Commissioners M.O. Morgan and C.E. Forget

A number of supplementary statements are appended to this report. It is generally recognized that any Commissioner has the right to make a critical analysis of any part of the report with which he or she disagrees and to write a dissenting opinion. Indeed, it appears to be rare for a Commission of Inquiry with more than three Commissioners not to have at least one dissenting opinion. These differences of opinion are healthy. In view of the nature of the subject matter and the membership of this Commission of Inquiry, it is not surprising that this study of Unemployment Insurance led to divergent opinions.

Two of the supplementary statements which follow are in keeping with the long-standing tradition of short dissenting opinions related to specific recommendations put forward in the various chapters of the report. The third "statement" signed by Commissioners Soboda and Munro is, however, without precedent. Under the guise of a dissenting opinion, it is in reality a comprehensive document written as if it were intended to stand on its own. Its unprecedented nature makes it necessary for us to take the unprecedented step of commenting on that document.

There is a recognized tradition that it is incumbent upon those who accept an appointment to a Commission of Inquiry under authority of the Governor in Council to be as objective as possible in arriving at their recommendations. As well, before accepting that appointment they should "be assured of their independence from undue influence and of their autonomy to carry out the inquiry."[1]

In the case of this Commission of Inquiry, six individual Canadians were invited to inquire into and to express their considered judgment regarding the reforms needed in order to adapt the Unemployment Insurance program for the future. All six Commissioners participated in public hearings and consultations between October 1985 and February 1986 and in Commission meetings held in March, April and May 1986 to consider the results of the research and briefs and to consider a variety of options. At a Commission meeting on May 23, 1986 we were informed by Commissioners Soboda and Munro that they had concluded that unanimous consent would not result from our deliberations and that, with the help of the research staff of the Canadian Labour Congress, they would be writing their own separate report.[2] The hope was nevertheless expressed that at the end of an extended period differences could be resolved and a unanimous report submitted. Although the Commissioners' term was extended to September 30, 1986, one of these Commissioners was absent from all subsequent meetings and did not participate further in any of the discussions that led to the adoption of the majority report.

During the period from May to September 1986, our report was prepared at the offices of the Commission of Inquiry and the "alternate report" at the Canadian Labour Congress. All the Commissioners had access to successive drafts of the report of the Commission of Inquiry, in particular to a version dated August 19, 1986 which was the basis of discussion in late August and which, with editorial and other minor changes, became the substantive report. All Commissioners also had the opportunity to influence those drafts, as well as access to all research reports, data and the expertise of the research staff. In contrast, the "alternate report" was prepared separately and delivered to our staff late on September 30, 1986. The other Commissioners had no opportunity to examine it or to seek acceptable solutions to differences of opinion.

The unprecedented course followed by Commissioners Soboda and Munro raises several important issues. There is the question of whether a person who cannot fulfil the obligation of objectivity and exercise personal judgment unencumbered by corporate commitments and responsibilities should have accepted an appointment as a Commissioner. There is also the question of the privileged position given to the Canadian Labour Congress over that of other interested parties, including other labour organizations, in having access to a document, privileged to the Crown, even before the Government. These two questions raise the broader issue of whether elected officers of any organization should be placed in the ambivalent position of participating in a Commission of Inquiry on a matter of particular interest and concern to their organization.

Another matter of serious consequence is that their supplementary statement contains significant misrepresentation and misinformation about the majority report. Five issues have been chosen as examples of this misrepresentation.

Regionally Extended and Fishing Benefits

Their report ignores the majority report's emphasis on income supplementation. Indeed one entire chapter of our report is devoted to the income security system in Canada. Their report protests the harsh consequences to individuals and regions as a result of the elimination of regionally extended benefits but fails to mention that we propose alternatives which we believe are better able to meet the needs of the poor. As we stated in the Introduction to Part II:

> It would be irresponsible to give serious consideration to removing regionally extended benefits, for example, without providing an income supplement to workers faced with economic hardship, and without providing development funds to regions and communities suffering from the impact of economic forces well beyond their control.

Or Recommendation 33 in Chapter 9:

> During this five-year period, the federal and the provincial governments involved in the fishing industry should develop and implement an income supplementation plan for all workers in relation to their need, with resources at least equivalent to those currently available for Unemployment Insurance benefits to self-employed fishermen.

Or the statement in Chapter 11:

> We recognize that these recommendations would of themselves have a serious impact upon particular regions of the country – especially Atlantic Canada. We therefore recommend that there be no loss of support to these regions and that the money saved from regionally extended and fishermen's benefits be used for programs that are better designed to provide the needed assistance.

Income Supplementation

They state that "on the eve of the production of the next-to-last draft of the report, a proposal for an income supplementation plan for the working poor was invented and put into the report. The idea had never even been discussed at the Commission. When it became clear that the dollar amounts being proposed were so low that the result would be embarrassing, the figures were removed, and the recommendation downgraded to a suggested direction for future action. It does not deserve to be taken seriously by anyone."

This statement is in error in several major respects. First, the idea of income supplementation was discussed by Commissioners as early as March and a minimum supplement was part of the program simulations in April 1986. Second, a specific proposal was not inserted into the final text precisely for the reason given:

> to define a specific supplementation plan would require making a large number of highly debatable assumptions about related changes in social programs and the tax system, about social and economic priorities, as well as about provincial viewpoints. It was therefore deemed more fruitful to concentrate instead on describing the essential characteristics that any viable and acceptable supplementation program should possess. This Commission of Inquiry favours the concept of an Earnings Supplementation Program.

As noted in Chapter 4, four provinces already have supplementation programs and they are of two very different types. Thus we had concluded:

> What may be needed is a group or series of supplementation plans, reached through federal-provincial agreements, to reflect the differing provincial concerns.

Finally, as noted above it is made abundantly clear that the recommended shift to Annualization should only be made when a supplementation program is in place. Income supplementation is, therefore, not simply a "suggested direction for future action" but rather an integral part of the reform proposal. It is certainly worthy of being taken seriously.

The Share Economy

A description of how the Share Economy became part of the report is used to characterize the majority report as "a home for crackpot ideas." Quite simply their report again is misleading. The Share Economy was the subject of a research paper undertaken explicitly for the Commission and distributed to all Commissioners in February.[3] It was also discussed by Commissioners in Vancouver in April, and again in August 1986. Certainly Commissioners who wished to pursue this issue further or to influence its inclusion in the draft chapters had ample opportunity to do so. Neither Commissioner Soboda nor Commissioner Munro raised this as a concern with staff or with other Commissioners.

Costs

In the description of their preferred program the Labour Commissioners describe the cost of increasing maximum benefit duration from 50 weeks to 71 weeks as "relatively small" (Chapter 4). Again, this is misleading. The reader who perseveres to the end of Chapter 5 will discover that the cost of this change alone would be $876 million. The cost of their entire package would be an additional $3 billion to be funded presumably from premiums.

Impact of the Changes on the Poor

The most serious misrepresentation of the position of the majority report is Commissioners Soboda and Munro's characterization of the impact of the proposed changes on the poor. In light of their accusation that the majority report is indifferent and callous, their own recommendations are difficult to reconcile with their professed concern for the poor. If they had access to an additional $3 billion, Commissioners Soboda and Munro would spend it to enrich Unemployment Insurance, a program which directs fully 78 percent of benefits to families with income above the poverty line. By contrast, our recommendations would not increase costs but would direct a greater proportion of existing funds to the poor in the form of Earnings Supplementation Programs, community economic development and other initiatives. These proposals not only provide more assistance but more effective assistance directly to the poor. The Labour representatives are so intent upon preserving the status quo in Unemployment Insurance that they ignore the inadequacies of the current approach and the possibility that alternatives exist outside of Unemployment Insurance which can better help those with low incomes.

The 250-page "supplementary statement" submitted in English late on September 30, 1986 was clearly not a straightforward dissenting opinion based on a critical analysis of the proposals contained in this Commission's report. It is a comprehensive text that argues and is designed from the point of view of a particular interest group to undermine the credibility of the majority report and the four Commissioners who support it. This document incorporates complete paragraphs of the brief submitted at the public hearings by the Canadian Labour Congress. It also quotes whole sections of our report agreeing with the majority of our recommendations. Yet it is submitted in the guise of a dissenting opinion. Such action surely goes beyond the right of an individual Commissioner to express dissenting views.

The submission of this "alternate report" posed an ethical dilemma for the Commission of Inquiry. There were questions about the propriety of including it in the report because of its unprecedented nature and its declared purpose. Yet to deny inclusion would lead to an accusation of censorship. To publish without comment, although comment on a supplementary statement is also without precedent, would imply acceptance. In the end it was decided to publish and to comment. The reflection upon the motives and integrity of those who support our report left us no alternative.

Notes

1 Canada, Privy Council Office, *Commissions of Inquiry: A Handbook on Operations* (Ottawa: Minister of Supply and Services Canada, 1983), p. 6.
2 Canada, Commission of Inquiry on Unemployment Insurance, Minutes of Meeting of Commission held in Ottawa, May 28, 1986, p. 5.
3 Martin L. Weitzman, "Profit Sharing as an Antidote for Canadian Unemployment," 1986 (unpublished).

Commissioner Roy F. Bennett

While agreeing with the majority of recommendations in the report, I would urge alternative courses of action in five areas:

- Annualization concept;
- treatment of part-time workers;
- Cumulative Employment Account;
- treatment of pension income; and
- labour disputes.

The following comments provide additional perspectives and alternative suggestions in regard to these issues.

Annualization

The feasibility of the Annualization concept depends heavily on the adequacy of appropriate Income Supplementation plans which need to be developed. Without such plans, the Annualization concept could cause undue hardship to many individuals and impose a substantial strain on provincial welfare programs. Yet the development of appropriate Income Supplementation programs will be extremely difficult due to the variance of needs in different regions of the country and the necessity to collaborate with each of the provinces.

Until appropriate Income Supplementation plans can be designed and the overall effects assessed, I believe it would be inappropriate to commit to an Annualization concept.

While full commitment to Annualization should therefore be delayed, I believe that a first step in this direction can and should be undertaken. The first step, however, should be one that stands on its own merit and need not be reversed if suitable Income Supplementation plans are not developed.

In Phase One, I believe it would be more practical to continue with a modification of the present One-for-One approach but with the benefits calculated based on average earnings over the latest 13 weeks of employment (i.e., one week of benefits for each week of work up to some specified maximum number of weeks – presently 26 but it could possibly be 30 weeks).

Recognizing that, under this proposal, the 10-week worker would receive only 10 weeks of benefits (which would be equal to 60 percent of 10/13 of his weekly income) and the maximum benefits for a full-time worker would be significantly reduced from present levels, some temporary continuation of regionally extended benefits would be appropriate. I would suggest, however, that these benefits initially should be reduced by at least 10 percent, either by shortening the number of weeks for which benefits are paid or, preferably, by reducing the amount of benefits paid.

The foregoing approach would initiate the concept of Annualization and the phasing-out of regionally extended benefits. Further steps to remove regionally extended benefits could be taken in subsequent years, regardless of whether further moves toward the Annualization concept were adopted. The speed of these reductions would be influenced by general economic recovery and the success of the recommended job creation and retraining programs outlined in our report, as well as by the possible development of Income Supplementation programs.

Part-Time Workers

There are a number of part-time workers employed in jobs for less than 15 hours per week for whom Unemployment Insurance would be desirable and beneficial. As a result, both the Wallace Commission of Inquiry and the Boyer Committee recommended extending insurance coverage to those working in part-time jobs of more than eight hours per week. Regrettably, however, this recommendation was made, in both instances, without having an adequate assessment of the mix of individuals

affected or of the specific implications of the recommendations.

I believe the following perspectives warrant further consideration before a decision is made to extend Unemployment Insurance to more part-time workers:

1. Based on Statistics Canada data for 1985, there are 466,000 part-time workers who work between 8 and 15 hours per week. Of this total, an estimated 40 percent are students for whom the payment of premiums would be a hardship, particularly as only a small number would likely have occasion to claim benefits. Of the remaining 280,000, a significant number are believed to be workers who neither need nor want Unemployment Insurance coverage (e.g., casual workers, retirees and workers with full-time jobs who also have part-time employment). I believe a more comprehensive analysis is required of those who work between 8 and 15 hours per week before a decision is made to extend coverage to everyone in this group. The proposed extension to all those working 8 hours or more should only be made if the majority of those added to the program are believed to want Unemployment Insurance coverage.
2. The increased costs and administrative problems would be significant, particularly for small businesses which hire part-time help for one or two days a week. If coverage applied to all those employees working eight hours or more, premiums would be deductible from earnings of as little as $32 per week and would often be the only payroll deduction to be withheld and reported (Canada Pension Plan deductions start at $48.08 per week, while income tax deductions start at $92 per week).
3. The concern regarding multiple job holders is not a significant factor as only an estimated 2 percent of part-time workers have more than one part-time job.
4. In addition to the normal administrative workload, it would be a problem for the Canada Employment and Immigration Commission to monitor job search requirements of individuals who only want work for one or two days per week.

In view of the foregoing comments, more analysis is needed before a decision is made to extend coverage to part-time workers.

Cumulative Employment Account

The concept of providing additional benefits for older workers is desirable in recognition of the increasing problems resulting from such events as plant shutdowns and closure of mines. Some additional study should be made, however, to determine whether this assistance can best be given through the Unemployment Insurance Program or through some modification of special assistance programs such as the Labour Adjustment Benefits program.

Assuming Unemployment Insurance is the preferred delivery program, I am concerned that the proposed Cumulative Employment Account introduces a number of inadequacies, inequities and administrative complexities.

1. Assistance might not be available at a time of need for those older workers who have been working for 30 years but have not met the minimum qualifying requirements due, for example, to: (a) working a few years abroad; (b) having an average of less than 42 weeks of work per year (e.g., construction workers); or (c) having had a period of self-employment.
2. There is serious discrimination between those who just meet the minimum qualifications and those who just fall short of them.
3. The additional administrative workload for businesses, which will need to report weeks of work for all employees, and for government, which will need to keep track of accumulated benefits for everyone in the labour force, could be substantial.

In view of the foregoing concerns, I would prefer to base entitlements simply on age, together with a minimum qualifying period in the labour force (e.g., 10 or possibly 20 years with no specific reference to number of weeks worked). An individual could be entitled to a specified number of weeks' benefits for each year beyond the age of 45. For example, an entitlement of an additional five weeks of benefits could be accumulated for every year after the age of 45 up to a maximum of an additional 50 weeks (which would be reached at the age of 55). The additional entitlement would be restricted to the same usage outlined in

our report, with the exception that such benefits should not be used to "top up" Unemployment Insurance benefits beyond the normal maximum level. The increased benefits should be used only to extend coverage for those older workers who made an approved relocation or took an approved training program that enhances their chances of finding new employment. "Topping up" is rejected because it could become a serious disincentive to taking jobs that were available.

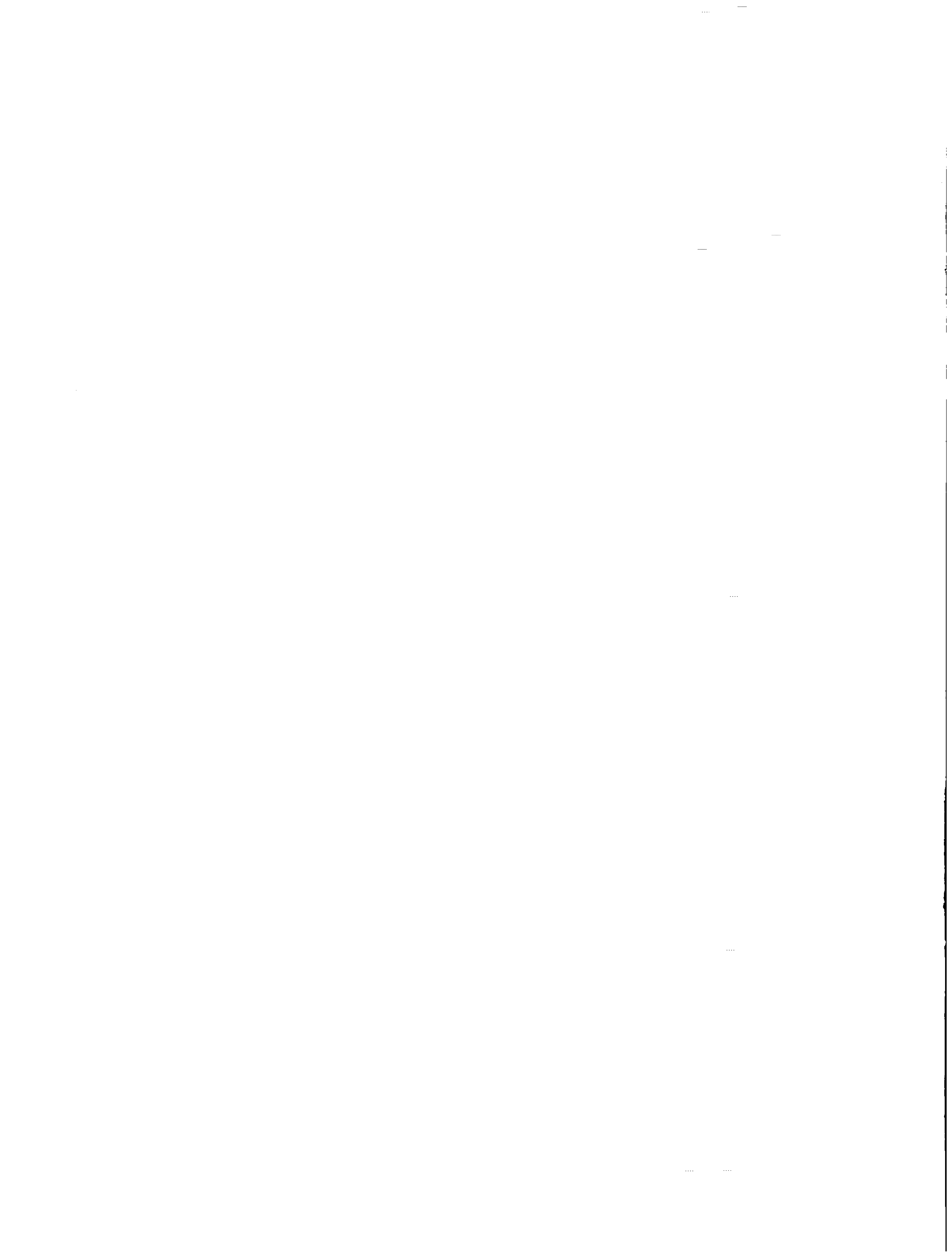
The viability of this counter-proposal will, of course, hinge on its acceptability under the Canadian Charter of Rights and Freedoms. There appears, however, to be considerable precedent for extending additional benefits to older persons.

Pension Income

Recognizing that the initial intent to treat pensions as earnings for purposes of determining Unemployment Insurance eligibility was announced in early 1985, I see no reason to wait until January 5, 1989 to implement our slight modifications to the original proposals. It should be acknowledged that the changes made January 5, 1986 imposed considerable hardship primarily because details of the changes and regulations were not available until a short time prior to the implementation date. As a principle, I believe changes which have significant impact on many individuals should normally become effective one year after the regulations are published. This timing is recommended for implementation of our proposal covering treatment of pensions.

Labour Disputes

1. In determining the date when a labour dispute is deemed to finish for purposes of Unemployment Insurance, it is important to recognize that all employees are not necessarily scheduled to return to work at the same time. In many instances, workers at different locations are recalled at different times, while workers in separate departments at the same location may be recalled on a progressive basis. I therefore recommend that a worker should no longer be considered involved in a labour dispute after: (a) a collective agreement has been signed; and (b) the unit or department in which the worker was employed at the time the strike commenced either resumes work or ceases to exist.
2. In the case of a worker who is not directly involved in a strike but who is laid off as a result thereof, Unemployment Insurance benefits should be paid provided that: (a) the claimant is not employed by the same employer as those who are on strike; or (b) the claimant does not contribute to the same strike fund.
3. In a situation where a worker is disentitled because of a labour dispute, then takes another job and is laid off, that worker should be eligible for Unemployment Insurance on the basis of the second job *only in those instances where* either: (a) the strike is over at the time of layoff from the second job, or (b) the striking worker has held the second job for at least 10 weeks.

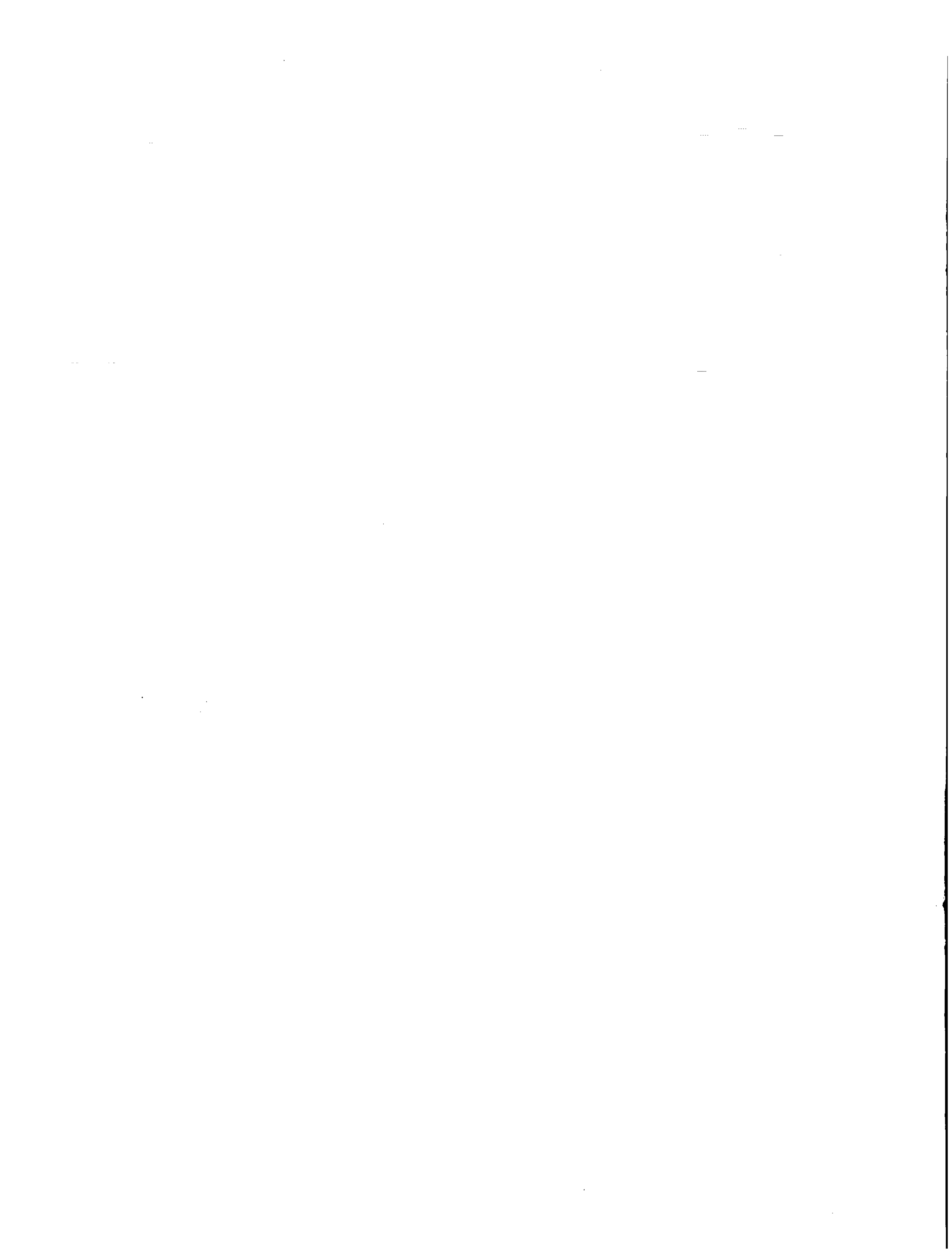


Commissioner Guylaine Saucier

The present rule for determining when a labour dispute is over with respect to Unemployment Insurance – namely, when 85 percent of those who were at work when the dispute began are back at work – should be retained. It is true that this may be long after the date of the collective agreement or the date stipulated in a subsidiary agreement for a return to work, but it must be recognized that a labour dispute may not only delay a resumption of activity but also cause a firm to lose its market share for an indefinite period. In such circumstances, those employees who are not called back are no longer on strike and would gladly return to work if they could.

Given the type of enterprise against which they struck, however, such an eventuality is neither unpredictable nor entirely involuntary. The decision to go on strike does not only have immediate consequences. In the longer term, it can affect, if not the survival of the enterprise, at least its future ability to maintain employment for all those who shared in the decision to go on strike. In order to apply the principle of the neutrality of Unemployment Insurance with regard to labour relations, I believe that the continuation of the present rule is the appropriate course to follow.

I agree with Commissioner Bennett's supplementary statement with regard to the case of a worker who is not directly involved in a strike but who is laid off as a result.



Commissioners F. J. Soboda and J. J. Munro

Executive Summary

The majority report of the Forget Commission, if implemented, would slash unemployment insurance benefits for most jobless Canadians. Cuts would average about 30%, but would range up to a horrendous 50% in the "have-not" provinces where unemployment levels are highest.

Cuts of this magnitude would force many more thousands of the unemployed onto welfare. Canada's poverty rate would skyrocket.

In the process, our UI program would be transformed into a grudging pittance, less than $100 a week for roughly half of all claimants. It would lose the main elements that make it an insurance plan designed to replace earnings in the event of unemployment. It would be converted into a form of social assistance that would do little to alleviate the plight of the jobless.

Seasonal, short-term and part-time workers – those most in need of protection – would be the hardest hit, and the structural changes in the economy are creating new members of these groups, many of whom are collecting benefits for the first time in their lives, but benefits would be reduced to some degree for 78% of all UI claimants. Only for those workers least in danger of losing their jobs would adequate coverage be maintained.

Disastrous Consequences

These stark consequences of the Forget proposals are not easily discernible. It takes a careful reading of the majority report to strip away all the progressive-sounding verbiage and expose its harshly regressive intent.

An example is the proposal to "annualize" benefits, which involves increasing the benefit rate from 60% to 66⅔%. That looks fine on the surface and may impress people who don't calculate the punitive effects of the Commission's follow-up recommendation. This formula would prorate (reduce) benefits according to the number of weeks a claimant was unemployed in the previous year.

Someone who had worked only 26 weeks, for instance, would have benefits cut by 50%. Someone laid off for 40 weeks would suffer a 75% reduction.

The actual benefit rate, under annualization, would be less than 50% of insurable earnings for half the unemployed, less than 40% for one-third of them, and less than 25% for 1 claimant in 12. Not content with the severity of these overall cuts, the Forget report would further penalize workers by eliminating regionally extended benefits – benefit entitlements tied to local labour market conditions.

Misleading and Deceptive

It is indicative of the misleading and spurious nature of the report as a whole that such a draconian cut in benefits is actually represented as an increase!

Similarly deceptive excuses are advanced to try to justify other reactionary proposals, such as eliminating extended coverage in regions of high unemployment, phasing out benefits for fishermen and other seasonal workers, and making pensions, severance pay and vacation pay count as earnings for UI purposes.

The combined effect of these changes would virtually destroy our UI program as it now exists. The program has already been seriously eroded over the past 10 years, and the Forget Commission would deliver the *coup de grâce*.

A Report Based on Myths

Its report embraces – and perpetuates – all the myths about unemployment insurance that foes of the program have fostered since its inception – myths about alleged abuses of UI by short-term and

seasonal workers, by women, by cheaters and parasites.

Nowhere in the majority report is there an awareness that the sharp rise in unemployment in recent years is attributed to a stagnant and unstable economy. Nor do the majority commissioners seem to realize that thousands of the jobless – even many now in seasonal and short-term occupations – are people who have become unemployed for the first time, through no fault of their own.

Instead, Forget and the commissioners who support his recommendations are convinced that it is the fault of the unemployed themselves that they are without jobs. This "blame-the-victim" approach permeates their whole report. It is an obsession that is not based on any hard evidence or data. On the contrary, all the available statistics refute the majority commissioners' retrogressive views.

For example, Forget cites the "10-week worker" – someone who works just long enough to qualify for UI – as a major problem. In fact, such short-term workers comprise only 3% of UI recipients, and there is no proof that significant numbers of them are quitting rather than being laid off.

Of more than 3 million claimants each year, fewer than 200 are found guilty of fraud – hardly grounds to justify a crackdown on UI abusers.

Submissions Ignored

It seems clear that Forget and the commissioners who signed the majority report were influenced more by their own preconceptions than by the 475 briefs they received during the public hearings they held across this country. The overwhelming message from those submissions was that Canadians are generally satisfied with the basic structure of the UI program.

They disagreed on such issues as the length of the qualifying period, the benefit rate, and the formula linking work to the duration of entitlement. But, except for a small extremist minority, they wanted to preserve *the basic structure* of UI as a work-and-earnings-related social insurance plan.

The majority report, however, completely ignores the wishes of the great majority of labour, community and business groups that took part in the public hearings.

The result is a report that recommends harsh and devastating cuts in UI benefits that favour myths over the realities, the intolerance of a fanatical few over the wishes of most Canadians.

A Progressive Minority Report

We – the two labour representatives on the Commission – were left with no alternative but to issue our own report.

Our report not only rebuts the majority report, but also advances many constructive proposals for improving the UI program, as well as defending it.

It is our firm belief that the program is basically sound and needs only to be improved and strengthened to allow it to serve its purpose in a less complicated and more equitable fashion.

Our points of departure from the other Commission members are fundamental:

1 We do not believe that cuts in the program are warranted.
2 We cannot support massive cuts in benefits for those workers who are most in need of the economic security that UI provides – those who are unable to maintain full-time full-year employment.
3 We believe that the proposal to eliminate regionally extended benefits is an economic disaster in the making for Canada's weakest local economies.
4 We believe it is a serious mistake to sever the link between UI funding and benefits and the rate of unemployment.

The UI program has already sustained a series of cutbacks and restrictions over the past decade. The cutters and retrenchers have had their day. It is time now to refocus the program on its basic purposes and on the needs of the people it is supposed to serve.

Proposals for Improving UI

Our major recommendations are:

- that the link between the duration of benefits and the local unemployment rates be maintained (regionally extended benefits);
- that the minimum entrance requirement of 10 weeks be extended to all classes of claimants, including those for sickness, maternity, and parental benefits;
- that the maximum benefit period be increased from 50 to 71 weeks;
- that the two-week waiting period remain for regular benefits, and be reduced to one week for sickness benefits, and eliminated entirely for maternity and parental benefits;
- that benefits be guaranteed to be paid within one week of application;
- that the level of insurable earnings be established yearly at 125% of the eight-year moving average earnings;
- that the benefit rate be increased to 66⅔%;
- that all pension income, severance and vacation pay be excluded from the definition of earnings for UI purposes;
- that the present exclusion from coverage of persons over age 65 be eliminated;
- that the maternity benefit period be 17 weeks, with the 2-week waiting period being eliminated, and parental and adoption periods be 24 weeks;
- that part-time workers be eligible for UI if they have a minimum of six hours per week of regular employment;
- that the denial of benefits to workers involved in a strike be confined to workers actively on strike, and not extended to others who refuse to cross their picket lines;
- that employees who were locked out by an employer be eligible for benefits;
- that the UI regulations, procedures and administration be simplified to enable claimants to file applications and obtain their rightful benefits more easily and quickly;
- that if the above recommendations are adopted, we maintain the tripartite financing, with equalization of premiums between employers and employees.

Choosing Between Them

The distinction between the majority and minority reports of the Forget Commission is clear.

The majority report proposes massive cuts in benefits and blames the jobless for their own misfortune.

The minority report proposes to improve benefits and make the UI program more responsive to the needs of the unemployed.

The federal government must now decide how to deal with these two divergent sets of recommendations. It is up to Canadian workers, their unions, social agencies, church groups and other defenders of unemployment insurance to put pressure on the government to make the right decision.

Chapter 1: Introduction

A Flawed Process and a Flawed Conclusion

After many months of hearings and countless hours of discussion of the issues with the public and interested groups, four of the six Commission members have produced a report whose recommendations would result in dramatic cuts in UI benefits for those whose risk of unemployment is the greatest. Three of the six have gone further and endorsed an ill-conceived scheme that would destroy the foundation of UI for all but the most securely employed.

In doing so, the report has betrayed the trust that Canadians placed in the Commission when they appeared at our hearings.

The central recommendations of the report bear no relation to what *anyone* said at the hearings. The strongest consensus of the hearings – shared on all sides – was that the program should be simplified. The report's recommendations for benefit annualization would make program administration even more complicated.

Virtually every presentation at the hearings accepted the basic role of UI as the hub of Canada's social insurance system and endorsed the basic structure of the program in fulfilling that role. Yet the proposal for annualized benefits would render benefits inadequate for the majority of the unemployed and force a substantial proportion of claimants onto welfare.

The report claims to be taking an innovative approach. In fact, the main proposals recycle ideas that were put to the Canada Employment and Immigration Commission (CEIC) in a secretly commissioned study more than two years ago.

The report as it stands is extremely misleading. It is full of progressive-sounding phrases about being responsive to the needs of the unemployed. Yet it proposes massive cuts in benefits for the majority of claimants. It quotes extensively from presentations made to the Commission. Yet it ignores basic messages about UI and its role in Canadian life that were repeated over and over again in the public hearings.

It contains table after table of numbers which it claims support its recommendations. But it makes assertion after assertion that not only is not supported by any facts presented in the report but cannot be supported by any facts, in the report or elsewhere. Sweeping statements are made to justify policy proposals, statements which are demonstrably not true. It is shameless in its use of misleading and invalid generalizations.

In fact, the proposals put forward in the report flow from basic myths about UI claimants that can very easily be dismissed either as unfounded or wildly exaggerated.

We do not disagree with every detail of the Forget report, however. A careful examination of our report and the Forget report will reveal a number of concerns and recommendations in common. Our approach to administrative issues, for example, differs largely in emphasis rather than in substance from that of the Forget report.

We also agree on several of the proposals for ancillary programs to deal with training and adjustment issues and youth unemployment.

In the end, however, we found the report's central proposal to be so offensive, and so fundamentally out of step with Canada's needs that we felt we had no alternative but to present a separate report.

The Report and the Hearings

As commissioners, we were proud of the first stage of the Commission's work. We held a total of 62 days of public consultations: formal public hearings, informal public meetings, round-table discussions on specific issues or community problems, and private meetings.

We visited 46 communities, ranging from villages such as Rae-Edzo, in the Northwest Territories, to large metropolitan centres.

Nearly 500 briefs were presented at public hearings: 29% from labour, 19% from advocacy groups; 19% from individuals; 17% from business interests; and 16% from other groups – governments, social planning organizations, politicians and other non-profit groups.

In addition, the Commission received 1,500 written briefs or letters containing substantive comments about UI issues from hundreds of other groups and individuals: 4% from labour; 5% from non-profit groups; 73% from individuals; 9% from business interests; and 9% from other groups.

The consultation process produced, in just six months, a significant response from the public. The size of the response underlines the importance which Canadians attach to the unemployment insurance program and reflects, in part, the fact that this study of UI has been the first such review that has ever sought the views of the public.

The significance of the public response to the work of the Commission makes the fact that the Forget report ignores the views of all but an extremist minority all the more reprehensible.

We have described the report as a betrayal of the hearing process. With respect both to overall direction and to detail, the report summarily rejects the views about the UI program expressed by Canadians.

Community, voluntary non-profit and worker groups were given extremely short shrift. But even where business, labour and community groups were generally agreed, the report turns a deaf ear, most particularly in the complexity of its central recommendations.

There was a great deal of debate – often heated – at the hearings. That in itself was not surprising. One would hardly have expected anything else from a rare opportunity to discuss a program of the scope and impact of UI.

What was noteworthy about the debate, however, was the breadth of agreement on the basic structure of the program. The overall message from the hearings was clear. The basic structure of unemployment insurance as a social insurance scheme related to work and earnings is accepted by Canadians right across the political spectrum.

We would like to stress this point. The basic structure of UI – a benefit entitlement for which a claimant must qualify through employment; a benefit duration linked to individual employment and overall rates of unemployment; and a benefit rate established as a fixed proportion of insurable earnings – was accepted by the overwhelming majority of participants.

Much of the debate concerned such issues as the length of the qualifying period, the benefit rate, and the formula linking work to the duration of the individual's benefit entitlement within the structure of the current program.

There was absolutely no mandate from the hearings for fundamental change in the way the program works.

And although there was also a great deal of debate in the hearings over such aspects of UI as maternity and sickness, fishing and regionally extended benefits, much of even that debate was not over whether or not these aspects of the program should exist but rather over who should fund and administer them.

The most difficult conclusion to which any Commission of Inquiry can come is that the object of their study is fundamentally sound and does not require basic change. The natural imperative in any study is to come up with a radically different program that changes the world, and in the process justifies the existence of the Commission.

As difficult as it may be to do so, we believe the Commission should have resisted the temptation to recommend change for its own sake.

In light of this widespread acceptance of the program's basic design, the work of the Commission should have been directed towards finding common ground and compromise among the major constituencies concerned about the nature and role of unemployment insurance in Canada. No serious attempt was made to reach consensus on any fundamental issue.

This flawed process flows from two dominant preconceptions: that notwithstanding what anyone had to say at the hearings, massive change is required; and that it is impossible to reach

consensus between business and labour on changes to the program.

At the Ottawa hearings, the Chairman stated his view clearly, in a discussion with the CEIC Advisory Council during their presentation to the Commission of Inquiry.

> After listening for three months to trade union groups and employer groups who can hardly, in any case, even spend the time to listen to each other, I'm really puzzled as to whether something like that [joint labour management-government administration of UI] could work. It doesn't seem to be part of the Canadian culture to have any sense of compromise among these groups, when it comes to important matters. (Hearings Transcript, February 14, 1986, p. 6945)

In fact, such compromises are made every day. It is called collective bargaining.

The assumption that no compromise was possible was tantamount to giving up on the real job of the Inquiry when it had barely started.

The Commission of Inquiry on Unemployment Insurance in Context

One of the fundamental mistakes which we believe the Forget report makes is in looking at UI reform in 1985 and 1986 as if nothing had happened since the program was modernized in 1971. In fact, the program has been amended and reviewed more often than any other federal program, with the possible exception of income taxes.

In 1976, disqualification periods for voluntary quits were increased, benefit rates reduced and the formula for government funding of UI weakened.

In 1977, entrance requirements were increased from 8 weeks to a variable 10–14 weeks and the maximum duration of benefits was reduced to 50 weeks. On the funding side, UI funds were diverted to "developmental" uses – work sharing, job creation and training.

In 1979, the benefit rate was reduced again, to 60%; entrance requirements were increased for re-entrants and new entrants to the labour force; new, more restrictive rules were introduced for repeat claimants and part-time workers. The financing formula was changed again to reduce the government's obligation for the costs of extended benefits and to provide for a "claw back" of benefits paid to claimants whose income exceeded 1.5 times the yearly maximum insurable earnings level.

In 1980, rules for part-time workers were loosened again. The funding formula was changed again to reduce further the government's obligations with respect to extended benefits.

In 1981, the Employment and Immigration Task Force on UI recommended further cutbacks to the program. Its recommendations would have reduced program costs by an estimated 3.5%. These recommendations died an early death, as the 1982–83 recession made UI cuts politically impossible.

In 1983, changes were made to several odious provisions affecting maternity benefit claimants, and the place of fishing benefits in UI was confirmed following a Supreme Court decision which put them in jeopardy.

In 1984, Finance Minister Michael Wilson served notice that UI was on the chopping block. New regulations were introduced governing treatment of pension income and severance and vacation pay which resulted in drastic benefit cuts for recipients of such income.

In 1985, this Commission was created as a Cabinet compromise between those who wanted to cut the unemployment insurance program even further and those who were opposed to any cuts.

Two themes run through the cuts that have been imposed on the UI program since 1971. First, governments have responded over and over again to complaints, from UI's critics, that the program is too generous. Second, governments have pursued single-mindedly an objective of reducing their own financial obligations to the Unemployment Insurance Account.

The Commission of Inquiry on Unemployment Insurance comes at the end of a long line of cutbacks that responded to the louder voices of the conservative business community and the government budget cutters. In our view, the Commission of Inquiry should have had that context in mind when it listened to the same louder voices calling for even further cuts in the program. In our view, the Commission's job was not to provide yet another vehicle for those with louder voices. It was to give voice to Canadians whose concerns about

more than a decade of cutbacks have not been heard, and to re-establish a sense of balance in changes to the program.

Unfortunately, the three Commission members who have wholeheartedly endorsed the Forget report did not agree.

The Philosophy Behind the Forget Report

The sweeping changes to UI recommended in the Forget report are aimed directly at cutting benefits for the two specific categories of workers whose risk of unemployment (and need for unemployment insurance) is the greatest: seasonal workers and so-called "10 and 40 syndrome" workers (people who allegedly work for only enough weeks to qualify for UI, and then go back onto UI – literally, people who work 10 weeks and collect UI for 40, year in and year out).

In order to "get" these workers, the report proposes changes that will eliminate the link between rates of unemployment and benefit entitlements, destroy the weekly earnings replacement basis of the program, push benefits below $100 per week for 47% of UI claimants, and reduce benefits for more than 78% of present UI claimants.[1]

Yet the facts show clearly that seasonal workers make up a relatively small and shrinking proportion of the labour force and of UI claimants. And Statistics Canada figures show that UI claimants who work for 15 weeks or less and receive more than 40 weeks of benefits – a broader category than the "10 and 40 syndrome" – make up less than 3.5% of claimants and receive less than 4.5% of benefits.

Even if we were to accept that workers who are not able to find work for a full year constitute a problem for the UI system, solving the problem the way it is proposed in the report is like recommending amputation as a treatment for a cut finger.

But more than that, we cannot accept, and we doubt that Canadians in general can accept, that a social insurance program that is supposed to deal with unemployment should penalize severely precisely those people who are most likely to become unemployed.

The fact that the report would impose penalties on those who experience unemployment most frequently reflects a deeper bias in the thinking behind its recommendations. The Forget report sees unemployment as having become more a problem of individual behaviour, and less one of aggregate economic activity, as the Canadian economy has evolved.

A quote from Chapter 2 of the Forget report makes the point:

> The importance of seasonal and cyclical factors in the level of overall unemployment is declining relative to the impact of structural causes. Structural unemployment arises from fundamental changes in the requirements of firms and the skills, experience and/or location of unemployed workers.[2]

"Mismatches" between workers and available jobs are twice cited as a major factor in unemployment.

In other words, unemployment is the result of the failure of individual characteristics to match the needs of the economy, rather than any deficiency in overall economic activity. The report makes no attempt to distinguish the effect of high rates of unemployment from the characteristics of UI and its claimants.

A detailed analysis of the Forget report's view of employment and unemployment is presented in Supplementary Appendix A of this minority report.

Notes

1 Figures on the impact of annualization of benefits used in this report were prepared for the Commission of Inquiry on Unemployment Insurance by Tristat Resources Ltd. using a special simulation model developed for the Commission. The simulation is based on 1984 claimant data, adjusted to reflect 1985 administrative data on employment patterns.

2 This report is in response to the last completed drafts of the majority report that were made available to us on September 10 for some chapters, and September 26 for others. Any discrepancies would be accounted for by changes in the majority report after those dates.

Chapter 2: The Forget Proposal – A Critique

The Forget Proposal: Benefit Annualization

The core of the recommendations endorsed by three of the six members of the Commission is benefit annualization, a proposal to replace the current three-phase (labour force attachment, labour force extended and regionally extended) benefit structure with a system that would provide for a uniform maximum benefit duration but would tie the benefit rate directly to the number of weeks a claimant has worked in the previous 52 weeks.

The Number Tells the Story

The annualized benefit system proposed by the Commission would be by far the largest single cut in benefits in the history of the program.

Overall, benefits would be cut by approximately 30%. Cuts would vary from province to province from a high of 50% in Prince Edward Island to a low of 16% in Ontario.

More than 78% of 1985 claimants would have received less under the proposed system than they actually received. The average weekly benefit cut for those UI claimants would be $72.50.[1]

Just over 20% of 1985 claimants would receive more under the proposed system than they do under the present system, an average increase of less than $20.76.

Under the proposed system, an estimated 37% of those eligible for unemployment insurance would be eligible for benefits of less than the approximately $80 per week which welfare pays to single employable persons in most provinces.[2] Only 10% of current claimants receive benefits that low.

More than 62% of claimants would receive less than the $140 per week that welfare pays to a single parent with a child in most provinces.[3] The corresponding figure for the current program is only 33%.

Annualization would, in effect, make unemployment insurance irrelevant for a substantial proportion of the unemployed in Canada.

The impact would be catastrophic for individuals, for families, for industries and for regions.

How Annualization Would Work

Annualization is described in the Forget report as a way to base unemployment insurance benefits on annual insurable earnings rather than on weekly insurable earnings.

Here's how it would actually work. For anyone who has worked for a full 52 weeks prior to filing an unemployment insurance claim, very little would change. The weekly benefit cheque would be a figure that is roughly equivalent to ⅔ (66.7%) of weekly insurable earnings in the present program.

The problem is that just over 3/4 of UI claimants qualify with *fewer* than 50 weeks of work in the year before filing a claim. For anyone who has not worked a full 52 weeks, annualization has a significant impact.

Every week that a claimant was unemployed in the 52 weeks before filing a claim (the reference period) reduces the weekly UI benefit he or she is entitled to receive. The reduction is directly proportional to the number of weeks he or she was unemployed.

For example, a claimant who had worked for 20 weeks in the reference period and was unemployed for 32 weeks would have a benefit rate of only 26%. This is calculated by taking the number of weeks of employment (20), dividing it by 52 and multiplying the result by 66⅔%.

A claimant who had worked for 26 weeks would be entitled to half of the full benefit rate, or 33%.

Because the percentage that the Forget report *calls* the benefit rate is increased from the present

60% to 66⅔%, it appears to be providing for an increase. As the examples above show, however, for any claimant who had not worked a full year, the proposal means a dramatic cut in benefits.

For 1 claimant in 12, the benefit rate would be less than 20%. It would be less than 40% for one half of the unemployed, and less than 50% for 60% of the unemployed (Figure S2.1).

The present unemployment insurance system pays weekly benefits equal to 60% of weekly insurable earnings. The maximum weekly insurable earnings is $495. The benefit payable depends only on a claimant's insurable earnings.

The proposed system would make benefit rates dependent on the number of weeks worked by a claimant in the year before filing a claim, as well as the claimant's weekly insurable earnings while working.

An unemployed worker who had worked 26 weeks out of the previous 52 would have his or her weekly benefits reduced by 50% (compared with what would have been received at the same benefit rate without annualization) because of the period of unemployment in the previous year. Someone who had been unemployed for 39 weeks would have his or her benefits reduced by 75%. Someone who had been unemployed for 13 weeks would have his or her benefits reduced by 25%.

Figures S2.2 and S2.3 show the impact on benefits for various combinations of insured weeks and insurable earnings.

The figure works like a mileage table on a map. For example, with weekly insurable earnings of $200 and 30 weeks of employment in the 52 weeks prior to filing a claim, benefits under annualization would be $77.

Figure S2.3 works the same way as Figure S2.2. At $200 weekly insurable earnings and 30 weeks of employment, the benefit cut would be $43 per week.

Although the stated earning replacement rate is 66⅔% (that is, benefits 66⅔% of insurable earnings), the actual (effective) replacement rate varies with the number of weeks of insurable employment.

Figure S2.4 shows how 1984 claimants would have been affected.

For example, claimants with 20–29 weeks worked in the reference period made up 26% of claimants. On average, they had 23.69 weeks of insurable employment in the reference period. Their average benefit rate would be 30.4%, just over half the present benefit rate.

The Rationale for Annualization

The argument for annualization of benefits and the elimination of labour market extended benefits (known as regionally extended benefits) stands on four legs: a set of implausible (and unprovable) assumptions about the financial planning time horizons open to working people; a concept of equity that is meaningless when applied to social

Figure S2.1
Typical Replacement Rates

Weeks worked	Replacement rates: Present system	Replacement rates: Under annualization	Cumulative total of claimants under annualization
10	60%	13%	3.9%
15	60%	19%	
20	60%	26%	15.9%
25	60%	32%	
30	60%	38%	49.1%
35	60%	45%	
40	60%	51%	61.2%
45	60%	58%	
50	60%	64%	84.3%

Figure S2.2
Weekly Benefit under Annualization
(In dollars)

Weeks worked in reference period	Weekly earnings of $50	$100	$150	$200	$300	$400	$495
10	6	13	19	26	38	51	63
15	10	19	29	38	58	77	95
20	13	26	38	51	77	103	127
25	16	32	48	64	96	128	159
30	19	38	58	77	115	154	190
35	22	45	67	90	135	179	222
40	26	51	77	103	154	205	254
45	29	58	87	115	173	231	286
50	32	64	96	128	192	256	317

insurance programs; the rejection of any link between unemployment rates in local labour markets and the difficulty of finding a job; and unquestioning acceptance of myths about UI that are demonstrably false.

Assumptions about Behaviour

Annualization is based on the assumption that working people plan their expenditures year by year on the basis of their annual incomes, rather than week by week. Working people are assumed to know in advance how many weeks in a given year they will be employed. It is assumed that people are able to plan their expenditures on the basis of how much they will earn over the entire year. And it is assumed that working people, having determined their earnings a year in advance, will be able to save enough money while they are working to tide themselves over the periods when they are not.

Despite the fact that there is no evidence to support the assumption, it is stated in the report (Chapter 7) as a bald fact:

> Most workers establish expectations and make financial commitments on the basis of their annual earnings.

The report (Chapter 7) also makes a rather odd – and again unsupported – assumption about family budgets:

> Fifty percent corresponds to the share of household income that goes to current living expenses that cannot be postponed.

No source is given for the assertion. It is simply stated as a fact. And it is quite clearly incorrect.

For example, the 1982 edition of Statistics Canada's "Family Expenditure in Canada" shows that families of two or more with the maximum insurable earnings spend over 70% of their earnings on non-postponable items.[4]

The reasoning that flows undeterred from patently unrealistic assumptions may satisfy social engineers moving people's lives around like pieces on a chess board. But the reasoning and the assumptions on which it is based have nothing to do with the real world.

In the real world, in which more than half of working people are paid by the hour, annual budgeting of family expenditures is an absurd suggestion.

In the real world, two weeks' notice of a layoff is generous and most are laid off with far less. Being able to predict layoffs in advance is, for the vast majority of employees, inconceivable.

And in the real world inhabited by the typical UI recipient, the assumption that they earn enough while working to be able to save for this anticipated-in-advance unemployment is a cruel joke. The maximum UI insurable earnings is less than $500 per week – barely over the poverty line for a family of four in many parts of Canada. The geniuses behind the annualization proposal may have incomes high enough to enable them to have firm year-to-year spending plans. The ordinary

Figure S2.3
Difference in Weekly Benefits: Annualization and Current Program Compared
(In dollars)

Weeks worked in reference period	Weekly earnings of $50	$100	$150	$200	$300	$400	$495
10	–24	–47	–71	–94	–142	–189	–234
15	–20	–41	–61	–82	–122	–163	–202
20	–17	–34	–52	–69	–103	–137	–170
25	–14	–28	–42	–56	–84	–112	–138
30	–11	–22	–32	–43	–65	–86	–107
35	–8	–15	–23	–30	–45	–61	–75
40	–4	–9	–13	–17	–26	–35	–43
45	–1	–2	–3	–5	–7	–9	–11
50	2	4	6	8	12	16	20

Figure S2.4
Effective Replacement Rates

Weeks of insurable earnings	Range of effective replacement rates	Average: Weeks of insurable earnings	Effective replacement rate	% of claimants	Cumulative % of claimants
8–11	11–15%	10.4	13.3%	5%	5%
12–15	16–20%	13.4	17.2%	6%	11%
16–19	21–25%	17.4	22.3%	6%	18%
20–29	26–39%	23.7	30.4%	26%	43%
30–39	40–52%	34.3	43.9%	15%	59%
40–49	53–65%	44.9	57.5%	16%	74%
50–52	66–69%	51.5	66.1%	26%	100%

working people of Canada live from week to week, from pay cheque to pay cheque.

In the real world, people live as well as they can on what they earn. When they have jobs, they eat hamburger, repair their cars when they need repair and pay their bills on time. When they don't, they eat Kraft Dinner, let their cars rust and move to cheaper apartments.

Working people would be happy to have annual job security, to be able to contract with their employers a year in advance. But working people do not have annual job security. They work or don't work as a result of decisions made by other people.

None of a working family's expenditures is annualized. The grocery bill isn't annualized. The hydro bill isn't annualized. The garage mechanic doesn't annualize the cost of a transmission job. Yet this proposal assumes that working people can predict with certainty their wages and salaries a year in advance.

It is a suggestion that should be dismissed as ridiculous in an academic seminar. As the basis for the dismantling of Canada's most important social insurance program, it is an outrageous proposal.

Equity – A Narrow Definition

One of the key arguments made against the present unemployment insurance system is that it is inequitable because UI claimants with low numbers of weeks worked in the reference period can receive UI benefits which are equal to or greater than the benefits of UI claimants who have worked a full 52 weeks. The idea of equity that lies behind these arguments, however, makes absolutely no sense when applied to an employment-related social insurance program like UI.

The problem with making comparisons between individuals, based on the amount of unemployment insurance benefits received, is that such comparisons only count what is received if the contingency insured against (i.e., the individual experiences unemployment) actually happens. They do not count what is received if the contingency insured against does *not* happen (i.e., the individual does not experience unemployment).

The mistake in using such a narrow basis for comparison is apparent when one compares the position of someone who remains employed with that of someone who experiences unemployment. The logic of the narrowly based equity critique would say that the person who is continuously employed is worse off than the person who becomes unemployed because the unemployed person has received unemployment insurance benefits and the employed person has not.

Arguments of this kind are made repeatedly in the report. The Forget report is preoccupied with what it sees as the glaring inequity of what it calls the "10-week worker" being entitled to the same benefit as what it calls the "52-week worker."

There are two main equity arguments made. First, it is argued that it is unfair that, in a high-unemployment region, someone who worked only 10–20 weeks in the 52 weeks prior to making a claim could be entitled to the same benefits as someone who worked 52 weeks in the year before.

If you look at UI as some sort of *ex gratia* bonus rather than as insurance, you might think that was unfair. But looking at it as insurance, it is clear that there is nothing unfair about the situation at all. Why? Because the claimant with 52 weeks of work in the reference period had 52 weeks of earned income in that period; the claimant with 10 weeks of work was unemployed for 42 weeks.

When you're talking about insurance, you can't look at the equity of UI benefit payments in isolation. An analogy makes the point clear. If my house burns down, and my neighbour's doesn't, am I better off than she is because I received insurance benefits from my insurance company and she got none from hers? If someone steals my car and my neighbour's bicycle, am I better off than he is because my insurance claim paid out more than his?

Of course not. And the same point applies to UI, only with greater effect, because to have been completely analogous to UI, the insurance involved should have covered only 60% or 66% of the cost of the house, car or bicycle.

An analysis of equity in insurance has to include the situation of those who do not experience the contingency that the insurance is designed to cover.

Compare three people: one has worked for 52 weeks and is still employed; one worked for 52 weeks and then filed a claim for UI; and one was unemployed for 32 weeks (receiving UI benefits for

30 of them) and was employed for 20 weeks before losing the job and filing a claim for UI.

Using our approach, the first individual is the best off of the three. He or she has worked for 52 weeks at full pay and still has a job. Even if the second and third individuals both use their full benefit entitlement on this claim, the second individual is still better off than the third. The second individual will have had 52 weeks at full pay, 2 weeks with no income, and 50 weeks of UI at 60%. The third individual, on the other hand, will have had 20 weeks at full pay, 4 weeks with no income, and 80 weeks of UI at 60%.

According to the Forget report's logic, however, the first individual is the worst off because he or she didn't receive any UI benefits. That doesn't make any sense.

The second major equity argument has to do with income. The report cites a number of hypothetical examples to show that it is possible for an employee with a high income and a small number of weeks worked to qualify for more in total benefits than an employee with a low income and a much larger number of weeks worked.

To begin with, these hypothetical examples are bound to be relatively rare. UI statistics show that higher-income claimants tend to have more weeks worked and lower-income claimants fewer weeks worked. More important, however, is the fact that the argument itself is meaningless when applied to a social insurance program like UI.

Unemployment insurance is not welfare or a guaranteed income. It is social insurance. People who earn more when they are employed are going to receive more UI benefits when they are unemployed than people who earn less when they are employed. They pay more per week in premiums as well. That might not be equitable in a program designed to offset income inequity. But that's not what UI is. The purpose of UI is not to reduce income differentials, it is to offset the consequences of a loss. The bigger the loss, and the longer it lasts, the greater the consequences of the loss and the higher the benefits.

The Attack on Regionally Extended Benefits

The 1971 changes to the Unemployment Insurance Act brought about sweeping changes to Canada's unemployment insurance system. Although many of the improvements in the program have been whittled away by legislative changes since then, the principle behind the most significant innovation in the 1971 Act has survived.

By providing for benefits linked explicitly to national and regional unemployment rates, the 1971 Act accepted public responsibility for the management of the economy and the control of unemployment. For the first time, the Unemployment Insurance Act acknowledged that unemployment is a social rather than wholly an individual phenomenon.

For the individual claimant, provision for benefits linked to unemployment rates was a recognition of economic reality. It is more difficult for an unemployed person to find a job when there are a great many other unemployed people looking for jobs at the same time than it is when unemployment is lower and there is less competition for any available jobs.

The program funding formula also made an important statement about social responsibility for the health of the economy. Unemployment insurance benefits arising from high aggregate and local unemployment rates were to be financed from general government revenues rather than from the premiums of employers and employees. The funding formula recognized a social goal of full employment and accepted social responsibility for the consequences of a failure to reach that goal.

Although the funding formula has been altered almost continuously since 1971, the basic principle of social responsibility for a share of the individual costs of unemployment has remained part of the program. Indeed, the link between public funding of UI benefits and unemployment rates is arguably the closest thing Canada has to a "Full Employment Act."

The Forget report has chosen to make the elimination of regionally extended benefits a focal point of its attack on the present unemployment insurance system.

In part, the attack is indirect. What the report sees as "inequities" in the present program and its preoccupation with "short-term" and "seasonal" workers are based on the fact that regionally extended benefits make it possible for an unemployed person to qualify for benefits that were not "earned" through individual employment. The repeated references in the report to these "prob-

lems" are, in fact, directed at regionally extended benefits. We deal with those issues extensively in other sections of our report and will not repeat the arguments here.

The Forget report also attacks regionally extended benefits directly, and it is this aspect of the report with which we take issue here.

The Forget report makes three main points about regionally extended benefits. First, it claims that there was strong pressure from those appearing at the public hearings to do away with regionally extended benefits. Second, it argues that regionally extended benefits are not really social insurance, they are "income support" and do not belong in an unemployment insurance program. And third, the Forget report denies the fundamental rationale for regionally extended benefits, the link between the rate of unemployment and the difficulty experienced by people in finding employment.

a) *Regionally Extended Benefits and the Public Hearings*

At the public hearings of the Commission, we were impressed with the willingness of people from areas of high employment to pool the risks and costs of unemployment with those in less advantaged areas.

We were also struck by the importance of extended benefits to local economies. Four examples stand out. In Atlantic Canada, the importance of benefits linked to unemployment rates was stressed by everyone who appeared, from business groups to labour organizations and individuals. All four provincial governments in Atlantic Canada gave strong support to regionally extended benefits. Those who live in Canada's most vulnerable economy understand the importance of linking benefits to economic conditions.

In Windsor, community leaders from across the spectrum underlined to us the importance of extended benefits in helping to get the community through the worst effects of the temporary collapse of the automobile industry in the early 1980s.

In mining communities across Canada, people told us repeatedly of the importance of extended benefits in helping individuals and communities weather cyclical swings in employment – swings that are endemic to the mining industry worldwide.

Workers in older established industries made a slightly different point. Older industries don't work at full speed one day and disappear the next. They often go through periods of uncertainty that can last years, during which employment can be extremely irregular. Extended benefits make it possible for industrial workers to live through these longer swings.

b) *Regionally Extended Benefits as "Income Support"*

The Forget report states its position on extended benefits clearly in Chapter 4 when it describes its classification of income security programs:

> Regionally extended benefits are a form of short-term income supplementation to those who have been able to obtain 10 weeks of work.

The above-quoted statement reflects a theme of the Forget report. Over and over again, the report describes extended benefits as "income support" or "income supplementation."

This statement would suggest that some objective determination has been made of the nature of extended benefits. It would suggest that a conclusive study had been made of the role of and rationale for regionally extended benefits and of those who draw on them, leading to this fundamental conclusion.

In fact, the conclusion stated so forthrightly in the report is nothing more than the result of a definition game.

UI benefits which are linked directly to the number of weeks worked in the 52 weeks prior to the filing of a claim are *defined* as "social insurance." All other benefits are *defined* as "income support." From those definitions, the Forget report concludes that regionally extended benefits are not legitimately part of a social insurance program.

The definition is arbitrary; the reasoning circular.

Just how thin the argument against the legitimacy of regionally extended benefits is, is made clear in another quotation from Chapter 4:

> The history and rationale for regionally extended benefits suggest that they ought not to be a part of Unemployment Insurance.

No one with any understanding of how regionally extended benefits are determined, of the basis for their inclusion in UI or of the nature of social insurance itself would make such a statement.

Social insurance is just that: *social* insurance. In our view, public funding of an element of the risk of unemployment that is a social and not an individual responsibility is not a departure from social insurance principles; it is the very essence of social insurance.

Ironically, another passage from the Forget report's Chapter 4 makes the same point, in another context:

> Critics of Canada's Unemployment Insurance have argued that a "risk" which is certain to occur and is "anticipated" should not be insured. In social insurance plans, however, "pure insurance" is not the goal: the goal is to insure against involuntary interruptions of earnings and to pool that risk among all employers and employees.

c) *Benefit Entitlements and the Unemployment Rate*

Although the name "regionally extended benefits" suggests that benefits are intended to be paid in particular regions, these extended benefits are actually tied to the rate of unemployment in the local labour market.

The original 1971 UI program had two extended phases that were linked to unemployment rates. One was tied to national unemployment rates. The other was tied to the relationship between regional unemployment rates and the national rate. The present regionally extended benefit is actually the result of collapsing two of the phases in the original 1971 program into one. As such, it is intended to provide benefits, based on local labour market conditions, in all parts of the country.

The Forget report (Chapter 2) explains the link:

> Unemployment rates give a general idea of the relative difficulty of finding a job in the area. For this reason they are used under the current Unemployment Insurance program to trigger regionally extended benefits.
>
> To the extent that unemployment rates reflect the duration as well as the incidence of unemployment, one could argue that their use as a trigger for expanded benefits may be justified.

That is precisely the point we are trying to make. The data show clearly that unemployment rates *do* reflect the duration of unemployment.

Using specially prepared claimant data provided by CEIC to the Commission, we looked at the relationship between the rate of unemployment and the duration of UI benefits, by CEIC economic region.

A scattergram (Figure S2.5) of the unemployment rate and the average duration of benefits in each CEIC economic region shows clearly the strength of the relationship between unemployment rates and the duration of unemployment.

The concentration of observations in the band sloping upwards to the right makes the point that, as the local rate of unemployment goes up, so does the average duration of unemployment.

It is important to note that this strong relationship between unemployment rates and the duration of unemployment emerges from data from economic regions across the country.

The evidence we have presented is not saying that Atlantic Canada has high unemployment rates and long benefit durations. It is saying that wherever you are in Canada, a high local unemployment rate is associated with long benefit durations – i.e., with the difficulty faced by the unemployed in finding another job.

Other material produced for the Commission makes the point in a different way. A scattergram was produced that addressed the relationship between the local rate of unemployment in a region and the proportion of terminating claims in which benefits were exhausted. The scattergram revealed that there was no systematic relationship

between exhaustees and the rate of unemployment. That is precisely what you would expect to see if regionally extended benefits were doing what they are supposed to be doing – offsetting differences in the difficulty in getting a job in high-unemployment regions. Had a strong relationship between the rate of exhaustees and unemployment rates been demonstrated, that would have been strong evidence that regionally extended benefits were not doing what they are supposed to do.

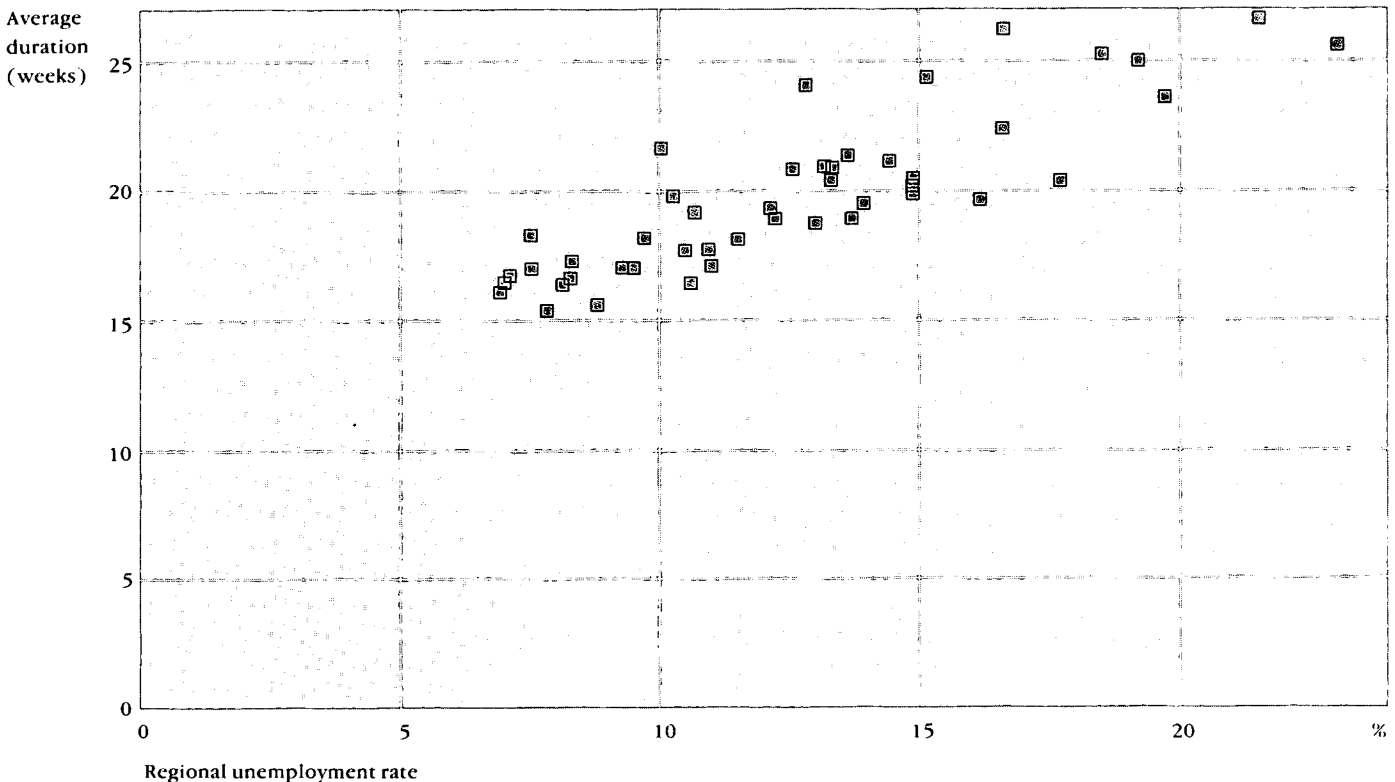
The material we analyzed makes another important point as well. In addition to benefit durations, we looked at the relationship between unemployment rates and the number of weeks of insurable earnings claimants had at the beginning of their claims.

Figure S2.6 presents a scattergram of our findings.

The strong negative relationship between weeks of insurable earnings of UI claimants and regional unemployment rates makes the point that, throughout Canada, unstable employment patterns (as reflected by lower numbers of UI insurable weeks of work of UI claimants) are linked to high unemployment rates in local labour markets.

The regional data also revealed another interesting pattern. We looked at the relationship between regional unemployment rates and the difference between "average weeks of insurable earnings" and "average benefit duration." This gives us an indicator of employment instability as it relates to local unemployment rates. The greater the difference, the more stable the employment pattern. UI critics, from the Macdonald Commission on down, have been preoccupied with claimants who are able to receive more in total benefits than the number of weeks they worked to establish their claim in the first place.

Figure S2.5
Duration and Unemployment Rate, 1984



Source: Special tabulations by the Commission of Inquiry on Unemployment Insurance based on Canada Employment and Immigration Commission data 1984.

We were interested in seeing if the phenomenon showed up in aggregate statistics, and if the strong influence of aggregate economic factors on "benefit duration" and "average insurable weeks" held up for the difference between them. The results appear in Figure S2.7

In only 4 of the 44 economic regions for which complete data were available was the average duration of benefits greater than the average number of insurable weeks worked in the UI reference period.

And the data again show clearly the influence of aggregate economic factors on UI data. There is a strong negative relationship between regional unemployment rates and the difference between average insurable weeks and average benefit duration. Wherever you are in Canada, unstable work patterns and longer average claim periods are found in local labour markets experiencing higher unemployment rates.

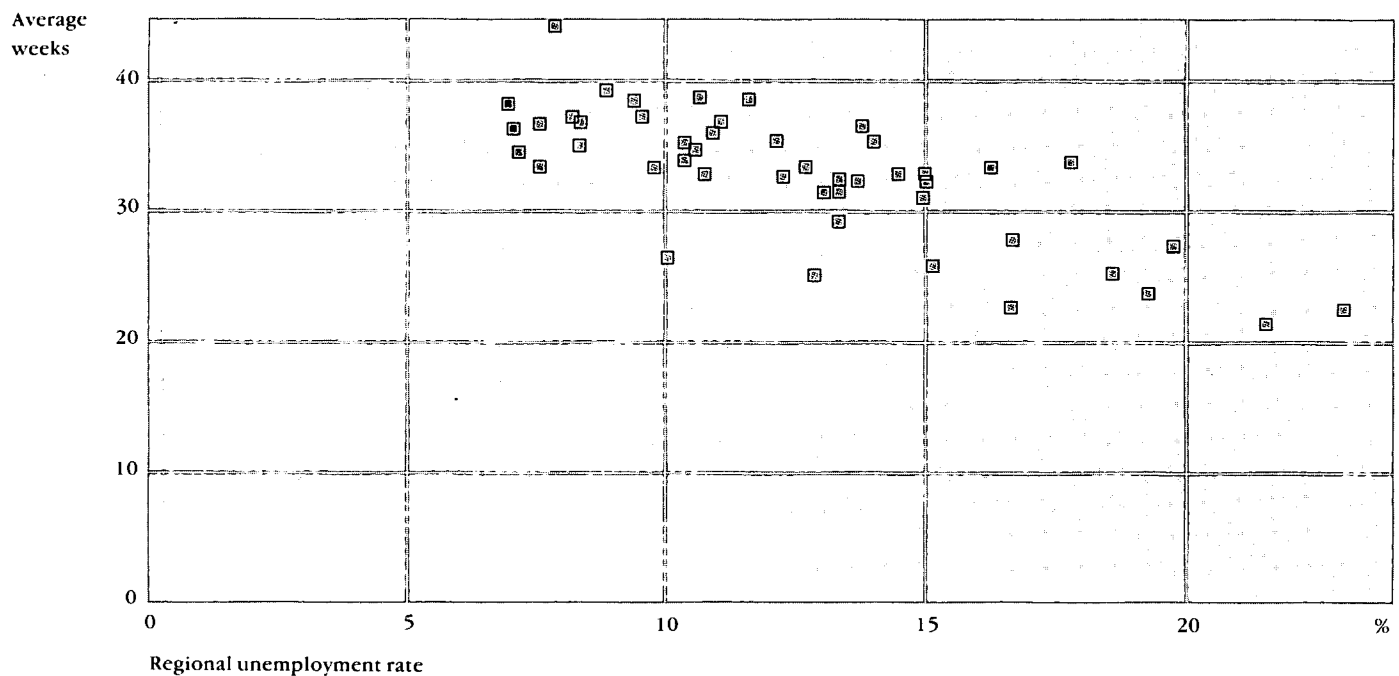
What we have presented above may appear to some as proving the obvious. After all, the idea that it should be harder to find a job when unemployment rates are relatively high than it is when unemployment rates are relatively low is a staple of introductory economics courses.

We have gone into this degree of detail because the denial of a link between conditions in the local labour market and the length of time it takes to find a job is crucial to the Forget report's case against regionally extended benefits.

d) *Labour Market Extended Benefits: The Essence of Social Insurance*

Unemployment insurance is social insurance. Its purpose is to bridge the earnings gap between jobs for employees who become unemployed. It is clear from the evidence, as well as from basic economic theory, that the earnings gap will last longer, on average, when aggregate unemployment rates are

Figure S2.6
Weeks Worked and Unemployment Rate
(Weeks of insurable employment)



Source: Special tabulations by the Commission of Inquiry on Unemployment Insurance based on Canada Employment and Immigration Commission data 1984.

high. Society as a whole, and not the individual, is responsible for aggregate rates of unemployment.

In our view, that makes publicly funded extended benefit entitlements sensitive to overall economic conditions more than legitimate. It makes them an essential part of unemployment insurance as social insurance.

UI Myths and the Forget Report

No program could affect directly as many people as unemployment insurance without creating its own mythology.

Years of emotional public debate, regular legislative changes, concerted government campaigns for spending cutbacks and countless stories told over the back fence, in the lunchroom or over a few beers in the local bar have given unemployment insurance more than its share of mythological figures.

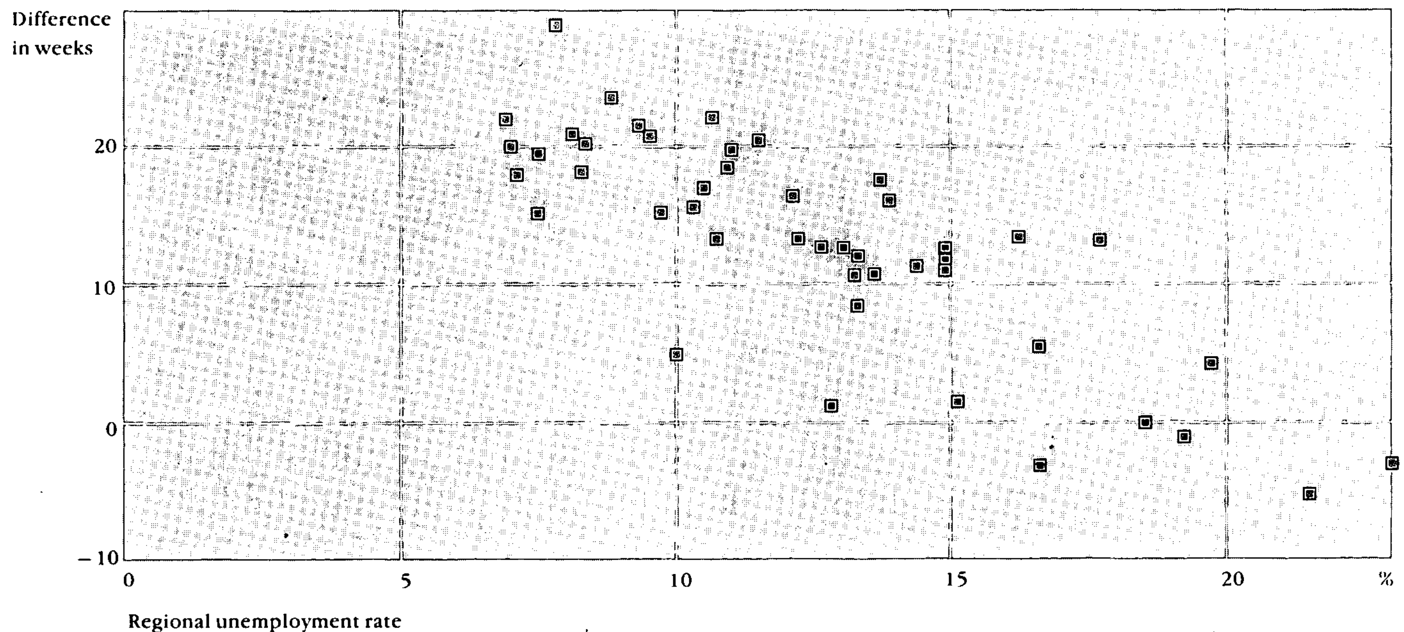
Everyone in Canada "knows" about someone who goes to Florida every year on UI. Everyone in Canada "knows" about an 18-year-old school drop-out who works for 10 weeks and then goes skiing or windsurfing for the rest of the year, courtesy of the unemployment insurance program. And everyone "knows" about fishermen who earn $60,000 in two weeks and collect unemployment insurance for the rest of the year.

The fact that many Canadians believe that many of the myths about UI are an accurate description of the program and its impact on the Canadian labour market is not suprising. For more than a decade, governments have dedicated themselves to undermining public confidence in the program as a way of building support for benefit cutbacks. Those governments have not seen it in their interests to encourage a critical evaluation of the common criticisms of UI.

Figure S2.7

Employment Patterns and Unemployment Rate, 1984

(Insurable weeks minus duration)



Source: Special tabulations by the Commission of Inquiry on Unemployment Insurance based on Canada Employment and Immigration Commission data 1984.

However, as commissioners, we would have thought that one of the first tasks of a public Commission of Inquiry on Unemployment Insurance would have been to evaluate the commonly held beliefs about UI to determine if they still (or ever) held water. We would have thought that the first exercise would have been to get everyone's old chestnuts out onto the table so they could be examined critically.

That never happened. The majority of the Commission members chose either not to ask the critical questions or to ignore the answers when they got them. Thus, instead of a report that builds on an intelligent response to the facts about the UI program, the Canadian public has been presented with a report that has accepted uncritically all of the major myths about the UI program and recommended sweeping and devastating changes in that program based on little more than the belief that those myths hold true.

Instead of examining critically those old chestnuts, the Forget report has merely warmed them up.

a) *Program Abuse*

Ever since the substantial UI reforms in 1971, each successive round of benefit cutbacks has been preceded by an attempt by government and critics of UI to focus attention on so-called cheaters. No less an authority that Bryce Mackasey, a sometime minister responsible for UI, has indicated that this has been precisely the government's strategy.

> Either by coincidence or design, prior to every one of these amendments, we had a well-orchestrated campaign based on the alleged abuse of the plan, thus preparing and conditioning people for the amendment and supposedly aimed at reducing the abuse or tightening up the regulations, when in fact the main purpose of most of the amendments was to shift the financial burden from government to the employer-employee. I think that has been very unfair. (Hansard, June 19, 1980, pp. 2290–91)

The public is softened up to be more receptive to unemployment insurance cuts by horror stories of fraud and misrepresentation. Government spokesmen attempt to create the impression that unemployment insurance recipients are enjoying a publicly funded holiday while the rest of us slave away to keep them in clover. Outrageous hypothetical cases are dreamed up to create the impression that everyone on unemployment insurance is a lazy bum who is ripping off the system at the public's expense.

The fact that each successive crackdown has failed to reveal any significant pattern of abuse or fraud does nothing to deter UI's critics from doing the same thing as a precursor to the next round of cutbacks.

The current government began its approach to UI in the same vein. In the same *Economic Statement* in which it announced that severance pay and pension income would be treated as "earnings" for UI purposes, it also announced an "intensification of the claimant interview program." This was later revealed to mean having 700 additional benefit control officers to call in claimants for interviews.

In fact, (as the government realized – it never implemented the change), the evidence runs dramatically in the other direction. The vast majority of the overpayments discovered by UI in its audits (roughly 5% of claims) are the result of errors, either by claimants or by employers, in filling out UI reporting forms. Given the chorus of complaints – from business, labour and community groups and UI staff alike – about the complexity of program administration and the inadequacy of the program's communication with the public, it would be surprising if there were not substantial numbers of errors.

What is remarkable is that, with 3 million claims filed each year, only 200 claimants a year are successfully prosecuted for fraud. Actual abuse of the program is minuscule.

Despite the regularly repeated attempts by UI's critics to generate public concern about UI abuse, there are growing signs that the public is no longer receptive to the scare tactics. In part, the weakening of the abuse arguments is the result of them having been repeated, and found to be groundless, too often.

But the dramatic increase in the rate of unemployment in the 1980s has brought the program, and the groundlessness of the allegations of abuse, much closer to Canadians. It is difficult to sustain an argument that the unemployed are lazy bums

when claims rise to 3 million in a year, and virtually everyone knows someone personally who has been touched by unemployment.

With that many people experiencing unemployment, it is much more difficult for people to think of the unemployed as "them." To borrow a phrase from the cartoon character Pogo, "We have met the unemployed, and they is us."

Unfortunately for the unemployed, and for the unemployment insurance program, the myth of abuse is virtually the only one the Forget report managed to avoid.

b) *The "10-Week Worker"*

> In high unemployment areas, regionally extended benefits mean that 10 weeks of work can result in 42 weeks of benefits. (Forget report, Chapter 4)
>
> . . .the current Unemployment Insurance program was perceived as providing too much assistance to certain individuals – primarily short-term and seasonal workers . . . (Forget report, Chapter 7)
>
> The new approach . . . is more equitable in its treatment of short-term and seasonal workers. (Forget report, Chapter 7)

The most persistent of the new myths about unemployment insurance is the spectre of the "10-week worker syndrome." The "10-week worker" or "short-term worker" is a very popular figure in the hypothetical cases put forward by critics eager to make deep cuts in UI benefits.

According to the mythology, this worker lives to collect UI. He or she works for 10 weeks every year, just enough to qualify for UI, and then lives on UI for the rest of the year. Life is organized around qualification for UI.

The 10-week worker fits into one of two categories. The 10-week workers in what are called "UI-dependent communities" and/or "UI-dependent industries" do not necessarily choose to be UI dependent. Rather, their communities and industries are supposedly organized to provide just enough work every year to enable people to qualify for UI.

Ten-week workers in more broadly based economies are characterized as having made a choice to organize their lives in order to collect the maximum UI benefit. They either choose jobs that are short term or quit their jobs as soon as they get in enough weeks of work to qualify for UI.

Dealing with the "short-term worker problem" has been accepted uncritically as the be-all and end-all of objectives for UI reform by the proponents of massive cuts.

The Forget report is no exception. Despite having done no serious research on the subject of short-term workers, it recommends massive changes directed totally at this "problem."

This fixation is totally misplaced, for a number of reasons. First, there are some basic factual problems with the arguments. Even in the highest-unemployment areas of the country, a 10-week worker who *quits* a job to go on UI qualifies for a maximum of 36 weeks of UI. (He or she would qualify for 10 weeks of basic benefits, plus 32 weeks of regionally extended benefits, minus the 6-week "quits" penalty.) In the worst hypothetical case, the "UI-dependent worker" would go at least 8 weeks without income before UI benefits start, because of the waiting period and the penalty for voluntary quits.

In fact, it is only possible to be a year-to-year repeater working as few as 10 weeks a year in regions of Canada with unemployment rates above 11.5%. In every other part of the country, repeat claimants would be classed as repeaters and required to meet more stringent qualifying requirements.

Furthermore, the impression created by the hypothetical examples – that the "10 and 40" worker can claim UI and then just sit back and collect the cheques – is a blatant distortion of reality. It ignores the existence of job search requirements, backed up with disqualifications for refusal to accept a progressively looser definition of "suitable employment."

Second, the behavioural assumptions underlying this argument cannot be allowed to go unchallenged. The notion that employees are able to exercise that kind of control over their working lives is absurd. One conjures up the notion of employees hiring themselves and laying themselves off at will, irrespective of economic conditions and the availability of work, all so they can

qualify for as much UI as possible – all for the privilege of getting an income that is at least 40% less than their earnings, while they conduct a search for another job.

The unemployed must be very strange creatures indeed to choose that kind of a life over steady employment – if they have the choice. That's the point, of course. Choice. What lies behind the fixation with the "10 and 40 syndrome" is the notion that unemployment is strictly an individual problem unrelated to general economic conditions, the notion that "there's a job out there for anyone who really wants to work."

Third, the fixation with short-term UI-dependent workers misses the most obvious fact. There aren't very many of them to begin with. UI statistics show that workers who qualified for UI with 15 or fewer weeks of employment and received more than 40 weeks of benefits made up just over 3% of claimants and received less than 4.5% of benefits in 1984. Workers with 15 or fewer weeks of work who received more than 30 weeks of benefits made up only 7.1% of claimants and received 9.4% of benefits.

Even these figures overstate the numbers. The "syndrome" refers to year-after-year repeaters as short-term worker claimants. But the data do not exist to substantiate the assertion that even a significant proportion of the 3.5% of claimants that fit the profile in a single year are, in fact, consistent repeaters. UI does not collect multi-year data.

Finally, there is no evidence whatsoever in *overall* UI data that the "10 and 40 worker" or even a "26 and 26 worker" is a significant phenomenon. Indeed, the evidence points in exactly the opposite direction.

If the "10 and 40 syndrome" existed, one would expect to find voluntary quits heavily concentrated in the groups of claimants with low numbers of weeks worked, as workers quit their jobs to begin collecting UI benefits. In fact, as Figure S2.8 shows clearly, workers with low numbers of weeks worked are significantly underrepresented among voluntary quits. Less than 2% of claimants with fewer than 20 weeks worked were voluntary quits in 1984, as compared with an average of 10% and a high of 22% among claimants with 40–49 weeks of work in the reference period.

Another of the implications of the "10 and 40" and other "syndromes" is that people will stay on claim as long as they can in order to continue to collect 60% of their previous earnings. If this were in fact what people were doing, one would expect to see a noticeable proportion of claimants staying on claim for the maximum number of weeks before dropping off claim.

In graphic terms, one would expect to see a "bump" in a graph of numbers of claimants against duration on unemployment insurance: one would expect the graph to look like Figure S2.9.

The "bump" at about 35–40 weeks would reflect the UI maximizers whose claims are either exhausted or terminated to begin their next year's 10–15 weeks of work.

In fact, however, the actual plot of UI claimants against duration of claim has no such "bump." The relationship between the proportion of claimants still on claim and benefit duration in 1984 is virtually a straight line, as shown in Figure S2.10.

In short, there is no evidence of any kind that there is a substantial body of short-term workers in the labour force who are organizing their working lives in order to take advantage of the maximum benefits allowed in the unemployment insurance program.

Figure S2.8
Voluntary Quits and the "10 and 40 Worker"

Weeks of insured employment	Voluntary quits	Total claimants	Quits as percent of claimants
8–11	667	79,810	1%
12–15	1,311	195,690	1%
16–19	2,848	152,030	2%
20–29	33,977	585,840	6%
30–39	29,407	341,010	9%
40–49	76,400	353,520	22%
50–52	75,977	555,910	14%
All quits	220,587	2,263,810	10%

Source: Special tabulations by the Commission of Inquiry on Unemployment Insurance based on Canada Employment and Immigration Commission data 1984.

Figure S2.9

Expected Duration on UI Assuming "10 and 40" Syndrome

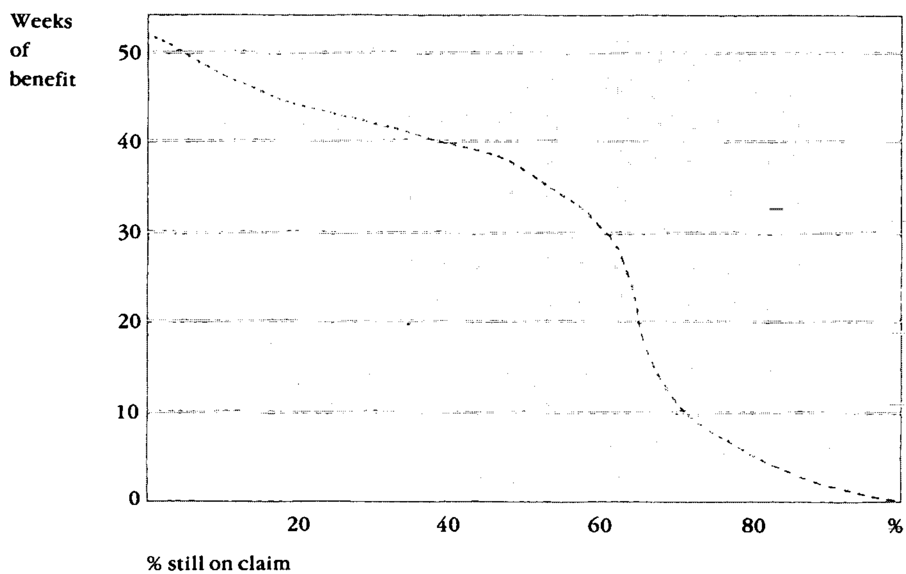
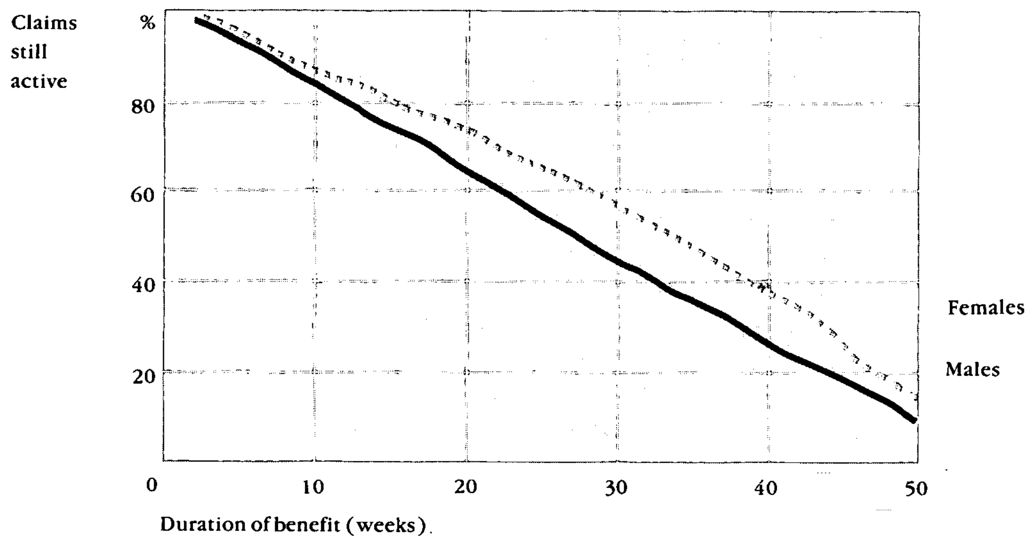


Figure S2.10

Actual Duration of Benefit

(Males and females, regular claims)



The question therefore boils down to a very simple one: should unemployment insurance provide full coverage to those workers who are forced by economic conditions to apply for unemployment insurance with less than a full year of work in the reference period? Should unemployment insurance provide full coverge to those in our society who face the greatest risk of unemployment?

We believe that providing such coverage is the essense of social insurance.

c) *UI* and Work Incentives

> Benefits must be high enough to maintain ongoing standard of living but not so much as to encourage a person to remain unemployed, supported by the program benefits. In other words, incentives to work are an essential element in any program evaluation. (Forget report, Chapter 7)

In some respects, incentives arguments against UI are obvious. The fact that UI removes the most disastrous consequences of unemployment is incontestable. UI makes unemployment less unattractive.

As persuasive as these arguments may seem on the surface, however, they don't bear very close scrutiny. They ignore a very basic fact about the attitudes of Canadians: Canadians consider work to be extremely important, in and of itself. Public opinion surveys, including one conducted by Decima Research Ltd. for the Commission, consistently show that the overwhelming majority of Canadians want to work and consider employment to be critical for their self-esteem and for their standing in the community.

Incentives arguments ignore their own economic logic. Why would anyone voluntarily give themselves at least a 40% cut in pay in order to collect UI or turn down a job in order to continue to receive benefits which are at least 40% less than what they would normally earn?

Incentives arguments ignore the rules of the unemployment insurance program: rules such as the penalty for voluntary quits; rules such as the disqualification for turning down suitable employment.

Incentives arguments ignore the facts. Not only is there no evidence whatsoever to suggest that people organize their working lives in order to maximize their unemployment insurance benefits. The evidence that is available runs in exactly the opposite direction.

And incentives arguments reflect an analysis of the causes of unemployment that has proved to be totally invalid. Implicit in the incentives argument are assumptions that unemployment is an individual problem, that people choose to be unemployed, that the key to reducing unemployment is to get more people to choose to work, and that the level of unemployment has little to do with overall economic activity.

The critical importance of overall economic activity in determining the incidence and duration of unemployment is obvious from an examination of unemployment as a regional phenomenon in Canada. As the following graph shows, those parts of Canada with the weakest economies and the highest overall levels of unemployment also have the highest incidence of unstable work patterns. The proportion of UI claimants who have less than 20 weeks of work in the reference period bears a direct relationship to the overall level of economic activity, as shown in Figure S2.11.

What this means is that unstable work patterns are the consequence of an overall weakness in the economy. And if that is true, the "solution" of penalizing the high-risk worker is not a solution at all. It will not induce more stable work patterns because it will not deal with the problem that created unstable work patterns.

d) *Labour Mobility and UI*

> The fact that unemployed persons may obtain as much as 40 weeks of unemployment insurance benefits with a 10-week attachment to the workforce . . . retards migration from high unemployment regions to areas where jobs are available. (Forget report, Chapter 3)
>
> Regionally extended benefits, for example, may encourage workers to stay in areas where they have little chance of finding a job. (Forget report, Chapter 6)

Another myth is that unemployment insurance is inefficient because it acts as a disincentive for people to migrate from regions of higher unemployment in Quebec and Atlantic Canada to Ontario and the West.

It is argued that by making it possible for people to survive in regions of high unemployment, unemployment insurance discourages people from moving to other parts of Canada to find work. In support of this argument, data are cited that show that the substantial net out-migration from Atlantic Canada in the 1960s stopped in 1971 when the unemployment insurance program was enriched.

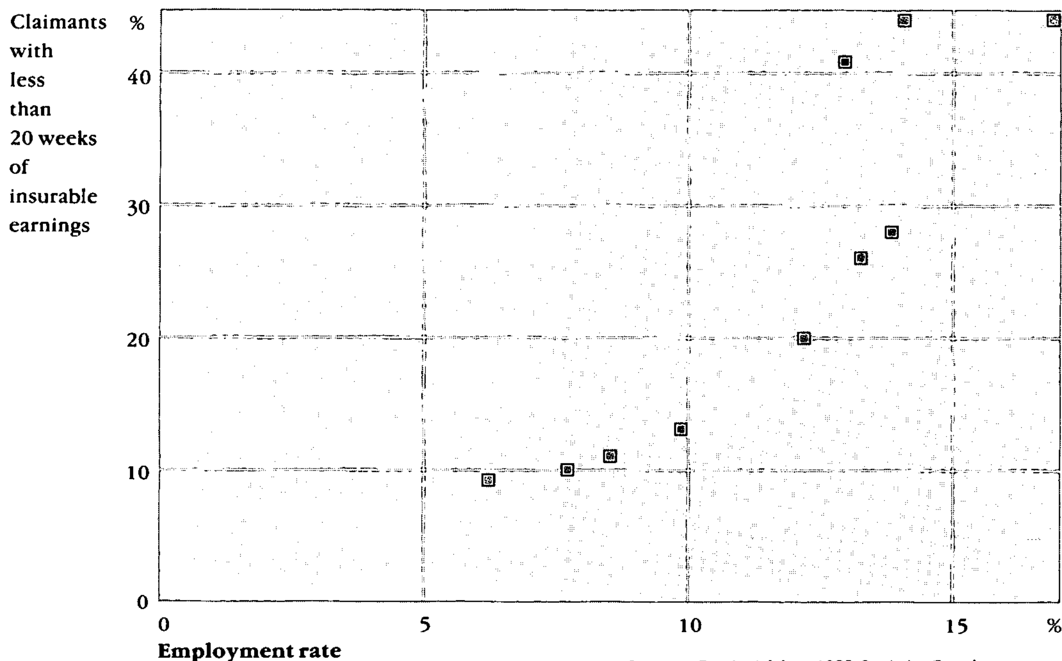
A closer look at migration patterns in Canada in the past 25 years shows clearly that migration into and out of Atlantic Canada and Quebec has been responsive to the relative economic positions of the regions of Canada throughout the period rather than to changes in the unemployment insurance program. Figure S2.12 presents Statistics Canada figures on migration patterns and unemployment rates for selected time periods between 1961 and 1986.

When relative economic opportunities are better in Ontario and the West than in Quebec and Atlantic Canada, out-migration from Atlantic Canada continues. When economic opportunities in one of the traditional receiving regions deteriorate, the rate of out-migration tends to drop or even to reverse itself.

In the periods 1961–66 and 1966–71, for example, the economies of Ontario and British Columbia in particular were booming and there was substantial net out-migration from Atlantic Canada and Quebec to Ontario and British Columbia. Beginning in 1966–71, Alberta began to experience a significant net gain from migration.

From 1971 to 1976, aggressive job-creating regional development policies in Atlantic Canada

Figure S2.11
Employment Patterns and Unemployment Rate – Short Term Workers
(Average qualifying employment)



Source: Provincial data, 1982, Statistics Canada

and Quebec combined with the slump in Ontario created by the 1973 oil crisis to reverse the pattern in Prince Edward Island, Nova Scotia and New Brunswick and to reduce net out-migration dramatically in Quebec and Newfoundland.

From 1976 to 1981, the resource and oil-based boom, the slump in manufacturing activity and cutbacks in federal spending on regional development together induced net migration to Alberta and British Columbia from every other province in Canada.

In the early 1980s, the powerful impact of relative economic conditions showed itself very clearly. In 1981–82, the 1976–81 pattern continued, with Alberta and British Columbia absorbing net out-migration from every other province. When the depression hit in 1982–83, however, the pattern reversed itself. Despite the dramatic drop in manufacturing employment in Ontario and Quebec and the overall weakness in the economy of Atlantic Canada, there was substantial reverse net migration away from the collapsing oil and resource economies of British Columbia and Alberta as people who had moved there to find work lost their jobs and returned to their home regions. And as the energy industry slump continued in 1983–84, reverse migration continued in all of the traditional out-migration areas except for Newfoundland, where substantial net out-migration started up again after only one year (1982–83) of net gain.

What the migration data show is that Canadians respond to relative economic conditions in the country's regions. When opportunities are better elsewhere, they move to new opportunities. When those opportunities dry up, they move back home, where the family and community support systems are better developed and more effective.

A recent study of the mining industry by CEIC using the Canadian Occupational Projection System underlines the point. It shows that, contrary to common assumptions, Canadians move frequently between regions to find work.

Far from illustrating that UI has created a nation that stays at home regardless of economic conditions, the data show that Canadians are remarkably rational in their migration patterns. They move to opportunity. And when the opportunities dry up, they move back to where it is less costly to survive – for them as individuals and for society as a whole.

e) *Seasonal Workers*

In addition to "short-term workers" the other major target of the Forget report's cuts in UI is seasonal workers.

Figure S2.12
Net Effect of Migration

	1961–66	1966–71	1971–76	1976–81	1981–86 (estimate)	1981–82	1982–83	1983–84
Newfoundland	−15,213	−19,344	−1,857	−18,983	−10,513	−5,693	1,829	−2,444
Prince Edward Island	−2,969	−2,763	3,754	−829	440	−856	636	484
Nova Scotia	−27,124	−16,396	11,307	−7,140	10,872	−1,936	3,791	4,668
New Brunswick	−25,680	−19,599	16,801	−10,351	3,498	−2,842	3,554	1,387
Quebec	−19,859	−122,736	−77,610	−156,496	−115,908	−25,790	−24,678	−19,077
Ontario	85,369	150,712	−38,560	−57,826	99,997	−5,665	23,585	42,078
Manitoba	−23,471	−40,690	−26,827	−42,218	−1,315	−2,625	2,544	−708
Saskatchewan	−42,094	−81,399	−40,752	−9,716	12,432	−323	3,580	4,202
Alberta	−1,983	32,005	58,571	186,364	−29,787	36,562	−11,650	−42,784
British Columbia	77,747	114,964	92,285	122,625	33,902	8,705	−1,489	13,125
Yukon	−1,706	1,781	988	−933	−3,840	81	−1,653	−732
Northwest Territories	−3,017	3,465	1,900	−4,497	223	382	−49	−199

The assumptions are: that seasonal workers are employed in a regular season, during which they anticipate that they are going to be employed; that during the off-season, which is assumed also to be anticipated, they collect unemployment insurance; and that they do not seek employment during their "off-season."

The theory behind the attack on UI benefits for seasonal workers is that seasonal workers earn enough money during their "on-season" to provide for themselves for the full year. As a consequence, seasonal workers should not receive coverage for off-season unemployment which occurs regularly and is anticipated.

In the first place, these are all assumptions. There are no data to back them up. There is no hard evidence to suggest that a significant proportion of seasonal workers are unavailable for work during their off-seasons.

Seasonal workers would, presumably, fit the same pattern as regular "short-term workers." Seasonality would not appear to be sufficiently significant to jump out of overall data on the UI program.

The notion that seasonal jobs pay enough during the season to cover an entire year will not bear close scrutiny. With the exception of fishing (which, as we discuss in the next section, is an exception) the skills involved in seasonal work are not unique to seasonal occupations. Skilled tradesmen or labourers in construction, for example, have skills that correspond precisely to skills in industry.

If a gap large enough to compensate for the difference in work years were to develop, it would create havoc in the markets for those skills.

The real question is whether seasonal unemployment is a legitimate draw on the funds of a national social insurance program.

Canada is not North Carolina. Our economy is heavily influenced by climate, to the point that overall economic activity in many regions of Canada varies significantly with the time of year. A significant proportion of our overall economic activity is in seasonal industries.

As a nation, we all benefit from the output of seasonal industries. Seasonal industries, however, generate seasonal unemployment. Seasonal unemployment, in the aggregate, can no more be avoided in Canada than bad weather in the winter.

What justification can there be for treating individual seasonal workers as if they have a choice, as if they actually choose to be unemployed in their off-season? In our view, there is no justification at all. Seasonal workers should be fully covered in the unemployment insurance program.

The question of benefits for seasonal workers was debated repeatedly in Canada from the 1950s to the 1970s. The 1955 Act provided for a special seasonal benefit which could be claimed only between December 1 and May 15, for a maximum of 13 weeks.

The Gill Committee in the 1960s recommended that the extended seasonal benefit be changed to a less generous "assistance" benefit. It recommended against coverage for a seasonal worker's normal off-season.

The debate continued through subsequent reviews and was finally resolved in the Cousineau Committee, appointed in 1968, which attacked what it called "the absurd link between past employment and needs in the face of interruption of earnings."

The 1971 legislation's extended benefits effectively guaranteed full coverage for seasonal workers.

The Comprehensive Review of UI in the early 1970s dealt explicitly with seasonal workers. "Any attempt to write general regulations restricting benefits during the off-season would pose serious problems as it is extremely difficult to define a season ... In addition, such regulations would raise questions of equity and acceptability."

We see no point in debating the same question yet again.

f) *Fishing Benefits*

In a debate that is often carried on in the heady theoretical world of hypothetical examples, the most common examples drawn on to show that seasonal workers should not be covered by unemployment insurance concern fishing benefits. Everyone has heard the stories of the fisherman in British Columbia or Nova Scotia who makes a substantial income in a short season and collects UI for the rest of the year.

What the users of these examples conveniently ignore is the fact that fishing benefits are explicitly an exception in the Unemployment

Insurance Act. The rules are different from the rules for regular benefits. And fishing benefits are not even financed from UI premiums. Funding for benefits paid to fishermen in excess of premiums collected comes from federal general revenues.

Fishing benefits in UI are, explicitly, a substitute for an income stabilization plan for fishermen. Although they are administered within UI, fishing benefits are really more a part of regional development and fishing policies than they are of UI. In our view, it is inappropriate to use the program as it relates to fishing as the basis for an argument against the payment of regular UI benefits to seasonal workers.

And given the conceptual problems with industrial income stabilization programs, under the circumstances, UI may be the best way to deliver income stabilization to the fishing industry. Indeed, in a later section of this report, we will be recommending that the concept be extended to hunting and trapping, industries which have many characteristics in common with fishing.

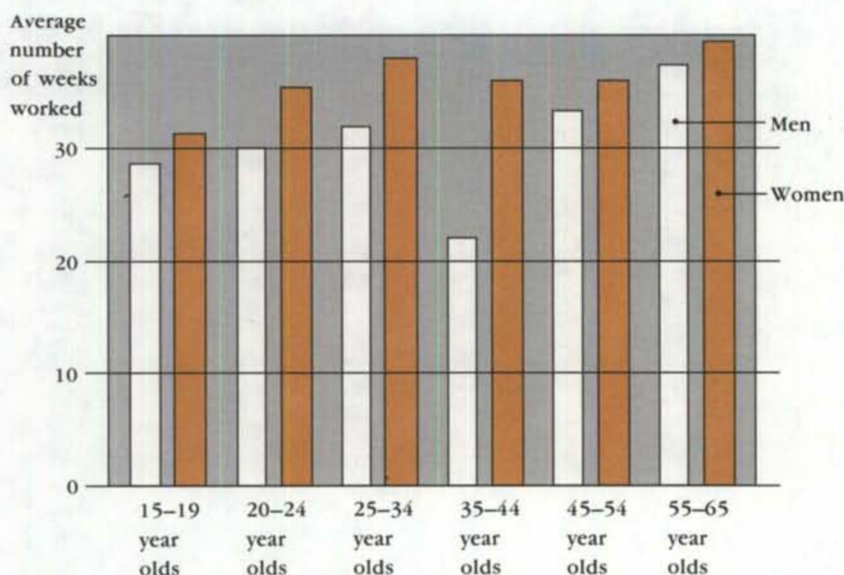
g) *Women and UI*

When unemployment began to soar in Canada in the 1970s, it was fashionable for a time to blame the increase in unemployment on demographic factors, specifically the "bulge" of young people from the "baby boom" moving into the labour force and the increasing participation rate of women.

Governments and economists looking for a way to explain away the phenomenon of simultaneous high unemployment and inflation focussed on these "marginal" additions to the labour force. In its most extreme form, this fashion actually tried to ignore unemployment among women and young people by using unemployment among "prime age males" (age 25–54) as the chief statistic of concern to policy makers.

This limitation of policy concern to "prime age males" was short-lived. It became socially unacceptable to dismiss the participation of women in the labour force that lightly. Despite the official change in tune, however, the fact remained

Figure S2.13
Comparison of Men and Women by Qualifying Weeks



Source: Special tabulations by the Commission of Inquiry on Unemployment Insurance based on Canada Employment and Immigration Commission data 1984.

that rates of unemployment began to be tolerated that would have been unacceptable a decade earlier.

And many of the myths about women's participation in the labour force live on as myths about the nature of women's participation in the unemployment insurance program. The language used is carefully non-sexist, but you don't have to delve too deeply into discussions of workers with short-term and unstable work patterns to find that the discussions are predicated on the assumption that it is predominantly women workers that are being discussed.

It has been argued that women stay on claim longer and qualify for unemployment insurance benefits with fewer insurable weeks than other UI claimants.

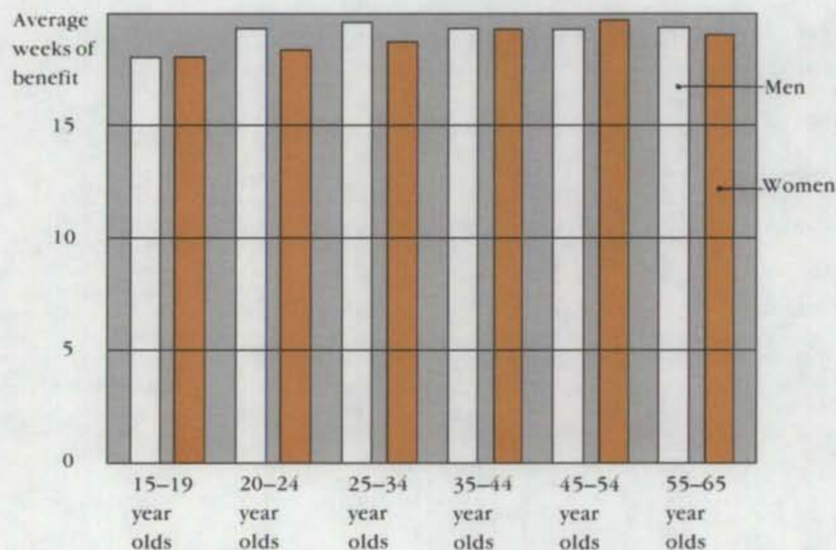
Data prepared for the Commission of Inquiry on Unemployment Insurance demonstrate clearly that the opposite is the case. Figure S2.13 shows that, in every age range, women UI claimants qualify with more insurable weeks than men.

Figure S2.14 shows that only in the age ranges 15–19 and 45–54 does the average claim duration of women exceed that of men.

The Forget report avoids any explicit statement of bias against the employment aspirations of women. Indeed its language is scrupulously neutral. In fact, however, the recommendation for a special Cumulative Employment Account contains a strong systemic bias against women workers.

Despite the lack of evidence, and despite the fact that it is no longer socially acceptable to articulate bias against women workers, it is still all too common to see policy proposals that fail to acknowledge the dual role of women as labour force participants and primary care givers.

Figure S2.14
Comparison of Men and Women by Duration of Claim



Source: Special tabulations by the Commission of Inquiry on Unemployment Insurance based on Canada Employment and Immigration Commission data 1984.

Implications of Annualization

Devastating Benefit Cuts

The proposal's impact on people would be devastating. More than 78% of current claimants would see their benefits reduced under the proposal. Roughly half of present claimants would have their benefits cut to less than $100 per week.

These cuts would be suffered by the very people in our society who need unemployment insurance the most. All of the cuts would be borne by claimants who were able to find less than 47 weeks of work in the year prior to their claim. Unemployment insurance benefits would be reduced beyond the point of being irrelevant for the very people who have the greatest risk of being unemployed.

Simulations of annualization run by the Commission give the estimated distribution of the cuts in benefits (Figure S2.15).

In a private insurance program, a policy of scaling down the benefit paid as the risk increased would be described as creaming. In an unemployment insurance plan, it simply reflects a total misunderstanding of the concept and purpose of social insurance.

The whole point of public unemployment insurance is to spread the risk of financial loss resulting from unemployment as broadly as possible, not to force those with the greatest risk of unemployment to bear the greatest share of the costs.

Our unemployment insurance system is already based on shared responsibility for the consequences of unemployment. UI presently covers only 60% of insurable earnings, leaving the claimant to "self-insure" for the remainder. Reducing effective coverage beyond that point is totally unacceptable.

Figure S2.16 and Figure S2.17 show the distribution of benefit changes among 1985 UI claimants.

The distribution of the burden of these cuts by wage and salary level is also unacceptable. Simulations run for the Commission estimate that the greatest cut in benefits – nearly 39% – will fall on claimants with wages and salaries between $100 and $200 per week. By contrast, claimants with wages and salaries over $400 per week will suffer cuts of approximately 22% (Figure S2.18).

Women Particularly Hard Hit

Because women start out with substantially lower incomes from employment than men, their unem-

Figure S2.15
Estimated Change in Benefits under Annualization

Weeks worked	Change in benefits
10	–79 %
15	–68 %
20	–58 %
30	–37 %
40	–15 %
50	6%
52	10%

Figure S2.16
Distribution of Benefit Changes under Annualization

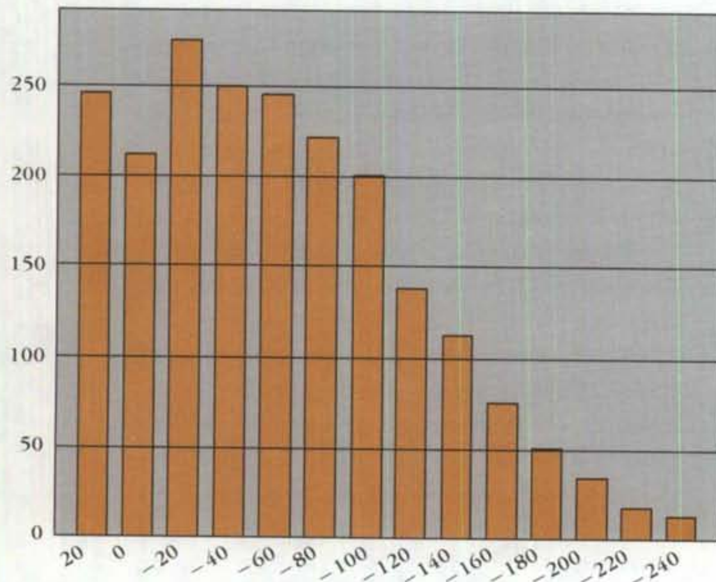
Change in benefits (in 1985 dollars)	Cumulative percentage distribution
–240 to –220	0.0%
–220 to –200	1.1%
–200 to –180	2.9%
–180 to –160	5.0%
–160 to –140	9.2%
–140 to –120	14.5%
–120 to –100	21.4%
–100 to –80	30.8%
–80 to –60	41.0%
–60 to –40	53.7%
–40 to –20	67.2%
–20 to 0	76.8%
0 to 20	93.2%
20 to 40	100.0%

Source: Special tabulations by the Commission of Inquiry on Unemployment Insurance based on Canada Employment and Immigration Commission data 1984.

Figure S2.17

Distribution of Benefit Changes Under Annualization

(Thousands of claimants)



Change in weekly UI benefits (dollars)

Source: Special tabulations by the Commission of Inquiry on Unemployment Insurance based on Canada Employment and Immigration Commission data 1984.

Figure S2.18

Change in Benefits by Wages

Weekly wages and salaries	Change in benefits
$100 and under	–36%
$100–200	–38%
$200–300	–36%
$300–400	–34%
$400–460	–26%
$460–620	–27%
$620–770	–27%
$770–960	–27%
$960 and over	–27%

Source: Special tabulations by the Commission of Inquiry on Unemployment Insurance based on Canada Employment and Immigration Commission Data 1984.

Figure S2.19

Insurable Earnings and Weekly Benefits, under Annualization and the Current Program, 1984

(In dollars)

	Weeks of insured employment						
	8–11	12–15	16–19	20–29	30-39	40–49	50–52
Insurable earnings:							
Men	283.78	280.70	286.25	272.48	289.80	294.57	309.88
Women	195.65	197.18	201.28	189.58	193.12	205.75	238.73
Benefits under present system:							
Men	170.27	168.42	171.75	163.49	173.88	176.74	185.93
Women	117.39	118.31	120.77	113.75	115.87	123.45	143.24
Benefits under annualization:							
Men	36.38	48.58	64.22	87.33	130.04	169.94	202.61
Women	25.08	34.13	45.16	60.76	86.66	118.70	156.09

Note: Assuming average number of weeks worked in each insured employment range is the mid-point.
Source: Statistics Canada.

ployment insurance benefits will inevitably be substantially lower than those of men, regardless of the UI benefit rate. Women earn only 60% of what men earn. UI benefits are therefore 60% (or 66⅔%) of 60%. This fact makes women more vulnerable to cuts in UI benefits than men (Figure S2.19).

For unemployed women, the cuts resulting from the elimination of regionally extended benefits and the implementation of annualization would be devastating. More than 23% of women whose UI claims terminated in 1984 would have received less than $50 per week. By contrast, less than 13% of men who were UI claimants in 1984 would have received less than that amount.

Regional Impact of Annualization

In a country with "too much geography" and "too much weather," regional economic disparities in Canada are going to be a fact of life unless we are prepared to see large parts of the country depopulated as people migrate en masse to the cities of central and western Canada.

Throughout our history, Canadian economic policy has had a regional focus. Regional economic disparities have been addressed directly, through employment stimulation and, indirectly, by creating national programs whose benefits are equalized across the country. National economic equalization has been an important feature of unemployment insurance in Canada right from its inception, when a constitutional amendment was required to permit the establishment of a national program with uniform standards.

The idea that economically disadvantaged regions of Canada should receive a disproportionate share of unemployment insurance benefits is well established in the present UI program and generally accepted by the Canadian public as one of the costs of Confederation.

In the words of the Royal Commission on Dominion-Provincial relations (in 1940):

> Not only national duty and decency, if Canada is to be a nation at all, but equity and national

Figure S2.20

Net Impact of Annualization, Elimination of Regionally Extended Benefits and Unemployment Rates, by Province, 1985

Province	Unemployment rate	Change in benefits		
		Annualization	Elimination of regionally extended benefits	Net total
Newfoundland	20.6%	−8%	−48%	−52%
Prince Edward Island	12.8%	−4%	−47%	−56%
Nova Scotia	13.0%	−20%	−44%	−37%
New Brunswick	14.9%	−4%	−34%	−49%
Quebec	12.8%	−3%	−33%	−35%
Ontario	9.1%	−2%	−24%	−25%
Manitoba	8.3%	−5%	−22%	−26%
Saskatchewan	8.0%	−11%	−23%	−27%
Alberta	11.1%	8%	−28%	−23%
British Columbia	14.2%	5%	−33%	−29%

Note: Total is not the sum of the change in benefits because the annualization change uses a different base (premiums) than that used for elimination of regionally extended benefits (premiums and general revenue).
Source: Special tabulations by the Commission of Inquiry on Unemployment Insurance based on Canada Employment and Immigration Commission data 1984.

self-interest demand that the residents of these areas be given average services and equal opportunities – equity because these areas may have been impoverished by the national economic policies which enriched other areas, and which were adopted in the general interest. (Book II, p. 128)

Figure S2.21

Summary of Comparison of Annualization and the Current Program

(In millions of dollars)

	Present system	Forget proposal	Change	Percent change
Newfoundland	460	220	–240	–52%
Prince Edward Island	90	40	–50	–56%
Nova Scotia	380	240	–140	–37%
New Brunswick	470	240	–230	–49%
Quebec	2,890	1,890	–1,000	–35%
Ontario	2,160	1,620	–540	–25%
Manitoba	270	200	–70	–26%
Saskatchewan	220	160	–60	–27%
Alberta	740	570	–170	–23%
British Columbia	1,260	890	–370	–29%
Total	8,940	6,090	–2,370	–32%
Weeks of insured employment:				
20 and under	2,000	580	–1,420	–71%
20–29	2,500	1,250	–1,250	–50%
30–39	1,210	870	–340	–28%
40–49	1,180	1,120	–60	–5%
50 and over	2,070	2,260	190	9%
Duration of claim (weeks):				
1–10	260	200	–60	–23%
11–20	830	590	–240	–29%
21–30	1,440	920	–520	–36%
31–40	2,030	1,160	–870	–43%
41 and over	4,410	3,210	–1,200	–27%
Weekly earnings:				
$200 and under	1,080	670	–410	–34%
$201–400	4,660	3,040	–1,620	–35%
$400 and over	3,230	2,370	–860	–33%

Source: Special tabulations by the Commission of Inquiry on Unemployment Insurance based on Canada Employment and Immigration Commission data 1984.

Annualization would have a devastating effect both on the economies of the high-unemployment regions of Canada and on the idea of regional equalization itself. Annualization of UI benefits is, in fact, a perverse form of regional penalization. Annualization penalizes people who live in areas of high unemployment in two ways.

First, by eliminating regionally extended benefits, it eliminates a provision of the present UI program that addresses directly the problem of finding employment when there are large numbers of people in the local labour market unemployed.

Second, by penalizing those who are unable to find a full 52 weeks of work in the year before they file a claim, it again penalizes disadvantaged regions where unstable employment patterns are most common.

Under annualization, the overall cut in benefits of approximately 30% would have a disproportionate effect on the parts of Canada with the highest unemployment rates.

Simulations run for the Commission based on 1984 data and adjusted to reflect 1985 administrative data show that benefit reduction would reduce benefits by approximately 47% in Newfoundland, New Brunswick and Prince Edward Island. The cuts would be less than half that large in Ontario. With the slump in the oil industry in western Canada, this year's figures would likely show a similar effect on benefits payable in Alberta (Figure S2.20).

Needless to say, the effect of cuts of this magnitude in UI payments would be devastating to the economies of Atlantic Canada and eastern Quebec.

Annualization and the Present System: A Summary

Figure S2.21 summarizes the impacts of the Forget proposal province by province and on various classes of UI claimants.

The data show the impact that annualization has on workers with unstable work patterns (the greatest cuts are imposed on those with the lowest numbers of weeks of insurable employment). They also dramatize the impact on those with the lowest weekly earnings. Claimants with weekly insurable earnings less than $200 per week see a 40% benefit cut. Claimants with incomes over $400 see a cut of 22%.

Because annualization's impact on benefits depends on average weeks of insurable earnings, its impact will vary from year to year depending on unemployment rates.

Figure S2.22 presents estimates of the impact of the cuts over the period 1973–86.

With higher unemployment rates, unemployment affects a broader spectrum of the work force. UI claimants, as a group, tend to be workers with longer work attachments in the period. Under annualization, the larger the proportion of claimants who have large numbers of weeks worked in the reference period, the higher the average benefit.

With unemployment rates in the 10% range as at present, the expected average cut in benefits would be in the 34%–35% range.

Provincial Welfare Costs Up

Cuts in UI benefits will also have a substantial impact on provincial and local social assistance agencies. Even under the present UI program, Commission members heard about problems caused by late UI benefit payments for local welfare offices and the additional burden on welfare budgets when large numbers of people in a local area exhausted UI benefits.

Annualization would compound these problems immeasurably, by reducing the benefits of a significant proportion of UI recipients below welfare rates. Provincial and local social assistance authorities would be confronted with large numbers of UI recipients whose benefits are so low that they have to fall back on social assistance anyway.

The Forget report itself estimates that the number of claimants receiving less than $100 a week will triple (Chapter 7).

Even using the conservative assumption that the current proportion of former UI recipients moving to social assistance will continue to apply in the future, it is estimated that total social assistance costs will increase by $486 million. Half of that will have to be found by provincial governments, the bulk of it in economically disadvantaged areas.

Working Poor Pushed Further into Poverty

Annualizing unemployment insurance benefits will contribute significantly to poverty in Canada. It is as simple as that. The largest share of the burden of benefit reduction's benefit cuts will be borne by people who already have difficulty finding and retaining jobs, and whose wages from employment, when they are working, are significantly below the national average.

The number of people and families at poverty income levels will go up. The number of people and families who are receiving social assistance will go up. And in several provinces, people who are now able to get by, working when they can find a job and living on unemployment insurance when they can't, will end up living on the street and eating in soup kitchens. Benefits for many people will be cut from a subsistence minimum to a few dollars a week, far less than it takes to live.

Figure S2.22
Estimated Reduction in Unemployment Insurance Benefits, 1973–86

Year	National unemployment rate	Percentage reduction in benefits
1973	5.5%	37.8%
1974	5.3%	38.2%
1975	6.9%	37.9%
1976	7.1%	35.4%
1977	8.1%	37.2%
1978	8.3%	33.0%
1979	7.4%	34.1%
1980	7.5%	28.2%
1981	7.5%	26.5%
1982	11.0%	25.4%
1983	11.9%	23.7%
1984	11.3%	30.5%
1985[a]		
1986[b]	10.0%	34.4%

a not available.
b January to March only.
Source: Special tabulations by the Commission of Inquiry on Unemployment Insurance based on Canada Employment and Immigration Commission data 1984.

The economic impact is obvious. What is perhaps not as obvious, but just as important, is the social impact. Working people who can't find enough work for a full year will find themselves on welfare. Instead of receiving benefits to which they are entitled, as unemployed working people, they will be receiving social assistance. A whole segment of Canada's working poor will be forced onto welfare.

The Forget report's response to the impact of its major recommendations on poverty is to propose a vaguely defined employment income supplementation scheme. Earlier drafts of the report contained a specific proposal that was so inadequate that the details were removed in later drafts in an attempt to avoid embarrassment.

The idea contemplates spending substantially less money on a slightly broader group of people than those hurt most by annualization.

The Impossible Achieved: A Program as Complex as Today's UI

By far the most consistent complaint heard by the Commission about the UI program in its hearings across Canada was about the complexity of the program. Variable entrance requirements and different rules for different types of benefits came in for a great deal of criticism from employers in particular, while employee representatives complained that they were often forced to pay the price for mistakes by their employers in filling out forms.

The Forget proposal would eliminate many of the program rules that gave rise to these complaints – it would also eliminate a substantial portion of the program in the process.

But the Forget proposal substitutes for the complexities of the current system a new set of complexities that should prove to be even more frustrating to employers and employees alike.

The 350-hour entrance requirement will necessitate keeping records for UI of all hours worked. New rules for work while on claim will require benefit payments to be adjusted every time a claimant's on-claim earnings change, no matter how low those earnings are.

For claimants, the situation will be worse than at present. Compared with the present system, in which normal weekly earnings would be a reasonable guide to the base for likely benefit levels, a claimant under the Forget proposal would likely have no idea what his or her weekly benefit level would be.

The calculation would run as follows:

1 Calculate total hourly insurable earnings in the previous 52 weeks.
2 Divide that amount by 52.
3 Multiply the result by 66⅔%.

A claimant who didn't have access to all of that information would be able to guess at his or her benefits by multiplying insurable earnings from the most recent pay cheque by the number of weeks worked in the previous 52, dividing the result by 52 and taking two-thirds of the result.

Simple, right?

And then a significant proportion of UI claimants would have to go to another office to apply for welfare.

The proposal for the treatment of pension income for UI purposes will also impose additional administrative burdens on both employers and employees, as we discuss in the section on older workers in this chapter.

Work Incentives

One of the persistent refrains in the argument for annualization has to do with incentives to work.

But the proposed annualized benefit system has built-in incentive problems of its own. By reducing benefits below social assistance levels for a substantial number of claimants, it will force significant numbers of the working poor onto welfare out of economic necessity. Statistics show that employable men and women who are receiving social assistance are far less likely to be re-employed within two years of becoming unemployed than people receiving unemployment insurance benefits.

Futhermore, by making weekly unemployment insurance benefits very small for many of the unemployed, benefit reduction raises the possibility that job search requirements may become meaningless, both to the individual and to UI administration. Claimants are unlikely to bother to fulfil job search requirements in order to retain a $25-a-week benefit when they have to rely on

social assistance anyway and when it can easily cost $25 a week to maintain a job search in many parts of Canada. And it would make no sense for UI administrators to devote much energy to job search enforcement for claimants who are only receiving $25 per week.

By converting UI from a program for all employees in Canada into a program which is adequate only for those with the least risk of unemployment, benefit reduction would undermine the important role that UI plays in encouraging work and building labour force attachment.

One specific incentive issue that emerged in the hearings had to do with work while on a UI claim. Under present rules, accepting a short-term full-time job can easily result in a claimant being worse off than if he or she had not worked at all.

For example, a claimant who accepts full-time employment and is subsequently laid off will be classified as a repeat claimant unless he or she has had the foresight to freeze the original claim before taking the new job. A claimant who qualified for UI with 12 weeks of work and then took a 6-week job would not be eligible at a second application.

The Forget proposal for a ⅔ tax-back of earnings while on claim, up to the total amount of UI benefits, would actually weaken the incentive to undertake part-time work while on claim. At present, a claimant is allowed to earn 25% of his or her benefit without penalty. Under the Forget proposal, a claimant would have to earn 75% of the weekly benefit to be left with as much as 25% of benefit as net earnings.

The proposal would also be an administrative mess. With the present 25% allowance, earnings can vary within that amount without affecting benefits. With the ⅓ rule, benefits would change every time earnings change.

And by allowing claimants to continue to collect UI as a supplement to earnings, the Forget proposal could result in UI paying benefits to employees who are virtually fully employed. Although the proposal asserts that benefits would stop when a claimant became fully employed, no details are given as to how this would be done, and it is difficult to see how the distinction required could be made fairly and without an extreme administrative burden.

Part-Time Work: A Half Measure

Perhaps the most significant change in the nature of employment in Canada in the past 15 years has been the explosion in the number of part-time jobs.

The Forget report recommends some liberalization of the rules affecting part-time workers, reducing the minimum requirement from 15 to 8 hours per week.

But the recommendation leaves untouched one major problem. It is common practice in the banking and retail industries to employ part-time workers for just under 15 hours per week to avoid the UI lower limit.

Because the Forget proposal does not require the payment of premiums in weeks in which an employee worked less than eight hours, employers will have a strong incentive simply to move the threshold down. Part-time workers will suffer.

In addition, the proposal has nothing to offer multiple job holders who work less than the eight-hour limit but whose total hours exceed the limit.

The Treatment of Older Workers, Severance Pay, Pensions and the Cumulative Employment Account

One of the justifications in the Forget report for its extremely harsh treatment of the high-risk unemployed is an expressed desire to provide additional assistance to older workers. It is the report's one gesture of sensitivity to the needs of any group of the unemployed.

But even here, the report's basic punitive purpose and its lack of even a rudimentary understanding of either the basis of social insurance or the real needs of the unemployed win out.

In its treatment of older workers, the Commission is talking out of both sides of its mouth. In recommending the creation of a Cumulative Employment Account, it claims to be recognizing the special adjustment needs of older workers.

But its recommendations on the treatment of pension income attack directly the only adjustment assistance that is presently available to older workers.

The decision on severance pay is particularly revealing. By recommending that a UI claim be delayed until severance pay is exhausted, the proposal forces workers to exhaust their own adjustment resources before they are eligible to

take advantage of the universal public plan. While it is better than the government's revised regulations which effectively expropriate severance pay for the use of the unemployment insurance system, the proposal is inconsistent with the idea of unemployment insurance as insurance rather than welfare.

Severance pay is not income. It is compensation to a worker for the loss of an *asset*, his or her employment rights.

The whole idea of social insurance is that it should not require claimants to divest themselves of their assets before becoming eligible for benefits. Yet that is exactly what the proposal requires with respect to severance payments.

There is also an arrogance about the proposal's treatment of severance pay which we find offensive. The severance pay and Cumulative Employment Account recommendations, taken together, are essentially saying to employers and governments that provide for severance pay, "In our infinite wisdom, we have decided that our approach to adjustment for older workers is better than yours, so we are going to expropriate yours and substitute ours."

There are few enough resources available in our society to assist the adjustment of older workers. The approach taken in the proposal is narrow, contradictory and punitive.

Older workers who have been laid off have special needs. UI and ancillary labour adjustment programs can play an important role, provided they are flexible enough to be of real help. But it is crazy to use UI regulations to override special severance benefits whether provided unilaterally by employers, through labour-management negotiations or through provincial employment standards legislation.

The recommendation on pensions is a modern classic. Rather than think clearly about the conceptual difference between pension income (which is deferred from previous employment) and earnings from current employment, the Forget report ties itself in knots trying to come up with a formula that appears to be different from the government's controversial proposal but does the same thing.

The recommendation is to continue the government's notorious January 1986 policy with respect to pension income. The only change is that UI premiums paid during subsequent employment would be adjusted to take into account the fact that pension income will wipe out a portion of any future benefits. The proposal resolves nothing and will satisfy no one.

In addition, it is difficult to imagine how employers are going to be able to cope with premium rates based on their employees' pension income from previous employment as well as on their current earnings.

The proposal on pensions says a lot about both process and substance in the Commission's work. The Commission heard from literally hundreds of people affected by the changes in treatment of pensions which took effect in January 1986. It was by far the most significant single issue of concern to the public presented at the hearings.

Those opposed to the changes covered an extremely wide spectrum of the population, from retired police officers and military personnel complaining about their effective disqualification from unemployment insurance once they retired, to unions and employers who found carefully formulated early retirement proposals frustrated by changes that changed significantly the economic situation faced by early retirees.

The Forget report essentially tells all of these Canadians to take a hike. By treating pension income as earnings, albeit with reduced premiums during subsequent employment, it confirms the present policy of the government in the face of very widespread public opposition.

The proposal on pensions reveals three important things about the Forget report and the process through which it arrived at its recommendations. Through its conceptual failure to understand that pensions are deferred earnings which have nothing to do with current employment, it illustrates the superficiality of much of the thinking behind the report. Through its calculated harshness towards unemployed older workers attempting to adjust to layoff, it reveals the fundamentally nasty underside of the glib jargon of social engineering that dominates the text. And through its recommendations that contrast directly with what was said to the Commission in the hearings, it demonstrates its total contempt for the public hearing process and for those who took the trouble to appear before the Commission.

The Cumulative Employment Account sounds like a great idea. The one new proposal for older workers in the report, it would allow long-service workers to accumulate additional UI benefits over their working lifetimes. But what does providing extended benefits to workers who have been continuously employed for at least 10 years have to do with unemployment insurance? What happened to the so-called "insurance principles" that supposedly guided the report's main proposal? What is the justification for denying these extended benefits to the very workers – the irregularly employed – who have the greatest need for special adjustment assistance?

A closer look at the Cumulative Employment Account (CEA) proposal reveals other problems.

In order to qualify, an employee would have to work for 26 full years (defined as 2,080 hours) out of a total of 30 years. More than 4 years in which an employee is out of the labour force for any reason and/or in which he or she worked less than a full-time year, and the employee could never qualify for maximum CEA benefits.

Given the frequency of lengthy layoffs in industrial employment in Canada, this requirement would likely make most industrial workers ineligible for full benefits, especially when it is considered that time spent in training programs would likely count as time outside the labour force under the definitions used in the report.

Furthermore, the "out of the labour force" limit would effectively prevent any woman who leaves the labour force to bear and care for pre-school-aged children from receiving full benefits. The last thing our society needs is more programs with a built-in systemic discrimination against women.

And what do the lucky workers who qualify for the CEA benefits get? Not very much. Benefits would only be usable to top up UI benefits or to extend a UI claim to undertake training. It would not be available for transition to retirement or to encourage mobility.

Restrictions on eligibility and the use of the funds make the idea virtually useless – a catchy name looking for a program.

Even if the CEA were not limited by the restrictions imposed in the Forget recommendation, the whole idea suffers from conceptual problems. Granted that older workers face special adjustment problems, we question why the older workers receiving special assistance should be limited to those who have been fortunate enough to be fully employed for most of their working lifetimes.

One of the lessons from other federal programs dealing with older workers is that older workers defy categorization. Some need very little adjustment assistance. Others need a great deal of individual attention. In our view it is foolish to attempt to deal with such a wide variety of situations with a program, however limited, that does nothing but throw a limited amount of money at people. The problems have to be taken much more seriously than that.

An Inadequate Report

The Forget report is a profoundly disturbing document. It is full of misleading and flatly incorrect assertions. It makes no serious attempt either to understand the significance of UI to Canadians or to reflect their views in its recommendations.

Much of its reasoning is based either on mythology about UI that even a cursory look at the data would show to be untrue or on assumptions about human behaviour and motivation that are simply silly.

Questions which are fundamental to the debate over UI were not even asked, let alone answered.

The Forget report recommends dramatic cuts to the program but makes only the most cursory investigation of the impacts of its recommendations on people.

Not content with the devastation it contemplates for the core UI program, it flirts constantly with ideas and programs on the periphery of its mandate. It wanders into provincial jurisdiction over education and social assistance, offering vague advice on general policy directions.

On the eve of the production of the next-to-last draft of the report, a proposal for an income supplementation plan for the working poor was invented and put into the report. The idea had never even been discussed at the Commission. When it became clear that the dollar amounts being proposed were so low that the result would be embarrassing, the figures were removed, and the recommendation downgraded to a suggested

direction for future action. It does not deserve to be taken seriously by anyone.

The report also serves as a home for crackpot ideas. A strong recommendation for the "share economy" appeared out of the blue in a draft of the report, and endures in the final Forget report despite the fact that it had never been discussed previously at the Commission, had not been raised at all at the public hearings and was not subjected to evaluation in any of the Commission's research studies. The fact that the idea would dismantle the system of wage determination used in most of the Western world and has been heavily criticized from one end of the political spectrum to the other did not even warrant further investigation.

The arguments presented for the main proposal for benefit annualization are deliberately misleading. Figures are presented comparing the present system with annualization. The figures for the present system conveniently leave regionally extended benefits out and thus understate significantly all of the impacts. Yet the examples used to illustrate annualization in the text all involve hypothetical cases that are only possible with regionally extended benefits.

The report is illogical. It introduces its main proposal by citing concerns raised in the hearings about recent changes in the UI program, in Chapter 7.

> The immumerable modifications to the program over the years were viewed as political compromises which had distorted the objectives of the program and undermined its principles.

The report then proceeds to recommend the decimation of the program.

Nowhere is the report more a prisoner of its own logic than in dealing with experience rating of premiums. It gives a ringing defence of the broadest possible pooling of risk.

> Canada has traditionally favoured an extensive pooling of risks, including interruptions of employment earnings as well as job loss, and this tradition should be maintained. The pooling of these various risks should not be diluted by experience rating of contributions.

Fine words, but what do they mean, in a report that recommends that the highest-risk workers be effectively cut out of the UI program.

And the hypocrisy of opposing experience rating of employer premiums while imposing an extreme form of experience rating of benefits – curtailing benefits of anyone with any "experience" of unemployment – is stunning.

The Commission of Inquiry process has been totally inadequate. No serious attempt was made to achieve an accommodation between the interests of management and labour over what is, after all, a workers' program.

The failure of the Commission process to produce a consensus leaves the decision as to the future of UI in the hands of Canadians, through their elected representatives, where it should be. We are disappointed that we, as a group, were not able to provide more assistance in showing where the common ground lies. It is our hope that the critique of the Forget report in this chapter of our report, together with the recommendations in Supplementary Chapters 3–7 following, will be of help in that process of decision-making.

Notes

1 Benefit and claimant figures on the impact of annualization were calculated using the Commission of Inquiry's simulation model of the unemployment insurance program. The figures are based on 1984 claimant data adjusted to reflect 1985 employment patterns.

2 Social Planning Council of Metropolitan Toronto, *Social Infopac*, 1984.

3 Ibid.

4 The breakdown is as follows: food, 18.3%; shelter, 18.9%; household operations, 4.8%; transportation, 8.8% (estimate: vehicle operating expenses only); health care, 2.3%; taxes, 13.9%; security, 2.7%; education, 0.7%; for a total of 70.4%. Excluded are all capital expenditures, all personal hygiene items, etc.

Chapter 3: An Alternative Proposal – Meeting the Needs of People

If It Ain't Broke, Don't Fix It

The Unemployment Insurance (UI) program is vital to all Canadian workers. For those who suffer unemployment, it is an essential source of income. For those who are not unemployed, it represents security. In the continuing recession of the 1980s, the program has proved its worth. At the peak of the recession, the program was serving more than 3 million Canadians a year. Even now, with the so-called recovery well under way, more than 2.5 million Canadians have had to rely on UI. The basic message in the hearings of the Commission of Inquiry, and the basic message of our alternative proposal, is that UI is doing its job. The system is fundamentally sound and needs only to be improved and strengthened to allow it to serve its fundamental purpose in a less complicated and more equitable fashion.

Unemployment insurance is, and we suspect always will be, a vulnerable program. It will be vulnerable politically because, alone amongst our social insurance programs, it provides a benefit to a disadvantaged group of working people as a matter of right. Those who believe that the disadvantaged do not, and should not, have rights will always be uncomfortable with UI.

UI is also vulnerable to the schemes of the social engineers – people who think they have a better idea, or that there ought to be a better idea. Unemployment is so widespread, and the unemployment insurance program so large that the program tinkerers, with their reams of statistics, elaborate theories, hopelessly unrealistic assumptions about human behaviour and motivation and their shameful ignorance about how ordinary working people in Canada live, have a field day.

Unemployment insurance as a program is such that there will always be powerful forces criticizing the program and pressing for substantial cutbacks. The important task of exercises such as the Commission of Inquiry should be to look at those forces in context, to give those with softer voices in our society a chance to be heard, and to find a balance within that context.

The majority of the Commission, instead, heard only the louder voices, and recommended the most massive benefit cuts in the history of the program. And in the process, they succumbed to the temptation to recommend change for the sake of change. They gave the social engineers free reign and created a monster.

A careful look at the context of UI change in the past 15 years shows clearly that the louder voices have been heard, time and time again. The program has been cut repeatedly since it was modernized in 1971. We have taken the Commission exercise as an opportunity to reflect on the cutbacks and changes that have taken place; to deal with some of the problems that those cutbacks created; to redress the balance where the cutbacks have gone too far; and to consider reforms in the light of the changes that have taken place in the economy since the late 1960s.

Our points of departure from the other Commission report are fundamental.

1. We do not believe that cuts in program are warranted.
2. We cannot support massive cuts in benefits for those workers who are most in need of the economic security that UI can provide – those who are not able to maintain full-time, full-year employment.
3. We believe that the proposal to eliminate regionally extended benefits is an economic disaster in the making for Atlantic Canada, large parts of Quebec and rural and northern areas in the rest of Canada. We also believe that the proposal is inconsistent with the regional bargain on which our country is based.
4. We believe that it is a serious mistake to eliminate the link between UI funding and benefits and the rate of unemployment.

UI Program Fundamentally Sound

The Unemployment Insurance program underwent major reform in 1971. It was a major step forward. Benefits were substantially increased and related to actual weekly earnings. The basic benefit rate was increased to 66⅔% of previous earnings and a wider range of benefits was created. Interruption of earnings from layoff, sickness and pregnancy were now insured.

For us, an important feature of 1971 UI reform was the linking of benefit duration and government financing to labour market conditions as measured by the offical unemployment rate. Government financing of benefits was triggered when the unemployment rate exceeded 4%. It acknowledged for the first time that unemployment above this level was beyond the control of the individual employers or employees, and that government should logically finance expenditures attributed to it.

The 1971 program included other important advances:

- comprehensive coverage. Eligibility in 1971 was extended to most Canadians who worked in an employee-employer relationship; about 90% of the paid labour force compared to 80% under the previous legislation;
- a basic benefit rate of 66⅔% of weekly insurable earnings;
- benefits for unemployed workers resulting from pregnancy or sickness;
- coverage of workers over 65;
- government financing of benefits related to labour market conditions as measured by the unemployment rate;
- a shorter entrance requirement. The entrance requirement in the 1971 program was 8 weeks of insurable employment to qualify for regular benefits, and 20 weeks to qualify for sickness, maternity and retirement benefits. Prior to 1971, the entrance rule was 30 weeks of insurable employment in the previous two years;
- adequate benefit entitlement. In 1971 the maximum benefit entitlement was 58 weeks, based on a four-stage benefit structure;
- automatic indexation of maximum weekly insurable earnings (MWIE), based on an eight-year moving average of wages and salaries.

Over a 10-year period from 1976 to 1986, the 1971 program was weakened by yearly statutory changes to the program. The level and duration of benefits were reduced, and the eligibility criteria tightened. The financing arrangements were also changed several times, to reduce the impact on government funding obligations as unemployment increased.

In assessing UI in the mid-1980s, we are convinced that the fundamental characteristics of the program established in 1971 are still appropriate today (see Supplementary Appendix B for description of program in 1986). The unemployment crisis of the last several years has served to reinforce the critical importance of a program that replaces earnings as a matter of right during periods of unemployment. Given the magnitude of Canada's unemployment in recent years, UI has amply proven its worth. Not only have millions of Canadians each year received the essential income protection that UI is designed to provide, but UI has protected whole communities from economic devastation.

We know that the capacity of the program to replace earnings has been weakened since 1971 with the lengthening of the entrance requirement and the lowering of the benefit rate.

We also know that these reductions of benefits to the jobless have made the program extremely complicated. Features such as the variable entrance requirement, different entrance requirements for different types of benefits and different classes of claimants, the treatment of separation payment and pension income as earnings, have complicated the program for workers, the jobless, employers and program administrators. The increasing complexity of the UI program and the fact that the rights and obligations of claimants are not always fully explained have, in turn, created their own problems. The principle that benefits will be paid as a matter of right has been undermined. It has generated a massive backlog of appeals, creating delays of as much as a year in getting appeals heard by an umpire.

Aside from strengthening the basic features of the 1971 program, the improvements we will be recommending result from changes to the composition of the labour force. For example, growing numbers of Canadians work part-time. Current

rules governing minimum weekly hours and earnings exclude many part-time workers from UI coverage.

The number of single parents is growing. And families in which both parents are engaged in paid employment are much more common than they were in 1971. UI does not currently provide adequate protection for income lost due to child-bearing and the care of infants.

UI Basics

In considering changes to the employment insurance system, it is important to keep in mind the principles upon which UI is based.

First, UI is social insurance. Its objective is to pool the risk of weekly earnings' loss as broadly as possible among employed persons. Because the risk of unemployment is universal, UI coverage should be universal. High-risk and low-risk potential beneficiaries should be treated the same way.

Second, benefits should be related to earnings to limit the potential drop in the individual's standard of living, and defined over a time period which is relevant to the earnings period for most Canadians.

The weekly earnings basis for UI is not an accident. It is linked to the time period over which most Canadians budget for their day-to-day living costs.

Third, the duration of benefits should be linked both to labour force attachment and to general economic conditions. Tieing benefit duration to labour force attachment ensures that, other things being equal, the program will offer greater benefits to those who have the strongest work history.

At the same time, linking the maximum benefit period to unemployment rates recognizes the obvious: that it is more difficult (takes longer) to find a job when general economic conditions are bad than it does during periods of relatively full employment.

Fourth, unemployment insurance benefits are an entitlement, available to any unemployed person who qualifies, as a matter of right.

This view of unemployment insurance, as a social right, should guide all aspects of the program, from program design to legislation and regulations to the relationship between the program's administrators and its clients.

The inability or refusal to understand where UI fits the Canadian income security and social services network is central to the debate over what UI should accomplish for individuals and for society generally. There is a stubborn refusal to distinguish between:

1. social insurance programs, such as UI, the Canada Pension Plan and Workers' Compensation which are designed to replace earnings in the event of contingencies such as unemployment, retirement and industrial accident; and
2. minimum income programs such as social assistance, the Guaranteed Income Supplement, and a guaranteed annual income which are designed to protect people against absolute deprivation.

These types of programs differ in several important respects. Social insurance replaces earnings. Benefits are typically paid as a matter of right in response to certain contingent events or risks. Programs such as Unemployment Insurance and the Canada Pension Plan are designed for people who rely on income from employment. The programs are not designed to redistribute income from people with high incomes and earnings to people with low incomes and earnings.

By contrast, social assistance programs are designed to provide minimum incomes. They are designed to serve specific groups who are "in need." The receipt of benefits is typically contingent on passing an income, means or needs test. And the redistribution of income from people with low incomes and earnings is commonly an objective of such programs.

The refusal to keep the distinction between these two types of programs firmly in mind has led to inappropriate policy prescriptions.

The inequities of the current UI system do not arise because unemployment insurance beneficiaries are particularly well off as individuals. Inequities in benefits arise because many of the poorest Canadian families are poor precisely because they are too old, infirm or burdened with child-care responsibilities to participate in the labour force enough to claim UI benefits.

The UI program is designed to replace part of weekly wages or salaries in the event of unemployment. It is not designed to provide all Canadians with a minimum level of income; nor is UI designed to redistribute incomes from rich to poor.

The failure to distinguish clearly between social insurance and minimum income programs in the analysis of UI is reflected in proposed reforms to UI. As the program now stands, the only significant income-related element in UI is the special 30% surtax on UI benefits paid by individuals whose annual income is above $38,000.

Many recent proposals for change in UI fail to recognize that social insurance and minimum income programs are designed to serve different purposes. They cannot be traded off, one for the other, without sacrificing important objectives. The UI program serves an absolutely vital purpose for unemployed workers that cannot be traded off for social assistance or similar guaranteed income proposals. This does not deny the need for a guaranteed annual income. It simply says that the objective of a guaranteed annual income or improved social assistance program cannot be achieved at the expense of UI or other earnings-related programs.

Chapter 4: Our Proposals for Reform

Our Objectives

In establishing our objectives for reform of the unemployment insurance system, we were guided by three dominant considerations.

First, proposals for reform should reflect the problems with the unemployment insurance system as they are expressed by the people who deal with the program every day, as employers and as employees. Our primary concern must be the people the program is intended to serve.

Second, reform proposals must respect the important role that UI plays in the Canadian economy. UI is by no means a peripheral program in any part of Canada. In Atlantic Canada and parts of Quebec in particular, it is an essential part of the Canadian regional development bargain.

Third, the work of this Commission should not be seen in isolation. This Inquiry is not unique. It is simply the latest in a very long line of investigations of UI. It therefore would make no sense to make recommendations here that ignore the debates, decisions, advances, retrenchments and compromises that have come before.

In particular, we feel strongly that the calls for substantial cuts in the unemployment insurance program must be seen in the context of more than a decade of cutbacks and retrenchment from the reforms that were made in 1971. If our alternative report reveals a lack of patience with those who advocate massive cuts, that lack of patience flows from the clear evidence in the changes of the 1970s and early 1980s that the cutters and retrenchers have had their day. It is time now to refocus the program on its basic purposes and on the needs of the people it is supposed to serve.

In the discussion and recommendations that follow, our goal is to meet the following objectives:

1 make the system more responsive to the real needs of the unemployed;
2 make the program more responsive to economic conditions;
3 simplify the program;
4 eliminate restrictions and rules that are plainly irrational;
5 modernize parental benefits;
6 enhance flexibility and accountability in program administration, by establishing a clear legislative base; administrative flexibility to deal with day-to-day problems; a decisive role for employers and employees in the administration of the program; and commitment to refrain from constant, politically motivated changes;
7 structure financing to reflect employer-employee partnership and the public policy responsibility for general economic conditions; and
8 establish complementary programs and coordinate them effectively with UI to meet needs that cannot be met through unemployment insurance.

In considering the role and objectives for UI it is important to bear in mind the people the program is supposed to serve. For many people, especially the poor who are used to struggling to provide for their families, unemployment insurance can mean the difference between hopeful expectation and a feeling of utter failure.

A fair and realistic unemployment insurance program can keep the door open to full participation in Canadian society. The combination of financial aid and complementary programs such as training and mobility assistance, programs for youth, older worker adjustment assistance, child-care programs and labour standards are needed to assist the worker to re-enter the work force.

The role of Unemployment Insurance is central to our sense of Canada as a community. We believe an important objective of Canadian confederation is to promote national economic, social

and cultural development, and the general welfare and equality of opportunity for all Canadians in whatever region they may live, including the opportunity for gainful work, for just conditions of employment, for an adequate standard of living, for security, for education, and for rest and leisure.

One of the characteristics of a modern industrialized country is the concern of the community as a whole for the security and well-being of the individual and the family. A strong UI program is central to that sense of decency and community.

The Core UI Program

In assessing UI in the mid-1980s it is clear that the structure of the program is sound. The unemployment crisis of the last several years has reinforced this view. Given the magnitude of Canada's unemployment in recent years, the program has amply proved its value in facilitating labour market adjustment. Not only have 3 million Canadians per year received the essential income protection that UI is designed to provide, but it has protected whole communities from economic devastation.

While Unemployment Insurance protection has been reduced since 1971, through changes such as the lengthening of the entrance requirement from a uniform eight weeks and the lowering of the weekly benefit rate from 66⅔% to 60%, the program structure has not been fundamentally altered.

What is needed now is to simplify the program and to re-establish balances that were disrupted by the repeated cuts in benefits imposed during the 1970s.

A Uniform 10-Week Entrance

The profusion of entrance requirements in the current program is a major contribution to program complexity. There is a 20-week entrance requirement for "new entrants"; a special sliding entrance requirement for "repeaters"; a "regular" variable entrance requirement of 10–14 weeks depending on the rate of unemployment in the CEIC region where a claim is filed; and a special 20-week entrance requirement for sickness or maternity benefits.

The distinction between entrance requirement for sickness and maternity benefits on the one hand and regular benefits on the other is a specious distinction in principle. In the case of maternity benefits, the distinction is blatantly discriminatory against women. This point was noted in *Equality for All* (pp. 13–14), the report of the Parliamentary Committee on equality of rights (Boyer Committee).

Recommendation

S1.1 We therefore recommend that the entrance requirement for sickness and maternity benefits be brought into line with those for other benefits;

S1.2 we further recommend that the current distinctions in entrance requirements based on regional rates of unemployment and class of claimant be ended. The uniform entrance requirement should be 10 weeks for all classes of claimants.

The return to a uniform entrance requirement may not be as dramatic a change for the recipients of regular benefits as might appear to be the case. As of October 1986, only 14 out of 48 UI economic regions had entrance requirements of more than 10 weeks and only 3 had the maximum entrance requirement of 14 weeks.

Our proposal would simplify the program and eliminate arbitrary and unjustifiable destructions among classes of claimants in the present system.

A Simplified Benefit Period

At present, the benefit period is determined as shown in Figure S4.1. In addition to the maximum for each phase, there is an overall maximum benefit period of 50 weeks.

Our basic objectives for reform with respect to the benefit period were to simplify program rules while preserving a relationship between benefit entitlement and labour force attachment for workers in regions of high unemployment.

The distinction between the two labour force attachment phases in the program cannot, in our view, be justified. Why should one week of work after 26 weeks of employment have half the value in benefit entitlement earned of a week worked up to 26 weeks? There is no obvious answer.

We therefore recommend that phases one and two be collapsed into a single labour force attachment benefit at one week for each week worked, to a maximum of 39 weeks.

Figure S4.1
Current Benefit Periods

Benefit phase	Formula	Maximum benefit entitlement
Initial	One week for each week worked in the 52-week reference period up to 25 weeks	25 weeks
Labour force extended	One week for each 2 weeks worked in the 52-week reference period in excess of 26 weeks	13 weeks
Regionally extended	Two weeks for each 0.5 percentage points that the regional unemployment rate exceeds 4%	32 weeks

In part, this change would recognize changes in the nature of unemployment in Canada that have seen the average duration of unemployment rise from 13 weeks in the mid 1970s to 26 weeks in the mid 1980s.

As we have indicated repeatedly, we support strongly the current program's link between unemployment rates and benefit entitlements in the regionally extended benefits.

Recommendation

S2 We recommend that the current regional extended benefit formula be retained, but that administrative distinctions between the two "phases" be eliminated. In addition, we recommend that the extended benefit be called the labour market extended benefit to make its link to labour market conditions, as measured by the rate of unemployment, clear.

With a maximum of 39 weeks and 32 weeks for labour force attachment and labour market extended benefits respectively, we find it difficult to justify the imposition of the additional overall maximum benefit period of 50 weeks. The effect of this maximum is to deny labour force attachment benefits to workers who live in areas of high unemployment.

Recommendation

S3 We recommend that the current overall maximum benefit period of 50 weeks be eliminated, creating an effective maximum of 71 weeks.

Since this change would affect only workers in high unemployment areas who qualify for UI with more than 20 weeks of work and who exhaust their claims, the cost would be relatively small.

Waiting Period

The two-week waiting period in the present UI program is an unnecessary source of hardship for the unemployed.

When combined with delays in administration that result in cheques arriving weeks late, the effect is often to force many families onto welfare while they wait for UI cheques to arrive. A UI program that forces people to claim welfare before their benefits start simply isn't doing the job.

Lengthy waiting periods for sickness and maternity benefits cannot be justified, even on the logic of the two-week waiting period for regular benefits. Our preference would have been to eliminate the waiting period entirely. The only justification for it is the preposterous "floodgates" argument, that claims would go up dramatically as people who could get a job right away chose to go onto UI instead.

However, we acknowledge that the elimination of the waiting period would arouse significant opposition and create problems for the integration of UI sickness benefits and private sickness and accident plans.

Recommendation

S4.1 We recommend a two-week waiting period for regular benefits;

S4.2 a one-week waiting period for sickness benefits;

S4.3 elimination of the waiting period entirely for maternity and parental benefits;

S4.4 a guarantee of benefits payment within a week of application; and

S4.5 payment of UI benefits to start at the end of the first benefit week, and every two weeks thereafter.

A New Formula for the Insurable Maximum

The present insurable maximum provides inadequate coverage for many working people. It should be increased, so that it covers a greater percentage of the total earnings of UI claimants. Unemployment is much more widespread now than it was in 1971. The income coverage of the program should be broadened to reflect that fact. In addition, program finances would benefit from a broadening of the income pool being insured.

Recommendation

S5 We recommend that each year's insurable maximum be established at 125% of the eight-year moving average earnings.

This system is used to establish the maximum income covered by Workers' Compensation in some provinces. It would ensure that the income covered by UI is adequate when measured against the incomes of those who are actually unemployed.

Application of this formula in 1986 would produce an insurable maximum approximately 25% higher than the present level.

A 66 ⅔% Benefit Rate

UI benefits now amount to only 60% of average insurable earnings. This means that at least 40% of a person's earned income will be lost when she or he moves from employment to UI. Moreover, the two-week waiting period drops the actual replacement rate below 60%. For workers whose earnings are above the maximum weekly insurable earnings, the replacement rate is still lower. Finally, UI claimants must conduct an active job search, fulfil reporting requirements, and accept suitable job offers, with "suitable" defined according to a scale of wage and salary rates which decreases during the claim period.

UI benefits are low by comparison with earnings prior to unemployment. The actual level of benefits paid is also low in an absolute sense. Workers whose insurable earnings equal the maximum weekly insurable earnings, currently $495 per week, have earnings that are roughly equivalent to the average weekly wage and salary, for a maximum UI benefit of $297 per week. The average UI benefit paid in 1985 was only $190 per week. To put this average UI benefit payable in perspective, it is substantially less than the average monthly rent payable in Canada in 1985, $370 per month.

The notion that UI is sustaining lifestyles that are opulent is without foundation. While Unemployment Insurance is not designed to eliminate poverty, it is striking that the average UI benefit received in a full year of benefits is less than the Statistics Canada poverty line for single persons in all but the smallest Canadian cities.

The original UI Act of 1971 included a dual benefit rate: a 75% rate for claimants with dependants, and a 66⅔% rate for others. In 1976, this dual rate was replaced by a 66⅔% rate for all claimants. In 1979, it was dropped from 66⅔% to 60%.

The dual rate reflected an implicit needs test that has no place in an earnings-related program and would properly be criticized as discrimination on the basis of family status. It is appropriate that there should be a uniform benefit rate for all claimants. The uniform rate accurately reflects the fact that the employment relationship exists between *individual* workers and their employers, and that it is *individual* workers who have their earnings interrupted by unemployment.

In our view, the cut in benefits from 66⅔% to 60% in 1979 went too far. At 66⅔%, we are already asking workers to self-insure for a minimum of 35% of their employment income, taking into account the waiting period. The present 60% benefit rate requires a minimum of 42% self-insurance. That is too much.

Recommendation

S6 We recommend that the benefit rate be increased to 66⅔%.

Pensions, Severance and Vacation Pay

The decisions of the government to allocate severance and vacation pay against UI benefits, effective in March 1985 and to allocate pension income against UI benefits effective in January 1986, generated more controversy, more personal appearances and more letters than any other single issue considered by the Commission of Inquiry.

And so it should have. Counting such payments against UI benefits is illogical; it is unfair; and it is bad public policy. It is clear beyond any doubt that the sole reason for the change was the

enticing prospect to the Minister of Finance of being able to extract $100 million from the pockets of the unemployed in a way in which, he believed, would cause little public fuss. Little did he know.

The issue should never have come up in the first place. The policy that was changed had only been in effect since September 1982, and had been brought in at that time with the support of both employers and employees to simplify the administration of the section of the Act defining "earnings."

The Commissioner for Employers, Mr. W.E. McBride, explained the basis for the change succintly in his September 1982 memo to all employers.

> The present regulations have caused considerable difficulty and excessive costs for employers, claimants and the Commission. Examples of the problems created are:
> • Difficulties for employers in completing the Record of Employment;
> • Errors committed in completing Records of Employment create overpayments and underpayments to claimants amounting to hundreds of millions of dollars, as confirmed by the Auditor General;
> • Excessive administrative costs for employers due to time required to complete Records of Employment, subsequent verification due to follow-up as a result of errors; and
> • Increasing problems due to varying interpretations of such termination payments.
> For these and other reasons, the Commission has approved amendments to the regulations. The changes will become effective September 5th, 1982 at which time most payments, when paid or payable on or after a lay-off or separation from employment, will no longer be considered insurable earnings for Unemployment Insurance purposes.

Less than three years later, the consensus has been overridden, thereby adding to the confusion and difficulty which were to have been remedied by the September 5, 1982 regulation.

This new regulation is particularly unfair to long-service workers. On layoff, they may be entitled to substantial severance benefits, and plan to use these benefits to finance retraining, adjustment, or relocation. Now, however, they are forced to use their severance pay to meet day-to-day living expenses.

It is totally illogical to count pension income and severance and vacation pay as income to be allocated against UI benefits. The purpose of such an allocation is to deal with *earnings* while on claim, to ensure that UI benefits are paid to people who are unemployed and looking for work and not to people who are working.

Pensions, severance pay and vacation pay have one thing in common. They were all earned *prior to* separation from employment. Pension income is a payment from a fund that was generated for an employee while he or she was employed. Vacation pay is an entitlement that is earned while employed and banked either in a "time off with pay" bank or in some cases in a vacation pay trust fund. Severance is a compensation to long-service employees for their lost employment rights. It is earned while employed and paid out on termination to finance the special adjustment problems that older workers face. It is an asset, not income. These earned benefits are caught in the regulation's net because they happen to be paid out on termination of employment.

These payments are not earnings after termination of employment. It is illogical to treat them as if they were.

It is also extremely unfair. Many working people have taken early retirement from jobs in heavy industry, in particular, on the assumption that they could be able to supplement their pension income with lower-paying jobs after retirement, and that they would be eligible for UI when they were unemployed.

Thousands of others in the armed forces and police are required to retire many years before normal retirement dates. These "retirees" are expected to find other employment after "retirement." Counting their pensions as income makes them effectively ineligible for UI.

It is the only form of income not related to current earnings which is allocated against UI benefits. Investment income or income from RRSP's which is indirectly related to employment, prior to termination, is not allocated against UI benefits. It

is inequitable to count pension income against benefits, for example, but not RRSP income. It is inequitable to count severance benefits against UI benefits but not the proceeds of RRSP withdrawals or other forms of pre-termination savings.

Pensions are income earned prior to termination and paid out afterwards. Severance and vacation pay are not even incomes. They represent a worker's capital, accumulated while employed.

As public policy, the treatment of pensions, severance and vacation pay is inconsistent and counter-productive.

Early retirement from industrial jobs is officially encouraged by government as a way to facilitate employment adjustment and cushion the community impact of major layoffs. Yet the policy discourages early retirement.

Vacation pay is considered so important that it is required by law in every jurisdiction in Canada. Yet the regulations effectively expropriate the vacation pay of those who become unemployed.

And the unemployed older worker, about whose plight there is a great deal of public hand-wringing by politicians these days, bears the lion's share of the burden from the expropriation of severance payments by UI. There are few enough employers in Canada who are generous enough to provide severance payments to older workers they have been forced to lay off without having those payments in effect taken away by the government through UI. Employers – and governments – who provide for severance benefits should not be penalized for doing so.

Recommendation

S7 We recommend that "earnings" to be allocated against UI benefits be defined as income resulting from work after the termination of employment which gives rise to the claim.

This would exclude from the definition of earnings all pension income as well as severance and vacation pay.

Retirement and UI

Without the "rough justice" of counting income from pensions against UI benefit or the arbitrary age 65 ceiling on eligibility for UI, the determination of "retirement" will have to be made on criteria which are objective and non-discriminatory.

At present, unemployment insurance eligibility ends at age 65, whether or not the individual concerned has left the labour force. A special "retirement" UI benefit of three weeks is available to workers who leave the labour force at age 65.

There are two other bases on which the distinction could be made. One is to rely on the choices made by the individual concerned. An individual could lose UI eligibility if he or she consciously chooses early retirement. The problem with such a criterion is that there is no choice an individual is required to make that would indicate whether or not he or she is actually retired. In the absence of a public "early retirement" program, it is unlikely that an individual choice will be available as a criterion for UI eligibility.

The other way to make the distinction is to rely on what the individual actually does after leaving a job. If the individual continues to be available for work and conducts a bona fide job search, he or she would be considered to be unemployed and in the labour force, and therefore eligible for unemployment insurance.

As long as the program defines clearly and concisely what "available for work" and "job search" mean, this approach would help to ensure that UI does not effectively become the early retirement program which Canada at present lacks.

It is doubtful that the denial of UI benefits to workers over age 65 would survive a court challenge under the Canadian Charter of Rights and Freedoms. Furthermore, growing numbers of people are leaving the labour force permanently before age 65. Age 65 is already losing its "magic" as a determinant of retirement. A successful court challenge would finish it off.

Recommendation

S8.1 We recommend that the special three-week early retirement benefit be eliminated;

S8.2 the present exclusion of coverage from persons over age 65 be eliminated; and

S8.3 UI rules and regulations include a clear and concise definition of "availability for work" and "job search."

This approach would ensure that the protection of UI is available to people who are actively in the labour force on a non-discriminatory basis while protecting the UI fund from use as a substitute for a public policy on retirement.

Parental Benefits

Over the past 30 years Canadian women have entered the paid labour force in increasing numbers. More than 5 million women are now in the paid labour force. This is more than half (53%) of women in Canada over the age of 15. The most rapid increase has been by women in the 25–34-year-old age range, which are prime child-bearing years.

Women enter the paid labour force for precisely the same reason that men do. They want or need income from employment. When that earned income is interrupted due to child-bearing and child-rearing, the consequence is no different than if earnings had been interrupted due to layoff or termination of employment, and neither is the need for earnings-related benefits that are paid as a matter of right.

There can be no question in our view that women who leave the paid labour force to bear children and parents who leave the labour force to care for children in their infancy should be entitled to UI benefits.

These needs have already been recognized in the leave provisions of the Canada Labour Code. The code provisions should be reinforced in the unemployment insurance system.

With 70% of women of child-bearing age currently working outside the home, pregnant women are forced to confront a financial dilemma when their baby is born.

UI replaces only 60% of earnings for 15 weeks and only a handful of employers have plans to top up the difference. While the cost of paid maternity leave for large employers is a very small part of the total wage bill, most resist providing any form of paid maternity leave. The most generous maternity leave programs have been bargained through collective agreements but the majority of these are in the public sector.

Canada Post, which has one of the most generous paid maternity leave plans, admits the plan costs one quarter of 1%. We nevertheless acknowledge that the cost of employer-paid maternity plans could be a significant financial burden for small businesses. For this reason alone legislated employer-paid maternity leave is not a viable option.

The UI system financed by employer-employee premiums is the most effective and equitable way of ensuring paid parental leave for birth and adoption. Canada lags behind European industrial nations in the provision of maternity and parental benefits.

Women in West Germany, for example, can take 6 weeks paid leave before a child is born and six months after birth with the employer making up the short fall for 14 weeks between government benefits and the workers' average wage.

In Sweden, either parent can take nine months at 90% of salary. The plans are paid 75% by the employer and the rest by the government.

We must point out, however, that provincial labour standards would have to be updated and reformed to make parental leave under the UI system effective.

Recommendation

S9.1 We recommend that the maternity benefit period for a natural mother be extended to 17 weeks by dropping the 2-week waiting period; and

S9.2 we further recommend a parental and adoption benefit period of 24 weeks that can be shared as desired between the parents;

S9.3 where a child is hospitalized immediately following birth or otherwise during a maternity benefit period, we recommend that claimants be permitted to freeze their claims, return to work, and reactivate their claim on the release of the child from hospital.

A similar proposal regarding the duration of UI benefits paid when earnings are interrupted due to child-bearing and child-rearing was made by the Boyer Committee.

Recommendations

S10 We recommend that the duration of maternity, parental and sickness benefits not be limited by the establishment of other claims under the UI program, nor be denied under Section 44 of the Act by virtue of a labour dispute.

S11.1 We recommend that parental benefits under UI be reinforced by provisions in all labour codes in Canada that would require: 17 weeks of maternity leave and an additional 24 weeks of parental leave as is now the case under the Canada Labour Code;

S11.2 the accumulation of seniority and benefits during maternity and parental leave; and

S11.3 the right to return to one's former job or its equivalent following maternity or parental leave.

If our proposals were adopted, the basic 66⅔% UI benefit rate would be available if earnings were interrupted due to child-bearing and child-rearing for a significantly extended period of time. In and of themselves, these changes would mark significant progress in accommodating the income security needs of parents in a manner that is perfectly consistent with the purpose of UI.

By the same token, it is important to note that what we are proposing falls short of what is provided in some other industrialized countries and what is "ideal." In principle we would argue that an interruption of earnings due to child-bearing and child-rearing should entail no loss of available income. This would imply maternity benefits of roughly 95% of earnings.

Part-Time Workers

Part-time workers must work for an employer for at least 15 hours a week or must earn at least 20% of the maximum weekly insurable earnings ($99 in 1986) to be insurable under UI. With the increasing number of part-time workers in the Canadian labour force, an increasing portion of the labour force is denied coverage as a result of this criterion.

Using 1981 data, the Commission of Inquiry into Part-time Work found that 40% of part-time workers were excluded from UI coverage because they work less than 15 hours per week for a single employer. By 1984, the comparable figure had increased to 44.2%, or 747,000 out of a part-time work force of 1,689,000. Since 70% of part-time workers are women, it is clear that the burden of this exclusion falls disproportionately on women.

The Boyer Committee also identified the "minimum insurability" criterion as a feature of the plan that needed alteration in light of Section 15 of the Charter.

Since the last major change in the treatment of part-time workers in the unemployment insurance program in 1971, the relative importance of part-time work in the economy has increased dramatically.

It is doubtful whether the limitations on UI coverage for part-time workers were appropriate to the economic conditions of 1971; they certainly are not appropriate in 1986.

There are two main problems with UI coverage of part-time workers. First, in order for an employer to be required to pay premiums and for an employee to be eligible for benefits, eligibility must be established in a single part-time job. An employee who accumulates hours or earnings over the minimum from more than one employer but not from any single employer cannot qualify for unemployment insurance.

Second, a substantial proportion of regular part-time workers have regular part-time hours totalling less than 15 hours per week. For instance many employees in the banking sector work one day a week or as little as 1.5 hours per day.

In our view, there is no justification for excluding workers from UI coverage simply because they happen to work for more than one employer. All hours worked should be taken into account in determining eligibility for unemployment insurance benefits.

This would be helpful in two important respects. First, it would eliminate discrimination against people who work for multiple employers. Second, it would eliminate an incentive in the present program for employers to keep hours and earnings below the 15 hour/20% minimum to avoid having to pay unemployment insurance premiums.

In establishing an appropriate minimum number of hours worked to qualify for unemployment insurance coverage, it is important to strike a balance between broadening the coverage of the program on the one hand and preserving the essence of the program on the other.

At one extreme, first hour and first dollar coverage would bring into the program people whose work attachments are so limited that the concept of "unemployment" becomes meaningless. At the same time, it must be recognized that part-time work accounts for a significantly greater share of total employment in Canada today than it did in 1971. Changes to the program must reflect that reality.

Recommendation

S12.1 We recommend that unemployment insurance premiums be collected for all hours worked from both employees and employers;

S12.2 the requirement for unemployment insurance eligibility be a minimum of six hours per week of regular employment; and

S12.3 employees who fail to establish UI eligibility in any taxation year have their premiums refunded through the income tax system. Employer premiums would not be refunded.

UI and Labour Disputes

Section 44 of the UI Act denies benefits to workers whose earnings are interrupted due to a work stoppage attributable to a labour dispute. The intent of this section of the Act is to ensure that the UI program and CEIC are neutral in labour disputes. We accept this basic principle of neutrality. Over the years, however, the jurisprudence that has developed on this section of the Act, and certain administrative practices of the Commission have allowed benefits to be denied to people to whom this section should not apply.

One of the problems that has arisen in this area is that the concept of involvement in a labour dispute has been extended to cover workers who are not direct participants in the dispute and who have no direct interest in it. For instance, there have been cases over the years where laid-off workers have been denied benefits because they were members of the same union as other employees of the same employer who were then on strike, and strike assistance came from a common strike fund. In this case the laid-off workers were deemed to be parties to the dispute on the grounds that they were financing it through their union dues prior to layoff. In a related vein, if an individual worker decides to participate in a labour dispute (e.g., by refusing to report to work for an employer who is being struck) the whole "grade or class" of workers of which that individual is a member can be denied UI benefits.

These "financing" and "grade or class" rules are inequitable. They stretch Section 44 beyond its original intent and end up biasing the UI program in favour of employers.

Recommendation

S13 We recommend that Section 44 be rewritten to make it clear that the only people who will be denied benefits under this section are people who are direct participants in a stoppage of work or who are covered by a collective agreement that is at issue in the stoppage of work. The definition of a direct participant should not include workers who refuse to cross the picket line of workers who are direct participants in a labour dispute.

The intent of Section 44 is to preclude the payment of benefits to people whose earnings are interrupted because they are participating in a labour dispute. However, it occasionally happens that during the course of a labour dispute, events occur which would give rise to a claim in the absence of the labour dispute. Some of these alternative bases for a claim should be recognized even if a labour dispute is under way. In this regard, three situations are particularly relevant:

1 situations where an employer declares all or part of her or his operations to be wound up during a labour dispute and therefore lays off or terminates the employment of some or all workers at a place of employment;
2 otherwise valid claims arising from childbirth and child-rearing;
3 otherwise valid claims arising from sickness.

In each of these situations it is fair to presume that even if there was no labour dispute, the workers involved would not be returning to work. Therefore the interruption of earnings should not be viewed as the result of the labour dispute itself.

Recommendation

S14 We recommend that sickness, maternity and parental benefits and claims arising from layoffs that would have taken place in the absence of a strike be exempted from the labour disputes rule.

We are also concerned about two aspects of the operative definition of a labour dispute for purposes of the UI program. First of all, the definition of a labour dispute in the Act allows for the denial of benefits in cases where workers have been illegally locked out by their employer. The workers involved have absolutely no control over these situations and illegal lockouts are not part of the legally sanctioned collective bargaining process.

Recommendation

S15 We recommend that Section 44 not deny benefits to workers who are faced with an illegal lockout.

In addition, jurisprudence has established the operative rule that a labour dispute has ended when 85% of the workers employed at the commencement of the dispute have returned to work. This operating rule has no foundation in the Act or regulations.

Recommendation

S16 We recommend that a dispute be deemed to be ended when the parties to a dispute have ratified a memorandum of agreement and/or a collective agreement.

Another problem often arises in protracted strikes, when striking workers who take other jobs are subsequently laid off from these other jobs. The Act places strict requirements on these jobs, requiring that the claimant prove that he or she is "bona fide" employed in the same occupation or "regularly engaged" in another occupation.

The reversal of onus in these subsections of Section 44 of the Act places an unfair burden on the claimant, and is likely contrary to the due process sections of the Charter.

The Act should not be prejudging the motives of workers for seeking employment. If there is fraud involved, the administration of UI has other sections of the Act on which it can proceed and in which it, rightly, has the burden of proof.

Recommendation

S17 We recommend that the special requirements to prove "bona fide employment" or regular engagement in another occupation in order for a worker who is on strike to claim benefits in a layoff from a job not related to the strike be removed from the section dealing with labour disputes.

Work While on Claim and Labour Force Separation

Earnings While on Claim

At present, claimants are allowed to earn up to a maximum of 25% of benefits while on claim without suffering a reduction in benefits. When earnings exceed 25%, benefits are reduced by one dollar for each dollar of additional earnings.

This aspect of UI was raised frequently in hearings, particularly by representatives of employers in the retail sector. There was some support from these groups for the idea of allowing claimants to "top up" their earnings subject to a uniform rate of "tax-back" of benefits as an alternative to setting a fixed earnings maximum based on benefits. The Forget proposal, to pay unemployment insurance benefits at the regular benefit rate (60% in the present system; 66⅔% in our proposal) on the difference between actual earnings and the insurable maximum, is a response to these requests from small business groups.

Although "top-up" proposals appear to be fairly straightforward, a closer examination reveals serious administrative and conceptual problems.

At the administrative level, changing from a flat exemption of earnings while on claim to a "top-up" formula would involve UI administrators in assessing income and adjusting benefits for a much larger number of claimants than at present,

since any formula would begin to apply with the first dollar of earnings. In addition, such a system would add significantly to the number of claimants who could qualify for very small benefit payments.

For example, claimants who became re-employed at a rate of pay less than the insurable maximum and less than their previous earnings would be eligible for "top up" even though they were no longer actually unemployed.

This raises the conceptual problem with "top-up" proposals. Such proposals blurr the distinction between "employment" and "unemployment."

As the above example suggests, someone could be working 40 hours per week and still be receiving a UI benefit.

In our view, unemployment insurance should be an unemployment insurance program, not a wage subsidy program. It is intended to alleviate the consequences of unemployment during active job search.

It is not intended to alleviate the consequences of inadequate earnings while employed. It is unemployment insurance, not income supplementation.

Job search is fundamental to the rationale for unemployment insurance. A change in benefit formula to allow payments to claimants who are fully employed, or available for job search only part-time, would be inconsistent with this basic principle.

Blurring the distinction between employment and unemployment would cause some administrative problems as well. As suggested above, it would make the administration of job search requirements difficult, if not impossible. And because it would be possible to be fully employed and receiving UI benefits at the same time, the same individual could be establishing an entitlement for a future claim at the same time as he or she is receiving UI benefits.

Finally, a "top-up" formula could easily have a perverse effect on incentives to work while on claim. Under such proposals, claimants would keep only 33⅓% (with a 66⅔% benefit rate) or 40% (with a 60% benefit rate) of earnings while on claim. Reducing the effective wage rate for earnings while on claim to ⅓ of the nominal amount would make part-time work while on claim extremely unattractive.

For these reasons, we are opposed to fundamental changes in the "work while on claim" rules.

We do believe, however, that some loosening of the restrictions on earnings while on claim would be beneficial.

Short-Term Work While on Claim

The problem with respect to short-term work is somewhat different. A recipient of UI benefits who has an opportunity to work short-term has a choice. He or she can decide to "freeze" the current claim, retaining the option of picking the claim up where he or she left off when the short-term work ends; or he or she can terminate the claim in the hope that the work turns out to last at least long enough to requalify for UI.

Each choice has inherent risks. If the new job does not last long enough to requalify for UI and the claim has been terminated, the individual will not be eligible for UI when the new job ends. The higher entrance requirements for repeat claimants within a single 52-week period make re-establishing eligibility that much more difficult. On the other hand, if a claim is kept active, work on the new job may not count towards increased UI eligibility.

The way the program works, a choice is forced on a claimant at a time when he or she is unable to predict the consequences, a choice which can have the result of denying benefits that would otherwise have been payable had a different choice been made.

Agricultural sector employers in particular complained that the lack of a rational approach to short-term work while on claim was a major problem in recruiting workers to work for defined short-term periods, such as harvesting, planting and processing.

We believe that it should be a basic principle of the administration of all social insurance programs that program rules not require "gambling" choices on the part of potential benefit recipients.

Recommendation

S18 We recommend the following procedure for determining UI eligibility when a claimant is re-employed prior to the termination of a claim:

S18.1 eligibility under the previous claim be increased by one week for each week of insured employment; and

S18.2 eligibility be the greater of the number of weeks remaining on the previous claim, augmented as above, and the number of weeks of benefit to which the individual would be entitled in a *new* claim established through the new insured employment.

This proposal would eliminate the need for claimants to "bet" with the unemployment insurance program on the duration of any new job. They would be given the "benefit of the doubt" in assessing benefit eligibility.

Periods Outside the Labour Force

Under present program rules, a claim is established with reference to the number of weeks a potential recipient has worked during a "reference period," the 52 weeks immediately prior to the date of filing of a claim.

Under certain circumstances, the reference period can be extended to a maximum of 104 weeks to cover periods outside the paid labour force.

These limitations cause a multitude of problems. People who work overseas, for example, often find themselves ineligible for benefits on their return. Overseas development volunteers who work on projects in countries in the Third World often leave jobs in Canada to earn nominal incomes on development projects sponsored by Canadian-based non-government organizations. When they return to Canada, they very often have to find jobs and cannot qualify for UI because they have been out of the country for longer than the reference period.

The same problem is faced by Canadian oil field workers, for example, who go overseas to find employment and lose the UI rights they had previously earned in the process. Individuals who leave the paid labour force for self-employment or to start a new business can similarly find themselves ineligible for UI if the venture fails and they are forced to seek employment.

Employees who go through long strikes face similar problems. An employee who is on strike is not eligible for unemployment insurance benefits unless bona fide employment with a second employer is established. Yet when the strike ends, strikers may have had their UI eligibility reduced because they were not considered to be in the labour force while they were on strike.

Recommendation

S19 We recommend that persons who leave the labour force and wish to retain the option of filing a claim for unemployment insurance upon their return to the labour force be permitted to "freeze" their UI eligibility until their return to the labour force.

Under this proposal, employees would be able to take a "leave of absence" from the labour force for the purpose of UI, retaining their UI eligibility for their return to the labour force.

This process of "freezing" a claim could be made automatic whenever more than two weeks had gone by in which an individual neither paid premiums nor received benefits. Alternatively, the "freezing" process could be established on application.

Farm Workers

In addition to the normal eligibility criteria, farm workers under the current UI program must work at least seven days for the same employer before their employment becomes insurable. The government has sought to justify this discriminatory provision on the basis that it eases the administrative burden on farmers. This rationale cannot justify the imposition of harsher eligibility requirements on farm workers, especially given that they have a particularly strong need for protection in all aspects of their employment, including the unemployment insurance program.

In a letter to the President of the Canadian Labour Congress received in July 1983, the then Minister of Employment and Immigration, the Honourable Lloyd Axworthy, acknowledged that the special eligibility requirement might well be in contravention of Section 15 of the Charter.

Recommendation

S20 We recommend the elimination of the eligibility requirement for farm workers to work at least seven days for the same employer before their employment becomes insurable.

Self-Employment

At its hearings, the Commission heard many submissions calling for UI insurability of earnings which are treated for tax purposes as income from self-employment. Groups of performing and visual artists, for example, argued for "dual status" that would permit them to be considered to be employees for UI purposes and self-employed for tax purposes, as is presently the case for taxi drivers.

The inconsistency in UI's treatment of self-employed individuals should be eliminated. The arguments of those who argued that, regardless of their sources of income, they were effectively employees, were persuasive.

Regulations would have to distinguish between self-employed people who are effectively employees, and those who are operating a business. In addition, criteria would have to be developed which would establish that an individual does, in fact, fall into the employment category concerned and is, in fact, available for work.

Individuals who are considered to be self-employed for tax purposes should be eligible for UI provided that they are effectively employees, in that their income is allowed from their own activity alone and is not under their control. This would extend coverage to anyone who works under a contract for employment, either explicit or implicit for a total of 10 weeks in the reference period. Special rules and regulations should be devised for determining UI eligibility for self-employed "employees," defining the occupations covered, the work attachment required to be considered self-employed and the definition of job search for individuals in these categories.

Other self-employed individuals who do not meet these criteria would be able to retain UI eligibility in a previous occupation by freezing a claim when they leave an occupation in which they have earned UI eligibility and exercising their claim when their earnings from self-employment cease. They would, of course, be required to look for work in their area of previous employment.

Fishermen's Benefits

In 1984 there were 55,944 premium contributors to the fishermen's unemployment account reporting gross earnings of $855 million and insurable earnings of $220 million.

In 1984 there were 35,152 benefit claimants under fishermen provisions of UI. Premium income was estimated at $12.9 million with net benefits paid of $163.4 million or an average UI subsidy of $4,544.78. Fishermen's benefits represent between 20% and 25% of landed value.

Benefits paid by government amounted to $163.4 million to 35,925 claimants. The greatest number of claimants (12,462) was from the province of Newfoundland, followed by Nova Scotia (7,819) and British Columbia (6,141). Benefits paid were also greatest in Newfoundland at more than $57 million, or more than one-third of total benefits paid.

According to the Newfoundland government, some 11,000 fishermen or 85% of all inshore fishermen receive UI benefits and this represents almost 40% of Canadian fishing beneficiaries. Statistics from 1983 taxation files indicate that unemployment insurance benefits comprised over 40% of a fisherman's total income.

There are three types of fishery in Canada. The first is a hardship or subsistence, inshore, northern and freshwater fishery – basically applicable to those areas north of 50 degrees. The second is a cyclical fishery which applies to the more southerly parts of the Atlantic Coast and the Gulf of St. Lawrence. It is predominantly market-driven and suffers ups and downs over an approximate seven-year cycle. The third fishery is a highly volatile one in which, for no apparent or as yet fully explained reason, catch rates can fluctuate tremendously year over year, leading to boom and bust in terms of catch capacity and related investment.

For the hardship fishery, broadly northeast Newfoundland, Labrador, the lower north shore of the St. Lawrence and the northern prairies and territories, income stabilization cannot be considered a desirable vehicle since such a scheme will only tend to stabilize already existing poverty.

There are three separate streams of UI available to fishermen. Fishermen who work for a contracted wage (off-shore trawlermen) are eligible for regular UI. Fishermen who are self-employed on a CEIC designated year-round vessel are eligible for Year-Round Fishing Benefits. Fishermen who are self-employed in the seasonal fishery (inshore) are eligible for seasonal benefits. This latter category includes the majority of fishermen UI claimants (approximately 90%).

To become eligible for seasonal fishing benefits fishermen must meet the entrance requirement of the region and have worked at least 6 weeks in fishing. The longer a fisherman works, the longer he can collect benefits. Fishermen are also entitled to extended benefits based on the regional unemployment rate. Benefit periods are from either November 1 to May 15 or from May 1 to November 15 depending on the season chosen. With extended benefits, fishermen may work 10 weeks and collect benefits for a maximum of 29 weeks.

Prior to 1983 seasonal fishing benefits were calculated against the average earnings over all weeks of insurable employment. This meant that if earnings declined in the latter part of the fishing season, it might be to the advantage of fishermen to stop work in order to avoid reducing the UI benefit rate. It was the view of the Task Force on Atlantic Fisheries that some fishermen did stop work before the end of the season for UI considerations. This exacerbated the glut situation during peak periods of fishing and increased overcapacity in processing plants in the off-season.

To counter this tendency a "10 best weeks" clause was included in the UI regulations in 1983 providing for fishermen who fish at least 15 weeks to base their benefit rate on the 10 best weeks. The rationale was that if fishermen were not penalized through a reduction in UI benefits in the shoulder season, they would continue to fish longer, draw less unemployment insurance benefits and provide a continuing flow of fish to plants to help alleviate processing cost overheads.

A subsequent review of fishing patterns by the Department of Fisheries and Oceans resulting from the "10 best weeks" measure indicates that claimants in the 11-to-14-weeks-worked range and a large increase in claimants with 15 weeks worked.

Recommendation

S21 We therefore recommend that Part V, Section 85(9) of the regulations be amended to reflect that the maximum number of weeks of the initial benefit period is equal to the number of weeks of insurable employment during the qualifying period.

Organizations and unions representing fishermen acknowledge that providing benefits through UI is not necessarily the most desirable or effective means of income stabilization. While there is general agreement that insurance for self-employed fishermen does not belong in, and should not continue indefinitely to form a part of, the regular unemployment insurance program, there has never been any assurance from government that a better income stabilization plan will replace UI. Even at the time of its introduction in 1957, unemployment insurance for fishermen was viewed as a response to the requirement for supplementing low-income fishermen, particularly in Atlantic Canada.

Concerns are also centred on the threat of U.S. countervail if fishermen's benefits were a separate program, and a perception that the program was less vulnerable under the broader umbrella of UI. Moreover, there was no strong call to have fishermen's benefits removed from UI. This may be related to the present funding structure which imposes no net premium cost on other UI participants. The government bears 100% of the cost over and above the UI premiums collected from fishermen.

Recommendation

S22.1 We recommend that fishermen's UI be continued in the Fishermen's Benefits section of the UI program.

S22.2 We further recommend that Canada recognize the special problems of the undeveloped and underdeveloped northern regions with respect to inadequate income, and develop special programs for income supplementation and economic development.

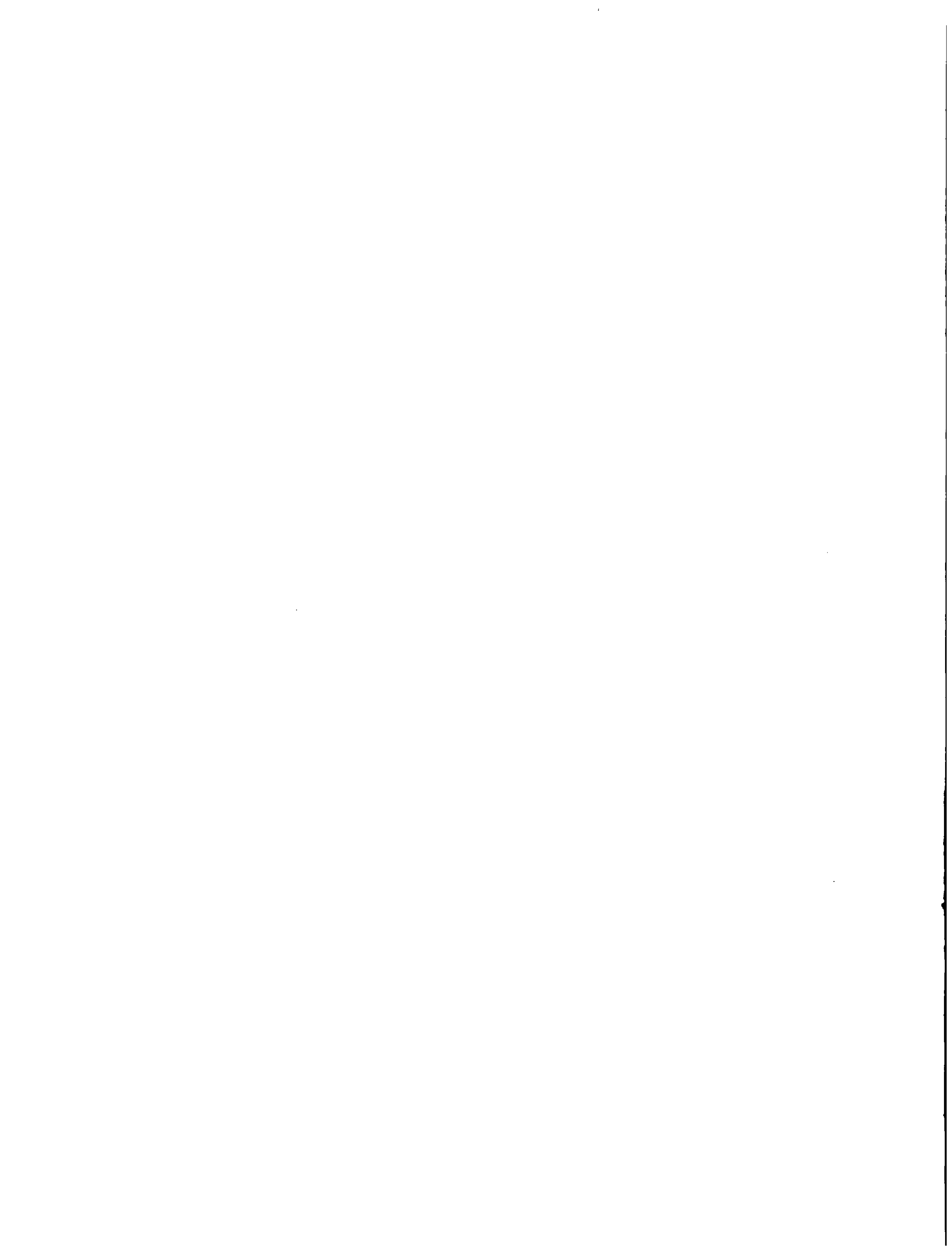
During the hearings there was a view that for those who are dependent upon nature, and may be restricted in the pursuit of their livelihood due to the need for conservation of stock, the vagaries of the weather, and the arbitrary distribution of common property resources, incomes should be stabilized year over year.

Like fishermen, the incomes of hunters and trappers are affected by licences, government-imposed quotas, and seasons, natural fluctuations in abundance, geographic and climatic conditions, access to employment in the off-season, and costs of production related to international markets, where participants are price takers.

The result of these barriers to earned income, both natural and government imposed, are fluctuations in income. Hence the need for income stabilization and supplementation. Hunters and trappers, like fishermen, may wait a very long time for any kind of income supplementation or stabilization.

Recommendation

S23 We therefore recommend that hunters and trappers be eligible for Unemployment Insurance under the Fishermen's Benefits provisions of the UI Act.



Chapter 5: Financing

In the 1985 calendar year total costs to the UI Account amounted to about $11.5 billion. Approximately $3 billion was paid by taxpayers and the remaining $8.5 billion was funded through premiums paid by employees and employers. In 1984/85, the taxpayer also paid $1.9 billion for training, job creation and employment programs not covered by the benefit and administration provisions of the UI Account.

In 1986, estimated total program costs (assuming interest charges of over $400 million) could reach $11.1 billion, of which roughly $8.4 billion would be the employer-employee share and $2.7 billion the government share. Estimated costs for the activities not paid for by the UI Account are $1.3 billion for 1985/86 and $1.7 billion for 1986/87.

The sharing of funding by employees, employers and the government is an aspect unique to the Canadian unemployment insurance program. The federal government finances regionally extended benefits, benefits for self-employed fishermen that are in excess of premiums from that employment, and extended benefits for those undertaking approved training or participating in approved work-sharing or job creation projects. Employer and employee premiums cover the cost of the remaining elements: initial and labour force extended benefits; sickness, maternity and retirement benefits; work-sharing benefits; and the administration of the UI program, including the National Employment Service. Financial responsibility for UI and for premium schedules is determined by statute.

Specifically, Section 62 of the Unemployment Insurance Act provides for the setting of premium rates sufficient to cover the employer-employee costs determined for that year, adjusted to reduce or eliminate any surplus or deficit expected by the end of that year. Section 63 provides a specific definition of the employer-employee cost as well as a prescription for determining the maximum or minimum premium rate (also known as the statutory premium rate) that can be set for any year in the event of an expected surplus or deficit position in the UI Account.

Of the private sector's costs, employers pay for 58.3% under an allocation mechanism (adopted in 1971) that requires employer contributions to be 40% greater than employee contributions. Employees then pay the remaining 41.7% of private sector costs. Premium schedules are adjusted annually to ensure that sufficient revenues are collected.

The UI Account has not always broken even.

After several years of deficits, the 1985 Public Accounts show a surplus for 1985 of $150 million in the UI Account, reducing the cumulative deficit to $4.4 billion. The $842 million improvement is largely attributable to such factors as a decrease in the unemployment rate and a higher proportion of regular benefits paid by the government.

In 1986, with net premium revenue expected to reach $9.5 billion, the annual surplus could again reach $1.1 billion, reducing the cumulative deficit to about $3.3 billion by the end of 1986.

Both employee and employer premiums are based on weekly earnings. In 1986, these rates were $2.35 per $100 of weekly earnings for employees and $3.29 per $100 of salary costs for employers. Earnings in excess of a ceiling amount ($495 per week in 1986) are not subject to premiums for employees or employers, and premium payments are tax deductible expenses for both employers and employees.

Reductions in premium rates are allowed for employers with registered wage-loss replacement plans that provide sick pay to employees. Such reductions usually amount to about 10% of total employer premiums. Employers are required to rebate 5/12 of any premium reduction received, to their employees, in the form of wages or increased

fringe benefits. This provision is intended to retain, at least in principle, the 1.4 to 1 premium allocation.

Premium schedules are uniform across all industries, and there is no attempt to vary premiums according to amounts of provincial or local claims experiences. As a result, ratios of benefit costs to premiums paid vary widely for both industries and provinces or territories.

Government's Role in Unemployment Insurance Financing

We believe that tripartite funding of the UI program between employers, employees and the government is appropriate and should continue. In our view the UI program should be essentially premium funded. The government should fund the portion of benefits tied to the unemployment rate as well as fishing, hunting and trapping benefits and various labour market programs. We believe that this is in keeping with society's broader concern for aspects of unemployment which are beyond the control of employers or employees and which reflect the results of economic policies, international trade, fiscal policies, and so on.

Financing the program through levies on employers and employees is consistent with the premise of social insurance by pooling risks of all employees in a common fund financed by all on an equal basis.

Recommendation

S24.1 We recommend that the UI program continue to be financed on a tripartite basis through employer-employee premiums, and federal government contributions; and

S24.2 that the federal government continue to absorb the cost of benefits related to labour market conditions as measured by the official unemployment rate exceeding 4% (regionally extended benefits), hunters, trappers and Fishermen's Benefits in excess of premiums collected, and the administrative costs of the program;

S24.3 we further recommend that Sections 37 (Work Sharing), 38 (Job Creation), and 39 (Training) be removed from the UI Act, and be properly placed in the Canadian Jobs Strategy program.

Premium Allocation Between Employees and Employers

Prior to 1971, premiums were allocated between employees and employers on a 50/50 basis. Movement to the present 42/58 allocation was made, at least in part, on the premise that workers have less control over unemployment and can less afford its costs than firms. It is felt that larger increases in cost would have been objectionable to employers.

In terms of economic theory, the allocation of premiums between employers and employees is generally believed to be unimportant. The combined UI premium (currently $5.64/$100) can be viewed as creating a "wedge" between what the employer pays for labour and what the employee receives. Statutory rules on how this wedge is allocated among the parties, in the economist's view, may not necessarily have much to do with the question of who ultimately "pays" for this wedge. Depending on circumstances, the total amount may end up reducing the income of employees.

The allocation serves other purposes, however. It reminds employers and employees that the UI system, though indispensable, has a cost and that each group has a stake in it. There is a certain advantage to an equal allocation because it underlines the equal importance each group has in determining administrative policies. Many presentations to this Inquiry called for a return to 50/50 financing. Consistent with the proposal that all benefits be charged to the UI Account, an equalization of employers' and employees' shares would appear warranted and fair. Presentations by the representatives of workers emphasized their willingness to pay for expanded benefits and coverage.

Recommendation

S25 We recommend that benefit cost be allocated to employers and employees on a 50%/50% basis.

This recommendation is made only if there is a corresponding improvement in benefits.

Premium Rate Setting

In this area, we have been concerned with systems which would contribute to the economic stabilization function of UI, in the short term impeding a sudden rise of premiums in times of increasing

unemployment, and in the longer-term equilibrium by maintaining higher rates during the initial years of recovery.

The premium rate is currently set on a three-year moving average of costs and insured earnings. Formulating the rate on a moving average covering more years creates greater stability in the long run.

Recommendation

S26 We recommend that the Act provide for premium rate setting to be based on an averaging formula covering a period of between five and eight years.

However, since economic cycles are irregular, averaging formulae prescribed by legislation are seldom in tune with reality. We feel it is best to let the more autonomous Unemployment Insurance Commission composed of responsible representatives of employers and employees deal with the situation as it presents itself. We are proposing greater authority and autonomy for the Unemployment Insurance Commission. We are also recommending an increase in the number of commissioners representing workers and employers.

Recommendation

S27 We also recommend that the Act charge the new Unemployment Insurance Commission with the power to fix rates annually while respecting objectives for both demand stabilization and medium-term equilibrium.

Financing of the Alternative

In preparing our alternative proposals for consideration, we have remained conscious of the need to keep costs, both to the government and to premium payers, as low as possible and still meet our objectives for a reformed UI system.

Revenue

One of the basic principles behind our proposal for UI reform is that the costs of providing unemployment insurance benefits which are tied to labour market conditions should be financed from general government revenues, rather than from premium income. In addition, ancillary programs – work sharing, training support and job creation, for example – are programs of general benefit to society and should be financed from general revenues rather than from UI premiums.

Under no circumstances should unemployment insurance premium revenue be treated like tax revenue. As a payroll tax – one covering only a portion of total earnings at that – UI premiums are regressive taxes. Premium revenue should not be used to finance general government programs.

Two of our proposals for program funding would have the effect of increasing the net premium revenue available to the program.

First, the recommendation to increase the maximum weekly insurable earnings to 125% of the average wage would have a net positive effect on program revenues. The broader pooling of the risk of unemployment inherent in increasing the earnings maximum actually makes more premium revenue available to pay for benefits for existing claimants.

Second, the proposal to equalize premium rates for employers and employees by raising employee premium rates would also generate additional funds. Working people who appeared at the hearings expressed a willingness to pay increased UI premiums provided that the increase would result in a program that better served their needs. Our proposal is made explicitly in that context. The recommendation is specifically contingent on a package of reforms being introduced that strengthen the program and improve benefits.

Costing of Our Proposals

With these proposals, program financing would be shown in Figure S5.1.

Figure S5.1

Costs of Our Proposal

(In millions of dollars)

Revenue	Current premium contribution level	8,700
	Labour market extended benefits (66 ⅔% benefit rate) funded from general revenues	2,885
	Increase to maximum insurable earnings (25%)	1,100
	Equalization of employer and employee premium rates by increasing employee premiums	1,600
Total revenue		14,285
Costs	Present system (all regular benefits)	9,420
	Increase benefit rate to 66 ⅔%	1,045
	Increase maximum insurable earnings by 25%	488
	Sickness benefits	259
	(Reduce waiting period to one week)	32
	Maternity benefits	502
	(Eliminate 2-week waiting period)	69
	Removal of 50-week maximum benefit period	876
	Parental benefits	227
Total costs		12,918

Additional revenue	$1,367
Excess premium income	12.0%
Premium rate changes:	
Employer premium rate change	–11.0%
Employee premium rate change	16.0%
Government cost changes	nil

Notes: Parental benefits assume 50% of those eligible take up benefit and use an average of ⅔ of entitlement. Figures for sickness, maternity and parental benefits include cost of increasing insurable maximum and increasing benefit rate.

Chapter 6: Administration – A New Approach

Administration Issues

The management and regulation of the unemployment insurance system came in for a great deal of criticism from all sides – employers, unions, individual claimants, community groups, politicians of all parties, and employees of CEIC itself.

From the perspective of employers, the most common complaints were about the administrative complexity of the program, typified by the infamous Record of Employment form, and the frequent changes in UI regulations.

Claimants complained about arbitrary, insensitive and demeaning treatment at the hands of the UI program. The nature of UI as a social insurance program based on an entitlement to benefits is simply not reflected in the treatment of claimants by UI administrators.

Claimants and their representatives were clearly frustrated at dealing with a large and unresponsive bureaucracy. They complained that what information was available was inadequate and misleading; that staff were reluctant to make decisions or to set precedents outside established policy, that front-line staff were relatively unskilled and inadequately trained; and that the use of temporary, casual staff to fill 15% of positions was inappropriate.

These complaints were endorsed strongly by the front-line employees of the Canada Employment and Immigration Commission themselves. On an individual basis, in small group meetings and in the formal and informal submissions of their union, the Employment and Immigration component of the Public Service Alliance of Canada, employees of CEIC complained about frequent regulation changes, lack of local authority to resolve problems, arbitrary rules, understaffing and unrealistic "production" targets. They pointed out that understaffing leaves little extra time to deal with clients on an individual basis.

Staff also pointed out that it is impossible to fill the triple role of policeman, counsellor and benefits officer adequately from the competing perspectives of the Commission and the client.

Employees and employers complained about both the lack of material available explaining the program and the quality and clarity of the material that is available.

Claims processing was considered to be slow and demeaning. Constant reference was made to: decisions which varied according to the officer or the clerk; lack of assistance in understanding the implications of particular questions and answers; the short time available for service to each client; and the long delays in receiving cheques. Everyone was of the opinion that modern technology should be able to assist in this area yet was not being effectively exploited.

Many presenters wondered why officers are not given more autonomy in making client or region-specific decisions, as is the case in the administration of Old Age Security and the Canada Pension Plan. The idea of decentralizing service delivery and giving local officials more autonomy received a lot of support, especially from northern and remote areas.

Immigrant and Native groups complained bitterly about the lack of accessibility of information about UI; about insensitive treatment at UI offices; about the lack of translation services; about the lack of any material explaining the program in languages other than English and French.

People who live in remote areas complained about poor service and delays, and about observed procedures like requiring claimants in Frobisher Bay to deal with Yellowknife when all other major links run through Montreal.

We share the feeling of the other commissioners that fundamental change is needed in the way the UI program is administered at every level and in every respect.

Change is needed to simplify the program; to streamline program delivery and claims administration; to humanize the treatment of claimants in the administrative system; to broaden services and support available for claimants and employers; to strengthen the appeal system; and to establish political and administrative accountability.

The Roots of the Problem

The administrative problems with the unemployment insurance program didn't happen by themselves, nor did they develop because of shortcomings in the employees of CEIC. Many of UI's administrative problems are a direct result of conscious government decisions over the past 15 years. And while some improvements can be made by changing administrative structures and procedures, nothing will really be changed until those decisions, and the attitudes they spawned, are reversed.

Ever since the program was modernized in 1971, unemployment insurance has been a favourite target for politicians trying to make a name for themselves as budget cutters. This fact has had four important consequences for the administration of the UI program.

First, benefit levels and program rules have been changed regularly as successive governments have attempted to limit the government's financial obligations to UI. Such frequent changes have made consistent administration extremely difficult.

Second, a preoccupation with costs and "cheaters" has engendered an administration that has become preoccupied with its policing function and has developed a negative attitude towards claimants and services for claimants. Many of the program's arcane and unfair administrative procedures are a direct result of attempts to use administrative procedures to save money by disqualifying more people.

Third, because many of the spending cuts have been disguised by redirecting UI funds to other employment services while keeping the money under the UI administrative umbrella, the UI administrative structure has evolved into a multiheaded monster which is unable to carry out any of its mandates effectively.

Finally, the increasingly tight administrative atmosphere has meant that "frills" that might have improved service – material in languages other than English and French, for example – fall by the wayside in the drive to cut costs.

What this means is that any changes recommended for the administration of the UI program must be accompanied by a concerted effort to change the attitude toward UI claimants that permeates the program.

Recommendation

S28 We recommend that a revised Unemployment Insurance Act state clearly the principle that UI is a social insurance program based on an individual entitlement to benefits and establish as an explicit administrative goal the treatment of all claimants with dignity and respect.

Tied to, and supporting, the negative attitude towards claimants in the administration of the Act is the prevalence of sections in the Act which place the onus on claimants to demonstrate that they qualify for a benefit. This often places the claimant in the position of having to prove things that cannot be established with the information at his or her disposal. This "guilty until proven innocent" reverse onus causes individuals to be disqualified unfairly and helps to establish a negative attitude to those who are entitled to benefits.

Recommendation

S29.1 We recommend that all administrative procedures that place the burden of proof on UI claimants be replaced by new procedures that respect the principles of natural justice;

S29.2 claimants should be required only to present to the Commission the facts at their disposal necessary to establish a claim. The claimant having supplied the facts, the onus should be on the Commission to disprove entitlement.

Program Complexity

One of our objectives in recommending changes in benefit design and program structure was to simplify the program to make it more easily understood by employers and employees and to make it easier to administer.

Our recommendations eliminate such administrative headaches as the Variable Entrance Requirement, the unique qualifying requirements for special benefits and the special entrance requirements for repeat claimants. Our recommendations for the treatment of work while on claim should eliminate some of the "double jeopardy" situations in which present program rules place some claimants. Requiring premium assessment on all hours should eliminate some of the administrative complexity surrounding part-time work.

We have recommended collapsing the three-phase benefit structure into two: one based on weeks worked during the reference period; and a second based on the rate of unemployment in the local labour market. And we are recommending that the complex rules governing eligibility for special benefits be eliminated.

These changes, taken together, should eliminate many of the administrative problems which confront both employers and employees in dealing with the unemployment insurance program.

But these changes, by themselves, will not be sufficient. The Act itself is a problem. Chief Justice W.R. Jackett of the Federal Court of Appeal put the problem clearly in a 1974 judgment (Gladys Petts and the Alberta Teachers' Association vs. Unemployment Insurance Commission, 1974):

> This statute is even more difficult than most modern complicated statutes, in my view, to comprehend. It is replete with special concepts created for the purpose of this statute. Its general scheme is almost completely obscured by being buried in detailed provisions.

The present Act has evolved on a piecemeal basis, with the result that it is now a curious combination of excessive detail and vagueness. In some areas, its provisions are hopelessly detailed, leaving no discretion to administrators whatsoever. In other areas, it leaves important issues unresolved, giving administrators far too much discretion in determining benefits and eligibility.

The Act will have to be rewritten in any case, to accommodate other recommendations for change.

Recommendation

S30 We recommend that the new Act be carefully structured to limit administrators' authority in areas of policy concern while avoiding the mindless detail and nitpicking which now hamstrings administrators and results in rulings that appear to lack common sense.

Treatment of Claimants

Part of the problem with the current administrative structure of UI is that there are inherent conflicts of interest built into the system. The most significant of these is that the same administrative structure is responsible for advising claimants of the benefits to which they are entitled, determining eligibility for benefits, helping claimants find jobs, auditing claims, policing the system to control "cheating" and operating the appeal system.

No single administrative structure could possibly perform all of those conflicting functions effectively and fairly.

Recommendation

S31.1 We recommend that the audit and policing (benefit control) function be separated completely from regular claims administration. Officials should not be put in the position of having to be both counsellor and policeman;

S31.2 that each UI office fund community-based claimant advisory and advocacy services or, where no groups exist to provide claimant services, provide such services from the UI budget but under the control of a common advisory board made up of worker representatives. Delivery of such services should not be under the control of CEIC; and

S31.3 that employment services offered under the UI program be administered independently of the claims administration and benefit control functions.

Onus of proof

Rather than stating neutrally that under certain circumstances the claimant does or does not have a right to benefits, the Act states that there is no entitlement until the claimant proves that he or she qualifies. The onus of proof is on the claimant to demonstrate eligibility.

In our view, the law should outline circumstances under which claims may *not* be recognized and include a statement of the claimant's responsibility to present evidence and information to support a claim.

There would be no onus of proof on the claimant, whose only duty would then be to provide information in support of a claim. Fairness and efficiency demand that the claimant be assisted in marshalling the necessary information so that the claim can be properly assessed.

Recommendation

S32.1 We recommend that a responsibility be placed on the UI Commission to deal reasonably with each claim submitted to it, and on the claimant to present factual information and evidence to support a claim;

S32.2 that references to "proof" of claim be replaced with conditions of eligibility stated in more neutral language;

S32.3 that each claim be treated as honest, reasonable and legitimate, until the facts demonstrate otherwise; and

S32.4 that claimants be provided with reasonable assistance in the marshalling of the facts necessary to support claims.

Accessibility of UI Services

At present, the unemployment insurance program could not be less accessible to claimants if it were deliberately designed to be inaccessible.

Presenters at the hearings of the Commission of Inquiry complained about the lack of a clear statement of a claimant's rights and obligations.

UI has consistently ignored the multicultural reality of Canada, to the point where no material is available on the program in languages other than English and French and no services are available in third languages. We heard of one UI office in the heart of the Portuguese community in Toronto in which employees were forbidden to communicate with claimants in Portuguese. Those who did were transferred to other offices where their language skills were useless.

The UI administrative system is full of unwritten rules and hidden criteria, rules and criteria that are regularly and deliberately used by UI administrators to put claimants into "catch 22" situations. Many of those with whom we met described their encounters with UI as demeaning administrative games aimed at trapping claimants into making statements that would lead to their disqualification.

UI should be required in the legislation to inform claimants fully of all relevant rights and obligations, including the meaning of the requirements to look for work within a "reasonable interval," the meaning of availability for work, what constitutes suitable employment, what kinds of jobs they must be looking for, and what wage levels they will be required to accept.

Failure to notify claimants of these requirements in advance should nullify any resulting penalty, and no penalty should be applied in any case until the claimant has been advised of why and how he or she has failed to meet specific obligations and has been given an opportunity to offer an explanation.

Where there is a determination that there is an overpayment, claimants should be given clear notice as to how they can appeal overpayments.

Recommendation

S33.1 We recommend that all administrative rules and criteria be available to the public and explained clearly to all UI claimants who might be affected by them;

S33.2 all material produced for claimants must be available in every language other then English and French spoken by a substantial number of UI claimants served at the local level;

S33.3 in all UI offices serving significant ethnic communities, services be available in the language of that community; and

S33.4 UI publish a clearly written document that outlines the rights and obligations of UI claimants and make the document available and accessible to all UI claimants.

Coordination of UI and Employment Services

Employment services in Canada are provided by an astonishing number and variety of government agencies. Programs are offered by all three levels of government, singly and in combination, by different agencies within each level and by private non-profit organizations whose activities are funded by government.

Each of these programs has its own rules and eligibility criteria. Some of these programs are coordinated. Others have eligibility criteria which are in conflict. Although each may fill a particular niche in the employment adjustment needs of Canadians, there is no real coordination.

Getting access to such a maze of programs would be a difficult prospect for anyone, under any circumstances. For the clients of this system – the unemployed – it is next to impossible.

It would obviously not be reasonable or desirable to put all employment services under a single administrative umbrella. What can and should be done, however, is to try to reduce some of the complexity and confusion as it is experienced by the client of the system.

Since unemployment insurance is the first contact point with the employment services system for most of the unemployed, it would make sense to establish UI counsellors as the information entry point to the system. Counsellors would have available information about the full range of employment services programs available to claimants, both from within UI and from other government agencies and non-government organizations.

These counsellors would also be able to advise UI claimants on the most effective way to use the UI benefits to which they are entitled. For example, counsellors would have available information on local and national employment prospects by job category as the basis for advising claimants on the need and/or potential for training and/or mobility assistance.

Recommendation

S34 We recommend that a UI counselling service be established as the point of entry of all UI claimants into the system. The purpose of the counselling office would be to assist claimants in completing application forms and to assist them in gaining access to other applicable services and programs.

This service could be provided by CEIC itself or by non-government organizations funded by CEIC.

Other Administrative Issues

Late Applications

In the present UI system, claimants who are late filing claims or who are unaware that they are eligible for benefits generally lose any benefits that they would have received had they filed on time.

Under certain circumstances, claimants can avoid the consequences of late filing by getting permission to "antedate" a claim, a process that has generated its own jurisprudence.

In an insurance program, claimants should be eligible to apply for and receive all their benefits at any time during the period for which they are eligible. We see no good reason for not accepting a claim at any time during that period.

Recommendation

S35 We recommend that claimants be eligible to file a claim and receive benefits at any time during the period for which they would be eligible for benefits.

Just Cause

One of the areas of agreement in the hearings was that claimants should be exempted from penalties for voluntary quits, dismissal for misconduct and refusal of "suitable employment" where the claimant has "just cause."

Reasons considered legitimate for voluntary quits should include health and safety concerns, moving to accompany a spouse, and sexual harassment. Just cause for refusing employment should include transportation problems and lack of tools required to do a particular job.

Recommendation

S36 We recommend that the Act specifically exempt from any penalty claimants who can establish just cause for their actions, and that an inclusive definition of just cause be set out in the Act.

Procedural Disqualifications

Under the present system, claimants can be disqualified or assessed penalties for violations of procedural requirements of the program. Given the complexity of the Act and the fact that claimants generally do not have regular experience with and knowledge of the program and its rules, procedural disqualifications are unjustifiably harsh.

Recommendations

S37 We recommend that no claimant be disqualified for failure to meet procedural requirements such as the filing of report cards or for reasonable errors committed in ignorance of the requirements of the Act and regulations.

S38 We recommend that the knowledge required of claimants in determining the reasonableness of an error be limited to published material generally accessible to claimants.

Centralization/Decentralization of Services

Complaints about the administration of UI are not consistent on the question of centralization versus decentralization. On the one hand, the program was criticized heavily for not making effective use of computerized facilities and information. On the other hand, it was criticized for being insensitive to local conditions and for delays resulting from decisions having to be made at "head office."

In our view, the solution to these problems is to separate services that can be effectively centralized from those that are best delivered subject to local control.

The mechanical side of claims administration should be carried out in a limited number of central data processing facilities, connected on-line with local offices.

Local officials in service offices should then be given more authority to make decisions on locally generated claims.

To ensure that claimants do not end up bearing the brunt of any problems in administrative systems, local offices should be given the authority to reissue any UI cheque that is more than five days overdue.

Recommendation

S39.1 We recommend that processing of claims be carried out centrally, in a limited number of data processing offices connected on-line with local offices;

S39.2 that local offices be given the authority to make a broader range of administrative decisions in response to local needs; and

S39.3 that local offices be given the authority to reissue any UI benefit cheque that is more than five days overdue.

The Appeals System

Most of the participants in the public hearing process who addressed the appeals system expressed a negative view.

Presenters complained about accessibility both to people who live in remote areas and to people whose main language of communication is a language other than English or French. People had only a limited awareness of the process and how to use it.

Those who used the system complained about the lack of any systematic information about umpires' decisions, about the hardship imposed by the practice of denying benefits or requiring repayment when an appeal is pending, and about the closeness of the relationship between the Boards of Referees and the UI Commission.

There was a great deal of complaint about delays. Many presenters called for the incorporation of time limits for hearing dates and decisions by all levels of the appeal process.

The distinction in the present appeal system between issues of fact and issues of law should be retained, with issues of fact only determined at a first appeal level and issues of law dealt with by a court with administrative law jurisdiction. However, the appeal system must be revamped to make it more efficient and accessible and to make both appeal levels completely independent of the Unemployment Insurance Commission.

Recommendation

S40.1 We recommend that there be three levels of appeal from a decision of a UI claims officer: an administrative appeal to a claims adjudicator, whose function would be to provide a "second opinion" on any issue between a claims officer and a claimant; a Board of Referees composed of an independent chairman, an employee representative, and an employer representative, including an independent administrative structure, completely independent of the UI Commission and with the authority to determine all issues of fact and procedure; and a right of appeal on issues of law to the Federal Court of Appeal;

S40.2 that time limits be established in legislation for hearing dates and decisions at the claims adjudicator and Board of Referees levels;

S40.3 that adequate explanatory material be made available to enable claimants to make effective use of the appeal system; and

S40.4 that funding be provided by CEIC for advocacy groups to assist claimants in the appeals and claims processes.

Governance of UI

There are several factors which shape our view on policy-making and control of the Unemployment Insurance program. Some of these are:

- UI is fundamentally a workers' program in the double sense that it is designed to provide income protection to workers and workers bear the bulk of the program's costs;
- since 1971 the program has been subjected to a series of legislative changes which have undermined both the security of the benefits and the sense of entitlement to benefits as a matter of right; and
- amendments to the program since 1971 have been largely inspired by short-term fiscal and political concerns that fly in the face of workers' interests in income security.

We have found the evolution of the program since 1971 to be unsatisfactory. We resent not only the basic direction of the amendments to the 1971 program but the fact that they have simply been imposed on the contributor/beneficiaries. The November 1984 "administrative changes" to the UI program represent the low point in this evolution.

Our recommendation on UI policy-making is shaped by three objectives:

- enhancing the role of workers' representatives in establishing UI policy;
- creating more of an "arm's length" relationship between the government and the ongoing administration of UI; and
- insulating the program against unnecessarily frequent legislative interventions.

We, of course, recognize that Parliament must create the legislative framework within which UI must operate. In this regard we are simply suggesting that stability is a virtue. However, with regard to the ongoing administration of UI, it is possible to have the administration operate at more of an arm's length distance from the government than it currently does, while retaining public accountability.

The present CEIC is supposed to operate as a distinct corporate entity. But its independence is extremely limited. The Chairman and Vice-Chairman of the Commission are, respectively, the Deputy Minister and Associate Deputy Minister of the Department of Employment and Immigration. Moreover, the UI program is subjected to changes based on Treasury Board's attempts to cut program expenditures. The treatment of separation payments and pension income as earnings are the most recent examples.

The present system of accountability and control of the Unemployment Insurance system satisfies no one. Despite the importance of the program to employers and employees, the "funding partners" have no role in the day-to-day administration of the system. The Employer and Employee Commissioners have no real authority.

At the same time, the UI Commission's semi-independent status limits the amount of day-to-day control that is possible or practicable at the political level. In some respects, the UI Commission is independent of both employers and employees and Parliament.

On the other hand, the government exercises detailed formal control over Unemployment Insurance through frequent changes in the Act and

its regulations as well as changes in government administrative procedures and other Treasury Board directives. The effect of the exercise of this control is to reduce administrative flexibility. And frequent changes in the regulations make consistent and comprehensible administration of the program difficult.

There has to be a better way.

In considering options for accountability and control of the unemployment insurance system, a balance must be struck between the independence of government that must be established to ensure administrative flexibility and day-to-day accountability to the employer-employee partners in UI and the overall political accountability that is essential in a public program as important as UI.

Political accountability is important both because UI is a critical part of Canada's social insurance system and because, under our proposal, regionally extended and fishing/hunting/trapping benefits will continue to be funded from general revenues and because other general revenue-funded programs will be delivered in conjunction with UI.

Political accountability should be established in two ways. First, the program – including benefit structures and levels – should be spelled out in legislation. Second, the spending estimates of the program should be accounted for, in detail, to Parliament on an annual basis. Given the overall public importance of UI we cannot support any proposal that would eliminate any financial accountability to Parliament.

Overall responsibility for day-to-day administration should rest with a 15-member joint employer-employee board, half of whose representatives would be employer representatives and half representatives nominated by and accountable to recognized labour organizations, with a neutral chairman chosen by the board.

The board would be responsible for all administrative decisions within the program framework established by the Act. The board would have the power to make regulations, subject to the approval of a parliamentary committee.

Recommendation

S41.1 We recommend that the program framework, including the full benefit structure, broad program rules and administrative guidelines be established in legislation;

S41.2 that the spending estimates of the UI Commission be submitted annually to a parliamentary committee for approval;

S41.3 that a board of directors be established with overall responsibility for the day-to-day administration of the UI program;

S41.4 that the board of directors consist of 15 members, 7 representatives of employers and 7 representatives of organized labour, with a neutral chairman appointed by the employer and labour representatives on the board; and

S41.5 to ensure the effectiveness of the board, that 5 of its members – 2 employer representatives, 2 employee representatives, and the chairman – be full-time board members as members of an executive committee.

Chapter 7: Helping People Adjust to Rapid Change

Complementary Labour Adjustment Programs

While we believe that UI is Canada's most important labour adjustment program, it should not be viewed as a mechanism for addressing all labour market adjustments. Its fundamental purpose must be to promote the economic and social security of Canadians by supporting workers between jobs. We believe that this very clear purpose is as relevant today as when the UI program was established nearly 50 years ago.

This purpose will be lost if the program becomes burdened with conflicting social and labour market objectives. UI was not meant to get at the roots of unemployment. It is and must remain simply an earnings replacement plan to those who, having been employed, have lost their employment. The insurance benefit is a worker's right established by past contributions and continuing participation in the labour force.

We have argued throughout our report that weekly earnings replacement should be the fundamental purpose and design of a sound Unemployment Insurance system. We are advocating that these essential features be strengthened. Unemployment Insurance cannot and should not be viewed as a panacea for every conceivable labour market adjustment problem.

We see the need for a range of complementary policies to ensure that UI remains an important element in our social security system. And we urge the government to turn its attention to those policies which are complementary rather than seeking solutions within Unemployment Insurance.

As far as complementary labour market programs are concerned, it bears repeating that the success of most initiatives in this area will depend on achieving full employment.

No matter how sophisticated their development or design, labour market programs cannot succeed in a shrinking economy. When jobs are scarce and disappearing, training programs, mobility grants and special adjustment assistance for youth and older workers become little more than emergency measures. They, like UI, cannot turn back the tide of unemployment. Labour supply programs do not save or create jobs. Nor will any amount of tinkering with UI save or create jobs.

If government abandons full employment as a policy goal and accepts a high level of unemployment, labour market policy inevitably centres on the ways and means for rationalizing unemployment. The use of UI funds for job creation, work sharing and training is only one of several examples of this distortion. It is the "work for welfare" philosophy. The unemployed are trained for non-existent jobs. Job creation becomes an emergency make-work measure. Work sharing becomes a euphemism for unemployment sharing.

Training, mobility grants, job creation are essential and should be designed so that the unemployed can take full advantage of them. But they should not be funded from UI nor should they be a condition for UI entitlement.

Training and Job Creation

The current flagship of the government's labour adjustment programs is the Canadian Jobs Strategy. Heralded as being a new approach to labour market planning, the Canadian Jobs Strategy essentially lumps all previous job creation and training programs together into six components: Job Development; Job Entry; Skill Investment; Skills Shortages; Innovations; and Community Futures. These programs address virtually the same areas of concern as previous government policies. The notable difference between the Canadian Jobs Strategy and the old National Training Act program is the emphasis on a new

consultation process with labour, business and community groups through Local Advisory Councils and the strong reliance on the private sector for the implementation of training initiatives.

The Canadian Jobs Strategy is also an attempt to eliminate previous "make-work projects" by bringing such efforts within the framework of an all-encompassing training program designed to assist particular groups.

The long-term unemployed, employment disadvantaged, women, disabled persons, Native people and visible minorities are all eligible for on-the-job training within the *Job Development* program.

Youth who have not graduated from a post-secondary institution and women who have been out of the labour force for at least three years are offered training under *Job Entry*.

Workers facing economic or technological change in their place of work may apply for retraining under the *Skill Investment* program.

In addition, new and current employees may receive wage subsidies to retrain in skills which are identified as lacking either regionally or locally under the *Skills Shortages* program.

The *Innovations* program is designed to help fund projects which test new solutions to labour market problems.

The only feature of the Canadian Job Strategy which might be identified as a long-term job creation effort is the *Community Futures* program which assists communities suffering from mass layoffs, plant closures, chronic unemployment and general economic decline.

An underlying assumption of the Canadian Jobs Strategy is that the purpose of labour market planning is merely to match workers to available jobs. It assumes jobs will be generated by the private sector. The passive acceptance of high levels of regional and national unemployment inherent in this assumption is unacceptable.

The inclusion of target levels for women and disadvantaged groups within the Strategy, however, is an important feature.

We support the concept of "fair target levels" for groups of disadvantaged individuals seeking employment. Based on the idea of "employment equity," these target levels are a laudable and welcome addition to job-training programs.

The primary concern of women's groups and those organizations representing women's interests, however, is not whether the Canadian Jobs Strategy programs are meeting the numerical targets. The question is whether the program is simply training women for low-skilled, low-paying jobs instead of assisting them to break into non-traditional occupations.

This concern about the program has been raised by a coalition of non-profit job-training organizations which includes the National Action Committee on the Status of Women, the Canadian Congress of Learning Opportunities for Women and the Association for Community-Based Training and Education for Women. Although these groups are encouraged by the relatively high participation rate of women in the Jobs Strategy programs, they believe, as we do, that a mechanism should exist within the program to ensure that a set number of women are trained in non-traditional occupations.

Women continue to be clustered in job ghettos that are characterized by: low pay; low job satisfaction; low skill requirements; part-time employment; and instability in the face of technological change and economic swings. In 1984, 60% of women were in clerical, sales, and service jobs; 14% were in medicine and health care, and teaching.

We have another concern with Canadian Jobs Strategy. The federal government is attempting to reduce "direct" funding to institutional training, by cutting its purchase of training courses from provincial community colleges, vocational schools and technical institutes. Part of direct purchase of training from institutions has been replaced by subsidies to employers to purchase training from public institutions or private operators of training schools.

Under the terms of agreements with the provinces, the federal government will be reducing its direct funding of institutional training by approximately 40% by 1988.

We have good reason to believe that the quality in training will suffer as privately run schools compete amongst themselves for business, offering cut-rate courses based on low wages and increased class sizes. There are no controls in

place under federal-provincial agreements to ensure that training standards are met or maintained by privately run training operators.

Cutbacks in the direct purchase of places in public training institutions have already resulted in announced layoffs in community colleges, technical institutes and the vocational schools system in three provinces: Nova Scotia, Ontario, and British Columbia. More are expected as a result of both the Canadian Jobs Strategy and cuts in transfer payments to the provinces for post-secondary education announced in the May 1985 budget.

In fiscal 1983–84, $2.1 billion was spent on training and job creation. Spending increased to $2.3 billion in 1984–85. Yet, in 1985–86 only $2.1 billion was earmarked for all Canadian Jobs Strategy programs. Not only were the budgeted figures lower for 1985–86 than for each of the two previous years, but $300 million was allowed to lapse. In short, spending on training and job creation was more than half a billion less in 1985 than it was in 1983.

Under the Strategy the distinction between training programs and job creation programs is ambiguous. There is now a greater emphasis on training and skill development than on the establishment of lasting employment opportunities. This responsibility has fallen to the private sector – "the engine of economic growth."

The overriding criticism of National Training Act programs was that they were too numerous and complex and were therefore difficult to coordinate. Streamlining the various training and job creation programs is something we support. But the privatization of classroom training and the erosion in the quality of training are trends we reject.

Another major gap in the Jobs Strategy is that there is still no comprehensive and coordinated federal-provincial plan to provide employment for youth. The Canadian Jobs Strategy only begins to help young people who are struggling to find their first permanent job after finishing school. The Youth Training Option is of limited scope, although it is a step in the right direction in that it combines work experience and vocational training. By focussing on early school leavers lacking formal qualifications, it leaves the majority of youth untouched.

Canadians under the age of 25 are twice as likely to be unemployed as the older workers. Even though youth comprise just over 20% of the labour force, they account for a staggering 40% of the unemployed and about a third of those out of work for more than 12 months.

The ages 15–24 encompass two of life's great transitions: from school to work and from dependence on one's parents to independence. Facing insurmountable barriers to labour market entry, many of our youth are denied meaningful and rewarding job opportunities. Unable to become contributing adult members of society such youth subsist at the margins with their overall quality of life seriously impaired. Society thus risks squandering the talents and productive energies of part of the next generation.

In our search for new approaches to youth unemployment, it is worth examining how other industrial nations have confronted the problem. Undoubtedly the most successful in this regard has been Sweden: it has all but eliminated youth unemployment.

Any youth under the age of 20 is either enrolled in full-time secondary education or is entitled to a place in a vocational training program or a special youth job. No Swede under the age of 20 is unemployed.

Early school leavers are either placed in vocational programs designed to channel them back into regular high school or into the labour force by age 18. Barring these options, special youth jobs are also available. These are arranged in cooperation with local employers, who receive a six-month wage subsidy on the agreement that regular staffing will not be affected. The program guarantees 4 hours' work daily at union-negotiated job creation wages. Jobs must be socially useful and help in the youth's personal development. At any given time, 5% of youth 16–18 are enrolled. Local committees comprised of unions, employers and other community representatives coordinate efforts of the schools, the municipal authorities, and the state-run employment service offices to find the most suitable arrangements for individual youth. The committees also help schools plan and follow up a battery of programs which ease the passage from the educational system to the world of work.

We are not advocating a wholesale application of Swedish-style solutions to Canada's youth unemployment problem. But we are advocating programs tailored to meet specific local needs and federal-provincial cooperation in committing resources to deal with youth unemployment. No advanced industrial nation can risk having segments of its youth alienated from work, society and themselves.

Older Workers

Layoffs and plant closures affect all workers. But the plight of the older worker requires particular attention. Again other industrialized countries have recognized that this age group – 45 to 64 – faces unique problems and they have adopted policies and introduced measures to respond to the situation. Government programs in Canada directed specifically at older workers are almost non-existent.

The effect of the recession, industrial adjustment and technological change on older workers is traumatic and tragic.

Many older workers unemployed for the first time could not find a job in the depressed economy. The majority either received no severance pay or pensions. The few that did had it taken away with the change in the UI program. As a result, the standard of living for 300,000 unemployed older workers has sharply declined.

Older workers often face particular difficulties when they become unemployed. They are more likely to be unemployed for longer periods of time than are younger workers and the options of geographic relocation and retraining are less viable than they are for younger workers. As is the case with the unemployment problems of workers in all age categories, the problems faced by older workers today are, in part, attributable to unemployment arising from insufficient aggregate demand. But the structural changes to the Canadian economy resulting from forces such as technological change, and changes in international trade patterns are also important.

Having identified the situation of unemployed older workers as a problem, it may be appropriate to establish special benefit periods and/or earnings-replacement rates based on age. But it is important to ensure that these programs are compatible with labour adjustment programs already in place (e.g., Canada Pension Plan) as well as features of the unemployment insurance program such as the treatment of separation payments and pension income.

Regardless of what is done for older workers through UI, it is clear that complementary programs are required. These complementary programs may involve a package of reduced work time, retraining and job search initiatives such as those recommended by the CEIC Advisory Committee in its report *Older Workers: An Imminent Crisis in the Labour Market*. It is clear, however, that the Program for Older Worker Adjustment (P.O.W.A.) announced in the spring 1986 Budget is totally inadequate to meet income security needs of older workers. The CEIC Advisory Committee study established the cost of helping older workers (over age 50) at about $1 billion per year. P.O.W.A., although not restricted to a particular industry or region as the Labour Adjustment Benefits Program was, is woefully inadequate at $33 million per year.

Full Employment

At this point in Canada's history there is no bigger source of social or labour market problems than the country's persistently high rate of unemployment.

The essence of the argument is that the economic environment and labour market are fundamentally different. There are those who believe that unemployment may not be long term and structural, that the dislocated are part of the economic mainstream, that the problem may not go away.

This kind of thinking goes to the heart of the debate about the nature and cause of unemployment. The major change in the nature of unemployment over the past decade has been the alarming increase in both the incidence and duration of unemployment. Last year more than half of the unemployed could not find a job in less than six months and several hundred thousand were unemployed for more than a year. Added to this are the discouraged workers.

The existence of long-term unemployment is one indication of general job scarcity. The phenomenon of workers' discouragement implies

even greater problems of job unavailability than is indicated by a given unemployment rate.

An investigation of the linkage between aggregate demand measures and long-term unemployment by the Economic Council of Canada (ECC) found that long-term unemployment is highly cyclical in nature. Variations with fluctuations in the economic climate are more pronounced for the long-term unemployed than for all unemployed.

According to the ECC "the policy implications of these findings are straight forward. Attempts to lower the observed levels of unemployment would gain considerably by focusing on the long-term unemployed group. The incidence of long-term unemployment can be reduced by aggregate demand policies. What the analysis shows clearly is that unemployment in Canada cannot be treated exclusively as a structural maladjustment problem."

Despite the overwhelming evidence that deficient demand is the major cause of unemployment, there has been a persistent refusal to acknowledge the nature of unemployment and its cause.

In other words, the demand for goods and services is not sufficient to provide enough jobs for all of those Canadians who would like to be employed. Unless the problem of unemployment is dealt with head on, a significant number of otherwise valid labour market initiatives will be limited in their effectiveness, and the demands on income security programs will be very high. The number one priority must be to address the problem of insufficient aggregate demand, not only because of the enormous costs of unemployment itself, but also to make existing labour programs such as training and youth employment more effective.

There is a great deal of controversy surrounding the possibility of deliberately increasing the budgetary deficit in order to increase aggregate demand. Nonetheless there is still scope for a lower interest rate and tax reform. The tax side of the budget has been manipulated on a number of occasions over the past decade to encourage saving versus consumption, and the corporate tax incentives have been focussed on capital-intensive industries. On the expenditure side of the budget, bank bailouts and increased military spending will not have great employment impact as would, for example, a program of municipal infrastructure development.

The goal of full employment is unassailable on both social and economic grounds, and it is achievable. But it does require a recognition of the true cause of unemployment and a commitment to social and economic policies with jobs as their central objective.

We want the political commitment to full employment shared by an overwhelming majority of Canadians to be reconfirmed. The policy options are available to reduce unemployment. But government policies and programs must set the overall framework within which full employment will be achieved.

It therefore gives cause for concern when we see the government's agenda crowded with initiatives that are rooted in a common philosophy – disengagement of government from the economic affairs of the nation in favour of the "natural" forces of the market.

Free trade with the U.S. deregulation of key economic sectors, privatization, and contracting out all emanate from this view of the appropriate role of government. It is a view that we believe represents a sharp departure from the pragmatism of government intervention in the Canadian economy that has long been valued as integral to our development as a nation.

Human Face of Unemployment

In examining the effects of unemployment the question is not only who's unemployed from a statistical point of view, but what do these numbers mean to the individuals when they have no job. How does being without a job affect an individual?

We are concerned with the human face of unemployment. We are concerned on how best to help the individual with unique circumstances to enter and stay in the labour force. For the economist the individual is an asset who sells his time; for us he or she is an individual and a member of a group who suffers economic insecurity as well as great personal and social stress when he or she has no job.

Unemployment is an emotional rollercoaster: grieving, job search, and burn-out. The jobless

worker passes through emotions ranging from denial, anger, bargaining, depression, acceptance through to enthusiasm, stagnation, frustration and finally apathy. For youth experiencing unemployment, it can be initially a period of optimism followed by uncertainty and finally despair.

For most of us who are suddenly without a job, we go through an initial stage of shock, followed by active job search and relative optimism; a period of pessimism, anxiety, diminished and less effective job search coupled with a feeling of distress and finally a period of adaptation and fatalistic resignation.

In a society such as ours where a person's self-worth is shaped and sustained by work, unemployment is a major personal crisis. While the impact of unemployment is not universal, and the unemployed are not all the same in their reaction to joblessness, a number of things can moderate the impact of unemployment on individuals, such as formal or informal group support, reason for job loss, options available, economic circumstances, state of mental and physical health, age and education or skill level, and duration of unemployment.

How an individual copes with unemployment can depend on one's age and whether the person is a man or a woman. Older workers (over 45) have longer spells of unemployment and find it more difficult to become re-employed. Thus, they tend to become discouraged and eventually stop seeking jobs; with unemployment and an inadequate pension, poverty looms on the horizon in old age.

Youth, on the other hand, are the primary victims of unemployment. This is especially true during a recession when the lack of job opportunities makes it difficult for young people to find a job, any job. And there is evidence that unemployment is highly related to drug abuse, suicide, vandalism and crimes of violence.

The impact of unemployment on women can be particularly harsh. Women carry a disproportionate share of parenting and household responsibilities. Their burden is compounded by their low level of earnings relative to men and immobility because of primary care responsibilities.

The family is also threatened during unemployment. Young families with pre-school-aged children, lacking the resources to cope with economic adversity, are most likely to have poverty level incomes, increased anger and family violence as well as marital breakdown as a result.

Chapter 8: Conclusion and Recommendations

A minority report, by its very existence, reflects some basic disagreement among the members of a commission, task force, or other public body reporting to the government.

Sometimes the divergence of views is confined to a few areas of the report, or it may be a disagreement over timing, degree, or some other aspect of practicality. The dissenting members, in such cases, feel strongly enough about these particular points to wish their dissent to be recorded, but they do not differ extensively with the majority on most of the recommendations.

Anyone who reads carefully through both the majority and minority reports of this Commission of Inquiry will become aware that in this case the discord is much wider and deeper than it traditionally has been with other government-appointed commissions. It is not a matter of subtle shadings. The gulf between the majority and minority reports is evident in almost every section and every series of recommendations.

We – the minority commissioners – did not accept appointment to this commission with any intention of being obstructive or unreasonable. We hoped from the beginning, and through the many months of hearings, that a consensus could be reached. We were prepared to make compromises, as long as they did not in our opinion further erode the unemployment insurance program or penalize the unemployed.

Despite our sincere efforts, however, the chasm that divided our concepts of UI (and our proposals to improve it) from those of the Chairman and the other commissioners proved unbridgeable. It became clear to us, by the time the report had to be written, that the majority members were imbued with a philosophy on UI and obsessed with a set of "reforms" that we could never endorse. Not if we were to remain true to our own principles and beliefs.

We undertook this assignment because we believed – and still do – that Canada's unemployment insurance system has strayed far from its original structure and objectives. It has been subjected to a series of restrictions and cutbacks over the past 15 years which have seriously undermined the program and denied needed coverage to many thousands of Canadians who have paid for this form of insurance.

We felt that it was time to reverse the punitive approach and stop instituting benefit and coverage cuts. We wanted to challenge the unfair assumptions that the unemployed were largely to blame for their own plight, that they could find jobs if they tried hard enough, and that a "too generous" UI program was encouraging their "laziness" and lack of initiative.

To our shock and dismay, we found that these derogatory stereotypes of the unemployed were rife among the other commissioners – and were shaping their version of the report from the beginning. We don't think we are being unfair to them when we suggest that their bias against the unemployed had the effect of closing their eyes and ears to the hundreds of community, labour, church and business groups who presented briefs to the Commission. Certainly there is no indication whatever in their majority report that they were listening to the Canadian people's views on UI, any more than they were finally prepared to listen to us.

To say that we are appalled by the majority report would be an understatement. We believe that it is the very antithesis of what it should have been. It shows no compassion for the jobless, no understanding of the real causes of unemployment, no desire to preserve a truly effective, genuine unemployment insurance program.

Instead, if – God help us! – the majority report is adopted and implemented, we would be left

with a travesty of a program, more a form of welfare than insurance, that would exclude hundreds of thousands from coverage and dole out starvation-level benefits to those who did still manage to qualify.

We find it difficult to believe, even now, that the majority members of this Commission, assigned to propose ways of improving unemployment insurance, should instead recommend its destruction. They will no doubt deny that this is their intent, but there is no doubt that would be the consequence of following their lethal prescription.

Our purpose in this minority report, beyond recording the scope and degree of our dissent with the majority members, is to offer our own very different formula for reforming the UI program. We have not dreamed up these recommendations on our own. On the contrary, we have been guided and inspired by the many submissions we received from a wide range of individual citizens and groups who care deeply about the unemployed and their dependants. Unlike the other commissioners, we listened to them and learned from them.

The result is that the federal government now has before it, from the same Commission, two very different visions of the future of unemployment insurance in Canada – and two very diverse sets of proposals for reforming the program.

We hope that the government will come to share our vision rather than that of the majority report. We hope the government, after perusing the majority report, will come to the same conclusion we did: that its implementation would be disastrous for the unemployed, and indeed for our whole social security system of which the UI program is such a vital component.

We hope, finally, that, whatever the outcome of this Commission's deliberations and proposals, it will generate a greater public awareness of how much our jobless fellow Canadians need – and deserve – a UI program that gives them dignity, hope and self-respect, as well as adequate incomes.

Appendix A: The Forget Report's Perspective on Unemployment

At the root of the Forget's proposal for massive benefit cuts is a general perspective and analysis in which unemployment is seen as predominantly an individual rather than a societal problem.

It is this perspective which leads to proposals to penalize those who are chronically or seasonally unemployed and to eliminate regionally extended benefits. In its most stark form, the argument is that chronic, seasonal and regional unemployment are all the fault of the individual who is unemployed. Implicitly, it is argued that the worker who is seasonally unemployed is unemployed by choice and could easily find full-year employment; that the worker who is chronically unemployed is unemployed by choice and could find a job if he or she wasn't so lazy; that the worker whose unemployment is determined by regional economic factors could resolve his or her unemployment problem simply by moving to a part of the country with greater opportunities; that the problem isn't too few jobs, just the wrong ones.

This approach to unemployment insurance reform is based on a key assumption about the economy and about unemployment. It is assumed that unemployment in Canada is primarily the result of structural – that is, matching – problems rather than overall demand deficiency, and that matching problems reflect choices made by the unemployed rather than factors beyond their control. In other words, unemployment can be characterized as a behavioural problem of the unemployed.

The report cites factors such as education, occupation and industry of employment as important indicators of the risk of unemployment.

But while these factors clearly influence an *individual's* experience with unemployment, they do not cause the experience of *society as a whole* with unemployment. That experience is caused by aggregate economic factors, not by individual factors.

From such assumptions about the nature of unemployment, structuralists conclude that unemployment can be reduced or increased by influencing the behaviour of the unemployed. For example, it is argued that making unemployment insurance benefits more generous contributes to higher unemployment rates and that reducing benefits will correspondingly reduce unemployment.

And from this argument flows the proposition that chronic, seasonal and regional unemployment could be eliminated if the right incentives were built into the economic system. It is, essentially, a much more subtle and sophisticated variant of the argument that unemployment exists because people are too lazy to work and that there's a job out there for everyone who wants one.

It is important to recognize that structural problems in the labour market (problems of matching workers and jobs) can limit overall economic potential only where they result in labour shortages. For example, a shortage of trained electricians in a local labour market might hamper the ability of the local housing industry to respond to housing demand. General labour shortages might make it impossible for firms to expand.

By the same token, eliminating structural problems in the labour market is, in general, not going to create new jobs. For example, improving the job search skills of the unemployed may make the individuals who receive the training more competitive in the job market, but it is not going to result in any more people, in the aggregate, becoming employed.

At the root of the issue is the question of who is at fault for unemployment. The behavioural approach would suggest that it is a construction worker's fault if the industry is unable to operate for several months a year because of bad weather.

The behavioural approach would suggest that unemployment is the fault of the individual when a weak economy cannot generate full-time year-round employment for everyone. The behavioural approach would suggest that the only reason people in Newfoundland are unemployed is because they refuse to move to Ontario or Alberta where jobs are supposedly plentiful.

The theory that unemployment is largely a problem of labour supply rather than of aggregate economic demand was very popular among conservative economists in the early-to-mid 1970s. Economists looked at the changing relationship between inflation and unemployment and concluded that labour supply problems had increased the rate of unemployment below which inflationary pressures would build and that increased demand would simply result in increased prices.

Those theories are now largely discredited as general economic propositions.

And the idea that unemployment insurance contributes to high unemployment is no longer supported by many of the very economists who provided the original "evidence" for this contention. At a "think tank" convened by the Commission of Inquiry on Unemployment Insurance this past winter, involving several economists who had written papers in the 1970s arguing that UI contributes to unemployment, the summary conclusions read as follows.

> The Studies group of the Commission of Inquiry sponsored a "think tank" seminar on unemployment insurance on December 17, 1985. The participants appeared to be in agreement on several points of a broad nature with regard to current conditions within the Canadian labour market. The major areas of consensus and discussion are as follows:
>
> • current levels of unemployment are far in excess of "full employment" levels, by any reasonable definition. It thus follows that there are ***substantial numbers of involuntary unemployed workers***;
>
> • unemployment insurance is viewed as part of the institutional framework which determines the non-accelerating inflation rate of unemployment (NAIRU), but, under current macroeconomic conditions, ***cannot be seen as responsible for the level of unemployment***;
>
> • the unemployment insurance program functions as ***an important automatic stabilizer*** in the economy. In addition, the program plays a significant role in maintaining standards of living in the more disadvantaged regions of the country;
>
> • because of the consensus that the current unemployment rate reflects "demand deficiency" rather than a "natural rate" of unemployment and that the program has a valid role to play in stabilizing aggregate demand and regional incomes, there ***emerged an implicit consensus that there is no urgent need for "tightening up"*** of the unemployment insurance system;
>
> • it was noted that the burden of unemployment is borne disproportionately by a small portion of those in the labour market, and generally agreed that more resources need to be directed towards this group, particularly the ***long-term unemployed***. No agreement was clear on the issue of whether this should be done at the expense of the short-term unemployed, for example by extending the waiting period for benefits;
>
> • in the context of increasing structural unemployment, the training and mobility aspects of labour market adjustment were emphasized, and, more broadly, the integration of the program with ***full employment macroeconomic policies*** was stressed. Some discussion developed around alternative financing arrangements to strengthen the automatic stabilizing nature of the program. (Emphasis in original)

Appendix B: A Description of the 1986 UI Program

After ten years of attack and legislative amendments the program is more complicated and less equitable and we will be making a number of recommendations to make the system fairer and simpler. At the same time, the basic structure of the UI system has survived. We will be making several recommendations to reinforce that structure.

Coverage and Eligibility

The program still insures the employment of virtually all paid workers in the labour force. An estimated 90% of paid workers are insured under the program. These workers are referred to as being in insurable employment. The main exclusions from coverage are those 65 years of age and over, the self-employed (except fishermen who are covered by special arrangement) and those who work less than 15 hours per week or earn less than 20% of the maximum weekly insurable earnings ($85 in 1984, $92 in 1985 and $99 in 1986).

To qualify for benefit, claimants must have suffered an interruption of earnings from employment and accumulated a specific number of weeks of insurable employment.

In general, the interruption of earnings for the insured person who ceased work by reason of sickness, pregnancy or adoption occurs in the week when normal employment earnings drop below 60% of normal weekly insurable earnings from that employment. For others, it occurs when following separation from employment, the insured persons have a period of seven days during which no work is performed and no earnings arise from that employment.

Sickness benefits are payable to claimants who provide a medical certificate to prove incapacity. Where the interruption of earnings is due to sickness, only claimants with at least 20 insurable weeks are entitled. The maximum 15 weeks of sickness benefits is payable only as part of the maximum 25 weeks of the initial benefit period.

Maternity benefits are payable to claimants who provide a medical certificate proving pregnancy. Only claimants with 20 insurable weeks are entitled to benefits. The maximum 15 weeks of maternity benefits is payable as part of the initial benefit period. Benefits may commence as early as 8 weeks before the expected week of birth and end as late as 17 weeks after birth. When adopting a child, either parent may be entitled to receive up to 15 weeks of adoption benefits commencing with the week of actual placement of the child.

The combination of sickness, maternity and adoption benefits cannot exceed 15 weeks.

Special provisions affect benefits for fishermen. For example, self-employed fishermen can draw the special fishing benefit from November 1 to May 14, or from May 1 until November 15.

Benefits may also be paid to claimants undertaking approved training, or participating in approved job creation projects or work-sharing agreements. The duration of benefits payable in these cases can exceed the usual maximum of 50 weeks.

Claimants are subject to disqualification for up to six weeks for such reasons as quitting jobs without just cause, being fired for misconduct, and refusing suitable employment.

Benefits are not payable to claimants involved in labour disputes.

Figure SB.1
Variable Entrance Requirement

Regional rate of unemployment	Weeks of insurable employment required
6.0% and under	14
Over 6.0–7.0%	13
Over 7.0–8.0%	12
Over 8.0–9.0%	11
9.0% and over	10

The basic entrance requirement, as already noted, is extremely complicated. It varies from 10 to 14 weeks of insurable employment in the 52 weeks prior to filing a claim (the reference period), depending on the unemployment rate in the UI economic region in which the claimant resides. The number of weeks required is determined as shown in Figure SB.1.

Claimants who have received benefits during the reference period are defined as program repeaters. Except in regions with unemployment rates over 11.5%, "repeaters" must meet more stringent entrance requirements.

Claimants who had less than a combined total of 14 weeks of insurable employment and UI benefit (or other weeks prescribed by regulation) in the 52-week period preceding the reference period, are new entrants or re-entrants to the labour force. They are required to have 20 weeks of insurable employment in the reference period.

Repeaters' entrance requirements are determined according to Figure SB.2.

Individuals claiming sickness, maternity or special severance benefits are required to have 20 weeks of insurable employment in the reference period.

The reference period of up to 52 weeks may be extended to a maximum of 104 weeks if the claimant was prevented from working because of sickness, pregnancy, incarceration, attendance at an approved training course or receipt of Workers' Compensation for temporary total disability.

Insurable weeks and insurable earnings are reported by the employer on the Record of Employment, which the employee must provide at the time of application for benefits. In 1986, the maximum weekly insurable earnings is $495. It is increased annually according to the rate of increase in wages and salaries averaged over the most recent eight-year period.

Benefit Rate

The benefit rate is based on weekly insurable earnings and what is defined as earnings. There is also an overall maximum benefit. The benefit rate is 60% of average weekly insurable earnings in the last 20 weeks of employment prior to unemployment, or all weeks where there are fewer than 20 weeks of insurable employment. The maximum weekly benefit in 1986 is $297.

For those unemployed who work while receiving UI all earnings from employment over 25% of benefits, received during the period for which benefits are payable, are deducted from benefits.

All separation payments such as severance pay, vacation pay, or pension income, as already

Figure SB.2
Variable Entrance Requirement for Repeaters
(Weeks)

Weeks of benefits paid/payable in the year before the reference period	Regional unemployment rate				
	6.0% and under	Over 6.0–7.0%	Over 7.0–8.0%	Over 8.0–9.0%	9.0% and over
10 and under	14	13	12	11	10
11	14	13	12	11	11
12	14	13	12	12	12
13	14	13	13	13	13
14	14	14	14	14	14
15	15	15	15	15	15
16	16	16	16	16	16
17	17	17	17	17	16
18	18	18	18	17	16
19	19	19	18	17	16
20 and over	20	19	18	17	16

pointed out, are now considered as earned income. This regulation exempts severance payments which were provided under collective agreements or written employers' policies in force prior to December 31, 1984. Such payments are exempted until the collective agreement expires or March 26, 1988, whichever is earlier. As of January 5, 1986 pension income is also considered as income earned from employment.

Employment earnings in the waiting period are generally deducted from the first three weeks of benefits payable. Deductions made for each week in the waiting period do not exceed the benefit rate.

Income received for sickness or maternity leave or from any group wage-loss insurance plan during sickness or maternity is not taken into account as earnings in the waiting period.

Duration of Benefits

The number of weeks for which an individual can collect benefits is determined by the weeks worked prior to going on claim as well as local labour market conditions. Benefit entitlements vary with the unemployment rate in the region (local labour market).

Benefit entitlements related to the individual's weeks of work prior to unemployment (known as labour force attachment benefits) are provided in two phases: the initial benefit phase; and the labour force extended benefit phase. Benefit entitlements arising from local labour market conditions are referred to as regionally extended benefits. There are 48 local labour markets across Canada. The three phases which define benefit entitlements are set out below:

1 Initial benefit phase: one week of benefits for each week of insurable employment up to a maximum of 25 weeks.
2 Labour force extended benefit phase: one week of benefits for each 2 weeks of insurable employment over 26, to a maximum of 13 weeks, in accordance with Figure SB.3.
3 Regionally extended benefit phase: two weeks of benefits for every 0.5% that the regional unemployment rate exceeds 4.0%, up to a maximum of 32 weeks in accordance with Figure SB.4.

For the purpose of the entrance requirements and the payment of regionally extended benefits,

Figure SB.3
Labour Force Extended Benefits

Weeks of insurable employment in claimant's qualifying period	Maximum labour force extended benefit payable (weeks)
27 or 28	1
29 or 30	2
31 or 32	3
33 or 34	4
35 or 36	5
37 or 38	6
39 or 40	7
41 or 42	8
43 or 44	9
45 or 46	10
47 or 48	11
49 or 50	12
50 and over	13

Figure SB.4
Regionally Extended Benefits

Regional rate of unemployment	Maximum regionallly extended benefit payable (weeks)
Over 4.0–4.5%	2
Over 4.5–5.0%	4
Over 5.0–5.5%	6
Over 5.5–6.0%	8
Over 6.0–6.5%	10
Over 6.5–7.0%	12
Over 7.0–7.5%	14
Over 7.5–8.0%	16
Over 8.0–8.5%	18
Over 8.5–9.0%	20
Over 9.0–9.5%	22
Over 9.5–10.0%	24
Over 10.0–10.5%	26
Over 10.5–11.0%	28
Over 11.0–11.5%	30
11.5% and over	32

48 economic regions (local labour markets) have been established. The present regional system has been in place since October 1982.

We strongly support the dual criteria of labour force attachment and labour market conditions for determining the duration of UI benefits. But we question the two-phase labour force attachment phase. Why should an unemployed worker with more than 25 weeks of work prior to unemployment need 2 weeks of work to collect 1 week of benefits? It should be noted that the average period of unemployment has doubled in the 1980s compared to the 1970s.

In keeping with our view that UI remain an earnings-related program, we believe it is appropriate that UI benefits are taxable. But we strongly object to any surtax on UI benefits. Under the existing program, a portion of UI benefits may have to be repaid by some claimants. If the claimant's net income (including UI) for income tax purposes exceeds one and half times the maximum yearly insurable earnings ($35,880 in 1985; $38,766 in 1986), the claimant will be required to repay 30% of the UI benefits received in that year or 30% of his net income over ($35,880 in 1985 and $38,766 in 1986), whichever is lower.

We also support the principle of employee premiums being integrated with the tax system. Employee premiums are now deductible from income for tax purposes. We would advocate replacing the tax deduction feature with a "tax credit" for employee premiums. A tax deduction favours higher-income tax payers. A tax credit would return a larger percent of employee premiums to low-income workers.

Financing

The UI program is financed on a tripartite basis through contributions from employer and employee premiums and the federal-government. We want this arrangement continued.

The federal government contribution absorbs the cost of regionally extended benefits, the cost of benefits for self-employed fishermen in excess of premiums from that employment, and the cost of extended benefits for those undertaking approved training or participating in approved work-sharing and job creation projects.

Premium revenues absorb the cost of benefits in the initial and labour force extended phases (including those costs related to training and job creation), sickness, maternity, adoption, special severance and work-sharing benefits, as well as the costs of administering the UI Act, including the operation of the National Employment Service.

The basic employee premium rate for 1986 is $2.35 for each $100 of weekly insurable earnings. The employer premium rate is set by legislation at 1.4 times the employee rate ($3.29 per $100 in 1986).

Appeals

Decisions affecting benefits may be appealed in the first instance to a Board of Referees and in the second instance to an Umpire of the Federal Court. Under special circumstances an appeal can be made to the Federal Court of Appeal and the Supreme Court of Canada. The system needs to be revamped and made more accessible to claimants.

Organization and Administration

In general, the Minister of Employment and Immigration is responsible for the UI Act. The Canada Employment and Immigration Commission is the corporate body responsible for administering the UI program. We have several concerns about the decision-making process, particularly the limited autonomy and authority of employer and employee representatives in that process. We are equally concerned about management and regulation on a day-to-day basis. Some of the administrative problems with UI, however, are rooted in the changes to the program over the years which introduced complicated, restrictive criteria for eligibility and the determination of benefit entitlements.

Special arrangements exist for the collection of premiums, determination of insurable employment and the administration of repayment provision. These functions are the responsibility of the Minister of National Revenue and are administered by Revenue Canada, Taxation.

Recommendations

S1.1 We therefore recommend that the entrance requirement for sickness and maternity benefits be brought into line with those for other benefits;

S1.2 we further recommend that the current distinctions in entrance requirements based on regional rates of unemployment and class of claimant be ended. The uniform entrance requirement should be 10 weeks for all classes of claimants.

S2 We recommend that the current regional extended benefit formula be retained, but that administrative distinctions between the two "phases" be eliminated. In addition, we recommend that the extended benefit be called the labour market extended benefit to make its link to labour market conditions, as measured by the rate of unemployment, clear.

S3 We recommend that the current overall maximum benefit period of 50 weeks be eliminated, creating an effective maximum of 71 weeks.

S4.1 We recommend a two-week waiting period for regular benefits;

S4.2 a one-week waiting period for sickness benefits;

S4.3 elimination of the waiting period entirely for maternity and parental benefits;

S4.4 a guarantee of benefits payment within a week of application; and

S4.5 payment of UI benefits to start at the end of the first benefit week, and every two weeks thereafter.

S5 We recommend that each year's insurable maximum be established at 125% of the eight-year moving average earnings.

S6 We recommend that the benefit rate be increased to 66⅔%.

S7 We recommend that "earnings" to be allocated against UI benefits be defined as income resulting from work after the termination of employment which gives rise to the claim.

S8.1 We recommend that the special three-week early retirement benefit be eliminated;

S8.2 the present exclusion of coverage from persons over age 65 be eliminated; and

S8.3 UI rules and regulations include a clear and concise definition of "availability for work" and "job search."

S9.1 We recommend that the maternity benefit period for a natural mother be extended to 17 weeks by dropping the 2-week waiting period; and

S9.2 we further recommend a parental and adoption benefit period of 24 weeks that can be shared as desired between the parents;

S9.3 where a child is hospitalized immediately following birth or otherwise during a maternity benefit period, we recommend that claimants be permitted to freeze their claims, return to work, and reactivate their claim on the release of the child from hospital.

S10 We recommend that the duration of maternity, parental and sickness benefits not be limited by the establishment of other claims under the UI program, nor be denied under Section 44 of the Act by virtue of a labour dispute.

S11.1 We recommend that parental benefits under UI be reinforced by provisions in all labour codes in Canada that would require: 17 weeks of maternity leave and an additional 24 weeks of parental leave as is now the case under the Canada Labour Code;

S11.2 the accumulation of seniority and benefits during maternity and parental leave; and

S11.3 the right to return to one's former job or its equivalent following maternity or parental leave.

S12.1 We recommend that unemployment insurance premiums be collected for all hours worked from both employees and employers;

S12.2 the requirement for unemployment insurance eligibility be a minimum of six hours per week of regular employment; and

S12.3 employees who fail to establish UI eligibility in any taxation year have their premiums refunded through the income tax system. Employer premiums would not be refunded.

S13 We recommend that Section 44 be rewritten to make it clear that the only people who will be denied benefits under this section are people who are direct participants in a stoppage of work or who are covered by a collective agreement that is at issue in the stoppage of work. The definition of a direct participant should not include workers who refuse to cross the picket line of workers who are direct participants in a labour dispute.

S14 We recommend that sickness, maternity and parental benefits and claims arising from layoffs that would have taken place in the absence of a strike be exempted from the labour disputes rule.

S15 We recommend that Section 44 not deny benefits to workers who are faced with an illegal lockout.

S16 We recommend that a dispute be deemed to be ended when the parties to a dispute have ratified a memorandum of agreement and/or a collective agreement.

S17 We recommend that the special requirements to prove "bona fide employment" or regular engagement in another occupation in order for a worker who is on strike to claim benefits in a layoff from a job not related to the strike be removed from the section dealing with labour disputes.

S18 We recommend the following procedure for determining UI eligibility when a claimant is re-employed prior to the termination of a claim:

S18.1 eligibility under the previous claim be increased by one week for each week of insured employment;

S18.2 and eligibility be the greater of the number of weeks remaining on the previous claim, augmented as above, and the number of weeks of benefit to which the individual would be entitled in a *new* claim established through the new insured employment.

S19 We recommend that persons who leave the labour force and wish to retain the option of filing a claim for unemployment insurance upon their return to the labour force be permitted to "freeze" their UI eligibility until their return to the labour force.

S20 We recommend the elimination of the eligibility requirement for farm workers to work at least seven days for the same employer before their employment becomes insurable.

S21 We therefore recommend that Part V, Section 85(9) of the regulations be amended to reflect that the maximum number of weeks of the initial benefit period is equal to the number of weeks of insurable employment during the qualifying period.

S22.1 We recommend that fishermen's UI be continued in the Fishermen's Benefits section of the UI program;

S22.2 we further recommend that Canada recognize the special problems of the undeveloped and underdeveloped northern regions with respect to inadequate income, and develop special programs for income supplementation and economic development.

S23 We therefore recommend that hunters and trappers be eligible for Unemployment Insurance under the Fishermen's Benefits provisions of the UI Act.

S24.1 We recommend that the UI program continue to be financed on a tripartite basis through employer-employee premiums, and federal government contributions; and

S24.2 that the federal government continue to absorb the cost of benefits related to labour market conditions as measured by the official unemployment rate exceeding 4% (regionally extended benefits), hunters, trappers and Fishermen's Benefits in excess of premiums collected, and the administrative costs of the program;

S24.3 we further recommend that Sections 37 (Work Sharing), 38 (Job Creation), and 39 (Training) be removed from the UI Act, and be properly placed in the Canadian Jobs Strategy program.

S25 We recommend that benefit cost be allocated to employers and employees on a 50%/50% basis.

S26 We recommend that the Act provide for premium rate setting to be based on an averaging formula covering a period of between five and eight years.

S27 We also recommend that the Act charge the new Unemployment Insurance Commission with the power to fix rates annually while respecting objectives for both demand stabilization and medium-term equilibrium.

S28 We recommend that a revised Unemployment Insurance Act state clearly the principle that UI is a social insurance program based on an individual entitlement to benefits and establish as an explicit administrative goal the treatment of all claimants with dignity and respect.

S29.1 We recommend that all administrative procedures that place the burden of proof on UI claimants be replaced by new procedures that respect the principles of natural justice;

S29.2 claimants should be required only to present to the Commission the facts at their disposal necessary to establish a claim. The claimant having supplied the facts, the onus should be on the Commission to disprove entitlement.

S30 We recommend that the new Act be carefully structured to limit administrators' authority in areas of policy concern while avoiding the mindless detail and nitpicking which now hamstrings administrators and results in rulings that appear to lack common sense.

S31.1 We recommend that the audit and policing (benefit control) function be separated completely from regular claims administration. Officials should not be put in the position of having to be both counsellor and policeman;

S31.2 that each UI office fund community-based claimant advisory and advocacy services or, where no groups exist to provide claimant services, provide such services from the UI budget but under the control of a common advisory board made up of worker representatives. Delivery of such services should not be under the control of CEIC; and

S31.3 that employment services offered under the UI program be administered independently of the claims administration and benefit control functions.

S32.1 We recommend that a responsibility be placed on the UI Commission to deal reasonably with each claim submitted to it, and on the claimant to present factual information and evidence to support a claim;

S32.2 that references to "proof" of claim be replaced with conditions of eligibility stated in more neutral language;

S32.3 that each claim be treated as honest, reasonable and legitimate, until the facts demonstrate otherwise; and

S32.4 that claimants be provided with reasonable assistance in the marshalling of the facts necessary to support claims.

S33.1 We recommend all administrative rules and criteria be available to the public and explained clearly to all UI claimants who might be affected by them;

S33.2 all material produced for claimants must be available in every language other then English and French spoken by a substantial number of UI claimants served at the local level;

S33.3 in all UI offices serving significant ethnic communities, services be available in the language of that community; and

S33.4 UI publish a clearly written document that outlines the rights and obligations of UI claimants and make the document available and accessible to all UI claimants.

S34 We recommend that a UI counselling service be established as the point of entry of all UI claimants into the system. The purpose of the counselling office would be to assist claimants in completing application forms and to assist them in gaining access to other applicable services and programs.

S35 We recommend that claimants be eligible to file a claim and receive benefits at any time during the period for which they would be eligible for benefits.

S36 We recommend that the Act specifically exempt from any penalty claimants who can establish just cause for their actions, and that an inclusive definition of just cause be set out in the Act.

S37 We recommend that no claimant be disqualified for failure to meet procedural requirements such as the filing of report cards or for reasonable errors committed in ignorance of the requirements of the Act and regulations.

S38 We recommend that the knowledge required of claimants in determining the reasonableness of an error be limited to published material generally accessible to claimants.

S39.1 We recommend that processing of claims be carried out centrally, in a limited number of data processing offices connected on-line with local offices;

S39.2 that local offices be given the authority to make a broader range of administrative decisions in response to local needs; and

S39.3 that local offices be given the authority to reissue any UI benefit cheque that is more than five days overdue.

S40.1 We recommend that there be three levels of appeal from a decision of a UI claims officer: an administrative appeal to a claims adjudicator, whose function would be to provide a "second opinion" on any issue between a claims officer and a claimant; a Board of Referees composed of an independent chairman, an employee representative, and an employer representative, including an independent administrative structure, completely independent of the UI Commission and with the authority to determine all issues of fact and procedure; and a right of appeal on issues of law to the Federal Court of Appeal;

S40.2 that time limits be established in legislation for hearing dates and decisions at the claims adjudicator and Board of Referees levels;

S40.3 that adequate explanatory material be made available to enable claimants to make effective use of the appeal system; and

S40.4 that funding be provided by CEIC for advocacy groups to assist claimants in the appeals and claims processes.

S41.1 We recommend that the program framework, including the full benefit structure, broad program rules and administrative guidelines be established in legislation;

S41.2 that the spending estimates of the UI Commission be submitted annually to a parliamentary committee for approval;

S41.3 that a board of directors be established with overall responsibility for the day-to-day administration of the UI program;

S41.4 that the board of directors consist of 15 members, 7 representatives of employers and 7 representatives of organized labour, with a neutral chairman appointed by the employer and labour representatives on the board; and

S41.5 to ensure the effectiveness of the board, that 5 of its members – 2 employer representatives, 2 employee representatives, and the chairman – be full-time board members as members of an executive committee.

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