

Mr. Harris, Mr. Rae and Union Activity in Ontario

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Le Nouveau Parti Démocratique (NPD) de Bob Rae au pouvoir en Ontario depuis 1990 a approuvé, en 1993, la loi sur les relations au travail qui favorise l'organisation de la main d'oeuvre. En 1995, le Parti Conservateur (PC) de Mike Harris a été élu au gouvernement et a rapidement approuvé une loi beaucoup moins favorable à l'égard des syndicats. Des données mensuelles de 1987 à 1998 sont utilisées afin d'estimer les effets des changements dans les gouvernements ainsi que dans les lois sur la certification et la dé-certification des activités et des griefs dues aux pratiques de main d'oeuvre injustes. Les activités de certification ont augmentés tandis que celles de dé-certification ont diminués après le passage de la loi par le NPD. Le contraire s'est produit avec l'élection des conservateurs de Harris et le changement de gouvernement a eu un impact significatif, même avant le passage de la nouvelle loi. Les griefs dues aux pratiques de main d'oeuvre injustes ont augmentés durant la période où le NPD était au pouvoir mais sont retournés à leurs niveaux historiques sous les conservateurs.

In 1990 Bob Rae's New Democratic (NDP) government was elected in Ontario and in 1993 they passed labour relations legislation favouring organized labour. In 1995 Mike Harris' Progressive Conservative (PC) government was elected and they quickly passed legislation much less favourable toward unions. Monthly data, 1987-98, are used to estimate the effects of the changes in government and legislation on certification and decertification activity and complaints of unfair labour practices. Certification activity increased and decertification activity decreased after the NDP legislation was passed. The opposite occurred with the election of Harris' Conservatives and the change of government had a significant impact, even before new legislation was passed. Complaints of unfair labour practice rose during the NDP tenure but returned close to historical levels under the PCs.

INTRODUCTION

The ongoing decline of organized labour in the United States is one of the most significant changes in labour markets over the past 30 years. From 1966 to 1996, union membership in the United States fell from 22.7 percent of total paid employment to 14.5 percent and the causes of the decline attracted a great deal of attention and investigation.¹

Given the similarities and close ties between the Canadian and United States economies, labour markets, and institutions one would expect organized labour in Canada to have succumbed to the same forces and shrunken proportionately. In fact, union density in Canada remained remarkably stable over the same period. Akyeamong (1997) reports that between 1967 and 1997 union membership fluctuated between 33.2 and 31.1 percent of total paid employment in Canada.

In response to this surprising turn of events, another literature attempts to explain why the Canadian experience has been so different from that of the United States (Chaison and Rose 1991a; Kumar 1993; Meltz 1985, 1990; Riddell 1993).² This literature also questions whether union density in Canada will inevitably follow that of the United States or whether there are differences that will enable the Canadian labour movement to continue to follow a different course (Chaison and Rose 1991a; Kumar 1993; Meltz 1990; Weiler 1983).

A few conclusions from these literatures are relevant for this paper. First, organizing new union members through certification is crucial to maintaining union density (Bronfenbrenner *et al.* 1998; Freeman 1985, 1988; Kumar 1993). Freeman (1985, 1988) posits a stock-flow model of union density where union membership is steadily lost through the plant or firm closings which are continually occurring in economies. New firms and plants are also continually being opened (even if the economy is not growing) and they usually start out non-union. Thus, continuous organizing is required to replace the lost union members, to organize a share of any net new jobs created in the economy, and to maintain union density. The situation is usually described as “having to run hard to stay in the same place” with respect to union density.

The second conclusion is that unions in Canada have been much more successful than their US counterparts in organizing sufficient new members to maintain union density (Chaison and Rose 1991a; Kumar 1993; Meltz 1985; Rose and Chaison 1990). Third, management opposition to unions has been much greater and more aggressive in the United States; and this greater acceptance of unions by management in Canada has been one of the main reasons for the more successful organizing (Chaison and Rose 1991a; Freeman 1985, 1988; Kumar 1993; Meltz 1985, 1988; Weiler 1983). US management has been much more likely to use illegal and abusive means to resist unionization. The number of unfair labour practice complaints is often used to

measure the degree of management resistance (Freeman 1985, 1988; Weiler 1983). Fourth, fairly small differences in labour relations legislation (particularly those regulating the process and requirements for certification) limited management opposition and, therefore, accounted for the large differences in management practices and organizing success in Canada (Chaison and Rose 1991a, b; Freeman 1985, 1988; Kumar 1993; Riddell 1993; Weiler 1983).

Finally and most contentious, changes in the political regime or climate affect organizing success independent of the effects of any new labour legislation passed by the regime. The usual argument is that governments receive a lot of attention and their views, for or against unions, are promoted strongly. If a government has a clear anti-union ideology, the negative aspects of unionism are emphasized and employers are emboldened in their resistance. Conversely, a pro-union government emphasizes the positive aspects of unionism, unions are emboldened, and management resistance lessens (Bronfenbrenner 1998; Chaison and Rose 1991a; Maki 1982; Martinello 1996a).³ More directly, the government can replace some of the personnel serving on the Labour Relations Board. This, in turn, can affect the interpretation of the labour legislation and the way it is enforced, and thus send a strong signal to the practitioners in the labour relations community.

Ontario has recently experienced substantial changes in both its political environment and legislation regarding unions. In 1990 a New Democratic (NDP) government, headed by Bob Rae, was elected for the first time in Ontario and in 1993 it passed a major revision of labour-relations legislation that favoured organized labour. In 1995, a Progressive Conservative government, headed by Mike Harris, was elected. The Harris government was much more conservative and anti-union than previous Progressive Conservative governments, and it quickly passed legislation that was much less favourable toward organized labour.

This paper uses the recent changes in Ontario's government and labour legislation to estimate the effects of the political regime and labour relations legislation on union organizing, decertifications, and complaints of unfair labour practices. Specifically, monthly data, January 1987 to May 1998, are used to regress the number of certification applications disposed by the Ontario Labour Relations Board on political and legal dummy variables and variables controlling for seasonal factors, the overall level of economic activity, and the free trade agreements. Similar regressions are run for the number of certification applications granted, the success rate for certification applications; the number of decertification applications disposed and granted, and their success rate; and the number of unfair labour practice complaints.

The estimates show that both the political environment and labour relations legislation are important and that Ontario's dramatic shift to the right of the political spectrum decreased union certification activity sharply, implying a lower long-run level of union density, other things being equal. The Canadian experience still diverges from the United States, however, in that complaints of unfair labour practices fell significantly during the Harris regime, compared to the previous Rae regime. Further, the decline in certifications appears (given the short time series) to be a one-time decrease rather than the continuous decreases experienced in the US. The estimates also show a large decrease in certification activity associated with the passage of the Canada-US Free Trade Agreement. The magnitudes of the estimated effects suggest that the Canadian labour movement is vulnerable to legislative changes and political shifts of the sort experienced in Ontario.

POLITICS AND LABOUR RELATIONS LEGISLATION IN ONTARIO: 1985-1998

The Progressive Conservatives (PC), the Liberals, and the New Democratic Party (NDP) were the major political parties in Ontario and each took a turn

at government. The NDP was most closely associated with organized labour. The Liberal Party was generally considered to be in the centre of the political spectrum and the PC Party was more conservative than the other two parties. Prior to the mid-1980s, however, the governing PC Party was all over the ideological map in Ontario and could not be considered a "right-wing" party (Dyck 1996, pp.317-18). Dyck summarizes the recent experience in Ontario and is the source for most of the following political history.

The Ontario Liberals and NDP signed a two-year accord in 1985 whereby the NDP agreed to not vote against the Liberals in non-confidence motions. In exchange, the Liberals agreed to pursue the legislative agenda outlined in the accord and to not call an election for the next two years. The two parties then defeated the newly elected PC minority government and the Liberals, headed by David Peterson, formed the new government. This ended 42 consecutive years of PC government in Ontario. A large amount of legislation was passed over the next two years as the provisions of the accord were implemented, but labour relations were largely ignored. The only major change was the introduction of a relatively weak set of first-contract arbitration provisions in May of 1986.

In September of 1987, after the accord had expired, another election was held and David Peterson's Liberals were elected with a large majority. The next three years passed quietly on the labour relations front with no significant changes in legislation. Then in September 1990, the NDP were elected to a majority government and Bob Rae became premier. Supporters from the left and organized labour had high expectations of radical reforms, but the NDP was unable to move quickly on most of its promises and long-standing policies. A draft of proposed revisions to the *Labour Relations Act* was not released until November of 1991, and the actual changes did not come into effect until 1 January 1993 (Canada. Human Resources and Labour 1993, 1994). In September of 1992 the NDP

appointed a new chair of the Labour Relations Board.

The 1993 labour legislation revisions were known as Bill 40 and they were very favourable to organized labour. (See Canada. Human Resources and Labour 1993 for more details.) The old preamble was replaced by a clause stating that the Act's purpose was to encourage collective bargaining and to ensure the right of employees to participate in collective bargaining. Coverage under the Act was extended to groups that had previously been denied access to collective bargaining, successor rights were strengthened, and unionized employees received "just-cause" protection against discipline and discharge.⁴ Changes to the powers and procedures of the Labour Relations Board allowed the board to speed up procedures, issue interim orders, consolidate bargaining units, and impose certifications or terms of collective agreements in many more situations. Labour also acquired more leverage during collective bargaining and work stoppages. Strike replacements were banned, part- and full-time employees were often included in the same bargaining unit, employees benefit plans could be continued (at the union's expense) during a strike, picketing was allowed on some third-party property, and the six-month limit on job protection during the strike was removed.

The card-based system for certification was maintained so that a bargaining unit could be certified with no representation vote if 55 percent of the employees in the bargaining unit indicated support for the union by signing union cards. This meant that a union could document support sufficient for certification before the application was filed and, in some cases, even before the employer was aware that an organizing drive had commenced. A representation vote would be held only if 40 percent to 55 percent of employees signed cards (increased from 45 percent to 55 percent before Bill 40).

Bill 40 also made certification of new bargaining units easier in other ways. Union organizers had

better access to employees, first-contract arbitration was more powerful and more easily obtained, and the board had more power and opportunities to impose certifications if there were unfair labour practices. In addition, the deadline for submitting membership evidence (for or against the union) was moved forward from a terminal date (several days after the application was filed) to the date that the application was filed. This limited the opportunity for filing anti-union petitions, thereby limiting (indirectly) employers' ability to oppose the application. Prior to Bill 40, petitions questioning union practices or support could be presented after the certification application was filed and some of the petitions were the product of management's response to the application (Eaton 1994, p. 3). Even if the petitions were subsequently identified as numerically insignificant, or tainted by management involvement and dismissed, delays in the processing of the application made organizing more difficult and expensive, and lowered the likelihood of a certification.

In February 1994, Bill 117 extended the coverage of the *Labour Relations Act* further. Ontario government employees were placed under the jurisdiction of the Act and the Ontario Labour Relations Board. The definition of an employee was also broadened so that more classes of managerial staff were included. Bill 117 also gave government employees the right to strike, subject to essential services provisions (Canada. Human Resources and Labour 1994).

Bill 40 only lasted for 34 months. In June 1995 the PC party was elected to a majority government and Mike Harris became premier. The Progressive Conservatives brought a large change to Ontario politics and made the provincial government one of the most conservative in Canada. The PC government appointed a new chair of the Labour Relations Board in September 1995 and in November 1995 they passed their own labour-relations legislation: Bill 7. (See Canada. Human Resources Development 1996 for more details.) This legislation repealed

virtually all of the Bill 40 provisions with no grandfathering or transition period and even some retroactive provisions. The sole exception was that some of the reforms to grievance arbitration procedures were retained.

The new legislation, however, went beyond a return to the old status quo. Strike votes and ratification of negotiated collective agreements were made mandatory in all but the construction industry. Decertification was made easier by reducing the support required for a vote from 45 to 40 percent, and by substantially weakening the criterion for dismissing decertification applications due to employer involvement. As for certification procedures, the time bar limiting applications after a union defeat was extended to one year. More importantly, the card-based system for organizing was eliminated and a representation vote was required in every certification application.

This vote-based certification procedure is similar to the United States' procedure where a representation vote was always required, the vote was decisive, and the whole process took a much longer time. The US process provided employers with more opportunities to campaign aggressively against the union due to the election campaign and the longer time period required. It also gave employers more incentive to oppose the application since they could directly affect the outcome of the election by campaigning and influencing employee voting (Chaison and Rose 1991a; Freeman 1985, 1988; Weiler 1983). These differences between the card-based and vote-based systems are repeatedly cited in the literature to explain why union density has fallen in the United States but not in Canada.

The 1995 legislation, however, was not a complete transition to the American system. The representation vote had to be held quickly — within five days of the application — although it could be postponed. This limited management's opportunities for anti-union campaigning. Other important differences between the US and Canadian systems also re-

mained. These included more protection from the sorts of court challenges used to delay and frustrate applications in the United States; and more rigorous and expeditious enforcement of protections against unfair labour practices.

DATA

The data consist of monthly observations, January 1987 to May 1998, on the number of certification applications disposed and granted, decertification applications disposed and granted, employees covered by certifications granted, and complaints of unfair labour practices in cases handled by the Ontario Labour Relations Board (OLRB). The data were gathered by summing the listings of individual cases at the back of the *Ontario Labour Relations Board Reports*. The number of applications disposed can be considered the total number of applications attempted. It is the sum of the number of applications granted, dismissed, withdrawn, terminated, settled, or endorsed. An application is counted in the month that the final decision on the application is made. The certification or decertification process would usually have started a few months earlier.

The OLRB covers most of the private sector workers in Ontario. The only exceptions are workers in industries such as broadcasting, banking or transportation who are covered by the federal board. As noted above, the coverage of the board was extended to cover Ontario government employees in 1994.

The data on the number of employees covered by certifications granted prior to November 1995 should be considered reliable, but not extremely accurate. After November 1995 the data overestimate the number of employees covered and are not reported.⁵ For certifications, the data include raid or displacement applications and there is no practical way to identify those applications. The complaints of unfair labour practices cover all complaints, and not just those concerning certification or

decertification applications. However, complaints of unfair labour practice during certification applications make up a substantial majority of the complaints.⁶ The other major category is complaints of failure to represent employees fairly in grievances.

The OLRB processed zero certifications, decertifications, and complaints of unfair practices in March of 1996 due to a strike by Ontario government employees. The March 1996 observation is retained in the data set because organizing and decertification drives did not stop as a result of the strike. Applications that would have been filed in March were simply filed in the months that followed. The sensitivity of the results to that observation was checked by re-doing all of the estimation with March 1996 excluded. The results are available from the author and they show that there is very little change in the estimates.

Since the January 1987 to September 1990 data form the benchmark or comparison period for this study it is prudent to verify that certification and decertification activity over this period were typical for Ontario. Otherwise the effects of the legislative and political changes may be measured relative to an outlier benchmark. There are no *a priori* reasons for believing that the 1987-90 period is atypical. The Liberal Party formed the government, but their ideology and policies were not radically different from preceding governments. Further, as noted above, labour relations legislation barely changed over this period.

Empirical evidence on the question can be obtained by comparing the fiscal year totals for 1987/88, 1988/89, and 1989/90 to the previous ten years.⁷ For certifications, the number of applications granted and disposed decline over the comparison period, but they all lie within one standard deviation of the previous ten-year mean. Thus, they can be considered typical of what occurred over the previous ten years. The levels of decertification activity in 1987/88 and 1989/90 are also within one standard deviation of the previous ten-year mean,

but the level of activity in 1988/89 is quite high compared to the previous ten years. For unfair labour practices, the numbers of complaints in the three comparison years also fall within one standard deviation of the previous ten-year mean; but they are all on the high side of the mean.

DATA ANALYSIS AND RESULTS

The data are plotted in Figures 1 and 2. Success rates for certifications and decertifications are the number of applications granted divided by the number disposed. Vertical lines mark the changes in government and labour relations legislation. From left to right they show: the election of the NDP, the NDP labour-relations legislation (Bill 40), the election of Harris' PCs, and the PC's labour-relations legislation (Bill 7).

Many of the effects of the changes in government and legislation are clear from the figures. Still, it is prudent to estimate the magnitudes of these effects with controls for other factors and considering their estimated standard errors. To accomplish this, the dependent variables (certifications disposed, certifications granted, etc.) are regressed (in separate regressions) on monthly dummy variables, the rate of change of employment in Ontario in the current and three preceding months, a dummy variable for the free trade agreement, and public policy dummy variables corresponding to the new government or legislation. The monthly dummy variables adjust for any seasonal effects which may be important because the different regimes start and end at different times of the year and, in one case, last only a few months. The rates of changes of employment adjust for the effects of the business cycle. Lagged variables are included because the certification or decertification campaigns must start before the application is filed and the final decision usually occurs a month or two after the application is filed. Thus, conditions in the months preceding the final decision affect the decision to file the application and its outcome. The trade agreement dummy

variable equals one for the months when the Canada-US Free Trade Agreement or the North American Free Trade Agreement were in effect (i.e., from January 1989 to the end of the sample) and it is meant to control for the greater competition and adjustment caused by the trade agreements.

Four mutually exclusive public policy dummy variables capture the effects of the political regime and the legislation. The public policy dummy variables correspond to the time periods marked on the figures. The first dummy variable equals one only for those months where the NDP governed with the old (Liberal) legislation still in effect. The second dummy variable equals one only for those months where the NDP governed and the new legislation, Bill 40, was in effect. The third dummy variable equals one only for those months where the Harris PCs governed but Bill 40 was still in effect, and finally, the fourth dummy variable equals one only when the Harris PCs governed and Bill 7 was in effect. Thus, the coefficients on the dummy variables estimate the net effects of the political regime and labour relations legislation in that period, compared to the 1987 to September 1990 experience, adjusting for seasonal variation, economic conditions, and the passage of the trade agreements.

Tables 1 and 2 report the estimated coefficients on the public policy and trade agreement dummy variables for all of the regressions. The percent columns express the estimated effect as a percentage of the January 1987 to September 1990 average. The estimated seasonal and business-cycle effects are omitted for the sake of brevity, but are available from the author. The tables also report Newey-West (1987) standard errors that are robust to arbitrary heteroscedasticity and third-order autocorrelation. The estimated effects are quite robust to changes in the specification. This is not surprising given the large and obvious effects shown in the figures. Changes in the number of lags on the rate of change of employment or the autocorrelation do not change the basic results. Adding inflation rates to the right-hand side of the regressions, lagged up to three

months and meant to capture more of the effects of macroeconomic conditions, also leaves the basic results unchanged.

Certifications

The first row of Table 1 shows that the election of the NDP alone, before their labour relations reforms, had positive effects on the numbers of certification applications disposed and granted, but that these effects are not statistically significant. Surprisingly, the success rate for applications and the number of employees covered by certifications granted are estimated to decrease in this period, but again, the estimates are far from significant. Figure 1 shows that in the first year following the election of the NDP, the number of certification applications attempted and granted, and the number of employees covered, did increase markedly. After the first year, however, the numbers dropped sharply, leading to small or negative overall effects for the period. The NDP's proposed reforms to the *Labour Relations Act* were released about 13 months after its election, but the reforms did not take effect until another 13 months had passed. Thus, one possible explanation is that organizers held back certification attempts in this pre-legislation period, preferring to wait until the new legislation changed the rules in their favour.

The second row of Table 1 shows that the level and success of certification activity increased substantially after Bill 40 took effect. All of the estimates are statistically significant at extremely low significance levels. The number of certifications attempted increased by 23.6 percent compared to the 1987 to September 1990 period and part of this increase was due to the organizing of employees (such as agricultural workers) who were previously denied the right to join unions. The application success rate also increased by 9.1 percent (or 6.1 percentage points) and these two factors combined to yield a 33.8 percent increase in the number of certifications granted. The increase in the number of employees covered by these certifications is estimated to be 38.4 percent, so the average size of

TABLE 1
Certification Regression Results

Regime	Certification Applications Disposed		Certification Applications Granted		Certification Application Success Rate		Employees Covered by Certifications Granted	
	Coef.	%	Coef.	%	Coef.	%	Coef.	%
NDP gov't and old legislation	8.24 (6.55)	10.5	4.00 (5.12)	7.5	-0.02 (0.02)	-3.2	-112.36 (244.05)	-5.8
NDP gov't and NDP legislation	18.65** (4.61)	23.6	18.00** (3.65)	33.8	0.06** (0.02)	9.1	738.26** (216.96)	38.4
PC gov't and NDP legislation	4.20 (3.63)	5.3	3.39 (2.92)	6.4	0.01 (0.02)	1.1	189.25 (248.89)	9.8
PC gov't and PC legislation	-15.31** (4.01)	-19.4	-15.27** (3.33)	-28.7	-0.08** (0.02)	-11.9		
Trade agreement	-17.38** (4.11)	-22.0	-9.53** (3.46)	-17.9	0.03* (0.02)	4.6	-549.67** (238.64)	-28.6
R ²	0.541		0.587		0.457		0.369	
N	136		136		135		105	

Notes: ** indicates significant at the 5 percent level.

* indicates significant at the 10 percent level.

Estimated Newey-West standard errors are in parentheses.

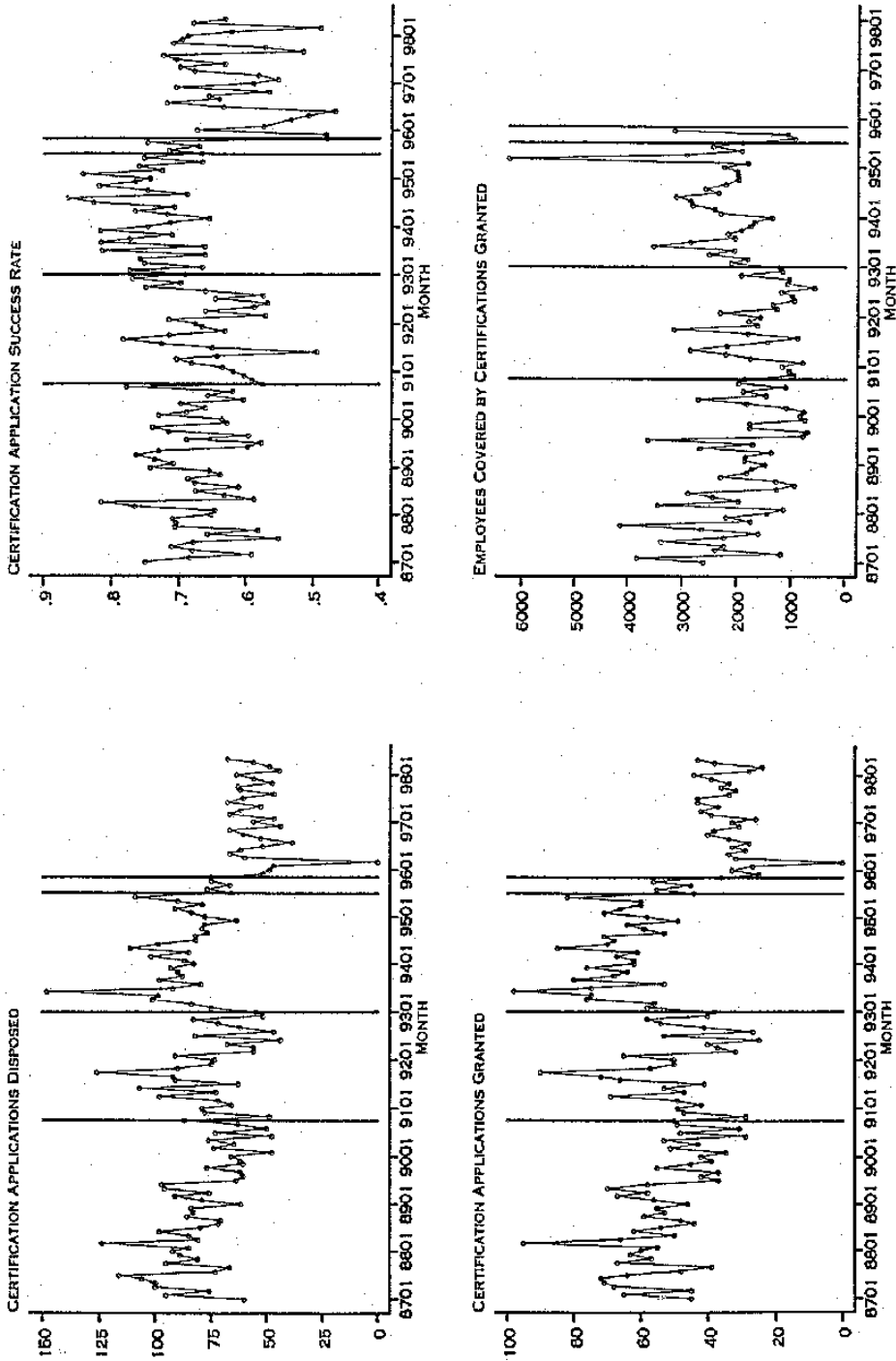
Each regression also included monthly dummy variables and the rates of change of employment in the current and three preceding months. The coefficient estimates for these control variables are omitted for brevity, but are available from the author.

the new bargaining units was only slightly larger than it had been previously.⁸

The third row of Table 1 shows that when Harris' PC government was elected certification activity remained above the pre-NDP levels, but fell substantially from the NDP levels even though Bill 40 was still in effect. Recall that the estimated coefficients on the dummy variable measure the effect of the new government relative to the January 1987 to September 1990 (pre-NDP) period. Thus, the smaller positive coefficients show that certifications and employees covered fell from their higher "NDP

government and Bill 40" levels to levels slightly above the comparison period. The standard errors on these estimates are all quite large due to the small number of observations for this period and the way the dummy variables are defined. If the dummy variables for this third period are redefined so that they measure the change from the "NDP government and Bill 40" levels, the estimated coefficients show large decreases in the number of certifications attempted and granted, the success rate, and the number of employees covered when the Harris government is elected. All of the estimates are significant at the 3 percent (or lower) level.

Figure 1
Certifications



Note: From left to right the vertical lines mark the election of Mr. Rae's NDP, Bill 40 passed, the election of Mr. Harris' PCs, Bill 7 passed.

When Bill 7 took effect, certification activity decreased to levels far below those prevailing previously in Ontario. Table 1 shows that the estimated changes are all overwhelmingly significant. The number of certifications attempted fell 19.4 percent below the 1987-90 period and the application success rate fell 11.9 percent (or 8.05 percentage points) below the pre-NDP period. The smaller number of attempts and lower success rates combined to yield a 28.7 percent drop in the number of certifications granted. Thus, the decline in organizing attempts accounted for roughly 60 percent of the decline in the number of certifications granted. The changes in coverage, access to workers, or first-contract arbitration are unlikely reasons for the large decline in the number of attempts because these were all returned to their pre-NDP states and the big decreases are measured relative to pre-NDP levels. The new changes to the certification procedures (e.g., the mandatory representation vote) likely accounted for the decrease in the certification success rate but the larger effect seemed to be the discouragement of organizing attempts.

Finally, the trade agreement dummy variable is associated with large and significant decreases in the number of certifications disposed and granted and the number of employees covered by certifications granted. Surprisingly, the certification success rate is estimated to increase by 4.6 percent (or 3.09 percentage points) with the free trade agreement, holding the other variables constant, but the estimate is only significant at the 7 percent level.

Decertifications

Figure 2 shows that decertifications behaved as one would expect over the sample period, with decreases in activity while the NDP governed and increases during the PC tenure. Table 2 shows, however, that all of the statistically significant changes are in the number of applications attempted and granted. The decertification success rate is estimated to be 12.2 percent and 12.7 percent lower when the NDP governed and then 1 percent and 3.7 percent higher with

the PCs. None of the estimates, however, is close to being statistically significant and the hypothesis that all four dummy variable coefficients equal zero is far from being rejected (p -value=0.29).

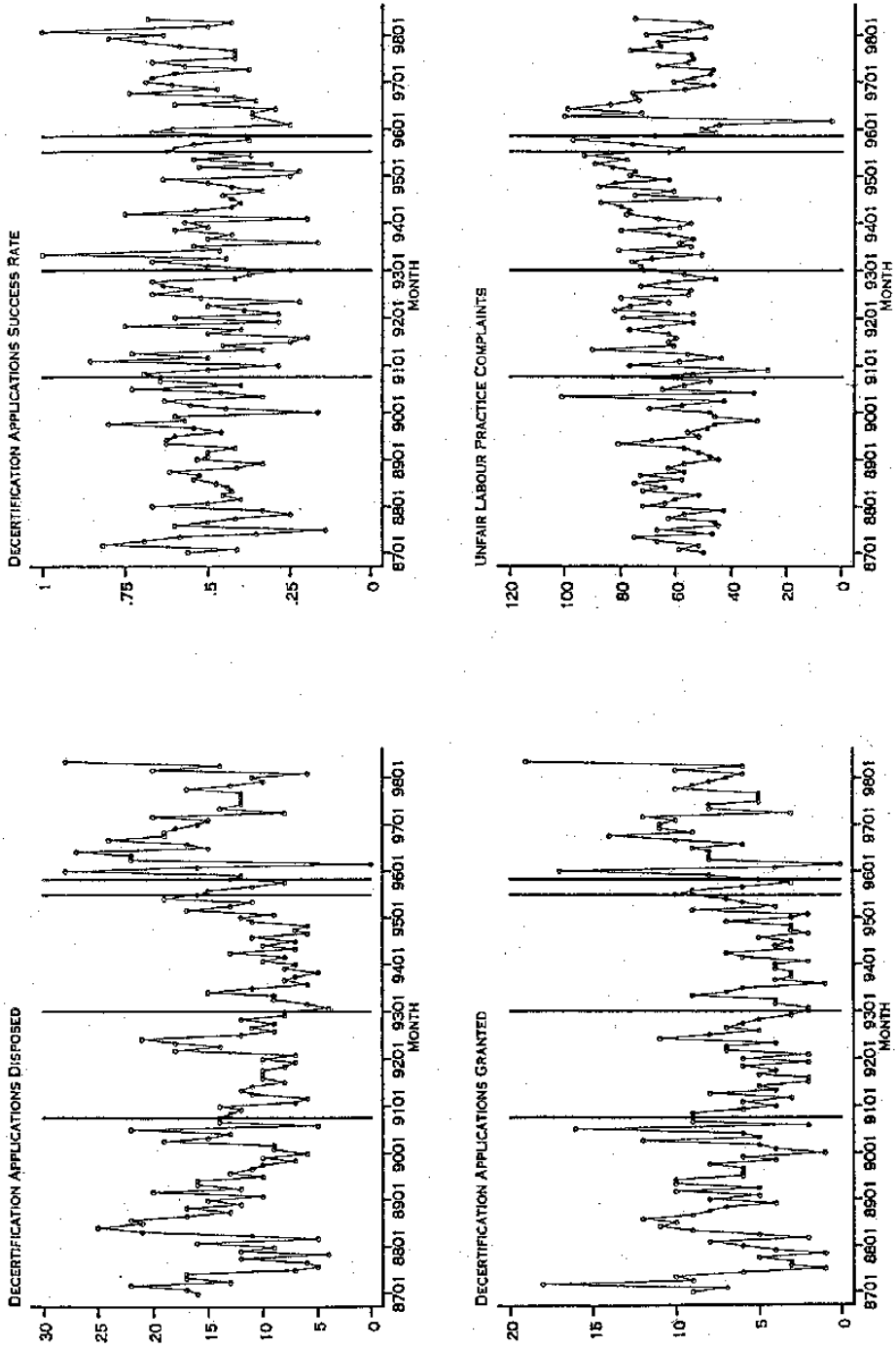
When the NDP was elected the number of decertifications attempted and granted are estimated to have fallen by 11.9 percent and 25.8 percent respectively, but only the latter estimate is statistically significant. After Bill 40 takes effect both decertification attempts and decertifications granted are estimated to fall by roughly another ten percentage points and both estimates are overwhelmingly significant.

When the Harris PCs were elected, decertification activity rose from the low NDP levels to levels 6 to 7 percent above those experienced from 1987 to 1990. Again, the estimated coefficients for this period are insignificant because they measure the change from the pre-NDP period. If the dummy variables are redefined to measure the change from the preceding NDP government and legislation period, the estimated effects are large, positive, and statistically significant in both the decertifications attempted and decertifications granted equations.

Decertification activity increased to levels far above the 1987 to 1990 period when Bill 7 became law. The number of decertifications attempted increased by 32.2 percent compared to the pre-NDP period, the number granted increased by 28.3 percent, and both estimates are statistically significant. Recall that decertification activity was historically high during the comparison period. Thus the increases recorded during the PC regime sent decertifications to much higher levels than had been experienced previously.

Finally, the coefficient estimates on the trade agreement dummy variable show that decertification applications disposed and granted decreased, while their success rate increased, but none of the estimates are close to being statistically significant.

FIGURE 2
Decertifications and Unfair Labour Practices



Note: From left to right the vertical lines mark the election of Mr. Rae's NDP; Bill 40 passed, the election of Mr. Harris' PCs, Bill 7 passed.

TABLE 2
Decertification and Unfair Labour Practice Regression Results

<i>Regime</i>	<i>Decertification Applications Disposed</i>		<i>Decertification Applications Granted</i>		<i>Decertification Application Success Rate</i>		<i>Unfair Labour Practice Complaints</i>	
	<i>Coef.</i>	<i>%</i>	<i>Coef.</i>	<i>%</i>	<i>Coef.</i>	<i>%</i>	<i>Coef.</i>	<i>%</i>
NDP gov't and old legislation	-1.58 (1.23)	-11.9	-1.78** (0.82)	-25.8	-0.06 (0.05)	-12.2	9.37** (3.44)	16.3
NDP gov't and NDP legislation	-2.85** (1.16)	-21.4	-2.39** (0.62)	-34.6	-0.06 (0.04)	-12.7	16.41** (4.10)	28.5
PC gov't and NDP legislation	0.91 (1.5)	6.9	0.42 (1.38)	6.1	0.01 (0.07)	1.0	18.56** (6.01)	32.2
PC gov't and PC legislation	4.28** (1.55)	32.2	1.96** (0.97)	28.3	0.02 (0.05)	3.7	7.01 (5.06)	12.2
Trade agreement	-2.58 (1.99)	-19.4	-0.63 (1.28)	-9.0	0.05 (0.04)	9.2	-5.78 (3.76)	-10.0
R ²	0.363		0.286		0.098		0.311	
N	136		136		135		136	

Notes: ** indicates significant at the 5 percent level.

* indicates significant at the 10 percent level.

Estimated Newey-West standard errors are in parentheses.

Each regression also included monthly dummy variables and the rates of change of employment in the current and three preceding months. The coefficient estimates for these control variables are omitted for brevity, but are available from the author.

Complaints of Unfair Labour Practice

The lower right panel of Figure 2 shows that complaints of unfair labour practice generally increased over the period 1987-96, but then fell back to levels more typical of the very early 1990s in 1997. The estimates in Table 2 concur, with increasing and statistically significant coefficients over the first three time periods. The estimate for the last period (PC government and legislation) is positive due to the high numbers of complaints in 1996, but it is not statistically significant.

The large increases in numbers of complaints while Bill 40 was in effect likely reflects more aggressive complaining. Bill 40 gave the board very broad powers to issue interim orders and grant certifications if there were unfair labour practices. Thus, the greater potential benefit or remediation increased the incentive to file a complaint and the number of complaints increased accordingly. The relative decrease in complaints after Bill 7 replaced Bill 40 suggests that the Ontario experience is different from the United States and the dramatic

decrease in certifications granted is not due to overly aggressive, illegal opposition from employers. The relatively quick representation vote and other provisions seem to have been successful in limiting the opportunities and incentives for unfair labour practices against labour.

These results for complaints should be regarded cautiously since the data report all complaints and not just those dealing with certifications. However, conversations with the board suggest that there were no notable changes in the composition of complaints over the sample period. Another caveat to the analysis is that complaints of unfair labour practice may simply reflect the level of certification activity. This would explain the increases in the Rae years, but not the experience of the Harris years where certification activity dropped sharply (compared to the pre-Rae years) but complaints did not. This leaves one less sanguine about the conclusion that complaints of unfair labour did not increase significantly because of Bill 7. A more thorough analysis that disaggregates complaints into the different types and controls for the level of certification activity would be a useful topic for future work.

CONCLUSION

The estimates show that the NDP government of Bob Rae and its labour-relations legislation (Bill 40) caused large increases in union organizing and large decreases in union decertifications, compared to the January 1987 to September 1990 period. The election of the NDP government appears to have increased union organizing initially, but the overall estimated impact before Bill 40 was passed is statistically insignificant. The election of the NDP government, however, is estimated to have had a large negative effect on decertification activity. On the other hand, both the Conservative government of Mike Harris and the labour-relations legislation it passed (Bill 7) resulted in large decreases in union organizing and large increases in union decerti-

fications. Finally, the number of unfair labour practice complaints increased strongly and steadily through the NDP years and the election of the PCs. After Bill 7 was passed, however, the numbers of complaints returned to levels only 12 percent above those experienced in the comparison period.

Of course, many other factors influence the level of union activity. Changes in the composition of the economy, in particular the shifts from the industrial sectors to the service sector, are widely believed to have decreased certification activity and union density. Other changes, such as the increased frequency of mergers and acquisitions, more international trade, and the increasing pace of globalization are also believed to have resulted in lower union activity. While most of these factors have not been included in the analysis, the trade agreement dummy variable provides a rough control for changes occurring after the free trade agreement came into effect. Further, the size and abrupt nature of the changes shown in Figures 1 and 2 suggest that the same results would be obtained with more controls for the factors noted above.

The results suggest a number of conclusions. First, the political regime alone — before any new legislation is passed — has significant effects on the levels of certification and decertification activity. This is consistent with other Canadian and US evidence showing that the political environment is important and affects union activity (Bronfenbrenner 1998; Chaison and Rose 1991a; Maki 1982; Martinello 1996a). As suggested in the introduction, this may be due to the extra publicity and advocacy received by pro-union or anti-union forces when a party with a clear ideology forms the government. The increased advocacy and influence likely energizes the side aligned with the government. They may also increase their efforts in anticipation of new supportive (to their side) legislation. The new Labour Relations Board chairs could also have had an impact, but in both cases the new appointments came only a few months before the new legislation and so

their impact cannot be observed independently of the effects of the legislation.

Second, the labour legislation produced by the political regime also has significant effects on the levels of certification and decertification activity. These two conclusions can be combined to draw a third, more general, conclusion that governments do matter with respect to union success or decline. Governments, through their ideologies and specific legislative initiatives, have a very real impact on labour's fortunes.

A fourth conclusion follows from the fact that when the PCs governed and Bill 7 was passed, certifications dropped dramatically, but the number of complaints of unfair labour practice fell back to levels not significantly different from those in the 1987-90 period. This suggests that the Canadian experience remains different from the United States; and that the declines in certifications are not due to extremely aggressive, illegal management opposition as has been found for the US (Freeman 1985, 1988; Weiler 1983). This also suggests that some of the remaining differences between the US and Ontario systems, such as the quick representation vote, protection from court challenges used to delay applications, and more rigorous and expeditious enforcement, have been effective in avoiding the abusive atmosphere documented for the United States.

Finally, if one is interested in how the changes in certification activity affect union density, the actual levels of certification activity (and not the marginal effects shown by the regression coefficients) must be considered. Thus, the sizes of the estimated NDP and PC effects cannot simply be compared and one must include the effects captured by the trade agreement dummy variable. The large negative impact of the trade variable negates most of the increases in certification activity brought about by Bill 40 and the NDP. Once the negative impacts of Bill 7 and the PC regime are included, it is clear that organizing in Ontario has decreased dramatically.⁹ Further, the NDP increased the coverage of the *Labour Relations Act* substantially. Thus, some of the new cer-

tifications during that period were at the extensive margin of union density: organizing those who were newly eligible for union coverage.¹⁰ This means that part of the increased organizing during the NDP regime was a "one-shot" increase that could not be sustained (since coverage of the Act could not be extended continuously). It was not organizing at the intensive margin (among those who were always eligible for union coverage) which is required to maintain union density over the long run.

This suggests that, given the international trade and other structural changes in the Canadian economy, organized labour in Canada is vulnerable to the election of relatively anti-union governments and the legislation they pass. Chaison and Rose (1991a) speculated that if Canadian jurisdictions adopted the US system for certification, there could be an imitation of the American experience. They went on to argue, however, that such changes in legislation were unlikely because of the broader acceptance of unions and the general orientation of Canadian legislation. The results cited above suggest that changes in the political environment and legislation that were feasible and accepted in Ontario are sufficient to bring about decreases in union organizing that are not that much smaller than those experienced in the United States.¹¹ In the United States, of course, the decline in organizing continued over a long period, whereas Figure 1 appears to show a one-time decline and then steady activity at the lower level. It remains to be seen whether the low levels of organizing activity in Ontario will continue or worsen, or whether the 1995-98 political environment and labour-relations legislation are viable in Ontario over the longer term. The recent re-election of the Harris PC government suggests that the 1995-98 political regime and legislation will continue for the medium term.

NOTES

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¹See Masters (1997, p.44) and Hirsch and Macpherson (1997, Table 1) for these data. The percentages cited in the text (union membership divided by total paid employment) are the simplest and most aggregated measures of union density. If public and private sector densities are disaggregated, there is actually a rise in public sector density and a much larger decline in private sector density (Masters 1997). Further, if categories of workers who were unlikely to be unionized in both 1966 and 1997 (e.g., agricultural workers) are excluded from the denominator, then the measured decline is even more severe. See, for example, Freeman (1988, 1985); Farber and Krueger (1993); Dickens and Leonard (1985) and the references cited therein for analyses of the causes of the decline.

²There is some debate about the extent to which Canadian union density has remained stable and diverged from the US experience (Troy 1990; Chaison and Rose 1991a; Kumar 1993; Meltz 1985, 1990; Riddell 1993). This debate centres mainly on how union density data should be adjusted for differences in the composition of the economies (especially public sector versus private sector differences) and the labour forces. The general conclusion, however, is that after adjusting for these differences the Canadian experience is still very different from the United States (Riddell 1993; Kumar 1993; Rose and Chaison 1996).

³The effect of a change in the political regime could also be interpreted as a “major event” or “change in the context of industrial relations” as suggested by Chaison and Rose (1991b). The argument is that the change in government is associated with a paradigm shift in the context of industrial relations that affects employer policies, union structures, political activities and ideology, among other things. Of course, the new government also changes the labour-relations legislation which has its own effects on the industrial relations.

⁴Coverage was extended to agricultural and horticultural workers, domestics and certain categories of pro-

fessionals. The requirement that security guards join only unions that represented security guards exclusively was also eliminated.

⁵Prior to Bill 7 (November 1995) the OLRB had to estimate the size of the bargaining unit in a certification application to determine whether the union had 40, 45, or 55 percent support. Thus the estimates of the number of employees covered by certifications granted should be reliable. After November 1995 the OLRB is not concerned about the size of the bargaining unit since the application is decided by the majority of votes cast in a representation election. The board constructs a voters list that usually contains many more names than will be in the final bargaining unit, holds the vote, and then rejects any ballots that are successfully challenged by the employer or union. The number of names on the voters list is available but, as noted, it overstates the number of employees in the bargaining unit. Thanks to the board solicitor, Ron Lebi, for explanation of this point.

⁶Conversation with the OLRB solicitor, Ron Lebi, suggested that at least two-thirds of the total complaints would concern actions during a certification drive. See also Ontario Labour Relations Board *Annual Reports 1994-95 to 1996-97*.

⁷The data are taken from Martinello (1996b). The Ontario Labour Relations Board’s fiscal year runs from 1 April to 31 March.

⁸Figure 1 shows a large spike in the number of employees covered by certifications granted in March 1995. This was due to a large number of large bargaining units certified for that month. These included the Windsor Casino, Siemens Electric, occasional teachers, and the Ottawa public library.

⁹In the discussion that follows I ignore decertification activity. There are relatively small numbers of decertifications, and some of them cover bargaining units with no members. However, to the extent that decertifications affect union density, including them in the analysis only strengthens the conclusions.

¹⁰It would, unfortunately, be impractical to attempt to determine what proportion of the certifications covered employees who only became eligible under Bill 40.

¹¹The largest decreases in the number of certifications granted in the United States occurred from 1980 to 1982,

when Ronald Reagan was in power and he moved against the air-traffic controllers. Over those years the number of certifications granted fell by 50.8 percent (Rose and Chaison 1996). This can be compared to the 46.6 percent decrease, due to the combined effect of the free trade variable (-17.9 percent) and the passage of Bill 7 (-28.7 percent), estimated for Ontario in the last period of the sample.

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