

# Corporate Power, Interest Groups and the Development of Mining Policy in British Columbia, 1972-77

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This paper is concerned with an analysis of mineral policy development in British Columbia during the first half of the 1970s. An NDP government came to power in the province in 1972, at a time when the relationship between the state and Canada's resource extraction industries began to be seriously questioned. Changing world economic conditions led to a significant increase in the strategic and economic value of many resource commodities (oil, of course, being the most dramatic example), and this prompted governments on both the federal and provincial levels to re-think traditional approaches to public policy and develop a more active, interventionist role. On the provincial level, where much of the direct administrative control over natural resources is vested, these trends were accelerated by the election of more activist governments in all the western provinces. The NDP gained power in Manitoba, Saskatchewan and British Columbia, while the Conservatives displaced the Social Credit Party in Alberta. Thus it is not surprising that the 1970s have been characterized not only by conflict between governments and large multinational resource companies but also by increased federal-provincial tensions and the re-emergence of "western alienation" in a much more potent form.

When the NDP gained power in British Columbia at the beginning of this period, it was clearly committed to significant changes in the structure of the province's resource-based economy. Premier Barrett, shortly after assuming office, commented, "There is a myth about socialism which we hope we can dispel in British Columbia. We want to demonstrate that reason, common sense, and planning have a place in the economic structure of our society."<sup>1</sup>

For the new government, achieving success in its self-confessed aim meant achieving an effective combination of three broad policy objectives. The first was to effect a significant redistribution of the province's

<sup>1</sup> *Financial Post*, 17 March 1973, p. 37.

income through increased taxation of resource corporations. These revenues would be used to shift the overall tax burden from the individual to the corporate taxpayer. In the words of the 1972 NDP platform, "We believe there is sufficient money lying untapped in the resources to finance the New Deal for the people. The government of British Columbia could increase its revenue merely by demanding its fair share of British Columbia's resource supply."<sup>2</sup>

The second major objective was the promotion of growth based on the diversification of the economy away from its reliance on the export of primary products. Such a program would be aimed at reducing British Columbia's chronic unemployment problem through the creation of permanent skilled jobs and the promotion of industrial growth away from the already heavily populated Vancouver-lower mainland area. Finally, the NDP's economic strategy envisioned a broad regulatory structure designed to protect the public interest against the detrimental effects of unrestrained resource development.

The implementation of this approach in the metal mining industry was especially challenging since there was no other economic sector in which the status quo differed so much from the stated goals of the new government. The industry was one which exported the natural resources of the province in a relatively unprocessed form, and it had traditionally enjoyed preferential tax treatment on both the federal and provincial levels. Finally, the substantial environmental impact of mineral extraction and processing meant that there was a clear need for government regulation of the industry.

If the need for a change in the status quo was perceived by the NDP as essential, the obstacles in the way of its implementation were substantial. The control of the mining industry in British Columbia, like that of Canada as a whole, is highly concentrated in the hands of a small number of large corporations. The confrontation that developed between the NDP government and the mining industry brought into sharp focus the intimate relationship between politics and economic policy formation. The campaign that the mining industry waged against the NDP's mineral policies was one of the most powerful, sustained and effective efforts waged by an organized interest group in the recent political history of the province, and an analysis of this campaign provides a striking illustration of the way in which economic power can be translated into political power, even in the absence of strong sociological ties between the

<sup>2</sup> As reprinted in the *Vancouver Province*, 4 November 1975, p. 5.

economic and political spheres at the elite level. Finally, the policy of the NDP government in British Columbia toward the mining industry is interesting from the standpoint of the means used by the party to implement its general policy objectives. The use of public ownership, through either the development of new Crown corporations or the nationalization of existing ones, was conspicuously absent from the NDP's mineral policy. This meant that the constraints involved in using the more traditional tools of taxation and regulation became particularly pronounced in this context. The implications of the party's experience in the area of mineral policies is highly significant for the formulation of future policy in both British Columbia and other provinces.

### *Economic and Political Background*

The political economy of British Columbia has two readily discernible features. The first is the fact that the economic base of the province is dependent on the export of natural resources, and the second is the domination of that economy by a relatively small number of private corporations. The operation of these latter entities transcends the boundaries of both British Columbia and Canada as a whole. As a hinterland economy, dependent on the export of relatively unprocessed staple products, the province's economy has relied upon both the demand for raw materials by more industrialized areas (primarily the United States and Japan) and investment decisions taken by a small group of men for whom the economic health of large resource conglomerates is often of greater importance than the economic development of a single Canadian province.

These trends have been particularly pronounced in the mining industry, which, after forestry, is British Columbia's second largest economic sector. Mining played a critical role in the political economy of the province from its earliest years. The Fraser and Cariboo gold rushes were instrumental in establishing the economic base of the mainland and in extending British colonial rule from the enclaves of southern Vancouver Island. However, this highly individualistic form of economic activity was soon supplanted by more capital intensive ventures, which began to exploit the province's significant reserves of coal, lead, zinc and copper.

After a period of rapid economic growth in the decade following the turn of the century (during which Canadian Pacific was able to consolidate most of the province's lead and zinc mines and construct a major smelter at Trail), the importance of metal mining in British Columbia

declined relative to forestry. Gold production experienced a dramatic though short-lived resurgence during the 1930s, but between 1945 and 1960 the growth of the province's mining industry was the lowest in Canada.<sup>3</sup>

During the late 1950s and early 1960s the large Japanese metal corporations (backed by the Japanese government) began to take an active interest in the province's substantial iron and copper deposits. These new markets, along with the higher metal prices produced by Japanese demand, led to a rapid development of new open-pit mines, and the growth rate of B.C.'s mining industry in the 1960s and early 1970s was among the highest in Canada.<sup>4</sup>

The pattern of Japanese involvement in the B.C. mining industry differed from the earlier activities of American firms in Canada in that there was little direct investment in productive capacity. Rather, Japanese firms induced the investment in new mining capacity by signing long-term contracts with prospective producers and providing limited amounts of loan capital. The former method was particularly important in that it reduced the risks involved in new mining ventures and allowed mining companies to finance their large, capital intensive projects with loans from the traditionally conservative Canadian banks.<sup>5</sup>

However, the capital intensive nature of these new projects, which used open pit techniques to mine relatively low-grade copper and molybdenum deposits, led to the continued dominance of large multinational corporations in the industry. The eastern-based Noranda Mines and its Vancouver affiliate, Placer Development; the U.S.-based Granby Mining, Utah International and Newmont Mines; and the British controlled Rio Algom Mines accounted for the vast majority of new producing mines between 1960 and 1972.<sup>6</sup>

The financial performance of the open pit metal mines established in the early 1960s was impressive. Strong demand and increasing metal prices created high profits which allowed the new producers to pay off

<sup>3</sup> Canada, Energy, Mines and Resources, *Mineral Industry Trends and Economic Opportunities*, Mineral Policy Series no. MR-158 (Ottawa: Minister of Supply and Services, 1976), table 2, p. 6.

<sup>4</sup> *Ibid.*

<sup>5</sup> For a more detailed account of these developments, see M. A. Galway, *Japanese Involvement in British Columbia Copper*, Energy, Mines and Resources Canada, MR-145 (Ottawa: Information Canada, 1975); and Raymond Payne, "Corporate Power and Economic Policy Making in British Columbia, 1972-75: The Case of the Mining Industry," MA thesis, Simon Fraser University, 1979, pp. 21-28.

<sup>6</sup> Payne, pp. 29-39.

their production loans quickly and realize substantial capital gains.<sup>7</sup> These results encouraged the establishment of a series of much larger copper and molybdenum mines during the late 1960s and early 1970s. Between 1960 and 1974 copper production in British Columbia increased from 33 million to 634 million pounds, while its value grew from approximately \$10 million to \$542 million. Thus a major new industrial structure, closely controlled by the large multinational mining companies, was created during this period.<sup>8</sup>

The rapid growth of British Columbia's mining industry during the 1960s had the effect of increasing rather than alleviating the province's role as an exporter of primary products. The investment in these facilities had been made almost exclusively to provide raw material inputs for the Japanese industrial system, and all of B.C.'s copper, iron and molybdenum production was exported in unprocessed concentrate form.

Although the value returned to the province would undoubtedly be greater if more manufacturing activity based on mining occurred in British Columbia, it would be a mistake to underestimate the links between mining and the economic and political life of the province. The Mining Association of B.C. claims that mining supports 5 percent of the population, and the B.C.-Yukon Chamber of Mines goes as far as to say that each job in mining generates seven additional jobs in supporting industries. Although, in the words of one economist, "there is no respectable analytical foundation for such a claim,"<sup>9</sup> the distribution of mining-dependent industry is highly significant. Mining activity is extremely important in supporting the economic life of the smaller regional centres, many of which depend almost entirely on mining. In Vancouver, the province's metropolitan centre, mining supports much of the activity of the local stock exchange as well as a small but significant business and professional community.

While the importance of these activities may be debated by economists, their political impact is undeniable. Because of its regional distribution, the industry is an important factor in at least ten of the province's fifty-five ridings. In addition, the relatively small segment of the population which derives its livelihood from the industry includes a high proportion of professional and business people. This group is far more likely to be

<sup>7</sup> *Ibid.*, pp. 51-52.

<sup>8</sup> *Ibid.*, pp. 29-41.

<sup>9</sup> Arlon Tussig, "The Role of Public Enterprise," in M. Crommelin and A. R. Thompson, ed., *Mineral Leasing as an Instrument of Public Policy* (Vancouver: University of British Columbia Press, 1977), p. 116.

politically active than the population as a whole, and its opinions are often given prominence in the mass media. The importance of these factors will become evident when we turn to a consideration of the mining industry's campaign against the NDP's mineral legislation.

The growth of mining as an important industry and the increasing importance of the large multinational mining companies was accompanied by policies favourable to these companies at both the federal and provincial levels of government. Under sections 109 and 117 of the British North America Act, all public lands and the minerals that they contain are vested with the provinces, thus giving them a predominant role in the management of the resource. Provincial governments were also given the explicit right to levy royalties and direct taxes. On the other hand, the federal government's right to levy taxes of all kinds and its responsibility for interprovincial trade and commerce also give it an important, if less direct, role in regard to mining.<sup>10</sup>

In British Columbia, the involvement of the provincial government in the mining industry during most of this century was confined to presiding over the orderly disposal of mineral lands into private hands, providing encouragement and assistance to private producers and prospectors, and collecting a modest return in the form of taxation. The province's Mineral Act (governing private access to the resource) was developed during the 1880s and '90s, and remained largely unchanged until 1957. A nominal fee entitled any person or corporation to a "free miner's certificate" allowing him to prospect on all Crown lands or private lands where mineral rights were held by the Crown. After staking a claim and spending \$500 on the development of his holding, the holder was entitled to outright ownership of the minerals in fee simple.<sup>11</sup> Legislative innovation in the regulation of access to Crown mineral lands was concerned almost exclusively with servicing the needs of prospectors and developers.

In the area of taxation, a 2 percent provincial tax was levied on the gross output of all mines in 1900, but this tax, along with development, depreciation and depletion expenses, was deductible from the provincial corporate income tax. However, the increasing federal presence in the income tax field gradually undermined the provincial tax system, and in 1948 a rather complex series of events led to British Columbia scrapping

<sup>10</sup> For a more detailed summary of the division of jurisdiction in the area of natural resources see A. R. Thompson and H. R. Eddy, *Jurisdictional Problems in Natural Resource Management in Canada*, Background Study for the Science Council of Canada # 27 (Toronto: Southam Murray, 1973).

<sup>11</sup> British Columbia, Department of Mines, *British Columbia, the Mineral Province of Canada, 1900*, p. 9.

its 2 percent output tax (which was, in effect, a royalty), and replacing it with a profits-based tax which would be deductible from federal taxable income. In order to provide further encouragement to the industry, the new B.C. levy was set at 4 percent of taxable income, a full 6 percentage points below the level allowed under the 1948 federal-provincial tax sharing agreement.<sup>12</sup>

With the increasing involvement of the federal government in mining via its role in taxation, policy paralleled that at the provincial level. The desire to encourage mining through the depression of the 1930s and the Second World War led the federal government to introduce a number of very generous tax incentives. These policies were continued into the post-war period and were reinforced by the growing trend toward continental economic ties with the United States. The postwar mineral boom had been encouraged by favourable legislation on the part of the American government, and the Liberal government in Ottawa felt that this boom could pass Canada by if its own legislation were not at least as favourable.<sup>13</sup>

The result of these measures was that, although mining companies were subject to the same nominal tax rate as other companies and had to bear the burden of additional provincial mining taxes, the income actually subject to taxation was rather low.<sup>14</sup> "By comparison," observed Eric Kierans in 1972, "all other sectors have been discriminated against and discouraged."<sup>15</sup>

In British Columbia, the trend away from an exclusively laissez-faire approach to mineral policy began relatively early. The electoral victory of the Social Credit Party in 1952 brought to power a group of political "outsiders" who had few existing ties to the established business elite of the province. The early efforts of this administration in the mining field were more interventionist than its subsequent political rhetoric would indicate, and they laid the groundwork for the more far-reaching NDP mining program of 1972-75.

The provincial tax on mining income was raised from 4 to 10 percent in 1953 despite a vigorous campaign waged by the mining industry, other business groups, and the province's major newspapers; and it was raised

<sup>12</sup> These developments are treated in more detail in Payne, pp. 82-85.

<sup>13</sup> *Ibid.*, pp. 109-111.

<sup>14</sup> Eric Kierans, *Report on Natural Resources Policy in Manitoba*, prepared for the Secretariat for the Planning and Priorities Committee of Cabinet, Government of Manitoba, February 1973, p. 8.

<sup>15</sup> *Ibid.*

again to 15 percent of net income in 1968. However, the most significant attack on the position of the province's established mineral producers came in 1957 when two major pieces of legislation were introduced.<sup>16</sup> The first was titled the Mineral Property Taxation Act and it gave the government the authority to levy a property tax based on the value of minerals in the ground. The sole aim of this new bill was to prevent the growing export of unprocessed iron ore to Japan, and, eventually, to encourage primary iron and steel processing in British Columbia. However, the iron ore producers were able to challenge successfully the assessments levied under this act, and were eventually able to have the legislation itself ruled *ultra vires* of the provincial government by the Supreme Court of Canada. The court ruled that, since the Act's primary purpose was to prevent iron ore exports rather than to levy a property tax, it interfered with the federal government's trade and commerce powers.<sup>17</sup>

The second major piece of legislation introduced in 1957 consisted of a series of amendments to the Mineral Act which replaced the outright grant of mineral rights with a twenty-one-year renewable Crown lease. In its initial form, the changes discouraged mining companies from accumulating large areas of mineral lands without developing them, but an intensive lobbying campaign by the mining industry led to a much more liberal version under which access to Crown mineral lands was virtually automatic. Nevertheless, the change was important in that it gave the provincial government, as legal owner, a more clearcut right to regulate and tax these new leases.

The Bennett government's policy initiatives during the 1950s seemed to stem from two basic observations. The first was that mining was profitable enough to serve as a source of badly needed government revenue. The second was that economic development demanded more than simply encouraging industry through tax concessions. Both the failure of mining to move from primary extraction to the processing stage in British Columbia following World War II and the growth of unprocessed exports to Japan brought this message home with particular force.

However, in terms of producing any significant departure from the status quo, and even in terms of its own objectives, the Social Credit government's initial mining policy must be judged a failure. The drive toward reform in the 1950s was largely blunted so that by the 1960s, when the industry began its remarkable wave of expansion, the govern-

<sup>16</sup> For a more detailed account of Social Credit mineral policy from 1952 to 1972, see Payne, pp. 88-100.

<sup>17</sup> *Ibid.*, pp. 93-95.

ment's approach reverted to a more traditional non-interventionist stance. The vociferous opposition of the industry showed that the road to mining reform was fraught with political hazards.

At the federal level, the shift away from a tax system designed to subsidize private mineral development began in 1967 with the report of the Carter Royal Commission on taxation. In the opinion of its final report, tax privileges such as the immediate write-off of development costs, the three-year tax holiday and the percentage depletion allowance should be phased out. The major thrust of the report was that the special tax privileges to mining companies per se served no socially useful purpose and the beneficial activities such as mining exploration and development could be encouraged by more specific incentives.<sup>18</sup>

Intense industry opposition made the Carter Commission's mining proposals the most controversial aspect of its work, and it was not until 1969, after a major electoral victory, that the Liberal government tabled a "white paper" containing a rather watered-down version of the recommendations. However, the reaction of the large resource companies to the Benson white paper was, if anything, even more vehement. In addition, the major mineral producing provinces mounted a vocal and well-organized attack on the proposals, as they feared the effect of increased federal taxation on a rapidly expanding sector of their economies. Thus in August 1970, in a letter to provincial finance ministers, the federal government put forward a modified proposal designed primarily to defuse provincial objections.<sup>19</sup> In summary, government thinking at both levels of government had moved some distance away from its exclusive concern with supporting the growth of mining through tax concessions. At the same time, the federal government seemed to be signalling to the provinces that the initiative in the mineral taxation field now rested squarely with them.

### *The Development of NDP Mineral Policy in British Columbia*

Given the traditional commitment of the New Democratic Party to social planning and a positive role for government in the economic system, its election to power in late 1972 made significant changes to provincial mineral policy a foregone conclusion. In broad terms, the thrust

<sup>18</sup> M. W. Bucovetsky, "Tax Reform in Canada: A Case Study of the Mining Industry," PhD dissertation, University of Toronto, 1971, p. 32.

<sup>19</sup> M. W. Bucovetsky, "The Mining Industry and the Great Tax Reform Debate," in A. Paul Pross, ed., *Pressure Group Behaviour in Canadian Politics* (Scarborough, Ont.: McGraw-Hill Ryerson, 1975), pp. 91-93.

of the party's approach to mining had been developed both in terms of its more general economic goals outlined above and in relation to an ongoing critique of previous policies. These goals were summarized succinctly in the party's 1972 platform:

From the mining industry, the citizens of B.C. deserve an end to the present government's policy of giving away our mineral resources. Mineral resources such as coal and copper are non-renewable and thus should be charged with fair royalties when they are exported without processing. . . . lighter royalties should be charged on resources processed in B.C. so companies will be encouraged to develop secondary industries that will provide jobs to B.C. citizens.<sup>20</sup>

But, as the platform itself admitted, "Determining what is a fair share is a problem." In addition to its goals in the areas of taxation and secondary processing, the party had a clear though much less explicitly defined commitment to increase the scope of government regulation, especially in relation to environmental protection.

At the cabinet level, the task of developing broad policy objectives in the resource field and co-ordinating the activities of the different resource-oriented departments of government was assumed by a special Resource Committee consisting of Premier Dave Barrett and the ministers responsible for these departments. This body, however, did not have any permanent secretariat to back up its work, and thus did not itself initiate concrete policy proposals. Rather, it delegated this responsibility to the various resource-oriented departments and approved, rejected or modified the proposals developed at this level.<sup>21</sup>

During late 1972 or early 1973 the Resource Committee of Cabinet made a fundamental decision affecting the future evolution of its mineral policies. This was the rejection of any major direct participation in either mineral exploration or production through a Crown corporation, despite the enthusiasm of the new mines minister, Leo Nimsick, for at least some degree of participation.<sup>22</sup> Given the commitment of the new government to a large number of expensive new social programs, there was a real reluctance on the part of some cabinet members to authorize the substantial amounts of money and organizational innovation necessary for such involvement. The monetary returns from such an investment would likely come only in the long term and the immediate political

<sup>20</sup> As reprinted in the *Vancouver Province*, 4 November 1975, p. 5.

<sup>21</sup> Hart Horn, interview with the author, Victoria, 31 October 1978.

<sup>22</sup> *Ibid.*, and Leo Nimsick, letter to the author.

returns would be, if anything, even more tenuous. Thus the NDP's mineral policy from 1972 to 1975 was pursued using the more traditional government tools of taxation and regulation.

Leo Nimsick's first move was to increase the organizational capacity of his department to develop and administer the government's new policies. Such an effort was made necessary by the evolution of previous provincial mining policy in which the department functioned largely as an agency servicing the needs of private mineral developers. A new deputy minister, John McMynn, was recruited from outside the departmental bureaucracy, Nimsick's campaign manager and executive assistant, Hart Horn, assumed an important policy-making role, and two new divisions were created, Mineral Revenue and Economics and Planning. The major impact of these changes was to separate the newly created policy functions of the department from the more traditional service operations. These changes were formalized through a successive series of departmental reorganizations in 1973 and 1975 which culminated in three separate branches, Operations, Mines, and Petroleum Resources, with the former including most of the policy responsibilities.

The first area to be dealt with by legislation was that of the regulation of access to mineral resources. During the spring session of 1973 a series of amendments to the province's Mineral Act was introduced in the legislature. By far the most important change was the introduction of a new procedure for the issuing of twenty-one-year mineral leases under the act. The new section 64 specified that all new applications must be accompanied by a production plan detailing the economic feasibility, ecological reclamation, and safety standards governing the development, as well as information that the "best possible method of producing the minerals" would be employed. If a company failed to abide by either the production plan or the laws and regulations governing the development, the minister was empowered to revoke the mineral lease and order production to cease.<sup>23</sup>

The principal thrust of the new section was to centralize and focus the administration of most aspects of mining regulation in the hands of the mines minister and give the department increased powers in dealing with private developers. In introducing his amendments, Nimsick left little doubt that the government planned to use its legal position as landlord to initiate a new policy of resource management.<sup>24</sup>

<sup>23</sup> British Columbia, *Statutes*, 1973, Chapter 52, "An Act to Amend the Mineral Act."

<sup>24</sup> British Columbia, Legislative Assembly, *Debates* 30:2, 10 April 1973, p. 2455.

As might be expected, the mining companies and their representative organizations greeted this new approach with less than enthusiasm. The key criticism directed at the NDP's innovations was the substantial degree of discretionary power granted to the minister. The uncertainty of tenure introduced by these new powers would, according to the industry's spokesmen, make it extremely difficult for new mining ventures to raise the necessary capital. The president of the Mining Association of B.C. was even more blunt when he stated that the industry did not "accept without the most serious reservations the competence of the minister, his staff or his consultants in these areas of critical decision."<sup>25</sup>

In the area of secondary processing, the new NDP government moved much more slowly. An agreement between Cominco and the previous Social Credit government to convert its iron smelter to process copper with the aid of a public subsidy was repudiated almost immediately on both technical and ideological grounds. The NDP's stated opposition to the use of subsidies was affirmed during the spring session of 1973, when both the Copper and Iron Bounty Acts were repealed. The government's next step did not come until the spring of 1974, when a task force consisting of government officials and non-governmental experts was appointed to examine the whole question of copper processing. Its report was not released until late 1975, and as we shall see, it played a major role in changing the direction of the government's mining policies.

Even at the outset, the task of devising a taxation scheme which would be compatible with the broad objectives of the new government, yet not damage the long-term growth of the mining industry, proved to be the most difficult aspect of the policy problem. On the face of it, the options were clear cut, since the NDP was explicitly committed to the imposition of a system of direct royalty payments from producing companies. In other words, the party held that the province should receive a share of the wealth produced from Crown-owned minerals regardless of whether the producing companies made a profit or not. On a more practical level, it was realized both that the existing provincial mining tax system was tied to an extensive series of tax deductions involving the federal government and that the province would enjoy more freedom of action through the imposition of royalties, which were then completely deductible from the federal income tax.

The level of such royalties, however, was much more problematic than the principle involved, and it was not until the spring of 1974, almost a

<sup>25</sup> Vancouver *Province*, 9 March 1973, p. 18.

year and a half after assuming power, that the government's mineral taxation policy was introduced in legislative form. While in opposition, the NDP had repeatedly called for a royal commission inquiry into the mining industry, but this was not the approach taken after assuming power. Rather, a confidential inquiry was conducted by the Department of Mines and Petroleum Resources under the direction of its new policy makers. Most mining companies, seeing the exercise as a means of convincing the government that their ability to pay was limited, co-operated with the inquiry, and at the end of 1972 two major recommendations were made to the cabinet's Resource Committee.

The first was that the government impose a flat 5 percent royalty on the gross value of minerals produced (4 percent if the minerals were processed in B.C.), and the second called for the government to acquire a 20 percent interest in all future mining developments. However, the Resource Committee, expressing its ambivalent view concerning direct equity involvement in mining, rejected the latter proposal. At the same time it expressed the view that the 5 percent royalty did not go far enough in obtaining for the province a fair share of the economic surplus generated by mining. Mineral prices, especially those for copper, were just beginning a rapid increase, and it seemed likely that the large mining companies would soon enjoy a very substantial rise in profits. Thus the mines department was instructed to incorporate into its basic royalty plan a method by which the revenue could be captured by taxation.<sup>26</sup>

While the NDP cabinet and the mines department were pondering their future course of action on the royalty question, they moved to resolve a related problem. The fact that a great deal of British Columbia's mineral lands had been granted outright to private developers prior to the 1957 change from a grant to a leasing system meant that the government's right to impose a royalty on these lands was seriously in doubt (and this was especially true of those lands alienated before 1948).<sup>27</sup> In fact, over half of the province's mines in 1972 operated on Crown grants, so that any royalty system would also have to be made applicable to them if it was to be workable.

Thus, during the spring session of 1973, the Mineral Land Tax Act was introduced to replace the Mineral Property Taxation Act, which, as

<sup>26</sup> Based on information provided to the author by Leo Nimsick and Hart Horn.

<sup>27</sup> This was because mineral deposits were granted rather than leased to private developers. In 1948 the provincial government passed an amendment to the Mineral Act explicitly stating that, henceforth, all grants of mineral rights would be subject to a royalty.

we have seen, had been ruled unconstitutional by the Supreme Court of Canada. While the previous Social Credit government had sought (through the medium of property taxation) an essentially punitive levy on iron ore exported from the province, the NDP's version was primarily aimed at ensuring that any royalty formula could be applied to crown grants as well as the leased lands whose title remained with the Crown.<sup>28</sup>

The exact nature of the royalty formula was finally revealed in February 1974 when Bill 31, the Mineral Royalties Act, was formally introduced in the legislature. One of its major provisions was the imposition of a basic 5 percent royalty on the "net value" of all designated minerals starting in 1975, with the transitional levy of 2½ percent for 1974. If the mineral was smelted or refined in the province the rate was reduced to 4 percent.<sup>29</sup> These provisions came as no surprise and had been common knowledge in the industry since they were first proposed in 1972.

The second set of provisions, imposing an "incremental royalty," were much more complex and controversial, with the level of this tax being set in relation to three basic definitions: (1) the "gross value," referring to the money actually received by the producer; (2) the "net value," which deducted smelting and transportation charges; (3) a "basic value," which was the average mineral price over the preceding five years. The latter could be adjusted by the mines minister to reflect cost changes affecting the industry. The incremental royalty clause stated that when the gross value exceeded the basic value by more than 20 percent the producer would pay an additional royalty of 50 percent of this amount. If the gross value fell below the basic value, the 5 percent basic royalty would fall from ½ to 1 percent.<sup>30</sup>

The reaction of the mining industry to this new scheme was both immediate and forceful. By and large, its criticisms were directed specifically at the defects in the incremental royalty section of the bill. Only days after its introduction, a committee formed by the Mining Association of B.C. produced a set of figures questioning the minister's \$20 million estimate of 1974 receipts under Bill 31. Rather, the industry claimed, receipts would be closer to \$70 million, and a day later this prediction was raised to \$137.7 million for 1974 and over \$150 million for 1975.<sup>31</sup> A full

<sup>28</sup> Another, more widely publicized, aim was to encourage the owners of mineral rights over large areas of the province, particularly the CPR, to return them to the provincial government. Payne, pp. 180-82.

<sup>29</sup> B.C., Legislative Assembly, *Bills, First Reading 30:4 1974*, Bill 31, "Mineral Royalties Act."

<sup>30</sup> *Ibid.*

<sup>31</sup> Payne, pp. 208-09.

consideration of the validity of these assumptions cannot be undertaken here, but it should be noted that they depended upon a number of factors including future copper price levels, the method used to calculate the basic net and gross values, and the percentage of copper production considered in the calculations. What the Mining Association's projections did underline, however, was the uncertain impact of Bill 31 and the large amounts of money involved in these differing assumptions. If the government was imposing a royalty of 50 percent when prices exceeded a certain level, then the way in which that level was determined was of critical importance. The mining companies, quite understandably, took full advantage of these ambiguities in their growing opposition to Bill 31, and the province's daily press gave prominent coverage to their case.

Once the government had actually introduced its new mineral taxation policies in the form of a bill, the conflict over policy shifted from a process of closed-door bargaining among politicians, bureaucrats and business executives to open debate in the political arena. The province's mining companies certainly did not regard Bill 31 as the final outcome and simply adapted their efforts to this changed situation. Since they had been less than successful in obtaining legislation that they could "live with" by direct negotiation with the executive and the bureaucracy, they began to put pressure on these decision-makers by taking their case to an enlarged public arena.

One of the first ways in which these companies were able to enlarge the scope of the mining conflict was to mobilize the active support of other groups and individuals. As we have noted, the political implications of the link between mining and other sectors of the B.C. economy are substantial. Engineers and other professionals connected with the industry, the stockbrokers and financial institutions of Vancouver, the business communities and the small exploration companies of the regional centres all had a direct stake in the profitability of the large mining companies. Although the absolute number of people mobilized in this way was relatively small, their direct financial interest and their relatively high socio-economic status made them much more likely to participate in the political process. Thus opposition to the Mineral Royalties Act, which merely strengthened a coalition which had developed to fight the earlier changes to the Mineral Act, had a snowballing effect. Hundreds of letters were written to newspapers and MLAs, and dozens of briefs and direct representations were made to cabinet.

This opposition was given further impetus by a well-organized, well-financed public relations campaign waged both by the major mining

companies themselves and by their two interest groups, the Mining Association of B.C. and the B.C. and Yukon Chamber of Mines. The former group is a rather select body consisting of the major multinational mining companies active in the province, while the latter is somewhat larger in that it includes prospectors and smaller exploration companies. However, the executive positions of the BCYCM are filled almost exclusively by executives of the larger multinational corporations. Numerous speeches were made by mining executives, shareholders' meetings served as forums for focusing anti-government sentiments, letters were sent to employees warning of an uncertain future, and a steady stream of press releases and interviews emanated from both the BCYCM and the MABC. The former group, with its more diversified membership, also organized a number of well-publicized mass meetings.<sup>32</sup>

This public relations effort was facilitated by the industry's access to the media as well as by the strong anti-Bill 31 editorial position taken by the daily press in the province's major urban centres. For example, of the approximately ninety-five news stories carried by the *Vancouver Province* between the introduction and final passage of Bill 31, sixty-seven dealt mainly with some aspect of critical industry reaction. The *Vancouver Sun* ran five feature-length articles during the same period, all extremely critical of the bill.<sup>33</sup>

Despite this preponderance of favourable coverage, the mining industry was not content to leave the expression of its concerns entirely to news reporters and editors, and only three weeks after the introduction of the Mineral Royalties Act, an extensive industry advertising campaign began to unfold. Full-page ads were placed by Placer Development, one of the largest and most active mine operators in B.C., followed by the Mining Association. Finally, a co-ordinated advertising effort by the major mining companies and the two industry interest groups was launched utilizing radio and TV in addition to the written press. This campaign allowed the industry to refine and dramatize its contention that mining was threatened in B.C., a significant loss of jobs was inevitable, and the entire provincial economy was therefore in danger. While the large mining companies, in their official public statements, were careful not to threaten an immediate cessation of their activities in the prov-

<sup>32</sup> The mining industry's anti-Bill 31 campaign is outlined in more detail in *Ibid.*, pp. 206-40.

<sup>33</sup> See *ibid.*, pp. 238-40, for a more detailed analysis of the media's treatment of the mining issue.

ince, their ads created the distinct impression that this was a very real and imminent possibility.

Finally, the industry was successful in mobilizing the active support of all three provincial opposition parties, Social Credit, the Liberals and the Conservatives, who were then all represented in the legislature. This wholehearted support on the part of the legislators can be attributed to a variety of motives including a genuine concern for the technical deficiencies of the legislation, a philosophical aversion to the principle of royalties, personal links to the business community, and a general pro-business set of social attitudes. In addition, there was the natural predisposition to capitalize on an issue which was already damaging to the NDP government. The mobilization of the opposition legislators, in a parliamentary system with a clear governing majority, could not hope to defeat the Mineral Royalties Act, but it was extremely successful in delaying its passage and undermining the government's morale. The British Columbia NDP, being an activist government in power for the first time in its history, had a wide range of legislation before the legislature. It became clear that Bill 31's passage would be long and difficult, its second and third readings were continuously postponed, and it was not until May 28, 1974, three months after it was first introduced, that debate began. This debate occupied most of the legislators' time for a full three weeks as fourteen of the seventeen opposition members rose to speak on the bill, some at very great length.<sup>34</sup>

The government's response to this sustained outpouring of opposition to Bill 31 was rather subdued. Mines minister Leo Nimsick challenged the industry's initial criticisms of the bill's impact, but did not defend it in detail and subsequently asserted that it would be a breach of the privileges of the legislature to comment in detail before formal debate began. However, as the attacks mounted and criticism intensified, Nimsick drafted a long letter to the province's newspapers defending the principle of his royalty bill, but not the controversial technicalities.<sup>35</sup> In addition, a number of political speeches were made on the subject by government ministers and back benchers, but they did not add up to a co-ordinated effort.

There were a number of reasons for this rather low profile. In the first place the Mineral Royalties Act was of vital concern to the mining industry but was only one of the many areas being dealt with by the

<sup>34</sup> *Ibid.*, pp. 267-72.

<sup>35</sup> Leo Nimsick, Minister of Mines and Petroleum Resources, "to the editor," 3 April 1974.

NDP government. Furthermore, as noted above, there were serious differences of opinion within the party itself which precluded any vigorous and co-ordinated defence of the legislation by the government as a whole. Finally, unlike the mining companies, the government was hindered in defending its approach by its inability to utilize and manipulate information. Much of the government's data was gathered from corporations on a confidential basis by the Department of Mines and Petroleum Resources, and its use for political purposes would have seriously damaged both the credibility of this department and its ability to function effectively in the future.<sup>36</sup>

The NDP government was able to enlist the active support of only one major organization, the United Steelworkers of America, a U.S.-based mining union with rather close ties to the NDP. The leadership of the union tried to focus the sentiment of the rank and file unionists against the tactics employed by the mining companies and attempted to wage a public relations and media campaign to counter that of the industry. However, they lacked both the monetary and organizational resources to compete in this way.<sup>37</sup> No "public interest" or issue-oriented group played any significant or active role in defence of the government's mining legislation. The consequence of this imbalance was that the message portrayed by the mining industry tended to prevail in the absence of widely presented alternative. The notion that the NDP government, through ignorance, incompetence or ulterior ideological motives, was out to destroy the second most important segment of the provincial economy seemed almost indisputable and seriously undermined its mineral taxation policy even before it became law.

### *Compromise and Defeat*

When a piece of legislation gives wide-ranging administrative powers to a minister and his staff, the way in which it is actually implemented will, to a large extent, determine its actual impact. This was certainly true of the Mineral Royalties Act, where the minister's power to set the actual level of definitions like "basic value" would have a direct bearing on the amount of revenue actually collected. In pursuing its mineral policy after the passage of Bill 31, the NDP government attempted to deal with the adverse consequences by altering its implementation in order to decrease its impact on the mining companies. When this ap-

<sup>36</sup> Suggested by Hart Horn, interview, 31 October 1978, Victoria.

<sup>37</sup> Payne, pp. 249-59.

proach proved ineffective, it was forced into a basic reconsideration of the policy itself.

A number of events followed the passage of the Mineral Royalties Act, and when added up their impact on the NDP government was devastating. In the first place the mining companies pursued all the various aspects of their opposition campaign and backed it up with significant reductions in their exploration budgets. Secondly, the federal election of July 1974 led to the most dramatic decline in NDP support in B.C. since the Diefenbaker years. Although this result cannot be attributed solely to the party's mineral policy, the loss of support in mining ridings like Kamloops and Skeena seriously worried the provincial government.

These consequences were intensified and complicated by two events outside the direct control of both the mining companies and the NDP government. One was the May 1974 federal budget, which disallowed provincial oil and mineral royalties as a deduction against federal income tax. We have seen how, in 1971, the federal government reacted to the furor generated by its mining tax changes by compromising its original proposals and shifting the onus for future innovation to the provinces. However, skyrocketing oil prices following the mid-east crisis of 1973 and an increasing tendency toward higher provincial taxation in both the mineral and petroleum industries prompted a reconsideration of this approach. The desire to protect its own tax base replaced the federal government's preoccupation with conciliation, and the new royalty policy was accompanied by an increase in mining income taxes and the immediate implementation of the income deduction changes of the 1971 budget. In effect, the real cost of B.C.'s mineral royalties to the mining companies was virtually doubled overnight. The return of the Liberals with a parliamentary majority in July 1974 made the implementation of this new arrangement a certainty, and thus cast grave doubts on the viability of the new royalty system in British Columbia.

If this was not enough, the rapid increase in the world oil prices precipitated a major world recession which severely damaged B.C.'s resource-based economy. The effect on mining was particularly pronounced as copper prices on the London Metal Exchange fell from record levels of around \$1.30 per pound in early 1974 to around \$.55 in the fall of the year. Stockpiles of copper concentrate began to pile up in Japanese smelters, and the mining companies were forced to find new markets or cut back production. By December 1974 over 1,000 mine

workers had lost their jobs as three mines closed down and others streamlined their operations to cut costs.<sup>38</sup>

While these events represented bad economic news for British Columbia's major mining companies, they were able to use them to great advantage in their ongoing political battle with the NDP. Their dire predictions were apparently coming true and thus their bargaining position was greatly enhanced. Ironically, this drastic reversal in the economic fortunes of the industry coincided with an increased effort on the part of the government to defend its policies against the continuing political criticism. In late 1974, the NDP continued to emphasize the propaganda effort of the mining companies and discount the problems now facing mining, with the result that its credibility was seriously undermined.

The NDP government attempted to adapt itself to this continuing series of adverse events by a succession of modifications to the regulations drafted under the Mineral Royalties Act. In late 1974, for example, regulations governing the incremental royalty were altered to ease their impact on new mining ventures, and in December the "basic values" were moved upward significantly by the application of a 10 percent inflation index. In addition, the provincial budget of February 1975 sought to lessen the impact of the federal government's previous actions by allowing the deduction of royalties from the provincial portion of the corporate income tax.<sup>39</sup>

The mining companies, however, did not react favourably to these initiatives. For one thing, they did not affect the principle of the royalty system, and the fact the government was now more inclined toward compromise simply encouraged them to press for more fundamental changes. In addition, the drastic fall in metal prices meant that the incremental royalty would not come into effect at all, and the basic 5 percent royalty became the most significant tax burden. In short, the mining companies had little to lose and everything to gain by pressing forward with their attack and emphasizing the unacceptability of the entire royalty concept.

Thus it soon became evident that the pressures on British Columbia's NDP government to modify its approach were now virtually irresistible. The New Democratic Party, like its Social Credit predecessor, had a great deal of its reputation tied up with continued economic prosperity. While the Social Credit Party's lengthy term in office was due in large

<sup>38</sup> *Vancouver Province*, 10 December 1974, p. 17; and 11 December 1974, p. 17.

<sup>39</sup> For a more detailed account, see Payne, pp. 306-10.

part to the continuation of a seemingly endless economic boom, the appeal of the NDP was based on its ability to preside over this prosperity more effectively and to increase its benefits to the average citizen. During the first half of 1975, the need to consolidate its hold on office and prepare for the rapidly approaching election replaced the bold reforms of 1973 and early 1974.

Thus by the spring of 1975 the NDP government was giving serious consideration to fundamental mineral tax changes, including the abolition of the incremental royalty and its replacement with a profits-based tax. In March of that year, some sort of reconciliation between government and industry seemed to be in the offing when a delegation from B.C. and Yukon Chamber of Mines met both the provincial cabinet and officials from the Department of Mines and Petroleum Resources. It became evident on that occasion that the mining executives had not softened their position at all, and their brief called for the complete revision of all the NDP's mining legislation, including the 1973 changes to the Mineral Act. At this point, members of the cabinet must have given some indication of their willingness to accommodate the industry, since F. G. Higgs, the Chamber's manager, emerged from the meeting and observed that "fundamental changes in the law" had been discussed, and that the cabinet realized that these changes had to be made.

However, when the BCYCM followed its presentation to cabinet with more concrete discussions with the mines department the atmosphere suddenly cooled. The government side was apparently surprised by the wide-ranging demands of the industry and felt that the latter's concentration on the issue of ministerial discretion seriously threatened its authority. Mines minister Nimsick emerged from this meeting and commented angrily that it had been "completely unproductive. It seems to me," continued the minister, that "they don't want anything to do with how a resource is managed. . . . Basically the industry thinks that the people who put up the money should be the ones who make all the rules." The minister and his aides seemed willing to discuss concrete changes to the royalty scheme, but would not go along with substantial alterations to the regulatory structure initiated in 1973.<sup>40</sup>

The event leading to the resolution of this impasse was the release of the report of the Copper Task Force in July 1975. As we have seen, this group had been appointed in 1974 to conduct a detailed analysis of the possibilities of smelting, refining and fabricating copper in British Colum-

<sup>40</sup> *Ibid.*, pp. 317-20.

bia. The report recommended that the provincial government should begin immediately to develop a fully integrated copper industry. The benefits of each stage of additional processing were outlined as follows:<sup>41</sup>

<i>Stage of Processing</i>	<i>Percentage of Wages Paid</i>	<i>Percentage of Total Value added in Province</i>
Mining and Concentration	29	24
Smelting	5	6
Refining	5	4
Rod Milling	2	2
Wire and Cable	59	64
Total	100	100

It is evident from the data presented by the report that the great majority of economic benefits are obtained from the final fabrication of copper products, but the Task Force was not able to obtain enough information to make any concrete assessment of the feasibility of establishing such industries in British Columbia. Rather, it recommended that the province develop full integration gradually through the construction of two "world scale" smelter and refinery complexes with a capacity of 125,000 tons each per year. One, in the Highland Valley area, was to be operational by 1978, and the other, on the north coast, in 1983.<sup>42</sup>

The role of government in these ambitious projects, however, would be limited largely to regulation and planning. "In the interests of harmonious and orderly development of the province . . . development by the private sector seems to be most appropriate unless necessary action . . . is not forthcoming within a reasonable time." Furthermore, in order to ensure that private capital would be available, "it may be worthwhile to study the effects of a further royalty reduction on concentrate producer participation in the capitalization of a smelter complex . . . until all funded debts are repaid."<sup>43</sup>

The reaction of the mining industry to the Copper Task Force's report was mildly favourable, and J. D. Little of the Mining Association of B.C.

<sup>41</sup> Government of B.C., *Report of the British Columbia Copper Task Force*, 1975, table 4.7, p. 29.

<sup>42</sup> *Ibid.*, pp. 10 and 33-37.

<sup>43</sup> *Ibid.*, p. 55.

expressed particular satisfaction with the recommendation of private sector participation. The government's acceptance of the report, he concluded, would involve changes to its previous policies, especially the mineral royalties.<sup>44</sup> The government, however, had already moved to implement the policies suggested by the task force. Negotiations were underway with a number of companies, and by the autumn of 1975 a deal with one of the largest open pit mines in the province was under active consideration by the Department of Mines and Petroleum Resources.<sup>45</sup> In early October it was revealed that the mines department was actively involved in studying the effects of royalty abatement on industry participation in a copper smelter. Before these developments finally came together, a new element was added by a cabinet shuffle in which mines minister Nimsick was demoted to the travel and tourism portfolio and replaced by Gary Lauk, the Minister of Economic Development. The nature of Lauk's former portfolio (which he retained in addition to his new one) indicated that the government's priorities had changed, and mining industry spokesmen seemed genuinely pleased.

In late October the NDP's new approach to mineral policy took a more concrete form with the announcement of a new mine and the province's first copper smelter, to be developed with government assistance. The company involved in the deal was Afton Mines, controlled by Teck Corporation, and it did not approach the scale of the project previously considered by both the mines department and the Copper Task Force. Nevertheless, a significant subsidy was involved. In addition to a \$4 million royalty reduction for smelting within the province, Afton was to receive payment of 2 cents for every pound of blister copper produced, for a total payment of \$4.3 million. In a letter to Teck Corporation's Norman B. Keevil Jr., the new mines minister made it quite clear that the payment did not prevent Afton from taking advantage of the benefits under any existing legislation or any changes which might be made while the mine and smelter were under construction. In return for this incentive, the government was given an option to purchase a 5 per cent equity in the smelter (but not the mine) for \$1.25 million.<sup>46</sup>

Despite the prominence given to the Afton announcement, it did not really represent a major step towards the secondary processing of British

<sup>44</sup> *Vancouver Province*, 6 August 1975, p. 15.

<sup>45</sup> Although it did not mention any company by name, the Task Force reported that it "was most fortunate in obtaining access to a detailed copper smelter feasibility study commissioned independently by a major Canadian mining company." (p. 44)

<sup>46</sup> *Vancouver Province*, 22 October 1975, pp. 17-18.

Columbia's mineral resources. In the first place, the Afton smelter was only one-fifth the size of the "world scale" complex envisioned by the Copper Task Force report. In addition, the Afton smelter was of a relatively simple design, made possible by the low sulphur content of its ore body, and could not process the output of any other B.C. mine without extensive modifications.

The Afton agreement, and perhaps even the replacement of Nimsick by Lauk as mines minister, can be interpreted as a reluctance on the part of the NDP government as a whole to become involved in a project of the magnitude recommended by the Copper Task Force. The Afton agreement may have cost the government \$4.3 million in direct subsidies, but the involvement required to bring about the larger "world scale" plants would undoubtedly have been much higher. There seems to have been no reluctance on the part of the mining industry to submit smelter proposals, but it is by no means clear what additional government concessions would have been necessary to bring them into actual production. Tax exemptions, government guarantees, and substantial government equity participation can, in the long run, prove infinitely more costly than a simple subsidy. As Eric Kierans has warned, the growing tendency of other nations (and provinces within Canada) to demand secondary processing means that governments now run the risk of simply financing excess capacity in industries like copper.<sup>47</sup>

Gary Lauk also moved quickly to accelerate the trend toward compromise on mineral legislation. On assuming the portfolio, he initiated a long series of meetings with individual mining executives to discuss the situation firsthand. On 22 October 1975, only one day after the Afton announcement, the minister indicated that he would move quickly to bring in changes to the province's mineral legislation if the mining companies would delay a court action challenging the mineral royalties as *ultra vires* of the provincial government.

By far the most important aspect of Lauk's announcement was his willingness to make changes to the province's Mineral Act. In fact, he went as far as to say that quick action was necessary to alter the discretionary power of the mines department in granting production leases to private developers. The mining industry made no public response to Lauk's initiative, but on November 2 the mines minister used the annual regional conference of the United Steelworkers of America to announce the government's next step. A special three-man study team was to be

<sup>47</sup> Eric Kierans, *Report on Natural Resources Policy in Manitoba*, p. 31.

appointed immediately to examine "the whole question of legislation that affects the mining industry."<sup>48</sup> The group's wide-ranging mandate would include the federal-provincial taxation question, mineral royalties, ministerial discretion, and mine safety. The panel was to consist of Monty Alton, area supervisor of the United Steelworkers, John Helliwell, a resource economist at the University of British Columbia, and J. Douglas Little, an executive vice-president of Placer Development and president of the Mining Association of B.C. The remainder of the minister's speech emphasized the NDP government's commitment to economic development. The next day Premier Barrett called a provincial general election for 11 December 1975.

Although the mining issue did not by any means dominate the short 1975 election campaign, it was not totally ignored. All three opposition parties had been adamantly opposed to all the NDP's mining legislation, and the repeal of the Mineral Royalties Act had become one of the few definite Social Credit policy commitments well before the election was announced. By contrast, the issues of regulation, resource management, and the secondary processing of resources were barely mentioned by the opposition during the election campaign. The mining question, not surprisingly, did not play a major part in the NDP's campaign, and when asked directly about the recent policy changes the Premier stressed the sincerity of the government's moderation:

I regret we have not had in the past a very frank exchange with the mining industry that has led to productive cooperation. Mr. Lauk's initiatives are not window dressing. It is an attempt to establish a better relationship with the mining industry, perhaps on a new footing. . . . We are not a rigid, doctrinaire administration. I think labour has found that out. I think a significant part of management has discovered that.<sup>49</sup>

The mining industry itself was not content to sit back and simply await the results of the 1975 provincial election. The major mining companies and their representative organization, the Mining Association of B.C., did not take an active role in the campaign. They would have to deal with the NDP government if it regained power, and overt interference would be almost certainly counterproductive. There were allegations that the executives of the industry had donated heavily to the well-financed Social Credit campaign, but the secrecy surrounding such donations makes verification impossible.

<sup>48</sup> *Vancouver Province*, 3 November 1975, p. 1.

<sup>49</sup> *Ibid.*, 6 November 1975, p. 5.

Nevertheless, one aspect of industry activity was admitted publicly. Using the leftover funds from its earlier publicity campaign and numerous donations from individual companies, a new committee was formed to publicize the plight of the industry during the election campaign. Pamphlets and television commercials were prepared to spread the message, although an overtly partisan stance was avoided. Estimates of the size of this fund ranged from \$12,500 to \$30,000.<sup>50</sup>

The B.C. and Yukon Chamber of Mines was not quite as reticent as the Mining Association to take a direct part in the election, and on December 5, only a week before voting day, the group called an unprecedented press conference. The Chamber's president, Robert Sheldon, said that the industry had already lost "several good years . . . and unless the decline is immediately reversed, British Columbia will have lost the benefit of a decade of mineral exploration. . . . We make no excuse," Sheldon continued, "for re-emphasizing our message. Our timing — the climax of the campaign — is intentional."<sup>51</sup> The Chamber disclaimed any partisanship but urged the voters to examine carefully the platforms of the various parties. A week later the Chamber's unstated wish was fulfilled, and the NDP government was decisively defeated by a revived Social Credit Party.

Without a systematic analysis, it is difficult to identify conclusively the effect of the mining issue on the outcome of the 1975 provincial election. However, of nine seats won by the NDP in 1972 in ridings where mining was a significant economic factor, only two stayed with the party in 1975, Nelson-Creston and Rossland-Trail. Although the percentage of the popular vote won by the NDP in the province as a whole remained roughly constant from 1972 to 1975, it dropped significantly in these nine mining ridings. In mining ridings like Kamloops and Kootenay, where the NDP actually managed to increase its popular vote, the trend was offset by dramatic Social Credit gains from the Liberals and Conservatives.<sup>52</sup>

In addition, it is likely that the NDP's problems with the mining industry added to a general image that the government had lost control over the course of economic events. The tendency of the mass media to

<sup>50</sup> *Ibid.*, 21 November 1975, p. 23; and *Vancouver Sun*, 5 December 1975, p. 18.

<sup>51</sup> *Province*, 5 December 1975, p. 18.

<sup>52</sup> These trends were observed from a perusal of the voting results in the 1972 and 1975 provincial elections in the ridings of Atlin, Fort George, Kamloops, Kootenay, Nelson-Creston, Omineca, Rossland-Trail, Skeena and Yale-Lillooet. B.C., Chief Electoral Officer, *Statement of Votes*, 1972 and 1975 (Victoria: Queen's Printer).

blame the problems of the mining industry solely on the provincial government reinforced the negative image generated by such things as a troubled economy, a rumoured budget deficit, "excessive" welfare spending and charges of political interference with the government-owned automobile insurance corporation. In electoral terms, mining was simply one element of a polarization between left and right from which the latter had emerged victorious.

*Aftermath — Social Credit Mining Policy, 1976-1977*

The electoral victory of the Social Credit government represented an almost total political victory for the mining industry in British Columbia. The new Minister of Mines and Petroleum Resources, Tom Waterland, was a former regional official of the department, and his entry into political life had been a direct result of his opposition to NDP policies. Thus he moved quickly to dismantle them. In June 1976, after extensive consultation with the mining industry, two bills were introduced to the legislature, the Mineral Resources Tax Act, and a new set of Mineral Act amendments. The former in effect replaced both the NDP's Mineral Royalties Act and the old Mining Tax Act with a straight 17.5 percent tax on the net income of a mine. The incremental royalty sections of the Mineral Royalties Act were abolished as of April 1976, as was the entire act at the end of the year. However, royalties paid in 1976 could be deducted from the new mineral resources tax at a rate of up to one-third of the new tax each year.<sup>53</sup> Thus the province had reverted to the pre-1974 tax system at a rate 2½ percent higher than the 15 percent prevailing in 1972. The NDP, as might be expected, was less than enthusiastic with the new bill, charging that "the mining producers in this province . . . pay less tax today than they paid under the previous Social Credit Administration."<sup>54</sup>

Bill 30, an act to amend the province's Mineral Act, was introduced by the mines minister along with his tax changes. This bill was every bit as wide-ranging, and it virtually eliminated the "resource management" approach developed by Leo Nimsick and his advisors. The "right to mine" was restored to free miners and the holders of mineral claims, while the fees for holding such claims were reduced substantially. By far the most important change was the repeal of section 64 of the Mineral Act which, as we have seen, required mining companies to obtain minis-

<sup>53</sup> British Columbia, *Statutes*, 1976, Chapter 31, "Mineral Resources Tax Act."

<sup>54</sup> B.C., Legislative Assembly, *Debates*, 31:1, June 1976, p. 3351.

terial approval of a detailed production plan before commencing operations. In its place a much more lenient clause was drafted, requiring only that certain technical data be submitted.<sup>55</sup>

The most surprising aspect of the Social Credit government's Mineral Act amendments was the NDP's support of them. In direct contrast to the party's stand on the taxation question, Gary Lauk expressed the opinion that:

It's not a bad bill. . . . These are changes which reflect the need of securing a greater understanding with the mining industry. That was begun under the previous administration and would have been completed. . . . The opposition will support the bill in second reading.<sup>56</sup>

The NDP also supported it both in the committee stage, where it was approved without debate, and at third reading, when it was passed without dissent. Now that those who had originally initiated the NDP's resource management policies in the mines department had all departed from the scene, there was no inclination on the part of the party's present spokesmen to defend their approach, even in principle.

This repudiation was confirmed when Social Credit introduced an entirely new and simplified Mineral Act in 1977.<sup>57</sup> In general terms, this act reaffirmed the status of the "free miner," ensured his access to the province's mineral resources, and removed the last vestiges of production regulation. Again, there was no opposition from the NDP.

The only major piece of legislation to survive the Social Credit onslaught was the Mineral Land Tax Act. Its retention was due to the fact that the province's largest coal producer, Kaiser Resources, operated on old Crown grants, and thus the provincial government's right to collect coal royalties depended directly on this act. Although the new government lowered these royalties, it did not want to forfeit them altogether, and in 1977 the wording of the Mineral Land Tax Act was strengthened to ensure its immunity from a continuing legal challenge by the mining companies. Despite this one exception, it was clear that the NDP's mining policy had been completely dismantled.

### *Conclusion*

The attempt by the New Democratic Party to change, in a permanent way, the conditions under which British Columbia's mineral resources

<sup>55</sup> B.C., *Statutes*, 1976, Chapter 30, "Mineral Amendment Act, 1976."

<sup>56</sup> B.C., *Legislative Assembly, Debates*, 31:1, 9 June 1976, pp. 2504-05.

<sup>57</sup> B.C., *Statutes*, 1977, Chapter 54, "Mineral Act."

are exploited can only be judged a failure. Its taxation policy, as embodied in the Mineral Royalties Act, was found to be politically untenable almost as soon as it was passed by the legislature, and there is little doubt that it would have been abandoned (or at least drastically modified) even if the government had not gone down to defeat in 1975. Similarly, the regulatory policies embodied in the Mineral Act amendments were equally unsuccessful in producing lasting change, and the NDP would almost certainly have moved at least some distance back to the less activist approach of previous and present Social Credit administrations. Finally, the NDP government was unsuccessful in creating any major diversification in the mineral industry, and the industrial structure it left differed little from the one it inherited.

What were the reasons for this failure? This conclusion seeks to answer the question from three related points of view: the weaknesses inherent in the policies themselves, the ability of the mining companies to exercise power in the political arena, and the limited ability of the government to implement its own policies.

A fundamental weakness of the NDP's mineral policies was their failure to achieve an overall co-ordination among the various goals implicit in the 1972 party platform. As Paul Tennant has pointed out, this failing was characteristic of the overall performance of the NDP government, in which policy initiatives came largely from the more forceful individuals in cabinet, with a lack of overall planning and co-ordination.<sup>58</sup>

As a result, a basic conflict arose between the government's policies in the areas of taxation, regulation and secondary processing. A badly conceived policy in the taxation field (i.e., the incremental royalty) gave the mining companies a strong position from which to attack the principles behind both the royalties and the new regulatory measures. In late 1975 an almost exclusive preoccupation with achieving quick results in the area of secondary processing further undermined all the other elements of the overall mineral policy.

In the area of regulation, the reforms embodied in the Mineral Act amendments took place within the context of the traditional industry-department relationship. The amendments merely strengthened the government's position within this relationship rather than changing its closed and informal nature. The changes were accompanied by no new structures or public procedures to govern the exercise of these powers. Innovations like formal public hearings on the overall impact of new mining

<sup>58</sup> Paul Tennant, "The NDP Government of British Columbia: Unaided Politicians in an Unaided Cabinet," *Canadian Public Policy* 3 (Autumn 1977): 489.

projects would probably have gained much greater levels of public support for the regulation of these developments, and would have made the reforms much harder to dismantle. As it was, the major public issue became simply one of "ministerial discretion."

The NDP's principal policy initiative in the area of taxation, the Mineral Royalties Act, had two fundamental aims: to ensure that the province obtained a basic minimum payment for the mineral resources exploited by private firms and to appropriate a significant amount of the economic rent generated by resource extraction during a period of rapidly rising world prices. This latter aim had prompted taxation measures by the provincial governments of Alberta, Saskatchewan and B.C. in the early 1970s in response to escalating petroleum prices, and the example of oil was used as a justification for the NDP's incremental royalty scheme for solid minerals.

However, it soon became evident that oil and minerals were not areas which could be treated in the same way, since in the case of oil, a series of global events had produced a sudden and permanent price rise. These developments gave both governments and the large oil companies more scope to increase their respective returns (which is not to say, of course, that the question of revenue distribution between governments and industry does not remain a basic political problem). In the case of minerals prices tend to fluctuate, and rapid increases turned out to be rather impermanent. Thus, even if the existence of economic rent over the long term could be clearly established, the attempt by governments to appropriate a significant part of it would inevitably bring it into direct political conflict with the interests of private corporations.

This difficulty was compounded by what can only be termed an extremely badly drafted piece of legislation, in which a rent collection tax was attempted by merely adding a number of clauses to a bill that was originally designed as a simple flat-rate royalty. While the NDP's policy on the processing of mineral resources was initiated much too late in its term of office to allow any definitive judgments, it is clear that this policy was not really compatible with any attempt to appropriate large amounts of economic rent from the mining industry.

Although the policy failure of the NDP government is the most often cited aspect of experience in the mining field, it would be a mistake to consider it the only important one. As noted above, mineral production is inherently capital intensive, thus producing a high level of control by a relatively small number of large multinational corporations. These corporations, in the pursuit of their economic self-interest, have had a

direct concern with government policy, and have thus sought (largely successfully) to influence its outcome.

In general terms, these companies have had two basic aims in their ongoing relationship with government: to preserve for themselves the maximum possible degree of autonomy within which to pursue their activities and to obtain the highest possible financial benefit from the state through preferential tax treatment, outright subsidies or the provision of infrastructure. Because of the province's position as owner of most of the mineral resource, the first of these aims has generally been pursued at the provincial level within the context of a relationship with the administrative branches of government.

A close clientele relationship between a particular interest group and a government agency will give the former a definite set of advantages in the policy formulation process. It is assured continuous access to public decision-makers, and will thus be able to utilize the existing regulatory structure to its advantage. To the extent that changes to this structure are developed within the regulating department itself, the group will be able to express its support or opposition well in advance. The scope and strength of these advantages will be affected not only by group attributes like size, physical resources, and organizational cohesiveness, but also by its possession of highly valued information.<sup>59</sup> Thus a common theme in the literature on interest groups and the regulatory process has been the tendency of the regulating agency to become a captive of the interest that they are supposed to regulate.<sup>60</sup>

Throughout most of this century the mining industry in British Columbia has enjoyed all these theoretical advantages in its relationship with the department of mines. The concentration of ownership in mining has meant that the relatively small number of men who direct the affairs of the major companies have been able to bring to bear considerable physical and organizational resources. Their interests vis-à-vis government have been virtually identical, while the relatively small numbers of individuals involved have made the co-ordination of these interests a relatively easy task.

Like other business and professional groups, mining companies amass a great deal of information and expertise in the day-to-day pursuit of

<sup>59</sup> Harry Eckstein, *Pressure Group Politics: The Case of the British Medical Association* (Stanford: Stanford University Press, 1960), p. 38.

<sup>60</sup> The classic exposition of this theme in relation to United States regulatory agencies was that of Marver Bernstein, *Regulating Business by Independent Commission* (Princeton, N.J.: Princeton University Press, 1955). The number of extensions and variations which have been undertaken subsequently is much too great to list here.

their economic activities. Knowledge concerning such things as the precise economic state of producing mines, the value of discovered mineral deposits and the viability of new projects is more often than not the exclusive preserve of the companies themselves. Hence, administrators find it difficult to function effectively without the day-to-day co-operation of the major mining companies.

In pursuing its second major aim, the greatest possible financial benefit from its relationship with government, the mining industry has not been able to rely exclusively on its position as a relatively powerful interest facing a small government department. Taxation policy has not generally been made within the confines of the mines department, but by government as a whole. Indeed, many of the attributes of the mining industry as an interest group have proved just as effective in its dealings with cabinet, but the industry has also had to justify publicly its desire for favoured treatment. Thus it has gone to some lengths to stress the role of mining in providing employment, creating the basis of a modern industrial economy, and opening up new areas to development, while minimizing the (often expensive) public infrastructure which must be provided, as well as negative impacts like regional instability, environmental pollution, and the growing reliance of the Canadian economy on the export of primary products.<sup>61</sup>

The early 1970s saw increasing activism on the part of both federal and provincial governments, leading to a crisis in industry-government relations. The strategic political position of the industry was directly threatened and it was forced to employ new methods. As E. E. Schattschneider has noted, the resources available to contending groups are never fixed, but change with the scope of the issue under consideration.<sup>62</sup> Hence an established constellation of economic interest may enjoy almost complete success in its day-to-day interaction with the bureaucracy or the political executive but may find its position undermined when it has to pursue it in a wider public arena. The expansion of the conflict may bring other interests into play and thus critically alter the balance between contending parties.

<sup>61</sup> Bucovetsky terms the public position taken by the mining companies as "mineral fundamentalism," a view which seems to "imply that since there are undiscovered minerals in the good earth of Canada, it would be wasteful not to unearth them. If costs exceed commercially valued benefits, so much the greater reason for public subsidy by tax preferment or otherwise." "Tax Reform in Canada: A Case Study of the Mining Industry," p. 191.

<sup>62</sup> E. E. Schattschneider, *The Semi-sovereign People* (New York: Holt, Rinehart and Winston, 1960), especially pp. 1-61.

The reconsideration of mining policy that occurred on both the federal and provincial levels of government in the early 1970s had the effect of enlarging the scope of the debate. By and large, however, this change did not lead to a corresponding shift in the balance of the contending forces, because the mining industry was largely successful in pursuing its objectives in this enlarged public arena. Through the mobilization of a variety of interest groups and a skilful public relations and media campaign, the industry was able to react to bring different types of pressures to bear on those developing government policy. The latter aspect of the industry's political activities, that of direct advertising, was originally developed on a large scale to fight the federal government's tax changes and was pursued vigorously in British Columbia during the NDP's term of office. The importance attributed to advertising by the mining industry is illustrated by the fact that it has become a permanent feature in British Columbia, despite the continuation in office of a generally friendly government.

Thus, through its ability to mobilize related interest groups in the business community, its impact on the economies of outlying regions, its links with opposition politicians and its access to the mass media, the mining industry was able to adapt itself to meet these new challenges in a forceful and effective manner. In doing so it demonstrated that it was not simply an interest which owed its position to political influence behind the scenes, but could also mobilize a fairly broadly based coalition to support its cause in a full-scale public controversy. Its success was not due merely to its possession of a given number of discrete attributes or resources, but, more fundamentally, to its critical economic position which enabled it to employ a wide variety of such resources.

In trying to attain broad societal goals a government must do more than simply initiate policy changes. It must also implement them successfully, and this requires more than simply money and organization. At least equally important is the ease with which it can mobilize public support and the extent of the jurisdiction it enjoys. One reason for the NDP's lack of success in the mineral field was that it acted on behalf of a rather diffuse set of concerns rather than in support of those of a concentrated set of organized interests.<sup>63</sup> In other words, mining policy was formulated on the basis of the public interest defined in a broad sense, rather than in response to any externally organized pressure group. The government soon discovered that it enjoyed the support of no organized

<sup>63</sup> For a concise theoretical treatment of this aspect of interest group behaviour, see Mancur Olson, *The Logic of Collective Action* (Cambridge: Harvard University Press, 1971).

group for whom changes in the relationship between the state and the mining industry was an overriding priority.

The limitations on provincial resource policy created by divided jurisdiction in Canada have been especially important in the area of taxation, where a lack of co-ordination between governments can have effects that neither one intended. Since the inception of the federal income tax, the ability of the provinces to devise their own resource tax systems has been circumscribed by federal guidelines. The 1970s saw the increasing importance of some resource commodities in the world economy and the election of more activist governments in most western provinces, so that a broad movement to higher taxes occurred at the provincial level. The federal government responded with its 1974 and 1975 budgets, which sought to preserve its own tax base by increasing its taxes on mining and ending the deductibility of most provincial taxes, especially royalties. Taxes were now higher than either level of government desired, and thus some sort of compromise was inevitable. The NDP in British Columbia, because it had initiated the latest tax increase in mining through the imposition of royalties, felt the pressure to back down far more strongly than did the federal government.

This division of jurisdiction presents a substantial barrier to innovation in the resource taxation field. In Canada, regional as well as partisan differences have made effective policy co-ordination next to impossible, and federal-provincial interaction in the area of mineral policy has not progressed much beyond agreement on rather idealistic generalities. The events of the past decade seem to indicate that an innovating government must face not only the hostility of entrenched interests but also the resistance of its federal or provincial counterpart.

These limitations faced by governments in implementing resource policy changes via the traditional tools of taxation and regulation have generated two opposing reactions in the latter half of the 1970s. The first has been a greater reluctance on the part of governments both at the federal and provincial levels to take an overtly interventionist role in economic matters. The activism of the early 1970s has been replaced by an emphasis on "deregulation" and "private sector incentives."

On the other hand, when governments have been more interventionist in nature (e.g., the Saskatchewan NDP and Quebec's PQ), or when an economic or resource sector is viewed as having strategic importance, there seems to be a tendency to utilize Crown corporations to achieve a more direct form of state participation. Government entrepreneurship can arouse greater public support since it is positive rather than negative

in nature and often generates a constituency favourable to its continued existence. It can also facilitate the development of information and expertise in particular economic sectors. Finally, from the provincial point of view, Crown corporations can overcome some of their limited jurisdiction in the taxation field, since they are not taxable by federal authorities.

The extensive use of Crown corporations, however, raises a whole series of additional problems. What, for example, should be the relationship between Crown resource enterprises, privately owned industry and the government itself, and what policy role should these corporations play? Direct government involvement in an industry does not render the problem of regulation redundant, but makes it at least equally intense, since an adversary relationship must be created within government itself. All these problems have arisen in recent years (particularly in relation to provincial hydro corporations) and are likely to become increasingly important in the future.