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Author(s): Barry Supple

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*The political economy of demoralization: the state and the coalmining industry in America and Britain between the wars*¹

By BARRY SUPPLE

It is hardly surprising that the evolution of government intervention in American and British industry in the twentieth century has taken contrasting forms and been shaped by different constitutional, political, and ideological systems. Yet differences in the path and obstacles to intervention have often been associated with broad similarities in the vicissitudes and destination of the journey.

One obvious reason for this has been the shared experience of economic disruption. Industrial intervention in the twentieth century has most frequently been a response to sectoral depression or decline. Governments are generally more concerned at the prospect of crisis than stability; while the structural changes which redistribute the rewards of employment and investment are felt more keenly in declining than expanding industries. Deteriorating welfare and social dislocation therefore inevitably generate interest-group pressure to protect the position of the work force or the owners and managers of capital; and there is only a limited range of devices advocated for such a defence.

This article is primarily concerned with intervention in the American and British bituminous (or 'soft') coal industries between the World Wars. Economic stagnation, the associated pressures on coalminers and coalowners,² and their consequent reactions were intimately related to attempts to reform the structure of the respective industries, and ultimately provoked important experiments in public intervention. At the same time, however, the coalmining industry, for all its special qualities, can stand as an example of the changing role of the state, and of the evolving relationships and political roles of different interest groups in modern industrial societies.

¹ Research on the American coalmining industry was made possible by a guest scholarship at the Woodrow Wilson International Center for Scholars in Washington D.C. and by a social science research grant from the Nuffield Foundation. I am most grateful to both institutions—and to Beau Breslin, whose tireless help with the research was invaluable, and to John Thompson for his valuable comments on the penultimate draft.

² In Britain the owners and managers of coal mines were known as 'coalowners'. The American term was 'operators'. Both terms will be used in this article.

I

From the early 1920s coalmining in both Britain and America underwent a prolonged period of slump and dislocation. The British industry had employed over 1 million men and exported one-third of its output in 1913. But, after a transient postwar boom, it encountered stagnating demand at home and fierce competition overseas. The export trade collapsed, employment shrank and became very irregular, prices plummeted, profits disappeared, and communities in older fields became derelict.³ Before 1914 output had averaged about 254 million tons; but between 1923 and 1939 it fell from 276 million (a level inflated by temporary world shortages) to 231 million tons; overseas shipments fell from 102.8 to 46.5 million tons; and the active labour force declined from 1.2 million to 766,300. The situation did improve somewhat in the 1930s—but only for those employed, and coalmining, the first of the modern ‘sick industries’, continued to be a severe social problem, its wounds raw and obvious.

The American industry was undergoing similar experiences—the more painful because of the contrast with industrial buoyancy in manufacturing industry in the 1920s. During an otherwise “golden period” of American industry, the bituminous-coal industry became more and more distempered and disordered.⁴ The average annual production of bituminous coal, which had been 440 million tons in 1911-5, rose to 534 million tons in 1916-20, only to fall by more than 10 per cent (to 481 million tons) in 1921-5. It then rose again, to 519 million tons in 1926-30, and again fell sharply, to 351 million tons in 1931-5, recovering slightly, to 418 million tons, in 1936-40. Employment, as usual, fell even faster than output—from 622,000 in 1919 (705,000 in 1923) to 406,000 in 1932 and 422,000 in 1939.⁵ The average pit-head price per ton of bituminous coal also fell—from \$3.75 in 1920 and \$2.68 in 1923 to \$1.86 in 1928 and \$1.31 in 1932. Between 1923 and 1932 the number of mines, employment, and hourly wages all declined by roughly 40 per cent.⁶

The background to this new situation in both countries was a sharp deceleration in the growth of the world market for coal. Before 1914 the consumption of coal had been rising by about 4 per cent annually; subsequently, however, its annual growth rate was a mere 0.7 per cent in 1913-29, and 0.3 per cent in 1913-37.⁷

Demand for coal was limited by three new developments: a slowing down of the rate of worldwide economic expansion, and especially that of the heavy industries and transport; improvements in the efficiency with which coal was used in generating electricity, fuelling locomotives and ships,

³ Supple, *British coal industry*, chs. 5-8.

⁴ *Stabilization of the bituminous coal mining industry*, p. 11.

⁵ Data for quinquennial averages are in Schmookler, ‘Bituminous coal’, p. 84. Annual output and employment figures are in *Statistical history*, pp. 356, 358. Also see Baratz, *The union and the coal industry*, p. 40.

⁶ Fisher and James, *Minimum price fixing*, p. 16. The decline in annual earnings in 1929-32 was some 46 per cent.

⁷ *World coal-mining*, I, pp. 75-6. The annual growth rates of American coal output (all types) were +6.5 per cent in 1870-1902, +4.5 per cent in 1903-16, and -0.2 per cent in 1917-29. (*Energy resources and national policy*, p. 67).

manufacturing iron, etc; and the rapid growth in the use of substitute fuels (petroleum, hydro-electricity) or fuels which used coal but produced energy more effectively (electricity, gas).⁸ In 1916-20 bituminous coal accounted for 68.7 per cent of America's energy needs; by 1936-40 the figure was 43.8 per cent. In Britain it was estimated that increased efficiency in use and the availability of substitute fuels were equivalent to a reduction of some 2.5 per cent annually in the demand for coal.⁹

Against this background, a substantial decline was unavoidable. For, whatever the deficiencies of business or public strategies, no feasible improvement in efficiency could have sustained the level of output and employment reached in the peak years before the onset of stagnation. By the late 1930s, in the words of an American report, it seemed

inconceivable that consumption of coal can be stimulated sufficiently by any practicable devices to lead to re-employment of all unemployed miners. Reduction of prices will not result in expansion of demand adequate to provide the industry with a larger income for distribution among a larger mine population.¹⁰

In addition to the endemic constraints of demand, however, the problems of American and British coalmining were shaped by the nature and organization of the respective industries.

In the first place, while the aggregate demand for coal was relatively inelastic in the short and medium run, its supply was notoriously flexible. This was partly because the prospect of profits could stimulate very rapid increases in capacity—especially in the United States, where rich and accessible reserves were available. But it was also the case that falling prices rarely destroyed capacity. Instead, given the weight of overhead costs and the specificity of capital investment, many colliery companies continued operations even though their proceeds did not cover all their costs. For as long as they could borrow or utilize financial reserves, it seemed better to make some contribution to overheads—or even to produce without covering working costs (so as to save on 'start-up' costs in the event of a revival of trade).

Even bankruptcies did not necessarily involve a long-lasting reduction in capacity. Capital was often written down, while the mines and physical assets remained in existence. The facility with which apparently moribund coalmines could revive once prices began to rise was generally held to be a vital factor in the industry's vulnerability. And this situation was exacerbated by immobility: the unemployed, and perhaps even more the underemployed, members of mining communities provided an abundant reserve army 'waiting for the whistle'.¹¹

In fact, coalmining had a chronic tendency to surplus capacity (even in

⁸ Supple, *British coal industry*, chs. 5 and 7; *World coal industry*, I, pp. 82-100.

⁹ Schmookler, 'Bituminous coal', p. 84; Supple, *British coal industry*, p. 283. This British decline was just about counterbalanced by the growth in the national income.

¹⁰ *Energy resources and national policy*, p. 76. For similar views in Britain, see Supple, *British coal industry*, pp. 234, 342.

¹¹ *Stabilization of the bituminous coal mining industry*, p. 32. In the United States the number of mines rose from 5,776 in 1913 to 9,331 in 1919—only to fall back to 5,427 in 1932: *Statistical history*, p. 356. For the immobility of mining labour, see Supple, *British coal industry*, pp. 261, 326-7, 548.

'normal' times the industry had a capacity to meet peak demand and therefore to produce amounts in excess of the demand for the rest of the year). But in the interwar years this was aggravated by the expansion to meet the exceptional markets of 1914-20, by the tenacity of 'marginal' firms when markets began to shrink, and by the ease with which new mines could be developed and old ones expanded.¹² Reflecting a world-wide problem, production in the United States fell from 81 per cent of capacity in 1916-20 to 67 per cent in 1921-30 and 63 per cent in 1931-40.¹³

It was a further destabilizing characteristic of the coal industry that, even when demand grew, the extension of the mining 'frontier' took place not only by the expansion of output from existing mines, and the acquisition or development of 'captive mines' by coal-using industries,¹⁴ but also by the exploitation of untapped reserves in relatively new fields—South Yorkshire and Nottinghamshire in Britain, the Appalachian states south of the Ohio river, and western states, in America. Of course, older fields battled on, unloading coal onto a gorged market, and being transformed into chronic economic and social problem areas. But their significance declined: in the United States, between 1913 and 1937, while production in Pennsylvania and Ohio fell by about one-third, that of West Virginia and Virginia rose by about 75 per cent, and that of Kentucky more than doubled. In Britain, the districts producing for export (in particular south Wales and Durham) were particularly hard hit by international competition and shrinking markets. Between 1913 and 1938 south Wales's share of national production declined from 19.8 to 15.5 per cent, while that of Yorkshire and the east midlands rose from 26.9 to 32.7 per cent.¹⁵

Finally, the problem of excess capacity was aggravated by the fragmented structure of the coalmining industry, which made the private coordination of activity virtually impossible. Thus, in Britain in 1924 some 75 per cent of the labour force was accounted for by 1,385 mines, owned by the 467 colliery firms employing more than 500 men each; and within this the biggest 49 firms employed only 34 per cent of the labour force (in 1935 the 9 biggest companies produced only 17 per cent of the national output).¹⁶ In the United States in 1923 there were no less than 9,331 mines in production, and in 1929 the 17 largest corporations controlled only 20 per cent of the output of bituminous coal, while the next 70 biggest firms controlled a further 23 per cent.¹⁷ The existence of so many mines and firms naturally intensified

¹² This problem was exaggerated in the United States, where the legal inhibition on discrimination in interstate commerce obliged railways to provide transport for all new mines and to give them preference with regard to the supply of rail cars. See Hammond, 'The Coal Commission report', pp. 543, 555.

¹³ Schmookler, 'Bituminous coal', pp. 582-3. Coal mines were in production for an average of only 188 days per year in the 1920s and 175 days in the 1930s. (The average for the buoyant 1940s was 229 days.) Fisher and James, *Minimum price fixing*, p. 404.

¹⁴ In 1929 'captive mines' accounted for about 18 per cent of American output, and mixed 'captive' and 'commercial' mines for about 9 per cent: *Energy resources and national policy*, p. 73. The percentage of the British coal output produced within composite firms was broadly similar. (Supple, *British coal industry*, p. 235).

¹⁵ *Energy resources and national policy*, p. 68 (American production fell from 478.4 to 442.3 million tons in this period; Supple, *British coal industry*, table 1.5).

¹⁶ Supple, *British coal industry*, tables 9.1, 9.4, 9.7. There were 2,506 mines in the entire British industry.

¹⁷ Parker, *Coal industry*, p. 12. Production of anthracite was concentrated into many fewer firms: *Energy resources and national policy*, p. 73.

competition and the problem of capacity, and made it difficult to concentrate production or profitability. In a depression, the result was 'not . . . the permanent closing of some of the mines, but . . . the operation of all more or less intermittently even in the dullest period.'¹⁸ Destabilization also extended to the labour force: it was estimated that there were some 200,000 surplus coalminers on each side of the Atlantic.¹⁹

In both countries, but with particular intensity in the United States, the industry was judged to be the victim of 'cut-throat competition' and frenetic and self-defeating marketing practices—for example, the marketing of 'distress coal', which was shipped with no customer in mind (but which needed a speedy sale at almost any price before the cost of freight and demurrage exceeded any feasible return) and 'pyramiding', whereby coal was consigned to more than one agent (with the result that the same shipment soon competed against itself in a collapsing market).²⁰ Marketing in coal seemed to Herbert Hoover a species of 'diseased and insane behaviour', and coalmining was likened to a 'God-forgotten industry' seemingly at war with itself.²¹

Nor was the concept of warfare in coalmining a mere metaphor. Profound and persistent unemployment, irregularity of operation, and disputes over wages, hours and conditions—intense, despairing, and frequently violent in the 1920s—were central to its affairs. It was therefore hardly surprising that sooner or later, directly or indirectly, the condition of the labour force and of mining communities were determining factors in the evolution of public policy towards the industry in both countries.

II

The frequency and virulence of industrial relations conflicts in coalmining no doubt owes a good deal to the distinctive character of its communities, labour processes, and class relationships. But a more basic explanation must surely be sought in the labour intensity of the industry. In Britain wages accounted for 75 per cent of total costs in the early 1920s (falling to some 66 per cent after the defeat of the miners in the 1926 stoppage); and in the United States the average was about 60.5 per cent.²² 'When you sell coal', said a contemporary, 'you sell labour'.²³ Competition therefore necessarily involved a pressure on wage costs and wage levels. Admittedly (as critics of the British owners never ceased to emphasize), there were other ways of reducing costs: mechanization, reorganization, improved techniques. But these tended to be long-term in their effects, difficult and expensive to attain

¹⁸ *Report of the United States Coal Commission*, 1, p. 233. For contemporary discussions of the causes of 'overdevelopment' and surplus capacity, see *ibid.*, pp. 201-4, 228-33; Tryon, 'Irregular operation', pp. 57-93.

¹⁹ See the *Report of the Industrial Transference Board*, p. 790; Seltzer, *Fire in the hole*, p. 47.

²⁰ *Appalachian Coals, Inc. v. United States: US 288*, pp. 362-3.

²¹ Hoover speech (31 Aug. 1922): quoted in Hawley, 'Secretary Hoover', p. 255; 'this God-forgotten industry': Philip Murray in *Stabilization of the bituminous coal mining industry*, p. 157.

²² Fisher and James, *Minimum price fixing*, p. 426.

²³ Quoted in Cushman, *Independent regulatory commissions*, p. 362.

(especially during a depression), and problematic in their outcome. At the point of market disruption, falling prices, and declining profits, it was logical, if provocative, for owners to turn their attention to wages and hours.

In Britain during 1921-2 and then with renewed vehemence from 1924-5 onwards, the deterioration in coal markets led (after bitter and prolonged stoppages) to wage cuts in 1921 and 1926-7 and an increase in the length of the working day in 1926. The combination of falling demand and aggressive owners dissipated both the power of the miners' union and the material gains they had derived from the earlier scarcity of coal. Between 1924 and 1929 they were the only major industrial group to experience a decline in their real incomes (by 6 per cent). Yet bitter as this experience was, its consequences were restrained by the growing realization that there was a limit to the burdens that could be borne by wages. For the trauma of 1926-7 had achieved little: coal prices continued to fall, business losses to mount, and unemployment to spread. By 1928 the industry was in a worse position than it had been before, and even the owners (although still opposed to the reorganization of production) began to acknowledge that further wage reductions were of doubtful economic use or political feasibility. Instead, their attention now turned to the possibility of marketing cooperation to increase prices, as the only remaining way out of their difficulties.²⁴

The history of labour relations in the United States during the 1920s was somewhat different, although its outcome was comparable to that in Britain.²⁵ Given the extent, variety, and pace of growth of the American coal industry, unionization was less securely established on a national basis. The United Mine Workers (U.M.W.) was strongest in the Central Competitive Field (west Pennsylvania, northern West Virginia, Ohio, Illinois, Indiana), whereas the newer fields south of the Ohio River and in the far west were dominated by non-union operators. Although plagued by murderous disputes, and unable to organize important mines and coalfields, the U.M.W. under the leadership of John L. Lewis²⁶ managed to undertake extensive collective bargaining: a national strike in 1919 had attracted government intervention and secured an increase in wages to record heights in 1920;²⁷ and another major strike in 1922 was resolved with a compromise agreement and the appointment of an investigatory Coal Commission, which reported in 1923.²⁸

But the fulcrum of American labour relations in the 1920s was the Jacksonville Wage Agreement of 1924. Then, the economic environment was sufficiently favourable to induce many operators to accept a three-year agreement which continued the relatively high wage levels of 1922. In the United States, as in Britain, the miners' aim was to secure a national wages

²⁴ Below, p. 573.

²⁵ For useful surveys of the history of the miners and their union in the context of the industry's problems, see Johnson, *Politics of soft coal*; Baratz, *The union and the coal industry*,

²⁶ For Lewis, see Dubofsky and Van Tine, *John L. Lewis*.

²⁷ *Majority report of the U.S. Bituminous Coal Commission*. Compare the first-stage reports of the Royal (Sankey) Commission of 1919: P.P., xi.

²⁸ As with the Samuel Commission in Britain three years later, the U.S. Coal Commission had relatively little effect on the industry or on policy towards it. In its report the commission condemned 'violence, thuggery, and gun work' and went on to tell a horrific tale of private wars and massacres. (I, p. 156.)

scale.²⁹ Although not national in scope (it applied only to the Central Competitive Field) the Jacksonville Agreement was oriented to national problems—partly because the union hoped that it would be enforced by Federal agencies, but principally because of the expectation that the relatively efficient and mechanized mines of Pennsylvania and the Midwest would be able to ‘discipline’ the less efficient southern mines, which would be driven out of business by uniform national wages. In fact, the agreement was a failure. It could not be generally enforced, the demand for coal continued to stagnate, capacity was still excessive, and competition intensified. Above all, the non-unionized mines of the southern Appalachian states lowered wages and extended production—reaping large market advantages at the expense of the unionized districts north of the Ohio River. In effect, the Jacksonville Agreement accelerated the changes in the distribution of coal production between union and non-union areas. Between 1923 and 1933 the proportion of national output produced in Pennsylvania, Ohio, Illinois and Indiana fell from 56.5 to 45.0 per cent, and that produced in West Virginia, Kentucky, Virginia, and Alabama rose from 32.7 to 44.2 per cent.³⁰

Operating losses began to affect the colliery companies of the Central Field even before the end of the Jacksonville Agreement. However, in language reminiscent of the British miners’ rallying cry in 1926—‘not a penny off the pay, not a second on the day’—Lewis and the U.M.W. refused to renegotiate the Jacksonville scales with the slogan ‘no backward step’. Operators in Indiana, Ohio, and Pennsylvania therefore evaded or abrogated the agreement and introduced non-union labour. Wages were cut ruthlessly—reaching \$5 a day (a decline of one-third) by 1927 even in Illinois, and much lower levels in the south³¹—and less and less work was available. In the mid-1920s strikes and strike-breaking, repression, violence, and evictions intensified.³² By 1927, when the Jacksonville Agreement formally expired, almost universal wage cuts were inevitable. The U.M.W., its power base shrunken, fought a hopeless strike; and Lewis was ultimately obliged to inform his district members (as the Miners’ Federation of Great Britain had been obliged to do in the previous year) that they would have to settle on a local basis as best they could. In the 1920s the level of unionization in the American industry shrank from 70 to 20 per cent of the work force.

Yet, as happened in Britain at the same time, lower wages in American coalmining did not produce prosperity. Alternatives had to be pursued. In Britain this had entailed voluntary marketing schemes in the principal coalfields. But these were unsuccessful in Britain and hardly attempted in the United States. The strategy that was ultimately sustained in both countries involved government-enforced controls on marketing and competition. Regulation grew out of the desperation of an industry in crisis.

²⁹ Hammond, ‘The Coal Commission’, p. 543; Baratz, *The union and the coal industry*, ch. 7; Supple, *British coal industry*, pp. 156-8.

³⁰ U.S. Supreme Court, records and briefs, vol. 298 (1935), exhibit 1083.

³¹ Parker, *The coal industry*, p. 67; Schmookler, ‘Bituminous coal industry’, p. 85.

³² *Conditions in the coal fields of Pennsylvania, West Virginia, and Ohio*.

III

The first large-scale measure of government intervention designed to improve the economic situation of coalmining in either country³³ was the British Coal Mines Act of 1930. Enacted by the minority Labour government, its principal purpose was to increase prices, and therefore profitability, so that the length of the working day could be lowered without a reduction in the miners' daily wage. This aim was embodied in part I of the Act, which provided for the control of competition by the creation of a central committee to allocate production quotas to each main coalfield, and of coalfield committees to allocate the district quotas to individual enterprises and set minimum prices for each district's output. Membership of the scheme was compulsory. In effect the state had created an embryonic cartel arrangement for each of the principal districts.

The Coal Mines Act of 1930 also had another aim. Part II of the Act created a Coal Mines Reorganization Committee, charged with the encouragement and possible compulsory enforcement of mergers (and, by that means, lower costs) in the industry. In the event, the commission's efforts were rendered nugatory by the coalowners' determined opposition, by serious flaws in the legislation, and by political reservations about a policy of enforced rationalization at a time of mass unemployment.³⁴

The official British marketing schemes were also seriously deficient in their original forms. The independence of the various districts meant that inter-district competition continued, prices could be manipulated, and individual evasion was widespread. As a result, in 1933 the central committee was given greater authority over price-setting and inter-district competition was abated; and in 1936 each district was obliged to sell its entire output through a single agency or firm. By the late 1930s the marketing of British coal, and the setting of prices, had come under a complex, and effective, system of collective control.

In the United States, efforts to 'stabilize' the market by the collective control of capacity and prices also followed the disruptive wage cuts of the 1920s. In 1928, 1930, and 1932 bills were introduced into Congress designed to restrict the growth of coalmining capacity, restrain competition, and grant exemption from antitrust legislation to pooling arrangements or mergers.³⁵ None of them was successful, and in 1932 an effort by Representative David Lewis of Maryland (a former miner) to introduce legislation closely based on the British Coal Mines Act of 1930 also failed.³⁶ Nevertheless neither the industry's problems nor its helplessness could be permanently ignored. After Franklin D. Roosevelt had been elected and installed, Lewis introduced yet

³³ For fuller treatments of British and American public policy towards the coal industry in the 1920s and 1930s, see Supple, *British coal industry*, chs. 6, 8, 13; Kirby, 'Control of competition'; Johnson, *Politics of soft coal*, chs. 4-9; Parker, *Coal industry*; Baker, *National Bituminous Coal Commission*.

³⁴ Supple, *British coal industry*, pp. 341-58.

³⁵ The 1928 Bill provided for a Bituminous Coal Commission to license all producers of coal destined for interstate commerce, and to authorize mergers or pools and cooperative marketing schemes, which would be exempt from the antitrust laws. The 1932 Bill also proposed a licensing commission, which would oversee marketing pools and the setting of minimum prices.

³⁶ Lewis's Bill provided for district boards, production quotas, self-regulation by councils of operators, and district-based sales agencies.

another Bill modelled on the British law (in June 1933).³⁷ By then, however, the intensity and character of the slump had led to plans for more general market and price controls. With the introduction of the National Industrial Recovery Bill, the proposed coal bill was withdrawn. Instead, advocates of regulation in the bituminous industry could at last take heart from the possibility of formulating an industrial code under the terms of the new enabling act.

Such a code was finally agreed in September 1933. It provided for collective bargaining, the establishment of minimum prices, and rules for marketing practices designed to prevent 'unfair', 'ruthless', or 'destructive' competition. Admittedly, the code was abandoned in 1935, when the National Industrial Recovery Act was declared unconstitutional. But even before then there had been numerous complaints about 'price-chisellers' and evasions—much as there had been complaints about the ineffectiveness of the marketing clauses of the British Act of 1930. Consequently, the mineworkers' union, after consultation with code administrators and representatives of northern coal operators, produced plans for more effective legislation specific to the coal industry.

The outcome was the Guffey-Snyder Act of 1935, which provided for collective bargaining and the industry-wide enforcement of wage and hour agreements, and created a National Bituminous Coal Commission to enforce a code of 'fair competition' and to oversee a system of district-based minimum prices. The latter (although nominally to be approved by the commission) were set by district committees which, like their British counterparts, were composed of coal operators. 'Intervention' in the industry was, in effect, a form of self-regulation, although controversial provisions for production quotas—along British lines—and for the direct control of capacity had been abandoned in the early stages of the legislative process. The nominally voluntary scheme was to be enforced by the imposition of a tax of 15 cents per ton, 90 per cent of which would be refunded to those firms complying with its provisions.

The Guffey Act provoked a good deal of opposition from commercial coal operators (particularly in the south) and from the owners of captive mines, who objected to its constraints and impositions on private enterprise and on the local determination of wages and conditions. As soon as it was enacted therefore, it was challenged in the courts, and in 1936 in *Carter v. Carter Coal Co.*, was declared unconstitutional. The principal grounds of the decision were that wages and working conditions were matters beyond the federal government's authority, and that the comprehensive enforcement of hours and wages agreed by only part of the industry was 'an intolerable and unconstitutional interference with personal liberty and private property.'³⁸

The supporters of regulation, although dismayed by the Carter verdict, were not defeated. An immediate attempt to reintroduce legislation which

³⁷ See Lewis's evidence in *To create a bituminous coal commission*, pp. 201ff.

³⁸ Quoted in Longin, 'Coal, Congress and the courts', p. 120. The majority judgement did not pronounce on the constitutionality of the provisions for minimum prices—on the grounds that the provision for price regulation were so intimately bound up with that for wages and hours that 'the fall of the latter . . . carries down with it the former'.

might circumvent the Supreme Court's objections was the victim of a Senate filibuster in June 1936. But after Roosevelt's resounding re-election later that year a new bill was introduced early in 1937, as the result of consultation between Senator Guffey, John L. Lewis, and Charles O'Neill, president of the National Association of Bituminous Coal producers (a pressure group of pro-regulation operators). The new bill had a smooth passage and was signed into law on 26 April 1937. The main differences between the new act and the 1935 legislation, adopted to meet the Supreme Court's objections to the first act, were the dropping of the provisions for regulating hours, wages and conditions; and a tightening of procedures for price determination, which was made more explicitly the responsibility of the commission.

The 1937 Act was not without its problems: the commission was dogged by prolonged negotiations and objections concerning the setting of minimum prices; by internal dissension; and by administrative incompetence and the taint of corrupt patronage.³⁹ It was, therefore, not until 1940 that a more or less effective price code could be promulgated—by which time the commission had been disbanded (in 1937) and its functions assumed by the Department of the Interior. On the other hand, in the late 1930s a shift in the composition of the Supreme Court and in judicial interpretations legitimized such federal regulation, and in 1940, in *Sunshine Anthracite Coal Co. v. Adkins*, the court upheld the constitutionality of the Bituminous Coal Act of 1937. Although it was not until the very eve of the Second World War that legislation for the cartelization of the American coal industry was definitively achieved, the institutional context for the coal industry had long since been transformed by changing attitudes in the private and public domains.

IV

Regulation in coalmining was obviously incidental to 'crisis management', and to that extent it was reactive rather than positive. The employment of low-cost non-union labour was easier in the United States than in Britain. But the violence of the resulting conflicts was commensurately greater. And on both sides of the Atlantic, as owners attempted to reduce costs by cutting wages, so the resulting labour relations conflicts inevitably involved the state.

Initially, governments, even while attempting to mediate in conflicts, were content to conform to the presumed dictates of market forces and ideological commitment. Yet it became increasingly clear that cost saving by wage cuts was not capable of rescuing either industry from the extremes of surplus capacity and competition. Indeed, by 1927-8 conditions in mining communities had reached a desperate point.⁴⁰ The feeling then grew that there was a moral and political limit to wage reductions below what the Miners' Federation of Great Britain referred to as a 'social wage' and the United Mine Workers as an 'American standard'.⁴¹ And yet in both countries the

³⁹ Baker, *National Bituminous Coal Commission*, ch. 5.

⁴⁰ Supple, *British coal industry*, pp. 178-9, 260-4; Dubofsky and Van Tine, *John L. Lewis*, pp. 146-7; *Conditions in the coal fields of Pennsylvania, West Virginia, and Ohio*.

⁴¹ Supple, *British coal industry*, pp. 101, 110, 127-9, 217-8, 223-4; Dubofsky and Van Tine, *John L. Lewis*, p. 138.

situation of the industry, and the workers within it, grew worse after 1929 as the depression took hold.

Against this background, and short of unthinkably extreme experiments in industrial reform and ownership, attention had to be paid to ways in which the industry could increase the income from which wages were paid. Years of bitter experience, said a spokesman for the U.M.W. in the mid-1930s, had proved 'that underlying the turbulent history of labour relations in this industry is the competitive pressure which often made it difficult or impossible for employers to pay a decent wage or earn a profit.'⁴² The defence of miners' living standards would have to depend on the defence of operators' profits through some form of industrial restructuring.

In one sense the official imposition of cartel arrangements flowed from a sense of the demoralization of the industry through excessive competition and price destabilization. But in the last resort the policies of market control were brought into being by instability and deteriorating welfare in mining communities, rather than by any determined pressure from the business groups which would be the immediate beneficiaries of regulation. Indeed, it was the miners' union which played the vital role in the legislation which actually changed marketing structures. And the balance of the political argument was summed up in the words of the U.S. Assistant Attorney-General in 1936: 'It is cheaper in the long run to regulate the industry than to try to keep the peace in it.'⁴³

Of the two unions, the U.M.W. played a far more direct, and ruthless, role in its attempt to stabilize the industry so as to sustain wages—even at the expense of a reduction in available employment. As early as 1923 its leader, the formidable John L. Lewis, had suggested one extreme solution: 'Shut down 4,000 coal mines, force 200,000 miners into other industries and the coal problem will solve itself.'⁴⁴ But for much of the 1920s, as we have seen, the U.M.W. relied on direct attempts to negotiate and enforce favourable wage agreements. Only after 1927, when this strategy was seen to be a complete failure, and the membership of the union had plummeted,⁴⁵ did Lewis and his colleagues begin to press systematically for industrial reorganization.

Their logic was straightforward: 'when the operator is not making a profit he cannot pay decent wages to the miner';⁴⁶ wage-cutting would reach disastrous depths unless there was 'a reasonable margin of profit'.⁴⁷ Such an improvement in profit margins (in fact the industry was running at a persistent loss throughout these years)⁴⁸ could most easily be attained by

⁴² *Stabilization of the bituminous coal mining industry*, p. 17.

⁴³ Mabry and Roberts, 'The Bituminous Coal Conservation Act', p. 245. Compare the memorandum by the British Secretary for Mines in 1933, which argued that the marketing provisions of the Coal Mines Act of 1930 were 'a buffer between the Community and economic and social strife in the coal industry': P.R.O., P.R.E.M. 1/172 (12 Dec. 1933).

⁴⁴ Seltzer, *Fire in the hole*, p. 47.

⁴⁵ It has been estimated that the union's membership, which had been some 500,000 in 1921-2, fell to about 80,000 in mid-1928. See Dubofsky and Van Tine, *John L. Lewis*, p. 147.

⁴⁶ Van A. Bittner, on behalf of the U.M.W., in *To create a Bituminous Coal Commission*, p. 187.

⁴⁷ Henry Warrum, on behalf of the U.M.W., in *Stabilization of the bituminous coal mining industry*, p. 17.

⁴⁸ Taken as a whole, the industry lost money in 1925 and 1928-39. It barely broke even in 1926-7. Losses were reduced after 1933. See 'A half century in coal', p. 131; Schmookler, 'Bituminous coal industry', p. 86.

control of the chaotic market for bituminous coal. But the owners, even when influential groups among them favoured such coordination, were unable to ensure a sufficient degree of support for collective action: 'Time and experience', said the President of the American Federation of Labour, 'have shown that it is impossible for the owners and managers of the bituminous coal industry to establish and maintain stability. They cannot put their own house in order.'⁴⁹ To attain market control, therefore, it was necessary to introduce legal compulsion.

On this basis the U.M.W. pursued the regulation of competitive practices, the setting of minimum prices, and the legal enforcement of collective agreements and improved wages. It sponsored the bills of 1928 and 1932, and was a determined activist in the formulation of the N.R.A.'s Bituminous Coal Code in 1933. By 1933 many influential operators were ready to accept government intervention—not least because the N.R.A. codes involved a large measure of self-regulation.⁵⁰ But there could be little doubt where the real initiative lay. The miners' union used the threat of a strike to bring negotiations about an acceptable code to a conclusion, and two years later their representative claimed with some force that:

There is only one policeman in the coal business. It is not the N.R.A. It is the United Mine Workers of America. If the bituminous coal industry had been given a code in 1933, without the protecting influence of an organization to standardize and properly correlate wages, the bituminous coal mining code would not have lived three months.⁵¹

Nor was this effort wasted: the bituminous coal code helped to increase wages (between 1933 and 1934 average hourly earnings rose from \$0.50 to \$0.67, although the weekly hours actually worked fell slightly, from 29.5 to 27),⁵² and its existence was a spur to an almost miraculous recovery in U.M.W. membership.⁵³

The policing role claimed for the U.M.W. was further exemplified as the initial experiment in official cartelization ran into difficulties. Thus, the miners pressed (with some success) for a tightening of the administration of the bituminous coal code, threatening 'to take such steps as may be deemed necessary to protect the interests of its membership'.⁵⁴ And in May 1934 they urged the National Coal Association to join in sponsoring a bill for the stricter regulation of the industry; and when these discussions faltered the union (even before the N.R.A. had been judged unconstitutional) took the initiative itself in what was to become the 1935 Act.⁵⁵

The U.M.W.'s Bill had been sponsored in January 1935 by Senator Joseph Guffey of Pennsylvania, a friend of John L. Lewis. Amended to take account

⁴⁹ *Stabilization of the bituminous coal mining industry*, p. 549.

⁵⁰ Hawley, *The New Deal*, ch. 3.

⁵¹ *Stabilization of the bituminous coal mining industry*, p. 151.

⁵² *Statistical history*, p. 93.

⁵³ *Energy resources and national policy*, pp. iii, 75.

⁵⁴ Dubofsky and Van Tine, *John L. Lewis*, p. 373. In Jan. 1935 the union secured a strengthening of the code administration by threatening a strike.

⁵⁵ Cushman, *The independent regulatory commissions*, p. 372.

of the N.R.A. verdict, the Bill was powerfully defended by the U.M.W. in committee, and then urged through Congress by an eager President in the shadow of yet another strike threat by the union.⁵⁶ And when the new law was also declared unconstitutional, the union moved rapidly to ensure the introduction of alternative and more acceptable legislation (the Guffey-Vinson Act of 1937).

In each case, and by contrast with the situation in the 1920s, a considerable number of operators (particularly in the Central Competitive Field and after the experience of the N.R.A. code) saw the business advantages of price control—just as they were coming to see the advantages of stable wages, prices, and unionization over the fluctuating fortunes and conflicts of a competitive and part-unionized industry.⁵⁷ But it was the determination of the union to pursue the legalization of a cartel which remained the dominant feature of the legislative history of coal regulation.

As a result of this determination, there were two respects in which U.M.W. policy contrasted radically with that of the British miners' union. On the one hand, the U.M.W. was ready to abandon the legal protection of collective bargaining and improved wages and hours, when it was thought to be an obstacle to the constitutional acceptance of the law.⁵⁸ On the other, the American union was also ready to accept the inevitable concomitant of price supports—a reduction in the sale of coal and therefore of available employment. Indeed, this was part of the U.M.W.'s explicit objective in the quest for better wages. The union was ruthless in its view that the industry was too large, and that economic health—of working miners as well as coal operators—could only be assured by a reduction in the number of firms and the elimination of thousands of miners: 'We feel that there has got to be something done to trim out this fringe of the helpless and hopeless miners. There are a lot of them working in uneconomic mines that have no business to operate at all'.⁵⁹

In Britain, the course of legislative intervention was smoother than in the United States (there being less opposition to legal cartels from among the owners⁶⁰ or on general political or ideological grounds). And even though the Miners' Federation of Great Britain (M.F.G.B.) played a more indirect role than the U.M.W. in the reform of marketing arrangements, the fundamental logic of the drama was the same. A politically urgent improvement in the position of the mining labour force (in Britain, in 1929-

⁵⁶ *Stabilization of the bituminous coal mining industry*; Mabry and Roberts, 'The Bituminous Coal Conservation Act', p. 247n.

⁵⁷ See the comments of the president of the North American Coal Corporation in 1931: 'I would much prefer to deal with the Union of Mine Workers than with these ruthless, price-cutting, wage-cutting operators who are a detriment to the whole industry.' Quoted in Dubofsky and Van Tine, *John L. Lewis*, p. 173.

⁵⁸ The U.M.W. was, of course, confident that a more profitable industry would pay better wages, and in any case the position of trade unions was to be generally protected by the Wagner Act of 1935.

⁵⁹ *Stabilization of the bituminous coal mining industry*, p. 33. This view was constantly repeated among union spokesmen. The initial draft of the Guffey Act of 1935 provided for the creation of a fund to allow for the 'rehabilitation' of displaced miners, but the provision (together with a provision for district production quotas) was easily abandoned in an attempt to make the Bill politically acceptable.

⁶⁰ British coalowners made a sustained attempt to establish private marketing schemes in 1927-8: Supple, *British coal industry*, pp. 208-13.

30, this took the form of a reduction in the hours of work without a reduction in wages), could only be paid for by an abatement of competition which would increase the industry's proceeds. This was, of course, the direct origin of the Labour government's Coal Mines Act of 1930. And while the British union—far more reluctant than the U.M.W. to advocate or support any measure which might benefit the employers—was by no means an active advocate of cartelization, its pressure on the Labour government for a reduction in the working day ensured, and its subsequent cooperation sustained, the new legislation. More than this, in both 1933 and 1936, when the marketing scheme was tightened, reforms were induced not simply by the business desire for more 'orderly' marketing, but by pressure from the labour force to oblige the coalowners to come into line, and by fear of unrest (the threat of further social dislocation in the depression year of 1933 and the need to pay for a national wage award in 1936).⁶¹

The British miners were much less prepared to accept, let alone sponsor, reductions in the industry's work force than the American union. Admittedly, during the anxious negotiations of 1926, M.F.G.B. leaders did imply that they were willing to condone a large increase in unemployment rather than accept a reduction in wages or an increase in hours.⁶² But their determination was not then put to the test, and by the mid-1930s they had doubts about a policy of enforced amalgamation on the grounds that it might disrupt coalmining communities and provoke further unemployment in the industry.⁶³ Nevertheless, in practice, the British miners' leaders must have been fully aware that the cartels that were accepted and reinforced as the means to higher wages also entailed higher prices and lower sales—and therefore lower levels of employment.

In both countries, therefore, the ostensible reason for state intervention in coalmining derived from excessive competition; but the steps actually taken derived from the more obvious *political* need to stabilize the economic position of working miners. This point was tellingly made by Franklin D. Roosevelt when he urged Congressmen to put aside any reservations about the constitutionality of legislation in 1935:

Competition and overexpansion have brought destructive price reductions, which have inevitably reacted upon labor standards, with a resulting dislocation, restriction, and obstruction of interstate commerce and a recurring danger of industrial strife.⁶⁴

The way in which the pressure for regulation arose also helps explain its form: schemes for marketing controls offered the best promise of increasing the proceeds needed to increase the rewards of the labour force, while not offending the ideology or (more important) the interests of most of the leading coalowners. At the same time, the delay in legislation was, in both countries, a function of the need to learn from the bitter experience of the

⁶¹ *Ibid.*, pp. 339-40.

⁶² *Ibid.*, pp. 238, 240; *Diary of Beatrice Webb*, IV, p. 84.

⁶³ *Supple, British coal industry*, p. 352n.

⁶⁴ Quoted in *Congressional record*, LXXIX, p. 13,449 (16 Aug. 1935).

1920s—the ineffectiveness of price and wage reductions, the disruptive consequences of prolonged and vicious labour disputes. By the end of the decade governments had to reckon with the determination of the miners' unions to avoid a repetition of those 'lessons'. History, as always, loomed very large in the miners' outlook. This was summarized by John L. Lewis in 1935:

The depths of the depression which existed in the industry, the degree of human misery which existed in the industry, prior to the enactment of the National Industrial Recovery Act have left such terrifying scars upon the minds and the hearts of the men in the coal industry that . . . they are fearful of a return to that situation, and they ask the Congress of the United States to stop this coal industry in its mad downward course, because it means life or death to the mining population of this country.⁶⁵

Forceful as such arguments were, political and economic pressure by the labour force alone cannot explain the timing or the pattern of regulation. Instead, it must be considered in conjunction with the role of the two other parties to the political economy of the industry: the coalowners and the state.

V

To the outsider during the interwar years, the inability of businessmen in British and American coalmining to introduce more order into their industry was a cause of increasing complaint and constant wonder. Metaphors about the need for the industry to put its own house in order, and the propensity of the owners to cut their own throats abounded in both countries.⁶⁶ In the United States this pathology was occasionally attributed to the inhibitions of antitrust legislation. But more often, and even after the law encouraged collusion, others were constantly exasperated by the 'characteristic inability of the coal operators . . . to agree on any plan that would save the industry from ruin.'⁶⁷

Frequently, these failings were attributed to obstinacy or stupidity. The owners and managers were individually 'just as fine citizens and intelligent men as exist in any cross-section of our population', argued John L. Lewis, 'but they are unintelligent and incapable of being able to function in any collective sense. They cannot protect themselves against each other.'⁶⁸ On the other hand, as has already been noted, there were powerful structural obstacles to voluntary cooperation in coalmining. As with agriculture, ease of entry to the industry, the sheer number and resilience of firms, and the possibility of some of them benefiting from (and therefore nullifying) costly

⁶⁵ *Stabilization of the bituminous coal mining industry*, p. 546.

⁶⁶ Supple, *British coal industry*, pp. 348, 352n, 614n. In 1928 John L. Lewis argued that it was necessary to amend the antitrust law so as to allow the operators to organize their industry more effectively, 'or do something that will instill some degree of confidence in the coal companies of this country so that they can put their financial and operating households in order'. See *Conditions in the coal fields of Pennsylvania, West Virginia, and Ohio*, p. 414.

⁶⁷ Senator Neely, in *Stabilization of the bituminous coal mining industry*, pp. 203-4. Also see pp. 157, 549-50.

⁶⁸ *Ibid.*, p. 546.

action taken by others, made collective agreements concerning capacity or prices difficult to arrange and almost impossible to enforce. The ranks of the coalowners were full of free riders.

This is not to deny that the industry faced some peculiar problems of attitude and ideology. Coalowners were notorious for their individualism and resentment of outside interference (whether from other business associations, from unions, or from government). Yet problems of communication or ideological attitudes alone could hardly have explained an apparently self-destructive aversion to either voluntary or legislative protection. The failure to cooperate must be sought in other areas than prejudice or even ideology. As one Senator inelegantly put it, 'one's urge for rugged individualism somewhat abates after he and his plants all get into the bankruptcy courts, does it not?'⁶⁹

In an industry as fragmented as coalmining, the difficulties and costs of arriving at effective voluntary agreements on prices and marketing were extremely high. Because it was difficult to organize voluntary cartels, it was logical for some (although by no means all) firms to seek compulsory regulation. Further, the miners' political leverage meant that the industry could secure regulation at a lower 'cost' than would otherwise have been the case.⁷⁰

The obstacles to voluntary efforts at cooperation were demonstrated in Britain in 1927-8, when owners in each of the principal coalfields devised widely supported marketing schemes, only to see them collapse as the minority of non-members took advantage of the prices set by members.⁷¹ In the United States throughout the 1920s the inhibitions of an antitrust culture and 'the rhetoric of laissez-faire'⁷² certainly constrained any search for legislative succour. But such sentiments were reinforced by the greater intensity of competition and by the fragmentation of the industry into clashing geographical interest groups.

The main exception to this generalization was Appalachian Coals Inc., an agency which was formed early in 1932 to unite the marketing interests of 137 firms in the 'Southern High Volatile Field' of Virginia, West Virginia, Kentucky, and Tennessee. Appalachian Coals was not directly involved in any selling (that was the function of a sub-agency). Instead, it announced and attempted to maintain minimum prices for its producer-shareholders, and apportioned orders among them. The principals controlled some 73 per cent of local output, although that represented only about 12 per cent of the coal mined east of the Mississippi. Yet even here, the constituent firms were careful to limit membership so as to avoid a successful antitrust suit; and in any case the agency's main markets lay in areas (particularly north of the Ohio), where they met substantial competition from other producers.⁷³

⁶⁹ Ibid., p. 70.

⁷⁰ For a discussion of the theory of regulation, see Posner, 'Theories of economic regulation', pp. 34-7.

⁷¹ Supple, *British coal industry*, pp. 210-3.

⁷² Hawley, *The New Deal*, p. 265.

⁷³ Parker, *The coal industry*, p. 163; *US 288*, 364, 356-7; *US 288*, 360-8. This was an important reason for the finding of the Supreme Court (contrary to the view of the Justice Department) that Appalachian Coals Inc. was not in breach of the antitrust laws.

Appalachian Coals remained an exception to the general rule: although it was in the interest of many businesses to secure some degree of collective action, such action could not be agreed, or if agreed not enforced, without some external constraint. In general, 'the operator was the victim of circumstances over which he had no control, unless that control came from Congress.'⁷⁴

The volatile character of the American industry possibly explains the more intense opposition of many American operators to legislative compulsion when it finally arrived. Thus, in comparison with the enactment of the British Coal Mines Act in 1930, the National Recovery Administration had much greater difficulty in 'persuading' American operators, especially in the south, to devise an industrial code for competition in 1933. Indeed, under pressure from the miners, the president had to issue an ultimatum to the owners' representatives to ensure action.⁷⁵ More tellingly, even though business experience under the code in 1934-5 was broadly favourable (prices were higher and more stable),⁷⁶ there was still a large minority opposition to the strengthening of regulation through the Guffey Bill in 1935.⁷⁷ The root of the difficulty here was the fact that the benefits of control were likely to be unequally distributed. In particular, southern operators were suspicious that the Bill was designed to give Pennsylvania and other northern or mid-western firms a bigger share of the market. 'Someone in Pittsburgh', claimed a spokesman for Kentucky operators, 'is back of this Bill that wants to take our tonnage away from us.'⁷⁸ As this implies, intra-industry controversy was largely a matter of inter-regional divisions (the southern companies in America and the export districts in Britain being more recalcitrant in the face of government intervention or industrial cooperation). But even within regions, it was by no means always in the interests of every operator or owner to accept effective restrictions on competition and marketing.

The resulting disputes lasted much longer in the United States than in Britain—where the main original opponents of cartelization were relatively soon persuaded of its advantages, and the various district committees which oversaw quotas and prices operated fairly smoothly from the early 1930s. In the United States, by contrast, the fragmentation of business interests in the industry, together with the more explicit preoccupation with constitutional and ideological obstacles to competitive collusion, continued to be reflected,

⁷⁴ Henry Warrum (on behalf of the U.M.W.) in *Stabilization of the bituminous coal mining industry*, p. 13.

⁷⁵ Longin, 'Coal, Congress and the courts', pp. 105-6.

⁷⁶ Johnson, *Politics of soft coal*, pp. 201-4; Longin, 'Coal, Congress and the courts', p. 106; Parker, *The coal industry*, pp. 125-7.

⁷⁷ *Stabilization of the bituminous coal mining industry*, pp. 234, 252, 261, 289. Enthusiasm (among coal operators) for the 1933 code and regulation generally appears to have waned with the beginning of economic recovery. Longin, 'Coal, Congress and the courts', p. 106.

⁷⁸ *Stabilization of the bituminous coal mining industry*, p. 333. The Bill was much amended to take account of regional objections, and it was said that the final version was the fifth draft. Even so, intra-industry suspicions remained (one Representative said that the Guffey Bill should really be entitled 'A Bill to provide a means by which West Virginia and Pennsylvania may control the coal markets of the United States of America') and there was uncertainty and disagreement about the exact degree of support from operators, although it does seem that northern firms were fairly strongly in favour of legislation. See *Congressional record*, LXXIX, pp. 13,514, 13,945, 13,957 (17 and 21 Aug. 1935).

first in the controversies concerning the New Deal code and legislation, then in attacks on the constitutionality of legislation, and finally in persistent (and for some time successful) challenges to the price setting of the National Bituminous Coal Commission.⁷⁹ As a result, it was not until October 1940 that the decisive work on a system of minimum prices, begun with the Act of 1937, was completed.⁸⁰

In spite of this situation, a majority of operators in America were ultimately persuaded that it was in their interest to accept a substantial degree of market cooperation, orderly relations with miners, and improved wages.⁸¹ Although formal regulation was only belatedly and intermittently adopted in the United States, by the mid-1930s, in both countries, labour relations had improved; more owners were consciously seeking effective relations with the union in order to foster 'moderate' elements within their work force; 'fringe benefits' such as vacation pay and improved welfare, were being widely canvassed; and wages rose and hours fell in both countries.⁸²

In these respects the demoralization of the industry had been arrested. Admittedly, this was effected only at the cost of diminishing the numbers employed and (more particularly in the British case) possibly encouraging the continuance of relative inefficiency by the control of prices, output, and competition.⁸³ But even if interwar policy towards the coal industry was ultimately more concerned with social welfare than economic efficiency, the consequences (since they were associated with improved profitability) appeared to coincide with the aspirations of a majority of the businessmen involved.

VI

To study government intervention in the coalmining industry is to be reminded of the ambiguity of the very concept of the state in the history of economic regulation. The interpenetration of ideas and activity by interest groups, politicians, civil servants, and jurists in the formulation of policy is an emphatic indication of the 'porous' character of the boundaries between the private and public spheres. From their origins to their applications the regulatory devices applied to coalmining in Britain and America depended on the political and administrative participation of representatives of labour

⁷⁹ Although the intra-industry clash of interest and attitude was more visible and stronger in the United States, there were comparable, if more muted, divisions in Britain, where the more vigorous competitive ethos of the coalowners in the export districts (who had to operate in world markets) inhibited the progress towards cartelization in the late 1920s and early 1930s, much as many southern Appalachian operators did in the United States.

⁸⁰ Baker, *National bituminous coal commission*, chs. IV and VI; Longin, 'Coal, Congress and the courts', pp. 125-6.

⁸¹ Quite apart from the stability of labour relations encouraged by higher national wages, they had the further advantage, for the operators of mechanized mines, of limiting competition from less productive or more labour-intensive mines. See Christensen, *Economic redevelopment*, chs. VII and VIII.

⁸² Supple, *British coal industry*, pp. 422-3; *Energy resources and national policy*, p. 75; Longin, 'Coal, Congress and the courts', p. 130; Baratz, *The union and the coal industry*, pp. 90-3.

⁸³ Supple, *British coal industry*, pp. 288-9; Prest, 'British Coal Mines Act', p. 331; Johnson, *Politics of soft coal*, p. 238; Fisher and James, *Minimum price fixing*, pp. 435-40; Longin, 'Coal, Congress and the courts', pp. 129-30.

and business—of miners' M.P.s with political leverage in Britain; of the U.M.W.'s spokesmen, legal draftsmen and congressional allies initiating and driving forward legislation in the United States; of coal operators and coalminers serving in the legislatures and regulatory agencies and committees in both countries. Given the pressing motives that interest groups had, together with the relative lack of expertise and 'capacity' for industrial oversight among the state's professional servants, all this was hardly surprising.⁸⁴ From the viewpoint of its regulatory functions 'the state' was by no means a separate and objective reality—even though politicians and bureaucrats had their own concerns for stability and continuity, and were as capable as any other group of developing their own interests and expertise.

No simple model of government-business relationships provides an exact guide to the evolution of regulation in the coal industry.⁸⁵ A sense of the public interest, the moral concerns of the electorate, government anxieties about social destabilization, and (most important of all) group pressures; all played a part, reinforcing each other. Thus, threats of social and political destabilization were important instruments in securing a hearing for the miners' viewpoint. But even here, the role of the coalowners was important, for their cooperation was essential, and that cooperation could only be gained insofar as regulation was ultimately recognized to be in the interest of a sufficient number of them. Regulation was therefore made possible, as one American Congressman put it, by 'practical, hard-headed businessmen and hard-working miners—not fanciful theoretical college professors bent on conducting some new social or economic experiment'.⁸⁶

The initially innocuous role of civil servants was perhaps more obvious in the United States. There, the bureaucracy had a briefer and more attenuated experience of regulation, and senior administrators were more transient in their tenure and less powerful than their British counterparts. The greater continuity and influence of British civil servants, and the more extensive political experience of British cabinet ministers created the possibility of a better-informed administration as far as industrial legislation and oversight were concerned. Consequently, the British Mines Department (created in 1920) played a continuous part in the interwar discussion of politics and regulation, even though this was largely a matter of helping to determine official responses to pressures, rather than initiating policy.⁸⁷

Even before the immediate threat of political crisis, the official approach to coalmining in America and Britain had broad similarities. Thus, during and after the First World War shortages and instability in both countries meant that the state's traditional concern with safety and geology was rivalled and overtaken by a concern with economics and labour relations. And after the war this led to the creation of a new department of state in Britain (the

⁸⁴ For the concept of state capacity, see Skocpol and Finegold, 'State capacity'.

⁸⁵ For a discussion of the varying approaches to government regulation, see McCraw, 'Regulation in America'. For a discussion of theories of regulation in the context of economic analysis, see Posner, 'Theories of regulation'.

⁸⁶ Representative Faddis of Pennsylvania, on the Guffey Bill: *Congressional record*, LXXIX, p. 13,432 (16 Aug. 1935).

⁸⁷ Supple, *British coal industry*, pp. 595-8; Kirby, 'The politics of state coercion'.

Mines Department in the Board of Trade in 1920); while in the United States in 1925 the Bureau of Mines and the statistical service of the Geological Survey were transferred into the Department of Commerce.⁸⁸

The war also served—albeit briefly—to lift official horizons. In 1919, for example, the American Fuel Administrator, Henry Garfield (by no means a very radical man) attempted to persuade President Wilson to create, in effect, industry-wide institutions reporting to an industrial Cabinet.⁸⁹ And in Britain at the same time, while the miners' union mounted a campaign for the nationalization of coalmining there was an even more widespread sense that the industry might be more effective and humane if drastically reorganized under public sponsorship and with a large degree of public control.⁹⁰

Nothing came of these arguments, of course. But even after 1919, the theme of systematic reform was a constantly recurring one in economic and business discussions in both countries. Thus, as we have seen, Herbert Hoover's sense of rationality was profoundly offended by the chaotic competition in the coal industry, which therefore became the object of his proposals for forms of industrial self-regulation or 'Associationism'.⁹¹ Again and again, competition in the bituminous coal industry, far from being perceived as socially beneficial, was condemned as 'degraded into anarchy'.⁹² In Britain disillusionment with the ability of the coal industry to govern itself also led to widespread discussion of its possible reorganization through compulsory amalgamations, cooperative marketing schemes, official subsidies, and government-backed export cartels.

Admittedly, for most of the 1920s the official view had been that coalmining (together with all the staple industries) would have to find its own salvation.⁹³ But this began to change from the late 1920s, and by the 1930s there was a widespread belief that the state had an indispensable role in the affairs of the coalmining industry. This attitude was more common and less controversial in Britain. But even in America there was a mounting sense that 'something had to be done'.⁹⁴ And in both countries, first the owners' critics and then influential groups among the operators themselves concluded that a satisfactory degree of industrial stability was beyond the capability of the market to attain.⁹⁵

Yet the fact that so much government intervention was based on pragmatic

⁸⁸ Hawley, 'Secretary Hoover', p. 265.

⁸⁹ Cuff, 'Harry Garfield'; *Final report of the United States Fuel Administrator*.

⁹⁰ Supple, *British coal industry*, ch. 4.

⁹¹ Hawley, 'Secretary Hoover', pp. 247-70.

⁹² Fisher and James, *Minimum price fixing*, p. 312 (quoting Justice Cardozo).

⁹³ 'The commission realizes that the largest opportunity and the largest responsibility for putting the coal industry in order lies with the industry itself.' (*Report of the United States Coal Commission*, 1, p. 273.) Cf. the Report of the Royal (Samuel) Commission: 'progress must come mainly from within the industry. . . . The future depends primarily upon the leadership, and the general level of opinion, among the mine-owners and the miners of Great Britain.' (P.P., 1926, xiv, p. 251.) For the staple industries generally, see *Final Report of the (Balfour) Committee on Industry and Trade*, p. 717 ('the first step towards breaking the circle must come from the industries themselves').

⁹⁴ *Energy resources and national policy*, p. 1.

⁹⁵ See the surprisingly similar observations of two economists on the probable inevitability of intervention in the American and British industries in 1925 and 1929 respectively: Hammond, 'The Coal Commission report', p. 581; Clay, *Postwar unemployment problem*, p. 205.

responses to particular problems did not mean that the state had no sphere of existence or operation. The size of the coalmining industry and the concentration and militant cohesiveness of its workforce, raised issues of individual welfare and social harmony which could not be ignored by twentieth-century governments. Consequently, in the interwar years the politics of coal traced similar paths into the 'routine' spheres of government in both countries.

Against this background, the nature of official intervention in America and Britain, even in the disputes of the 1920s, was extraordinarily similar—down to the use of an arbitrating commission when the miners' bargaining strength implied a generous settlement (1919 in Britain, 1920 in the United States), and an ineffectual investigatory commission when downward pressure on wages threatened industrial disruption and time had to be purchased (1922-3 in the United States and 1925-6 in Britain).⁹⁶

All this naturally encouraged a degree of cumulative experience and 'learning'. Some of that learning took place in a systematic framework: the industry was the subject of almost continuous official inquiries in both countries (in the United States there were no less than 18 congressional hearings and reports on coalmining between 1914 and 1973).⁹⁷ There was also an international dimension. For example, the proposed American legislation of 1932 and the Guffey Act of 1935 were directly based on the example of Britain, where, one American legislator argued, the government 'had saved the British coal industry'.⁹⁸ But the most important means of instruction was the direct experience of regulation itself.

This factor was more important in Britain, where by the late 1920s, in the face of the patent failure of market competition to stabilize the industry or eradicate surplus capacity, senior British civil servants and politicians were beginning to contemplate a serious degree of intervention. More generally, by the early 1930s official opinion on both sides of the Atlantic was effectively guided by the intensifying displacement of competitive forces.

Of course, even at this stage the political and constitutional implications of intervention had to be resolved. This was a more critical consideration in the United States, where the individual states were powerless to deal with a national industrial problem (as the governors of the various Appalachian coal-producing states found in the depths of the Depression), but where the constitution appeared to offer obstacles to federal action. In the event, however, explicit restriction of competition in the American coal industry was ultimately legitimated through changes in the judicial and political environment. But those changes were themselves influenced by the depth of the concern about social and labour demoralization; by the extent of

⁹⁶ The 1919-20 commissions were the Sankey Commission in Britain and the Bituminous Coal Commission in the United States. The later commissions were the United States Coal Commission and the Samuel Commission.

⁹⁷ *Energy resources and national policy*, p. 17. The British industry was also subject to numerous inquiries: Benson, Neville, and Thompson, *Bibliography*, pp. 284-91.

⁹⁸ *Stabilization of the bituminous coal mining industry*, pp. 60-3, 70; *Congressional record*, LXXIX, pp. 13,554-5 (17 Aug. 1935). The quotation is from the last reference. The National Resources Committee also sponsored a study of the effects of the British legislation on the performance of the industry: Strasser, *The effects upon operating efficiency*.

public sympathy with an industry where the labour force was able to wield considerable political power; and by the symbolic importance of coal as a natural resource for which a conservation policy was indicated.⁹⁹

Superficially, the situation was different in Britain because of the unimportance of the constitutional issue. Yet this is a misleading formulation for two reasons.

On the one hand, the 'constitutional' obstacles to regulation in the United States did not occupy an arena distinct from 'politics' in its broadest sense. Judicial reinterpretation, government pressure on the courts, transformations of public opinion—all played their part in engineering revisions of constitutional 'reality' in America. 'The paramount responsibility of the Government is to protect the general welfare', it could be officially argued in America, 'No amount of confusing legalistic discussion of the limitation of powers can obscure the reality of the choices before us.'¹⁰⁰ Similarly, it was the presence or absence of political will and public determination in Britain which largely determined the timing and scope of industrial regulation. Hence, without a broad thrust in favour of a compulsory merger policy in the 1930s, the rulings of the Railway and Canal Commission (the court charged with adjudicating disputes under part II of the Coal Mines Act of 1930) played an equivalent inhibiting role to the Supreme Court.

On the other hand, the course of regulation was also a function of the degree to which the industry itself was willing to accept and cooperate with those policies. The proposal that the American coal industry be subject to production quotas (which formed a part of the original Guffey Bill) and the provision for compulsory mergers in the British legislation, were both ineffective in large part because of opposition from important groups of coalowners.¹⁰¹

This is not to argue that there were no differences between the two countries. Rather, it emphasizes similarities which transcended the differences in the pace of intervention and the apparent contrasts of institutional forms and constitutional practice. Yet even in the American setting, coalmining was *sui generis*, and the justification for intervention and a degree of social control was relatively easy. More than this, in both countries the course of regulation was most obviously influenced by the parallel problems of the coal industry, by the activism of its labour force, and by the logic of the restraints on competition.¹⁰²

From these viewpoints, coalmining provides a rather special case study in

⁹⁹ The public interest in the dislocation of labour markets and mining communities was acknowledged in the Appalachian Coals Inc. case (where they appeared to influence the court). Similarly, when the Assistant Attorney General presented the government's case in *Carter v. Carter Coal Co.*, he argued—albeit unsuccessfully—that there was a close relationship between the quality of labour relations and the course of interstate commerce. See *US 288*, 344 ff. and *US 298*, 261 ff. On the symbolic and political significance of coalmining and some other 'sick industries', see Hawley, *New Deal*, ch. 11. Cf. *Energy resources and national policy*, p. 3 (government intervention is justified when competition does not yield 'socially desirable results', which in the case of bituminous coal meant that there was chronic depression and 'demoralizing distress'.)

¹⁰⁰ *Energy resources and national policy*, p. 5.

¹⁰¹ At the same time, however, the prospect of applying a policy of enforced mergers was clouded by the British miners' anxieties about resulting redundancies. See Supple, *British coal industry*, p. 352n.

¹⁰² See the arguments in favour of the Guffey Bill: *Congressional record*, LXXIX, pp. 13,446, 13,574-5.

the interwar regulation of declining industries. It is, perhaps, significant that on both sides of the Atlantic only agriculture—another ‘sick industry’ with considerable political clout and an unstable competitive structure—rivalled bituminous coal in attracting legislative attention to control markets, protect incomes, and provide subsidies. The political leverage of American farmers in particular was comparable to that of the miners.

Clearly, all this was not simply a matter of direct threat and overt militancy. More subtle political pressures were at work, and the influence of interest groups among tenants in agriculture or workers in the mines has to be studied alongside other aspects of the industry concerned—the attitudes of businessmen and capitalists to marketing schemes and government controls, the competitive structure of the industry, the scope for private agreement. But there seems little doubt that in the case of coalmining the position and organization of the labour force was critical. In Britain, for example, they help to explain not merely the structural experiments of the 1930s but also the unusual government subsidies to the industry in 1921 and 1925-6 (designed to fend off or postpone crises of labour relations). Indeed, in the history of Britain’s political economy the position and perception of the coalmining work force meant that the coal industry continued to be a ‘special case’ long after intra-industry competition ceased.

Against this background, it is tempting to argue that the problems and organization of its labour force meant that coalmining was not merely distinctive, but unique. The disparate thrust towards rationalization, marketing controls and the management of competition was widespread, however, even if it was unsystematic and touched few other industries as deeply as it did British coalmining. In both countries the experience of slump and stagnation began to reshape the context within which the role of the state towards basic industries was considered.

In the United States, the process by which competition was regulated and prices supported has been characterized as ‘partial and limited planning’, which occurred, it is argued, when private interests could not attain control of competition without government help, but were able to form strong political coalitions to secure that help; and when intervention could be justified by an appeal to powerful ideological symbols (conservation, the degradation of labour, the ‘little man’) and businessmen were willing to pay a political price (for example, the acceptance of laws protecting trade unions, wages, and hours). These elements were present in the case of the oil industry, railways, and the distributive trades, even though the role of their respective labour forces was relatively insignificant. At the same time, in the United States, there were other staple industries in genuine decline (cotton textiles, clothing, timber, anthracite) where attempts at cartelization failed because they lacked an adequate rationale, or an effective political lobby, or, in the case of cotton (which was otherwise comparable to coalmining in terms of structure and markets) a comparably cohesive and determined union.¹⁰³

In Britain, although coal and agricultural marketing attracted an exceptional

¹⁰³ Hawley, *New Deal*, chs. 11-4, especially pp. 191-4, 220-5, 272.

degree of intervention, competition was also restricted in transport, public utilities, and broadcasting. More pertinently, there were two important examples of the official encouragement or enforcement of restructuring and pricing schemes in staple industries—iron and steel, and cotton.¹⁰⁴ Neither went as far as the cartel arrangements for coal, but both achieved a measure of reorganization in manufacturing capacity—which was more than was achieved in the case of coal.

On the whole, the most extreme examples of state intervention in depressed industries resulted from the need to tackle problems of welfare or crisis management, rather than from clear visions of economic improvement and efficiency. Indeed, there was frequently an explicit tension between economic efficiency and social welfare, which reinforced the official reluctance to interfere with industrial investment against the wishes of many, or even a minority of, businessmen. On the other hand, real or presumed desperation in a well-organized interest group could secure at least a degree of protection. Hence, the extent, even radicalism, of state intervention in coalmining is attributable to the peculiar intensity of the social and political role of its labour force. But by the same token, and given the resistance of coalowners to any enforced restructuring of production, the outcome in coal was more purely protective and defensive. Regulation in itself appeared to have little effect on the structure or efficiency of the industry in either country.

Superficially, then, the outcome of industrial regulation in coal was a measure of success for those involved in the industry. In Britain and the United States, after the slide into deep depression had been arrested, the 1930s were a period of relative price stability, improving profits and better wages and working conditions.¹⁰⁵ This change in the economic, business, and labour environment was in large part attributable to cyclical recovery. But it also owed much to the restraint of competition, and to the strengthened bargaining position of the unionized labour force. Segments of labour and capital therefore benefited, although access to the British industry was restricted and the scope for expansion was limited in both countries.

In the event, the industrial and official response to instability sustained underutilized capacity and kept the real price of coal relatively high. In the long run, this was bound to reduce the demand for coal as the benefits of using substitutes and devising economies were brought home to consumers. More than this, the pattern of regulation (particularly in Britain) offered protection to inefficient and high-cost producers, while enabling the higher wage costs generated by stronger unions to be passed on to the consumer more easily.¹⁰⁶ These consequences of legislation and selling controls were obscured by the advent of war. But few observers then or subsequently could easily conclude that the fundamental problems of the industry had been adequately tackled. Indeed, some of them had been aggravated.¹⁰⁷

¹⁰⁴ The 'rationalization' of shipbuilding in the 1930s was largely effected by private initiatives in cooperation with the Bank of England.

¹⁰⁵ Supple, *British coal industry*, pp. 274-80; Smith, 'The attempted stabilization', p. 185; Johnson, *Politics of soft coal*, pp. 213-6; Fisher and James, *Minimum price fixing*.

¹⁰⁶ Fisher and James, *Minimum price fixing*, ch. x.

¹⁰⁷ High wages helped to induce mechanization in the United States—thus further reducing employment, while buoying up an uncomfortable capacity. Smith, 'The attempted stabilization', p. 185.

On the other hand, regulation did help put a stop to the anarchic disruptions of employment and living standards which had made the 1920s such a miserable period for mining communities. The extent and power of unions, labour standards, wages, continuity of employment—all improved after 1932.¹⁰⁸ Yet they did so for fewer miners and with uncertain prospects for long-term prosperity. Concentration on the benefits to be derived for a shrinking number of workers, and a disdain for those out of work, were most characteristic of the United Mine Workers of America. But the consequences of regulation were ambiguous in both countries.¹⁰⁹ On the other hand, it may be unrealistic to expect actors in such a drama to take a long or altruistic view of their plight. Demoralization is rarely a good basis for such a perspective.

St Catharine's College, Cambridge

¹⁰⁸ Baratz, *The union and the coal industry*, pp. 90-5; Longin, 'Coal, Congress and the courts', pp. 129-30; Johnson, *The politics of soft coal*, ch. 6.

¹⁰⁹ Between 1932 and 1951 in the United States bituminous coal industry annual earnings rose by 431 per cent, production by 72 per cent, and employment by 1.5 per cent.

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