletal national social assistance program to replace it.

Relations between BC and other provinces prior to CAP were not harmonious due to the spill-overs generated by social assistance policy. The most visible spill-over is the migration of social assistance recipients provoked (in part) by variable benefits between provinces. The BC provincial government monitors the movement of individuals in general, as well as newcomers who apply for social assistance. Net in-migration of recipients perhaps seeking higher benefits is an easily identifiable cost to the province. In addition, certain services in one province can stimulate demand for those services in another. Tax levels, influenced by social assistance services, have an impact on a province’s appeal as a business centre and on its economic growth. When spill-overs are not regulated, the influx of welfare recipients and the sensitivity to higher taxation can create a downward pressure on welfare benefits. Each spill-over from other provinces’ social assistance policy acts to constrain the policy options of provincial governments as they attempt to balance desired services with resource constraints and a healthy economy.\(^5\)

Spill-overs are one of the reasons why conventional economic literature often recommends that redistributive functions be assigned to the central government, despite the benefits associated

---

with the availability of a variety of policy choices.\textsuperscript{6} Unregulated horizontal competition encourages provinces to keep benefits low in order to off-load negative spill-overs (like mobile welfare recipients) onto other provinces and to try to attract positive spill-overs (like mobile tax payers). CAP acted to constrain this horizontal competition between provinces by providing additional funds, which promoted the equalization of benefits, and by introducing funding penalties as an enforcement mechanism. CAP and the budget cutting of the 1990's intensified the concerns about spill-overs between provinces.

The future of social assistance after CAP was structured by the Canada Health and Social Transfer (CHST). Announced in the 1995 federal budget, the CHST was designed to combine financing for health, post-secondary education, and social assistance under one transfer program. Funding arrangements were announced for two years and future arrangements were to be determined before the 1996 budget after a process of discussion between federal and provincial Finance Departments. This process was plagued by the same tensions between governments that existed in social assistance in the final years of CAP.

The CHST came into effect on April 1, 1996 and ushered in a $2.8 billion cut in federal transfers. The Act entitled "The Federal Provincial Fiscal Arrangements Act," passed on June 6, 1995, stipulates the conditions of the CHST. The only regulation remaining under the CHST regarding social assistance is the

restriction on residency requirements which continues to be punishable by the withholding of federal funds. Uncertainty concerning the future CHST allocation formula, national policy objectives, and the federal role in social assistance continued to dominate the social assistance arena through 1995.

This brief review highlights the variables constraining the BC government’s ability to bolster its electoral support. Electoral competition, ideology, CAP, other governments, and the CHST and its allocation formula each constrained BC’s ability to implement its policy preferences.

In the first chapter, I described rational choice theory regarding the behaviour of an actor involved in two arenas with different but related payoffs. In the following sections, I will briefly outline the two institutional arrangements that structured the two arenas—the relationship between Social Services and Human Resources Development, and the CHST allocation formula discussions created by the federal Finance Department. I will also reveal the linkage between the two arenas.

The Principal Arena: Social Services

Policy activity within the Social Services arena was stimulated by financial constraints and by persistent and deteriorating social problems. During the early part of the NDP government’s first mandate, there was a reluctance to target Social Services for program reform. Spurred by the leak of an independent, and critical, study of welfare administration in the province, fraud and abuse became the first highly visible targets of reform. Citing the necessity to ensure funds went to those

7"We’re not doing a good enough job, says minister promising tougher line on welfare," Vancouver Sun, 13 May 1993, A1.
truly in need, over the next several years millions of dollars were spent to crack down on fraud and abuse. These initiatives resulted in savings of many times the cost of anti-fraud programs.\textsuperscript{8}

Migrants were also identified as a strain on the Social Services budget. BC Social Services Ministers had been signalling a crisis of growing welfare rolls and financial strain at least since 1993. Migrants were carefully tracked by the government and the Minister of Social Services pointed to 6000 newcomers to BC who joined the welfare ranks in 1992 as one of the pressures on the system.\textsuperscript{9} The migrants did not initially make a large impact. In March 1993, only 7.5\% of welfare recipients had arrived from outside the province in the previous year.\textsuperscript{10} Although I lack comparable statistics, an increase is visible two years later in 1995 when migrants made up almost 28\% of new monthly welfare cases.\textsuperscript{11}

The issue of migrants continued to be pushed into the spotlight by Social Services. The number of welfare recipients from Alberta raised concerns about the Alberta government off-loading its welfare cases onto BC. Migration to BC was thought to have been promoted by federal and provincial cuts to social assistance benefits, as well as by free one-way bus tickets to BC


\textsuperscript{9}"Welfare close to collapse," \textit{Vancouver Sun}, 10 March 1993, Al.

\textsuperscript{10}"Influx to BC strains welfare," \textit{Globe and Mail}, 3 June 1993, Al.

\textsuperscript{11}Letter from BC Minister of Social Services Joy MacPhail to Minister of Human Resources Development Lloyd Axworthy, 3 November 1995.

38
offered by the Alberta government. By 1994, migration from Alberta (then up to 700 cases per month) was being publicly linked by the BC government with the difference in welfare benefits between the two provinces. With the Ontario Harris government cuts to welfare benefits and the large number of welfare recipients leaving Ontario, that province fell under the same suspicion. This situation prompted a June 2, 1995 letter to Human Resources Development Minister Lloyd Axworthy from BC Social Services Ministers Joy MacPhail. In it, MacPhail raised BC’s concerns about the CHST and its continued prohibition of residency requirements.

In each of the first nine months of 1995, over 2200 migrants from outside BC had begun to receive social assistance from the province. 32% of these migrants came from Ontario, 30% from Alberta and 15% from Quebec. Almost 80% were single employable adults. While this influx of potential labour placed a burden on BC’s social assistance budget, the province’s growing economy also attracted capital and new business development.

Migrants and fraud were not the only identified source of

---


15"Meetings and Correspondence between the Minister, the Deputy Minister and their counterparts in BC," internal HRD document, undated.

financial strain. Federal cuts to Unemployment Insurance (UI) and CAP also featured prominently. Cuts to UI were blamed for the increased welfare case-load and the cap on CAP for the provincial government's reduced ability to handle it.\textsuperscript{17} Social Services had been publicly calling for a review of national social assistance for several years.\textsuperscript{18}

During this period, financial strain prompted continued fraud crackdown and the rejection of an increase in welfare benefits that would have increased them to 1982 purchasing power.\textsuperscript{19} In 1995, an appeal board was created and eligibility for hardship benefits was tightened.\textsuperscript{20} By the middle of the 1995-96 fiscal year, Social Services was anticipating a $100 million budget over-run.\textsuperscript{21} Rising numbers of youth on welfare, the growing welfare rolls (9.4% of the population), and high unemployment despite a growing economy and job creation deepened concerns about the effectiveness of the system.\textsuperscript{22} The Reform and Liberal parties in the province were calling for tough measures like 'workfare' and benefit cuts to


combat these problems. In October of 1995, the NDP government announced that it would examine welfare reform.

In the fall of 1995, the 'BC Benefits' secretariat was established by cabinet. The secretariat was led by the Deputy Minister of Skills, Training and Labour Gary Waters and was made up of staff from relevant government departments. The secretariat reported to a committee of deputy ministers who reported to the cabinet's 'BC Benefits' Working Group. The Working Group was lead by Social Services Minister Joy MacPhail and met weekly once the secretariat had been established. The group gave direction to policy initiatives, reviewed all policy documents, made recommendations, accepted satisfactory proposals, and requested additional information when necessary for their careful decision-making. Cabinet was the final decision-maker on the policies in the package, although it was the Working Group that shaped the direction of policy reform according to the government's preferences.

The residency requirement, an order-in-council signed on November 3, 1995 by the Lieutenant-Governor, was announced four days before the 'BC Benefits' package. Although the residency requirement policy was developed by the 'BC Benefits' team in the same process as the other reforms, it was not announced as a

---


component of the reform package.\textsuperscript{25} Called a "major renewal of BC's social safety net", the package included a family bonus for low income working families; a new Youth Works training program; changes to services for people with disabilities; new support for children who have left home; and further measures for fighting fraud and abuse.\textsuperscript{26} The government explicitly chose to focus on program reform rather than across-the-board cuts to programs and benefits. According to the NDP government, the residency requirement was consistent with its commitment to the social safety net because it preserved services for British Columbians in the face of federal abandonment of national principles and presented BC as a leader in creating new migration agreements.\textsuperscript{27}

The residency requirement policy was accompanied by new procedures for replacing lost or stolen cheques. The requirement was expected to save Social Services $2 million a month by denying welfare to newcomers (including refugees\textsuperscript{28}) until they had lived in BC for three months. The policy would not affect BC residents who had been out of the province for less than half a year or families with dependents who had lived in BC in the past three

\textsuperscript{25}Melanie Courchene, BC government policy policy advisor for 'BC Benefits', telephone interview, 17 July 1996; Gary Waters, Deputy Minister of Skills, Training and Labour, telephone interview, 4 July 1996.


\textsuperscript{27}British Columbia, "Residency Requirement," 3 November 1995; Gary Waters, BC Deputy Minister of Skills, Training and Labour, telephone interview, 4 July 1996.

\textsuperscript{28}This part of the policy was repealed on 3 June 1996.
years.\textsuperscript{29} The policy, which violated the conditions of the Canada Assistance Plan agreement, was set to take effect on December 1, 1995.

After announcing the residency requirement, the BC Department of Social Services began its interaction with the federal Department of Human Resources Development (HRD) which administered CAP. Upon BC's announcement, HRD charged the BC government with intending to contravene CAP and threatened to withhold the remaining transfers to the province. The 1989 Federal Court decision in the Finlay case said that it was illegal for the federal government to continue CAP payments during a contravention of the agreement.\textsuperscript{30} At stake for BC was the $8 million to be saved in 1995-96 by the residency requirement and the possible loss of $47 million in transfers. The maximum possible gain was $8 million while the maximum loss was $39 million.\textsuperscript{31} Negotiations between Social Services and HRD were based on BC seeking concessions in exchange for withdrawing the residency requirement. The resources utilized in this, the 'Social Services' arena, were political and public pressure and legal arguments.

\textbf{The Secondary Arena: Finance}

The second institutional arena (Finance) was less obvious because it could not be deduced from the content of the residency

\textsuperscript{29}British Columbia, "Residency Requirement," 3 November 1995.

\textsuperscript{30}"BC-Ottawa dispute heats up," \textit{Globe and Mail}, 6 December 1995, A4. \textit{Finlay v. Canada (Minister of Finance)} regarding Manitoba's alleged violation was later over-ruled on other grounds by the Supreme Court after being upheld in the Federal Court of Appeal.

requirement itself. The 1995 federal budget announced the end of CAP, set for April 1, 1996. The Canada Health and Social Transfer set to replace it fell under the mandate of the federal Department of Finance. Finance was responsible for deciding on the allocation formula for the CHST for the 1998-99 fiscal year and beyond. It was to do so after discussions with the provincial Finance Departments before the 1996 federal budget announced in March.

The formal federal-provincial Finance meetings began in the summer of 1995. Ad hoc, bilateral discussions took place along side of the formal meetings between the federal department and its provincial counterparts. The federal Finance Department was attempting to build a consensus among the provinces. This was a difficult task because the provinces were divided between 'have' and 'have not', influential and marginal, as well as along ideological lines. Many of the tensions had been carried over from the final years of CAP and were aggravated by on-going fiscal restraint. The Federal Finance Department was under no obligation to secure consensus on funding, however it would be extremely beneficial to do so. A consensus would bolster the federal role in social policy and would allow Ottawa to share the responsibility for the resultant formula.

The stakes in the Finance arena were extremely high. Since the implementation of the cap on CAP, BC had lost $1.7 billion in federal funding. The 1996-97 CHST allocation formula preserved that funding arrangement by allotting BC the same proportion of funding as it had received in 1995-96 from the total funding of CAP and Established Programs Financing for health and post-secondary education. Should the allocation formula that replaced the temporary CHST formula be more favourable to BC (closer to a per
capita formula), the province would receive hundreds of millions of additional dollars in cash and tax points. Since the federal government was under no legal obligation to secure provincial agreement, political and public pressure were the only available resources to influence the allocation formula.

Two Arenas

The possible payoffs in the Finance arena dwarfed the benefits and possible costs in the Social Services arena. The residency requirement linked Social Services with the Finance arena and its payoffs through the policy's unique use as a tool for political pressure and communication. BC Social Services engaged the federal Finance Department through political pressure and public rhetoric, and through its demands made during negotiations with HRD.

Social Services was not an institutionalized actor in the Finance arena. Discussions regarding the allocation formula were already established between the federal and provincial Finance departments. The residency requirement policy created a temporary relationship between the federal Finance and BC Social Services Departments as BC attempted to use the Social Services policy to influence the payoffs in the Finance arena.

To recapitulate, the residency requirement policy was implemented by the BC government to increase electoral support in the months before the election, and perhaps beyond. The residency requirement was used to produce financial gain for the BC government and for British Columbians, who would benefit from the additional revenue without additional taxation. It was also used to publicize a clear picture of the NDP's ideological position on social assistance and to demonstrate the NDP's willingness to defend BC's interests against other governments. The residency
requirement policy involved the BC government (primarily, although not exclusively, through the Social Services actor) in two arenas. Thus, the government's utility calculations had to take into account the payoffs and risks of interaction in these two arenas. The precise manner in which this linkage occurred, and why, will be explored as the policy is examined through the rational choice approach in the next chapter.
Chapter Three: The Case Study

Introduction

The period from November 3, 1995 to January 23, 1996 captured a potent example of intergovernmental competition in a federal system. Lacking the emotional intensity of the Quebec referendum that preceded it by only three days, the announcement of the residency requirement on November 3 contained some of the same grievances. The British Columbia government cited a pattern of discriminatory treatment at the hands of the federal government, a federal system incapable of addressing the social and economic problems of the day, the punishing financial costs of federalism, and an inadequate political voice in national policy-making. Such a federal system may provoke provinces to go outside normal institutional arrangements to press their claims. The residency requirement was the product of one such initiative.

Over a three month period, the British Columbia government announced and implemented a residency requirement on welfare and was penalized by Human Resources Development (HRD) $47 million in remaining transfers for the 1995-96 fiscal year. It then pursued negotiations with HRD. After terminating the negotiations, BC announced legal action against the federal government for the withheld transfers. I will consider only the losses potentially accrued and the gains potentially captured during the 1995-96 fiscal year. Evidence from interviews, government documents, and public communication points to the appropriateness of this time frame because it appears to match the time frame that the actors themselves were using. I will revisit the time frame in the concluding chapter.
In this chapter, I will examine the events beginning with the residency requirement and measure the actions of the BC government against the conditions of rationality in the two arenas in which it was involved. The analysis will focus on the impact of the payoffs in the secondary arena (the federal Finance Department's determination of the CHST allocation formula) on the payoffs in the principle arena (BC Social Services and its interaction with HRD) and the effect this had on the BC government's decision making.

I will explore the two arenas through interviews conducted with officials at both levels of government and through public and private communications and documents. The Social Services arena will be examined first. There, the BC government pursued the residency requirement as a means to bolster its electoral support. Although Social Services was the most prominent actor, decisions regarding the policy were made by cabinet, as discussed earlier.\(^1\)

The BC government interacted with Human Resources Development through CAP, and less significantly, with the other provincial governments through communications among Social Services ministers and through the spill-overs of social assistance policy. I will examine the expected payoffs in this arena using the policy itself, the expectations regarding HRD behaviour, and the probability of being penalized under CAP. I will show that an actor behaving rationally would not have chosen to implement the residency requirement.

Next, I will explore the secondary arena (Finance) and how it was linked to the BC Social Services Ministry through public rhetoric and pressure, bargaining, and the internal communications

\(^1\)BC Social Services official, confidential telephone interview, July 1996.
of the federal government. I will examine the payoffs in this arena and how they affected the payoff structure in the principal arena. I will also examine BC's expectations regarding the federal Finance Department's behaviour and the perceived probability of achieving the desired end. In the secondary arena, influence over the allocation formula for the Canada Health and Social Transfer could produce two possible outcomes: the status quo or substantial financial gain for the BC government and specifically Social Services. In other words, no net loss was possible in this arena (unlike in the principal) and the possible gains far outweighed the losses incurred in the principal arena. I propose that what appears to be a sub-optimal policy choice in the principal arena is rational when considered with payoffs in the other arena in which it was intended to have an impact.

The game begins

Just days after it was announced, the BC government revealed to the media the widespread public support for the residency requirement policy. A poll performed on October 19 and a focus-group study performed the next day had shown that 74% of respondents supported or strongly supported a three-month waiting period for newcomers applying for welfare. It was one of the most strongly approved welfare reform policies tested in the poll. Interestingly, at no point did the study mention that this type of policy was prohibited by present and future cost-shared agreements.

---


The poll numbers supporting the policy were used publicly and during negotiations with Human Resources Development to lend legitimacy to the provincial government's action.⁴

Not only was the policy popular by itself, the residency requirement was also made to fit within the ideological thrust of the social assistance reforms. The public opinion studies revealed that, of people with an annual household income of $60,000 or less, there was support for a "renewal" plan like 'BC Benefits' over large, Ontario-style cuts to programs and short-term savings.⁵

Cuts and 'get tough' measures were the type of social assistance reform being advocated by the NDP's competitors the Liberal and Reform parties. The focus-group study had revealed that general support for the policy was accompanied by some reservations about the actual severity of the migrant problem and about denying benefits to Canadians looking for work.⁶ The ideological inconsistency posed by the residency requirement's erection of barriers to Canadians was resolved by a public offer by BC to other provincial governments to engage in reciprocity agreements for welfare with the province. That proposal was based on the three-month payment agreements under Medicare.⁷ By incorporating this element, the NDP government believed that the residency requirement appeared to reinforce its ideological commitment to the national

⁴Federal HRD official, confidential telephone interview, May 1996.


⁷Letter from MacPhail to Axworthy, 3 November 1995.
safety net.⁸

The exclusion of the upper-level income groups from the focus group study perhaps reflected the NDP's acknowledgment that upper-income groups were more likely to support right-leaning parties. At least, it reflected the importance of the middle class in electoral competition.

In addition to being a popular ideology, the residency requirement shielded the BC government from some of the blame for its budgetary problems in Social Services. As framed by the BC government, the residency requirement clearly identified the source of Social Services financial shortfalls—the federal government and the cuts to benefits in other provinces. "We can no longer afford to assume federal responsibilities with a provincial budget," said Social Services Minister Joy MacPhail.⁹ Premier Harcourt advised potential migrants to "stay where you are," and MacPhail stated that "this is our response to the federal government abandoning British Columbians."¹⁰ In the strong tradition of British Columbian attacks on the federal government, this provided the government with a popular rhetorical cushion.

Federal funding was linked in multiple ways to the problems of migration and to BC's decision to impose a residency requirement. In a letter from MacPhail to Lloyd Axworthy dated the day of the residency requirement announcement, MacPhail reiterated her government's grievances about CAP funding and pointed to three

---

⁸Letter from MacPhail to Axworthy, 3 November 1995.
other federal policies that harmed BC. One was the temporary CHST funding arrangement which retained the same proportion of federal funding for BC as it had received from CAP and Established Programs Financing in 1995-96. Another was cuts to UI which BC estimated cost the province $71 million annually. The third was the burden of refugees and immigrant sponsorship breakdowns on the province. One federal official felt that the BC government, perhaps in recognition of the bigger economic picture, was not interested in punishing migrants with the residency requirement but in the larger issues related to migration.11

Federal action in each area had a negative financial impact on BC Social Services. Had the cap on CAP not been implemented, British Columbia would have received an additional $1.7 billion between 1990 and 1995-96.12 The BC government estimated that the temporary CHST formula would cost the province $1.3 billion over the next two years, in comparison to what it would have received without the carry-over of the cap on CAP.13 UI cuts and immigration put pressure on social assistance as individuals without other means of support turned to welfare. By "allowing the current system to deteriorate into a patchwork of provincial social programs", the federal government had presided over an increasing strain on British Columbia's social safety net.14

The link between the residency requirement and federal

11Federal HRD official, confidential telephone interview, June 1996.

12"Prompted by Funding Inequity," internal HRD document, undated; Letter from MacPhail to Axworthy, 3 November 1995.


14Letter from MacPhail to Axworthy, 3 November 1995.
programs appeared at first to be an indirect one: designed to explain and justify the choice of a residency requirement and not to imply that the residency requirement actually removed the sources of the problems. The policy was a provincial action intended to relieve one of the symptoms of the problems over which the province had control—migrants. The BC government could not actually change the established federal policies at the root of its problems because a provincial government is unable to take unilateral action (short of withdrawal) on federal cost-shared programs.

In reality though, the BC government did have an impact on the federal government because of the contravention of CAP. When she announced the policy, MacPhail indicated that the federal government could possibly challenge BC over the residency requirement. MacPhail also stated forcefully that she expected British Columbia to win a legal challenge on the issue.\textsuperscript{15} Federal penalty would entail withholding transfers during contravention of the CAP agreement. At the time of the announcement, Social Services still had two payments from the federal government remaining, totalling $158 million of the $883 million entitlement for the year.\textsuperscript{16} The second of these two payments would be made after the residency requirement policy went into effect and would be the one withheld.

Payments for CAP were legislated to be made on the 20th of each month based on claims submitted by the provincial governments.


for their social assistance costs. A payment made on June 20, for example, would include an advance for services provided (but not yet billed) in June plus the difference between the amount advanced for May and the amount billed for May. Under the cap on CAP, one twelfth of the annual allotment would be advanced and regular payments would contain the advance plus the difference between the previous advance and the costs billed. This meant that full payments for claims were made until the federal money ran out several months before the end of the fiscal year.\(^{17}\) Despite this, the CAP agreements created year-long conditions of services even for the 'have' provinces. From the federal government's legal perspective, these provinces were simply advanced the money for the last months of the year in the earlier months.\(^ {18}\)

When asked if the BC government was aware of the above information, a provincial official replied "we've been receiving CAP payments for 20 something years and we're fully aware of the procedure."\(^ {19}\) The BC government knew that it would receive a December 20 payment and that it would be the last. This was the payment that could be withheld if the residency requirement started on December 1. The size of that last payment was a source of uncertainty because it was based on the size of the November costs which had not yet been incurred. Early in November, HRD estimated that the amount eligible to be withheld would be approximately $32

\(^{17}\)Lenora Homolus, HRD Program Administration, telephone interview, 20 June 1996.

\(^{18}\)Faye Campbell, HRD Legal Counsel, telephone interview, 10 June 1996.

\(^{19}\)BC Social Services official, confidential telephone interview, July 1996.
BC could expect, based on previous 1995 payments, to have anywhere between $40 and $65 million left for the December payment.

As the billing process proceeded, the size of the December payment became clearer to BC. On November 16, Social Services submitted a claim for $111 million for October-related expenses for payment on November 20. This would have been in line with 1995 monthly payments which had varied between $93 million and $118 million. The claim would have left $47 million for the December 20 payment. In addition to the regular claim, a supplementary claim of $40 million was submitted. The claim had not been anticipated by the federal government. One federal official felt it was submitted purposefully to extract the most money possible from the federal government before December 1. The claim, for costs spanning from April to September, was an unusual one involving back-payments for the 1995-96 fiscal year. As a result, HRD administration required more time to examine the claim before approval and payment. Under CAP, the Minister was allowed such a delay to ensure claims met with the standards of the

23 Federal HRD official, confidential telephone interview, May 1996.
24 Claims included an income support calculation error; low wage redress; skills, labour and training costs; imprest reversals; and daycare costs for the first six months of the fiscal year.
agreement. On November 20, HRD decided to pay only the more
typical claim of $111 million for October costs.

After receiving the November 20 payment, Social Services
submitted another claim on November 28 for costs incurred in
November. These costs were typically paid on December 20. The
claim was for $84 million and did not include any welfare costs.

Despite its knowledge of the CAP payment procedure, the province
requested that this be paid by the end of November. HRD could not
fulfil BC's request because of time constraints and the CAP
legislation. As a result, BC was aware before the residency
requirement came into effect on December 1 that there were $47
million remaining in transfers from the federal government. This
would mean a net loss of $39 million for the rest of the 1995-96
fiscal year instead of an $8 million gain over four months should
the payment be withheld.

At the same time as the BC government began to get a clearer
idea of how much the December 20th payment would be, it began to
get a clearer idea of how much of it could be withheld. The most
positive scenario involving the withholding of funds was mentioned
by a senior provincial official who said he hoped that only $8
million be withheld if BC was penalized. This would have
allowed the BC government to break even financially. The

25"November CAP Payment," internal HRD document, 17 November
1995.

26"Assistance Claim- BC- November Costs," internal HRD email,

27Lenora Homulos, HRD Program Administration, telephone
interview, 20 June 1996.

28BC Social Services official, confidential telephone
interview, May 1996.
official’s prediction was based on the federal Minister of Health’s action in October of 1995 against the Alberta government when it imposed facility fees in contravention of the Canada Health Act. In that case, the Minister withheld an amount equal to the revenues generated by the facility fees. However, the Canada Health Act (CHA) and the Canada Assistance Plan were two different agreements. The CHA explicitly provides for penalties of this kind for facility fees while CAP agreements did not. Unlike CAP, the CHA agreement still functions if one of its conditions is violated.\(^9\) As a model for federal behaviour in this type of case it was especially poor because there had never been a contravention of the CHA’s portability clause, which was similar to the one found in CAP agreements. It was unlikely that the official expected that this scenario be fulfilled.

Information regarding the size of the potential penalty became much clearer to BC at the November 10 meeting between Axworthy and MacPhail and their officials. At the meeting, Axworthy said that the whole amount of the remaining transfers was at risk if there was a contravention. The federal officials mentioned that the final payment could be about $32 million, which would mean a net loss of up to $24 million for BC (including the $8 million in savings from the policy).\(^{30}\) The federal government was consistent throughout negotiations in asserting that only the remaining CAP

\(^9\)Federal HRD official, confidential telephone interview, June 1996.

\(^{30}\)"Meeting with Joy MacPhail," internal HRD document, 14 November 1996.
money, but all of it, would be withheld.\textsuperscript{31} As a result, for the BC government the amount likely to be withheld should a penalty be imposed became clear as the size of the final payment was established.

The best scenario for the BC government was obviously to use the residency requirement to save $8 million without being penalized by the federal government. However, the fact that the CAP agreements explicitly prohibited residency requirements meant that BC had to assume the possibility of a federal penalty.\textsuperscript{32} Consequently, the risk of being penalized had to be weighed with the amount to be withheld against the predicted savings.

Once again, the federal government was consistent, from the beginning, in its position that it would uphold the CAP agreement with the province. Axworthy publicly articulated this in early November and in a November 6 letter to MacPhail.\textsuperscript{33} The federal government's legal position was clear from the start. In addition, at the time of the policy's creation, the BC government was aware of the federal government's legal position regarding contravention.\textsuperscript{34} In a September letter to Reform MP Randy White, MacPhail cited the federal legal position when she said that the BC

\textsuperscript{31}The possibility of BC having to reimburse the federal government for funds transferred illegally did not appear to be broached.

\textsuperscript{32}Section 6.(2)(d) of the federal-provincial CAP agreement signed on March 31, 1967 by Canada and British Columbia states that "a period of residence in the province of British Columbia or in Canada will not be required as a condition of eligibility for assistance or for the receipt or continued receipt thereof."

\textsuperscript{33}"Correspondence between the Minister, the Deputy Minister and their counterparts in BC," internal HRD document, undated.

\textsuperscript{34}BC Social Services official, confidential telephone interview, July 1996.
government could not implement a residency requirement on immigrants because the federal government would penalize the province.\(^{35}\)

The federal legal position rested on the Finlay case of 1989 regarding Manitoba's alleged contravention of CAP through its recovery of welfare over-payments. In that case, the Federal Court of Canada found that Manitoba was in contravention of the CAP agreement and that it was illegal for Ottawa to continue CAP transfers during a breach of agreement.\(^{36}\)

The legal issue was complicated by a Supreme Court ruling on Finlay v. Canada (Minister of Finance) ([1993] 1 S.C.R. 1080) in 1993 which found that Manitoba was actually not in contravention of CAP. In its decision, the court did not comment on the transfer payment issue. Because the court did not over-turn the earlier judgement on the withholding of transfers, the federal government's legal counsel believed that the first ruling still had precedent. More basically however, the original ruling was based on contract law where if one component of the contract (CAP agreement) is not fulfilled then the contract no longer exists. If the contract no longer exists, then CAP payments to the province could not occur.\(^{37}\) The provincial government's legal position differed on this point. The BC government interpreted the Supreme Court's


\(^{37}\)Faye Campbell, HRD legal counsel, telephone interview, 10 June 1996.
decision to mean that the original ruling regarding the withholding of funds was no longer binding.\textsuperscript{38}

The BC government supported its legal position on another point as well. It argued that since CAP payments ran out after payment for November services, the CAP agreement between the two governments ceased to exist at the end of November regardless of the date of payment for those services. This position was bolstered by CAP's permanent demise on March 31, 1996. BC believed that if CAP was an on-going program from year to year, there would be a greater incentive to consider it a continuous year-long program even though payments stopped each year in December or January. In other words, BC believed it did not contravene CAP because the agreement had expired permanently.\textsuperscript{39} Indeed, this was the explicit reason for the residency requirement taking effect on December 1.\textsuperscript{40}

On this point, the federal legal position was that the CAP agreement applied to entire fiscal years and that the payments applied to costs incurred over the whole twelve months.\textsuperscript{41} The capped payments to 'have' provinces which began in 1990 did not change this fact. It simply meant that one twelfth of the total allotment was allocated in theory for each month. Following this interpretation, HRD should have withheld an amount equal to $1/12$

\begin{itemize}
\item \textsuperscript{38}BC Social Services official, confidential telephone interview, May 1996.
\item \textsuperscript{39}BC Social Services official, confidential telephone interview, May 1996.
\item \textsuperscript{40}"BC's welfare recipients face stricter conditions," \textit{Globe and Mail}, 7 November 1995, A13.
\item \textsuperscript{41}Faye Campbell, HRD legal counsel, telephone interview, 10 June 1996.
\end{itemize}
of $882 million for each month the residency requirement was in effect. Had it done so, BC would have lost the $47 million and would have had to return $247 million from the money it had been advanced.\textsuperscript{42} However, near the end of the fiscal year the federal government forgave this debt by Order-in-Council, presumably for political reasons.\textsuperscript{43} This is a potent indication of the federal government's reluctance to penalize British Columbia in its defense of CAP.

Despite the province's legal argument, there was still a slight difference of opinion within the BC government regarding the probability of the federal government withholding transfers. In public, MacPhail was the most adamant in asserting the belief that the federal government would not withhold funds. She called such a move "unprecedented" and "unbelievable" and pledged to defend the policy in court.\textsuperscript{44} MacPhail's inconsistent message that she fully expected a legal battle but that federal action would be unlikely points to the likelihood that these public statements were political posturing and cannot be taken as a serious indication of the BC government's perception of risk.

Other individuals within the BC government commented on the risk of federal penalty. One official within the department of Social Services "did not believe that the government would be

\textsuperscript{42} Federal HRD official, confidential telephone interview, May 1996.

\textsuperscript{43} Faye Campbell, HRD legal counsel, telephone interview, 10 June 1996.

penalized" but was not surprised when it did happen. An influential cabinet member disagreed with the federal legal interpretation but was aware that there was risk of penalty. This was echoed by a member of the policy team that created the residency requirement who said the government "took some comfort in our legal position" but had a "level of understanding of the risk involved". In the BC government, there was no evidence of MacPhail's public certainty.

The provincial government would not have assessed the risk of penalty on legal interpretations alone. Interaction with and close observation of the federal government gave clues regarding the possibility of penalty. The previous Alberta Canada Health Act case in October served as a pertinent example of federal resolve to preserve existing national standards and agreements, as well as its leverage in cost-shared agreements. The Alberta government was allowing private clinics to levy facility fees on their patients, in contravention of the CHA. The federal government won that battle, although the Alberta government’s surrender was probably aided by a lack of public support.

The federal commitment to CAP in the residency requirement case was strong. Upon BC’s announcement of the residency requirement, Axworthy immediately publicly threatened to take

45 BC Social Services official, confidential telephone interview, May 1996.

46 BC cabinet minister, confidential telephone interview, June 1996.

47 Gary Waters, Deputy Minister of Skills, Training and Labour, telephone interview, 4 July 1996.
He explicitly reinforced this message at the first meeting between the two ministers and officials on November 10 in Victoria. Axworthy thus set up public expectations of federal action and attempted to make clear to the BC government his commitment to withhold the funds if contravention occurred. Axworthy was taking a "we have no choice" line of argument based on the legal position. Rhetoric became more resolute as the December 1 deadline approached. Axworthy gave no indication publicly or in communications with the province that he had any room to manoeuvre on this question short of BC withdrawing the requirement.

In the face of federal commitment, the only political factors (in addition to legal ones) in BC's favour were the tense political situation between the two governments and the popularity of the policy. BC used both of these advantages during negotiations and public exchanges. If the federal government was to penalize the province, it would be attacking a popular policy and attacking a province that was already vocal about the raw deal it was getting out of Confederation.

At the time, BC was complaining about a lack of political voice (compared with its growing economy and population) in the


50Federal HRD official, confidential telephone interview, May 1996.

51Based on records of meetings, public communications, correspondence between MacPhail and Axworthy, and interviews with officials.
federal Liberal cabinet and in federal politics in general. BC was also clashing with the federal government over constitutional change. From November 1995 to January 1996, the province was locked in a battle with the federal government over its right to its own veto over constitutional change within a proposed federal statute. At first the province was a part of a region comprising the four western provinces with a shared veto. It was awarded the status of a 'region' and given its own veto on December 7, 1995. Instead of accommodating BC's objections, this only served to aggravate BC's general grievances regarding constitutional change.52 These other public issues meant that although the federal government's legal position was firm, there was political pressure on it to solve the issue in the least contentious manner consistent with their position.53

Up to early November, for the BC government acting rationally to have chosen to pursue the residency requirement, it would have had to assume an 80% probability of escaping without financial loss.54 This is equivalent to a near-certainty of federal inaction or of reaching a mutually acceptable solution via negotiations or of winning a legal suit against the federal


53Federal HRD official, confidential telephone interview, May 1996.

54Based on the weak requirements of rationality where benefits X probability of no penalty= cost X probability of penalty. I will assume the lowest possible December payment of $40 million (based on previous 1995 payments to BC), which would leave $32 million after the $8 million in savings. 8 million X 0.8 = 32 million X 0.2. The probability of not being penalised would have to have been calculated at 80%, which was entirely unlikely based on available evidence.
government for the withheld cash. Based on the strength of the federal government's legal argument and Axworthy's early behaviour and public commitment to uphold the policy, it was highly unlikely that BC assessed the probability of federal inaction or a legal victory at this level.

In addition, the prospect of a mutually acceptable solution being produced through concessions offered by the department of Human Resources Development during subsequent negotiations was uncertain. Considering that the BC government was willing to risk tens of millions of dollars and that it pointed to a variety of problematic federal policies, adequate concessions would have had to be of considerable value. Although I will show later that the residency requirement policy had intentional consequences in the Finance arena, the negotiations with HRD could produce only limited benefits for Social Services on the issues BC wanted to address. Migrants and funding issues were necessarily CHST related, and were therefore the federal Finance Department's responsibility. Immigration was also outside HRD's mandate. Concessions from HRD would have had to address migration and funding within its mandate and limited resources. The BC government would have had difficulty predicting significant financial benefits to Social Services from potential HRD concessions.

Despite the possibility of federal retaliation and the unlikelihood of adequate concessions from HRD, BC chose the residency requirement. Political pressure on the federal government meant that Human Resources Development was willing to negotiate with the province, which could have affect the original
utility calculations before the policy's starting date. In a November 6 letter to MacPhail, Axworthy stated that he was "ready and willing to sit down with you [MacPhail] and your provincial counterparts to search for workable solutions". HRD expected that successful negotiations would result in the repeal of the residency requirement at the earliest possible date. This was understood by the BC government.

British Columbia was also willing to negotiate despite the apparent limited ability of HRD to address BC's concerns. On November 7, the Assistant Deputy Minister of Social Services Lynn Tait spoke with an HRD official and indicated that the BC government wanted a bilateral meeting between the MacPhail and Axworthy. Tait suggested that this take place no earlier than the November 9 announcement of the 'BC Benefits' package of social assistance reforms. It was decided that the Ministers would meet on November 10 because Axworthy had been previously scheduled to be in Victoria on that date.

At the November 10 meeting, the two governments decided to establish a process of discussions between designated officials

55Federal HRD official, confidential telephone interview, May 1996.

56"Meeting and Correspondence between the Minister...", internal HRD document, undated.


58Gary Waters, Deputy Minister of Skills, Training and Labour, telephone interview, 4 July 1996.

from each department. This process began almost immediately.\textsuperscript{60} Both parties expressed a desire to resolve the conflict, although they acknowledged that reaching an understanding before the December 1 deadline would be difficult. During a conversation on Monday November 13, Lynn Tait indicated that the BC government had issues which could be addressed by the federal government to enable BC to delay or repeal the December 1 starting date. It was implied that substantial progress could be sufficient to postpone the starting date.\textsuperscript{61}

It is uncertain what the BC government expected in the way of progress. The most important issues for BC were a more equitable CHST allocation formula beginning in the 1998-99 fiscal year (one that removed discrimination against 'have' provinces) and a federal initiative to address the migrant issue. The BC government also felt that the CHST allocation formula was not being decided quickly enough. Primarily, BC was "looking for fast and significant action on the CHST," said one provincial official.\textsuperscript{62} Another possible issue for discussion was immediate, short-term financial relief for the over-budget Social Services Department. Despite media reports to the contrary, MacPhail was not going to force the issue of UI reform during these discussions.\textsuperscript{63} UI changes were already being examined by the federal government, some of which would reduce

\textsuperscript{60}Federal HRD official, confidential telephone interview, May 1996.

\textsuperscript{61}"Meeting with Joy MacPhail," internal HRD document, 14 November 1995.

\textsuperscript{62}BC Social Services official, confidential telephone interview, May 1996.

\textsuperscript{63}"Meeting with Joy MacPhail," internal HRD document, 14 November 1995.
pressures on provincial social assistance budgets.  

The discussion process set up at the November 10 meeting produced an evolving package of offers from HRD. Agreement was not easily found, which is not surprising considering that the main issues addressed by the BC government fell outside the mandate of HRD. The CHST allocation issue was the responsibility of the Finance Department, which had been holding multilateral discussions for several months with the provincial Finance Ministers. In a November 20 letter to Axworthy, MacPhail raised immigration issues such as sponsorship breakdown and federal off-loading of refugees. Immigration was another subject that was outside HRD's mandate.

On November 24, Axworthy sent a letter to MacPhail with the components of the package as it appeared at that stage of negotiations. The federal government hoped that the offers would be sufficient to delay the December 1 starting date for the residency requirement. The package contained proposed federal initiatives regarding off-setting in-migrant costs, setting up meetings between the federal Finance Department and Social Services, and the early start-up in the province of a new employment program. None of these initiatives guaranteed an explicit amount of federal resources for the province. However, the promise of probable benefits made it arguably less rational for the BC government to implement the policy.

With the HRD offer, the initial utility calculations rejecting the residency requirement were tipped further against implementing

---


65Federal HRD official, confidential telephone interview, May 1996.
the policy. When the financial benefits from the federal concessions (in exchange for not implementing the policy) are considered against the original risk and utility calculations, the decision to implement is even less rational than it was in the first instance. There were now tangible benefits in place of the status quo produced by not choosing the residency requirement. Although the context of the negotiations meant that if the BC government were to back down the resolution would be perceived as a federal political victory, financially it would have been the rational option. Political factors alone at this stage (and only this stage) may have had enough weight to tip the utility calculations in favour of implementing the requirement after it was announced. The rationality of this decision does not, however, discount the irrationality of the original action (when considered within the Social Services arena).

Since the BC government did not believe that the package at this point gave BC adequate assurance that there would be fast and significant action on the CHST allocation formula, the residency requirement took effect on December 1 as planned.66 On December 5, Axworthy withheld the remaining $47 million in federal transfers, citing the same legal argument he had used all along. Discussions between the two levels of government continued. After the money was withheld, BC imposed a December 21 deadline for reimbursement.67 That deadline passed without resolution. BC decided to continue with negotiations with renewed threats of legal...

66BC Social Services official, confidential telephone interview, May 1996.

action if the negotiations were to fail. MacPhail had spoken of
taking the federal government to court since the policy was
announced. The issues for discussion remained fast and fair action
on the CHST allocation formula and federal assumption of
responsibility for migrants. Officials at both levels of
government indicated that it was the CHST allocation formula that
was the most important issue.

By January 23, the discussions had evolved to the point that
the package of federal offers included reimbursement of a
"substantial" portion of the $47 million, a $32 million three-year
jobs program for new residents in the province, and federal
promotion of a mobility clause during federal-provincial
discussions of principles for the CHST. Legal advisors thought
that HRD might be able to refund some of the money withheld if the
requirement was repealed before the end of March. The BC
government reviewed this package and decided that it did not
address BC's concerns and that adequate progress in the future was
not likely.

The BC government was dissatisfied with each of these offers.
Since it claimed that the whole $47 million withheld belonged

68"Victoria holds off on legal action," Globe and Mail, 22

69BC Social Services official, confidential telephone
interview, May 1996; Federal HRD official, confidential telephone
interview, May 1996.

70"BC launches welfare funds suit against Ottawa," Vancouver

71Faye Campbell, HRD legal counsel, telephone interview, 10
June 1996.

72Provincial Social Services official, confidential telephone
interview, July 1996.
rightfully to BC, a partial reimbursement (no matter how substantial) was not an adequate solution. At about $10 million a year, the employment program would do little to ease the current Social Services' budgetary problems and was small change compared with financial losses associated with the cap on CAP and the temporary CHST allocation formula.\(^7^3\)

BC's evaluation of the mobility clause was based in large part on the reaction of other provinces and their behaviour in future CHST negotiations. The proposed mobility clause would allocate a certain portion of the annual CHST allocation funding, not additional federal funding, to assisting provinces with costs due to in-migration. Instead of assuming financial responsibility for mobility, the federal government intended to off-load costs for migration onto the provinces. That would probably not have been popular with any province which had a net loss of welfare recipients due to mobility. In addition, the provinces were publicly and privately not supportive of either reciprocity agreements or the mobility clause.\(^7^4\) It was in the interest of any province with net out-migration to off-load its migrants onto other provinces to save costs. It was not in the short-term self-interest of these provinces to mitigate spill-overs with their own resources. The success of a mobility clause would depend on the ability of the federal government and BC to influence the other provinces.

Despite these criticisms, in the context of the Social Services budget for 1995-96, which was $2.781 billion, $10 million is approximately only 0.36% of that budget.\(^7^3\)

\(^7^3\) The 1995-96 provincial Social Services budget was $2.781 billion. $10 million is approximately only 0.36% of that budget.

\(^7^4\) BC Social Services official, confidential telephone interview, May 1996.
Services arena the package was a generous one. By pressuring the federal government with the residency requirement, BC had generated a new program and new revenues for the province that would directly benefit Social Services; had produced federal action on mobility that could decrease Social Services’ future costs related to migrants (since it was the most popular destination province in raw numbers and per capita\(^7^5\)); and had obtained commitment for reimbursement of a portion of the lost transfers (which would also directly benefit Social Services). The package could almost offset the $47 million withheld from Social Services for the 1995-96 fiscal year and it held out hope for some relief on the migrant issue. The benefits were not outstanding compared with Social Services’ position before the residency requirement. The offer was, however, an excellent opportunity to compensate for the sub-optimal policy decision of pursuing the residency requirement.

In addition, the financial gains would be seen by the electorate as a political victory for the BC government over the federal government. Unlike the November 24 package, this one attached clear and explicit monetary value to the federal offers. BC had captured the federal government’s attention, had made it recognise and understand BC’s grievances, and had made it address those grievances with policy initiatives and financial resources. Through these offers, the federal government had admitted that BC had been treated unfairly by previous arrangements. Only the NDP in government was in a position to produce this type of tangible result from conflict with the federal government. Accepting the package would make a popular pre-election announcement and would

\(^{75}\)Statistics Canada, Catalogue No. 91002, Vol. 9, No. 2, pg 18.
put the government one up on its electoral competition.

After assessing the potential financial and federal political concessions produced by the residency requirement policy, the BC government should have recognized their utility as compensation for the penalty. However, the BC government chose to forego these benefits and take the federal government to court for the withheld transfer payments. This action produced a loss of the political and financial utility gained during the discussions with no guarantee of recovering the $47 million in court. A rational actor calculating her utility would have chosen to accept the package.

An explanation for the BC government's sub-optimal choice lies in the offer that was missing from the package: no agreement had been achieved regarding BC's CHST allocation formula grievances. The outstanding issue was alluded to in the explanation for the package's rejection. One provincial official compared the $32 million over three years produced by the employment creation program with the $1.3 billion lost by the BC government under the 1996-98 temporary CHST allocation formula. It was when the federal Finance Department vetoed the date proposed by HRD for settlement of the CHST allocation formula that BC gave up on the discussions. When Axworthy said publicly that the two parties were only "one or two words" from agreement, it was this issue to which he was referring.

77 Federal HRD official, confidential telephone interview, May 1996.
Since the CHST funding issue ended negotiations between Social Services and Human Resources Development, it is a reasonable starting point for analysis to assume that the issue was also the stimulus to the interaction. Indeed, this is what a close examination of the situation indicates. From the beginning, the payoffs in the Finance arena determined BC’s actions.

There had already been activity in the Finance arena on the CHST allocation formula before the residency requirement was chosen. In the 1995 budget, the federal Finance Minister had announced a temporary allocation formula for the 1996-97 and 1997-98 fiscal years. In that budget, Martin indicated that a permanent allocation formula would be determined after consultation with the Finance Ministers from the provinces and territories. This process began in June of 1995. Eight meetings were held from June 1995 to February 14, 1996 with Finance Ministers, Deputy Ministers, or departmental officials. Only one meeting had been held before November 1995 (when BC announced the policy), and four were held from November to January, including one in December with the Ministers. BC Finance Minister Elizabeth Cull attended this meeting.\(^79\) None of these meetings had produced public interest or media attention. Bilateral background discussions between the federal Finance Department and its provincial counterparts also took place.\(^80\)

The 1996-97 CHST allocation formula preserved the

---

79 Andrew Treusch, Director Federal-Provincial Relations, written communication, 25 June 1996.

80 Ruth Dorkleson, Special Assistant to the Minister of Finance, telephone interview, 10 June 1996.
proportional allotment of funding each province had received overall from CAP and Established Programs Financing (EPF) transfers in 1995-96. EPF for health and post-secondary education was allocated on a per capita basis. In 1996-97 BC would receive 12.31% of the total CHST allotment and the value of the transfer to the province would fall by $349 million from 1995-96. In 1997-98, the overall value of the transfer fell to BC again, this time by $153 million.\(^1\)

The BC government asserted that the discriminatory temporary CHST allocation formula would cost the province $1.3 billion during the two fiscal years. Federal cuts to social assistance funding affected all provinces, but they had a greater impact on 'have' provinces due to the allocation formula. While Alberta and Ontario had reduced social assistance costs by cutting services and benefits, BC's levels of services, and therefore costs, remained relatively high. Because of this commitment to the provincial safety net, BC was arguably affected to a greater extent than the other 'have' provinces. It was this transfer situation that drove the BC government's interest in the CHST allocation formula.

The cap on CAP was designed to allocate limited federal resources to more greatly benefit those provinces most in need. It retained 50% federal financing for the seven 'have not' provinces, but limited the amount of funding available to the three 'have' provinces. Without the cap, the 'have' provinces would have received an additional $10.1 billion between the 1990-91 and 1995-

\(^1\)Calculated from "The Canada Health and Social Transfer," financial table, Federal-Provincial Relations/Department of Finance, March 1996.
96 fiscal years. The 'have' provinces have the distinction of being three of the four most populous. A shift from funding influenced by considerations of need to one based on population would benefit them greatly. This was the incentive for BC to support a per capita formula, while the urgency and determination to address the issue came from the greater impact of federal funding decisions on BC. In contrast, the 'have not' provinces in general supported a partially equalising formula which took into account financial need.

Federal fiscal constraints also affected questions of allocation. Barring an unlikely increase in the availability of federal resources for social programs, Finance would be forced to penalize poorer provinces to a greater degree than 'have' provinces if it wished to adjust the existing formula to reflect a greater measure of per capita funding. On the other hand, Ontario, Alberta and British Columbia were influential members of the federation and the federal government was dependent upon their, and their taxpayers'/voters', continued willingness to provide financial support for national programs. The dilemma rested on two conceptions of fairness—equal treatment versus equality of outcome. A compromise solution had to be sought and the final balance rested in the hands of political forces.

The BC government believed that the millions of additional

---

82"Prompted by Funding Inequity," internal HRD document, undated.

83Ruth Dorkleson, Special Assistant to the Minister of Finance, telephone interview, 10 June 1996.

84Ruth Dorkleson, Special Assistant to the Minister of Finance, telephone interview, 10 June 1996.
dollars that would be won through the elimination of the discriminatory funding formula would be very popular with the BC electorate.\textsuperscript{85} This consideration was consistent with the objectives of utility maximizing voters and a utility maximizing government. Actions taken to achieve that objective were driven by a rational goal.

The above provides only a superficial discussion of the complex issues surrounding allocation formulae for cost shared programs. However, it is a good indication of the incentives of the BC government and of the constraints it faced in winning a per capita CHST allocation formula. Not surprisingly, according to one federal official, the CHST discussion process was fraught with contention.\textsuperscript{86}

BC recognized the political nature of federal Finance's decision on the allocation formula. The federal Finance Department was under no legal obligation to secure provincial support for the allocation formula. Provinces had to rely on political influence and the weight of their arguments regarding fairness. According to one member of the policy team that developed the residency requirement, the policy was to be used "primarily as a leverage to negotiate".\textsuperscript{87} Unlike its intended cost-saving impact in the Social Services arena, in the Finance arena the policy acted as a "political statement" showing that "BC won't be taken advantage of"

\textsuperscript{85}BC Social Services official, confidential telephone interview, May 1996.

\textsuperscript{86}Federal HRD official, confidential telephone interview, May 1996.

\textsuperscript{87}Gary Waters, BC Deputy Minister of Skills, Training, and Labour, telephone interview, 4 July 1996.
by federal programs any longer.\(^{88}\)

The residency requirement mobilized forceful rhetoric and public opinion, sent a clear message to federal actors regarding BC's grievances, and demonstrated the province's willingness to take risks to get what it wanted. If the policy could be linked with the Finance discussions, its influence could be added behind the traditional BC sources of leverage (significant wealth and large population) that the BC Finance Minister brought to the Finance arena.

The residency requirement was explicitly linked to the Finance arena through the public rhetoric and the conflict with HRD. The public rhetoric identified BC's grievances about federal funding practices. The conflict allowed the BC government to keep CHST issues in the public eye and create pressure through the deadlines it imposed and the federal desire for resolution. Through the resultant negotiations, it also produced the possibility of one-on-one discussions between federal Finance and BC Social Services regarding the CHST.

Using a policy from one arena to create pressure in another policy arena and to create an alternative way to communicate is a strategy known around at least one cabinet table as a 'trade-off'. A New Brunswick cabinet minister gave examples of several policies that had been explicitly evaluated by the cabinet in this manner. After assessing financial benefit, ideological consistency, popularity, electoral timing, possible reactions of other actors, and the legal position of a risky policy, a government can consider whether the policy can be used to make gains in another policy

\(^{88}\)BC cabinet minister, confidential telephone interview, June 1996.
area. The policy can make a point in the other 'arena', send a message to an actor in the other arena, and 'up the ante' in the other arena by applying increased political and public pressure. This type of action is used both as a tool for communication and to produce additional leverage.89

The residency requirement fits this model of action in multiple arenas well, although no BC official described it explicitly as a 'trade-off'. The same variables making up a trade-off policy were considered by the BC government. The government had grievances in another policy area (Finance). There was uncertainty regarding the legality of the policy and there was a strong possibility of federal penalty. The policy would put pressure on the federal government to seek concessions. As a result, financial savings were subject to another government’s action and thus were risky. The policy was popular and the ideological position that it articulated regarding national and provincial benefits standards was powerful and would be positively received by the electorate. These variables are those typically considered in a 'trade-off' policy.

The BC government used the residency requirement to create pressure within the federal government on Finance to help resolve the conflict. The residency requirement sent the message to Finance that BC was "drawing a line in the sand," as one cabinet member put it, and would no longer support a system that discriminated against it.90 Although officially negotiating with

89NB cabinet minister, confidential personal interview, June 1996.

90BC cabinet minister, confidential telephone interview, June 1996.
HRD, BC was able to implicate Finance in the responsibility to meet its demands. The intended use of the residency requirement policy fits the 'trade-off' model quite neatly.

The BC government believed that it was possible that Finance would implement the changes to the allocation formula preferred by the province. When the risks of the policy's impact on the Social Services arena were weighed, the same member of cabinet said that the policy used for leverage was "absolutely" worth it, even if the 1995-96 transfer payments were permanently lost.

This use of the residency requirement policy explains why the BC government made demands regarding the CHST allocation formula during the discussions with Human Resources Development that were outside of HRD's mandate. Doing this allowed Social Services to insert itself into the federal Finance arena. The BC government wanted Finance to commit to a per capita allocation formula at the earliest possible date.

The BC government was not satisfied with simply producing political pressure on Finance and communicating its grievances. It also pushed for direct bargaining between Social Services and federal Finance. Because of Social Services' CHST-related demands, at the first meeting on November 10, HRD proposed to set up a four-way discussion between Axworthy, MacPhail, Finance

---

91 BC Social Services official, confidential telephone interview, May 1996.

92 BC cabinet minister, confidential telephone interview, June 1996.

Minister Martin and BC Finance Minister Cull. Few early efforts were made by HRD on the CHST issue beyond attempting to secure the willingness of Finance to assist in resolving the conflict. This was because the CHST was not an issue that could be resolved before the December 1 starting date for the residency requirement.  

After December 1, an important part of HRD's strategy became working to get some sort of commitment from Finance regarding the desire of Social Services to bargain with Finance directly. However, Finance believed that it would be inappropriate for the Minister, Paul Martin, to be seen giving BC preferential treatment by initiating a bilateral process with the Social Services Minister when a multilateral process with all provinces Finance Departments was on-going. 

The BC government also wanted 'fast' action on the allocation formula. This was not an easy issue to resolve either. According to one federal official, the challenge was to produce a deadline for agreement on the allocation formula when it was ultimately the Finance Department's responsibility and authority to draw up the budget document announced in March. As a result, Finance was reluctant to commit to an allocation formula before the 1996 budget announcement. Consequently, Social Services proved to be a somewhat awkward actor in the Finance arena.

---


96 Federal HRD official, confidential telephone interview, June 1996.

97 Federal HRD official, confidential telephone interview, June 1996.
During the same period, BC Finance Minister Cull joined the effort to apply pressure to the federal Finance Department on the CHST issue. Significantly, Cull was one of the members of the policy team that developed the residency requirement policy. The first meeting of all federal and provincial Finance Ministers was set for mid-December. Before the meeting, MacPhail said that the BC government intended to "take the battle" to the meeting and Cull stated publicly that she would reiterate the BC’s government’s demands to end the discriminatory funding formula carried over to the temporary CHST formula.\(^{98}\) It was a clear attempt to bring the pressure, issues, and media attention of the residency requirement to the low-profile CHST discussions.

By January, HRD was trying to get the Finance department to guarantee a date for a decision on the allocation formula.\(^{99}\) At this point there were only four federal-provincial CHST discussions left, two with officials, one with the Deputy Ministers and one with the Ministers on February 14, 1996. By January 23, HRD had proposed a decision deadline to Finance. The Finance Department vetoed that proposal, which prompted the BC government to withdraw from negotiations with HRD.

Failing to win either a commitment to a particular allocation formula before the final meetings or a deadline for reaching a decision on the formula, BC gave up. The BC government followed through on its threats and filed a writ and statement of claim with the Supreme Court of British Columbia regarding the withheld


transfer payments. MacPhail clearly intended to maintain pressure on the federal government when she announced legal action and said "sometimes it takes a huge deliberate knock on the head" to get federal attention. The continued pressure due to the lack of resolution retained the use of the residency requirement policy as a trade-off in the Finance arena.

The CHST allocation formula decided

The CHST discussion process in the Finance arena continued. At the meeting of federal and provincial Ministers on February 14, the last one of the process, Martin presented his department’s compromise position on the allocation formula. The proposed five-year formula neither kept the discriminatory formula nor moved completely towards per capita allocation. The formula included adjustments for population changes. The proposal Martin brought to the meeting was altered only minimally between that time and the release of the federal budget in March.

There is no way of knowing how much the actions of the British Columbia government between November 3, 1995 and January 23, 1996 influenced Minister Martin’s decision on the CHST allocation formula. The evidence shows that the allocation formula produced by this process addressed BC’s primary concerns about per capita funding.

The allocation formula moved half-way from the combined per

---


101 BC Social Services official, confidential telephone interview, May 1996.

102 Ruth Dorkleson, Special Assistant to the Minister of Finance, telephone interview, 10 June 1996.
capita/equalizing formula to pure per capita funding by the end of five years. Consequently, from 1998-99 to 2002-03 BC will receive $945 million more than it would have under the 1996-97 temporary CHST funding formula. This gives BC on average an additional $189 million per year. Unlike the 'have not' provinces, British Columbia, Alberta, and Ontario will be receiving proportionally more of the total transfers and more in real dollars in 2002-3 than in 1996-97. More significantly, BC will be the beneficiary of the largest proportional increase in transfers of all of the provinces. The new allocation formula benefits British Columbia over all other provinces.\(^{103}\)

When asked in June of 1996 how successful the residency requirement had been at achieving its 'trade-off' goals, one BC cabinet member said the policy "got the attention of the federal government" and that "the political point has been made".\(^{104}\) The 1996 federal budget speech stated:

> This budget also addresses our commitment to provide a new approach to allocating the CHST among provinces— one that addresses the funding disparities resulting from the limits on Canada Assistance Plan transfers imposed on certain provinces by the previous government. The new allocation will be phased-in during the course of the new five-year transfer arrangement. As a result, current disparities in per capita funding levels among provinces will be reduced.
by half. In funding and in theory, the changes to the CHST allocation formula reflect the funding issue pushed so forcefully and argued so persuasively by BC through the residency requirement. The migrant issue remains outstanding, and consequently, is an on-going pressure on Social Services resources.

It would be imprudent to overstate the cause and effect relationship between BC’s residency requirement and the allocation formula. There may have been some sympathy in the Finance Department for a shift in the direction of per capita funding before the policy was announced, although there was no official statement in that regard. There was a very small (one quarter of a percent for BC) increase in the proportion of funding received by all ‘have’ provinces in the second year of the temporary allocation formula. In addition, the provinces supporting per capita based funding could perhaps have successfully argued their preferences during the discussion process without the residency requirement. It is unlikely, though, that the outcome would have been so favourable to BC alone without the residency requirement’s forceful articulation of grievances. The question that remains is whether, according to the conditions established by Tsebelis, the residency requirement was rational.

---


106Federal HRD official, confidential telephone interview, May 1996. However, according to Ruth Dorkleson (in a later communication), there was no mention in the 1995 budget document or related speeches favouring a per capita funding and the CHST allocation formula.
The residency requirement in multiple arenas

At the root, BC's most significant observation was that the determination of the allocation formula was a political issue. The observation allowed BC to create a political instrument to produce results in interaction with the federal government towards the ultimate objective of electoral success. The actual effect of the policy's pressure would be difficult to determine, both before and after the allocation formula was announced. The probability of the policy's maximizing the government's long term revenue would also be difficult to calculate. However, it was almost certain that the conflict generated by the residency requirement would produce political pressure on the federal government and that this would benefit rather than injure BC.

The same preference was behind the policy's intended impact in both arenas: the BC government wanted to produce more revenues for social assistance. In the second arena, since social assistance transfers were bundled with health and education under the CHST, BC could have chosen to reduce funding to health and education or tried to increase overall revenue to maintain current funding allotments. The second option was clearly the one preferred by the BC government. It would have required an overall increase in CHST funding or additional provincial taxes, a less desirable option. Because of this, the residency requirement linked the two arenas in an ideologically consistent way.

The link between the two arenas meant that minimal resources within the Social Services arena were put at risk to produce large revenues (hundreds of millions) in the Finance arena. It was previously established that the payoffs and probability calculations in the Social Services arena were not adequate for the
BC government to rationally implement the residency requirement. In contrast, the Finance payoff structure meant that even if the provincial government did not believe that it could win the lawsuit against the federal government, enacting the residency requirement was still consistent with the objective of financial gain for electoral benefit.

It was almost certain that the increased political pressure and forceful communication of grievances would not adversely affect the CHST allocation formula. It was also quite certain that potential long-term payoffs in the Finance arena would dwarf the $39 million short-term loss ($47 million penalty minus $8 million saved revenues) in the Social Services arena. If the predicted payoff was a gain of only $250 million over a five year period, then the probability of making such a difference would only have to have been 13.5% for the BC government to pursue the residency requirement policy.\(^{107}\)

Because political pressure and demands for fairness were the key to success, the need to maintain leverage determined the rationality of the government’s actions. Since the BC government’s objective was change in the CHST allocation formula, accepting HRD’s offers before the December 1 deadline and not implementing the residency requirement would have removed the province’s leverage. This explains the government’s choice at that point. The HRD offers during the negotiations were also dwarfed by the

\(^{107}\)The figure of $250 million is simply a hypothetical number which would be worthwhile to pursue as a payoff but which is smaller than the actual payoff BC received. The calculation would be \(250 \times 0.135 = 39 \times 0.865\), or a 13.5% of producing an additional $250 million in CHST funding.
potential CHST payoffs.\textsuperscript{108} Accepting the January package would also have removed BC’s public pulpit, while ending negotiations without resolution retained the political pressure on the federal government to repair relations with BC. At that point, the BC government would only have had to have had the smallest probability of winning for it to rationally take the government to court.\textsuperscript{109} However, higher probability might have been needed if the government perceived a political cost to losing the law suit before the election. Court action further demonstrated that BC’s grievances had not been addressed and it maintained political pressure after BC had withdrawn from the negotiations. At each stage, the potential CHST payoffs explain the choices made by the BC government.

The BC government’s behaviour was driven by electoral concerns. Long-term payoffs in revenue would translate, most importantly for the 1996 election, into short-term political gains. Short-term political gains would come primarily from winning abundant resources from the federal government, and from articulating and reinforcing the NDP’s ideology, and defending BC’s interests. Additional resources without additional taxation would positively affect the marginal voter’s expected utility calculations for the NDP in the short-term and possibly the long-

\textsuperscript{108}Assuming an expected payoff of $250 million against the benefits of the January package ($32 million employment program and partial reimbursement at, hypothetically $30 million) at $62 million, the calculations would be $62 \times 0.80 = 250 \times 0.20$. BC would only have had to believe it had a one in five chance of winning some concessions in the CHST funding formula.

\textsuperscript{109}If one assumes legal costs at about $1 million (likely an overestimate), the calculations would appear as $1 \text{million} \times 0.98 = 47 \text{million} \times 0.02$. The probability of winning would have had to be 2% or greater, which was reasonable to assume.
term. The utility of the policy was that political gains would help maximise the electoral success of the governing NDP in the upcoming election.

By linking the residency requirement with the Finance arena, the BC government had a reasonable possibility of achieving its CHST allocation formula objectives and therefore its electoral ones. By refusing to rely on the institutional structure prescribed by the Finance department for determining the CHST allocation formula, the BC government was able to gain a political edge in altering the CHST allocation formula. In doing so, it generated additional revenue for the province without taxation, something other BC parties would not have been able to do. The residency requirement was used to transcend established institutions in the name of furthering the NDP government's electoral utility.

In the final chapter, I will examine the policy determinants revealed by the use of rational choice analysis in this case. Based on this, I will attempt to evaluate the usefulness of rational choice theory for this case and, more broadly, for Canadian public policy analysis. I will also review the questions left unanswered by this examination.
Chapter Four: Conclusion

A summary of findings

At the beginning of this study, I challenged the use of other theoretical approaches in the residency requirement case. I postulated that by focusing on the actor's decision-making, rational choice would allow us to more fully and accurately uncover the determinants of the policy. Rational choice also allows the public, as voters, to be brought into the policy process as the incentive for government action. The focus on decision-making integrates independent variables like existing institutions, the behaviour of other actors, electoral competition, and ideology into a coherent evaluation of the outcome of the policy. Each acts to constrain government decision-making.

From this starting point, I was able to identify and organize the determinants of the residency requirement policy. The BC government sought to achieve a plurality of electoral support in the approaching election. Voter utility calculations and electoral competition in BC meant that the government preferred policy that generated additional resources for Social Services without taxation and that bolstered the NDP's unique ideological position on the centre-left. The sources of the strain on the Social Services budget revealed the context of BC's decision-making.

In addition, the evidence regarding the BC government's decision-making corresponded to a rational actor's consideration of policy determinants. Consider the financial considerations as an example. The Social Services Department was faced with an expanding budget and reduced federal transfer payments. The residency requirement proposed to save $2 million a month for the
department—only about 0.3% of the total. 1995-96 Social Services budget. However, there was risk involved, risk significant enough to warrant not pursuing the policy. At this point, the government weighed the risks and decided to pursue the policy because of the utility of producing greater gains in CHST discussions through political pressure, increased communication, and bargaining. Gains in the CHST allocation formula would increase BC’s revenue without additional taxation, and forge a more equitable deal for BC taxpayers. It also bolstered the NDP government’s ability to deliver valued social programs at desired levels. All of this would improve the voters’ utility calculations for the NDP.

Rational choice allowed the complex interplay between a variety of actors to be uncovered in the normal course of explanation. Through the nature of social assistance policy and CAP, it was vulnerable to other provincial governments but was relatively powerless to affect their policies directly. Through CAP, the BC government shared the social assistance policy field with the federal government and was the bottom player in that authority relationship. With the choice of the residency requirement, the BC government tried to affect each actor by limiting spill-overs from other province’s policies and through the negotiations with the federal government. The end goal was not greater provincial autonomy, but a fair national social services program.

A rational actor seeks the optimal response to the institutional environment but is also able to alter that environment where it is not bound by legal structures. As a result, the actor can engage other actors through the creation of a new institution or the participation in an institution previously
closed to it. Analysis of BC decision-making using a nested game allowed the appropriate institutional environment to be revealed from the actor’s decision making process. The rational choice approach uncovered the creation of a new relationship amid existing institutions.

The Counter Explanations

The strength of the concern over social policy reform in Canada and its political potency raises the possibility of several counter-explanations to the rational choice approach to the residency requirement puzzle. The student of Canadian politics is urged to find the simplest explanation to any policy question. In the first chapter, I presented what is perhaps the most compelling counter-explanation based on the drive of provincial governments to augment their autonomy, resources and jurisdiction. ‘Province building’ appeared to be a plausible structural institutional explanation and was indeed more simple than the one produced by rational choice. However, when the actual decision-making process was examined, this explanation was found to be misleading. There was more to the BC government’s decision-making than a quest for greater power and autonomy.

Another explanation – that political popularity derived from ‘fed-bashing’ and attacking other provinces was purchased at the relatively low price of $39 million – is subject to the same criticism. This explanation, which finds its roots in rational choice theory, does identify the significance of the electorate and its role in determining government preferences. However, the case study revealed that the BC government considered other issues than simply the price of purchasing a high-profile political podium to score short-term political points.
Contrary to both explanations, the content of interviews, statements, and communications reveal a variety of policy determinants. Short and long-term financing, ideology, services, federal-provincial program coordination, the future of national standards, and the strength of BC's political voice were among the factors considered during the decision-making process. Certainly, the points identified by these counter-explanations were factors in the government's decision-making, but they were not the only factors. Also, more careful attention was paid to the risk of the policy than the above explanations would indicate. Each aspect of the policy was weighed carefully by the BC government, showing concern for the resources at risk. By supposedly solving the puzzle with ease, each mis-represents the actual decision-making of the BC government.

Another possible counter-explanation, supported by rational choice institutional theory, posits that a period of institutional change and uncertainty can produce rule-breaking behaviour. This is not a false description of what actually occurred: the BC government took advantage of the end of CAP and the creation of new CHST funding rules to generate leverage through unorthodox institutional manoeuvring. However, the explanation would not tell us what motivated the government's desire for institutional change nor what factors the BC government considered when making decisions.

I believe that the rational choice approach to solving this policy revealed the determinants of the residency requirement policy more accurately than another approach would have. It uncovered a variety of dynamics in provincial decision-making in a federal system. Each of the approaches proposed by the counter-
explanations reveals only one. The residency requirement policy certainly did have more complex intentions than can be explained by these counter-explanations.

It would be imprudent to extrapolate the utility of rational choice analysis to Canadian public policy from its tentative success in this case. The residency requirement was a small, high-profile, ideologically charged policy intended to be used before an election. It was the product of a highly political -- as opposed to bureaucratic -- policy process. It was neither a modification of existing policy nor a policy intended to have a lasting impact. There were relatively few actors involved. These reasons made the incentives, determinants, and payoffs clearer than in larger policy initiatives such as the change from Unemployment Insurance to Employment Insurance.

Recently, Patrick James used the rational choice game-theoretic approach to explain the actions and bargaining of the Alberta and federal governments over energy policy from 1980 to 1981. James focused on the interaction between the actors, their communication, strategies, incentives, and payoffs, although in a much more rigorous manner than in this case. In his sophisticated analysis, he coherently incorporates a variety of policy determinants and reveals the complexity of decision-making in a confrontational policy area. His success prompts a re-thinking of the utility of rational choice in enhancing our understanding of Canadian federalism.

---

Evaluation of the Theoretical Approach

The preceding analysis of the residency requirement attempts to explain its puzzling risks by revealing the decision-making behind the policy. No attempt was made by this study to predict the path of BC government action by weighing the utility of each possible action available to it. The number of policy options was too numerous and the interaction with other actors too complicated during such an intense period to do so. Instead, the conditions of rational choice theory were used to evaluate the choices made by the BC government. At the point when a particular policy choice was made, the requirements of rational decision making were used to evaluate the most obvious options. Some of these options included whether to allow the policy to take effect on December 1, whether to agree to the federal government's evolving package of offers at certain points, and whether to pursue legal action against the federal government. The option that most benefited the utility of the government was identified. Then, the actual choice made by the government was compared with it. If the two choices matched, the BC government was said to be acting rationally.

The BC government was found to have reasonably satisfied the strong condition of rationality, which is an accurate correspondence between the actor's perspective and reality. From the communication between the two governments and discussions with a variety of actors, it appeared that each had a reasonable idea of the preferences and information held by the other. The only significant discrepancy seemed to be that the British Columbia government appeared to have over-estimated the willingness of the Finance Department to negotiate with Social Services about the CHST. While correctly measuring the political pressure on the
Finance Department to assist in the settlement of the conflict, it underestimated the Department's ability to shield itself from these demands. As a result, the BC government failed to make the federal Finance Department commit at an earlier date to an allocation formula approved by BC. However, demanding such a deadline may have been considered only another way to produce political pressure, which it did successfully. Overall, we can say that there was a reasonable correspondence between the beliefs of the two governments and reality.

By adhering to an analysis guided by the weak conditions of rationality as set out by Tsebelis, the BC government was found to have rationally pursued its electoral objectives by using the residency requirement in a 'trade-off' strategy. BC did not have inconsistent or contradictory beliefs and preferences, and its preferences appeared to be transitive. Risks and minor losses in the Social Services arena were traded for increased communication and political leverage in Finance's CHST allocation formula discussions. Its strategy was not only an effective one, but one known in a system were multiple governments share policy jurisdictions.

The choices of the BC government were found to be the rational responses to the payoff structure postulated here, the government's circumstances, and electoral objectives. However, this does not necessarily demonstrate a causal relationship between the policy determinants identified and the policy outcome. To determine whether there was a causal relationship, I carefully scrutinized the information possessed by the BC government, its stated objectives, its motivations, and other factors considered during the decision-making process at every identified stage. At each
stage, the government was found to have weighed the factors pointed to by rational choice theory. Not only did the policy choices fulfil the requirements of rational choice, they were the product of considerations similar to those theorized by rational choice. The above evidence and methodology strongly suggests a causal relationship between the identified policy determinants and the policy outcome.

In the final analysis, unresolved questions remain. One of the most obvious is the BC government’s decision to retain the residency requirement in the 1996-97 fiscal year under the CHST, which forbids such a policy. One might question why BC retained the residency requirement if the BC government had succeeded in winning a favourable CHST allocation formula. This question relates to the difficult choice of the time frame for this study. The continued sensitivity of the residency requirement issue due to the BC government’s legal action and the federal government’s notification of continued contravention has been the primary barrier to continuing the examination of the policy under the CHST. Officials were unwilling to discuss motivation, decision-making, or actions taken under the CHST so I lacked the necessary evidence for analysis beyond the 1995-96 time period.

Among those officials I interviewed, federal and provincial, there was a strong tendency to consider the interaction under CAP to be a separate set of actions. Only CAP considerations were raised in relation to costs and federal policy concessions. The time frame chosen corresponds with CAP and contained the CHST federal-provincial discussions and the federal budget announcement of the CHST allocation formula. As it was associated with the savings and costs to Social Services and federal-BC bargaining, the
residency requirement was CAP specific.

Unfortunately, I was unable to uncover explicit information regarding the intended duration of the residency requirement. One BC official said that the policy had an "indefinite" time frame upon its creation, although in the same sentence she pointed out that policies are periodically re-examined. She also agreed that the end of CAP and the beginning of the CHST might have been an appropriate time for the residency requirement to have been reviewed, without saying that the policy actually had been reviewed at that time. It is evident that the policy actually was re-examined early in the 1996-97 fiscal year because on June 3, 1996, the policy's application to refugees was repealed.

Other information points to the policy's intended short-term impact. The policy was intended to "[draw] a line in the sand", an action that is usually a clear and immediate response to a threat. A BC cabinet minister said that the policy was a response to a "collection of annoyances" which were all contemporary and urgent issues. BC hoped for quick progress on these issues during the negotiations with HRD.

Consequently, there is evidence that the residency requirement was considered by the BC government in the short-term as defined by CAP. There is evidence that the policy was reviewed sometime during the beginning of the 1996-97 fiscal year. After that re-

---

2Isabel Donovan, BC Director of Income Assistance, telephone interview, 8 August 1996.

3British Columbia, Department of Social Services, "Refugee Claimants Exempted from Residency Requirement," press release, 3 June 1996.

4BC cabinet minister, confidential telephone interview, June 1996.
examination, the government chose to retain the policy. The BC government has electoral incentives to resolve the still-outstanding migrant issue and, although the payoffs of retaining the policy would be substantially lower than those available from the CHST allocation formula, the costs and risks under the CHST are also dramatically lower.

The CHST (Bill C-76 passed on 6 June, 1995 entitled "An Act to implement certain provisions of the budget tabled in Parliament on February 27, 1995") is significantly different from CAP. The CHST regulations do not preclude the Act from continuing in the case of a contravention of universal access. Penalties would also take longer to apply than under CAP due to a multi-step penalty process involving cabinet, the Minister of Finance, and Parliament. Unlike the Finlay case, there is no legal precedent for withholding cash. Under the CHST, the federal government could actually choose not to penalize a province acting in violation of the CHST (ss. 21). Consultation between HRD and the offending provincial department is also mandated by the Act (ss. 20(1)). The penalty may be postponed to be imposed in the fiscal year following the non-compliance (ss. 23).

The CHST is much more flexible than CAP regarding the amount of transfers withheld. The penalty, whether and when it is levied, is discretionary. Possible penalties are to be decided at the discretion of cabinet, imposed by the Department of Finance, and should be "appropriate" to the "gravity of the non-compliance" (ss. 21(1)(a)). This would make the federal government better able to deal with the pressure (discussed in Chapter 3) on it to resolve a contravention without a large negative impact on BC and its voters. The required order-in-council stating the intent to
penalize a provincial government is publicly announced in a report to Parliament and in a letter to the offending government with a thirty-day delay before the money is actually withheld (ss. 21(3) and (4)). This gives the offending province ample warning to modify its behaviour.

As of this writing, BC has received the federal government's "notice of concern" as per ss. 20 (2)(a) which indicates to the province that the federal government suspects contravention of the CHST agreement and has begun the long process of acting on that suspicion. British Columbia, as of the end of July, has received all of its CHST payments from April to July.

Considering the nature of the CHST, what would provoke the BC government to leave the policy in place if it were to re-evaluate it? Most obvious, the migrant issue remains unresolved. Speculatively, to remove the policy without gains in that area might be seen as losing face in the public eye. By removing the policy, BC has little to gain from the federal government.

In addition, the BC government has nothing to lose by retaining the policy. There can be no unseen threat to transfers so the BC government runs little short-term risk in retaining the policy. BC could look forward to more consultation and a thirty day notice, ample warning, before being penalised. Penalty could take many months and would perhaps not be very large. A 'wait and see' game could be a viable option upon reconsideration of the residency requirement.

Having speculated about possible reasons for the continuation of the residency requirement after the CHST funding issue had been resolved in BC's favour and based on electoral incentives and risk calculations under the CHST, the continuation does not pose a
problem to the accuracy of my analysis. The evidence shows that the retention of the policy is consistent with the description of BC's actions if the policy was re-examined at the beginning of the 1996-97 fiscal year.

Lastly, there is the question, alluded to earlier, of the accuracy of speculating about government decision-making. Within the constraints that limited my access to information, this rational choice approach offers a plausible explanation that is consistent with the evidence and more accurate than other explanations. In the end, it is also relatively straight-forward.

As of June 1996, no date had been set for the start of BC's legal action against the federal government. BC's contravention of the CHST continues. While the CHST funding issue has been resolved for the next five years, many of the same pressures remain on social assistance in British Columbia. What battle the BC government is fighting now with the residency requirement has yet to be determined conclusively, although rational choice theory has much to recommend it as the instrument for analysis.
Bibliography

Books, Periodical Articles, Reports


--------. *Social Safety Net Study: Complete Results.* Prepared for British Columbia Skills, Training and Labour Department. 19 October 1995.
Appendix 1: Interviews

Federal Government:

Department of Human Resource Development:
Lenora Homulos, Program Administration, 20 June 1996.
Faye Campbell, Legal Counsel, 10 June 1996.
Confidential interviews with two individuals in May and June 1996.

Federal-Provincial Relations Office:
Andrew Treusch, Director, 10 June 1996.

Department of Finance:
Ruth Dorkleson, Special Assistant to the Minister, 10 June 1996.

British Columbia Provincial Government:

Department of Social Services:
Isabel Donovan, Director of Income Assistance, 8 August 1996.
Confidential interviews with two individuals in May and July 1996.

Other Departments:
Gary Waters, Deputy Minister of Skills, Training and Labour, 4 July 1996.
Confidential interview with cabinet minister in June 1996.

Other:

Confidential interview with New Brunswick cabinet minister in June 1996.