

*“It is a shotgun settlement that does not solve the problem,”*<sup>1</sup>:  
The Provincial State and Keynesian Labour Policy in Ontario, 1949-1961

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<sup>1</sup> Eamon Park, CCF MPP and Canadian Communications Director of the USWA, 1950. Quoted in Wilfred List, “Hold Strike Injunctions Shotgun Settlement,” *The Globe and Mail* 13 October 1950, 2.

Writing in 1998 Kevin Burkett, former chair of the Ontario Labour Relations Board, argued that labour law in Ontario was being held hostage by overt political actors who were using labour law for partisan gain.<sup>2</sup> In response, Judith McCormack (another former OLRB chair) suggested that while labour law has always been political in nature, the Ontario governments of the 1990s did represent a dramatic break from the labour relations practiced by the 42 years of the Progressive Conservatives between 1943 and 1985.<sup>3</sup> This analysis was repeated by many industrial relations experts who suggested that the overly political nature of the NDP's labour law reforms in the 1990s moved away from the historical middle and "shifted the legal balance in labour-management disputes in labour's favour."<sup>4</sup> The assumption of these legal experts seemed to suggest that the introduction of Ontario's post-war labour policy evolved to become a natural and equitable mediator between three equally competing groups: management, unions, and state officials.<sup>5</sup> Such an argument, however, was not new or unique.<sup>6</sup>

The popular perception that Canada's post-war industrial regime was created outside the realm of contested politics or through partisan struggle suggests that a range of alternatives was not available. This, of course, is highly debatable. The federal government's decision to return industrial relations to the provinces after the war, for instance, suggests that Canadian labour policy would be highly integrated with strong regional economic forces.<sup>7</sup> Perhaps not surprisingly this was something that employers had been lobbying since the start of the war.<sup>8</sup> Under these conditions it is difficult to look at the Ontario Progressive Conservative Party's approach to labour policy as somehow reminiscent of a non-political or economic environment in which labour law "evolved" or "matured" to its pre-1990 state. Rather, in the formative years of Ontario's post-war labour regime, the Conservative government of Leslie Frost would demonstrate

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<sup>2</sup> Kevin Burkett, "The Politicization of the Ontario Labour Relations Framework in the 1990s," *Canadian Labour and Employment Law Journal* 5 (1998): 168.

<sup>3</sup> See Judith McCormack, "Comment on the "Politicization of the Ontario Labour Relations Framework in the 1990s,"" *Canadian Labour and Employment Law Journal* 6 (1999): 343.

<sup>4</sup> John Crispo quoted in the *Globe and Mail*. James Rusk, "Instability predicated for firms in Ontario," *The Globe and Mail*. 6 October 1995, A7.

<sup>5</sup> As prominent labour lawyer Paul Weiler has also argued, this strategy would be both a benefit and a hindrance to all actors in the industrial relations field thus promoting a fair and balanced system of collective bargaining as "[one the one-hand] legal rules [are] designed for the encouragement of collective bargaining and help expand unions at the expense of non-union employers. By contrast, legal rules are also designed for the goal of reducing industrial conflict and thus hamper the established unions for the benefit of organized employers." See Paul Weiler, *Reconcilable Differences: New Directions in Canadian Labour Law* (Toronto: Carswell, 1980), 7.

<sup>6</sup> Task Force on Canadian Industrial Relations, *The Report of the Task Force on Labour Relations (The Woods Committee)* (Ottawa: Privy Council Office, 1968), 13. As Woods argued in his Task Force Report into Industrial Relations in 1968, the system had naturally evolved so that it "eventually became apparent that unions and collective bargaining were natural concomitants of a mixed enterprise economy. The state then assumed the task of establishing a framework of rights and responsibilities within which management and organized labour were to conduct their relations."

<sup>7</sup> Garth Stevenson, "Federalism and the Political Economy of the Canadian State," in Leo Panitch ed., *The Canadian State: Political Economy and Political Power* (Toronto: University of Toronto Press, 1977), 83.

<sup>8</sup> H.C. Pentland, "A Study of the Changing Social, Economic and Political Background of the Canadian System of Industrial Relations," *Report on the Task Force on Labour Relations (The Woods Commission) No. 1* (Ottawa: Privy Council Office, 1968), 322-332.

that the freedoms outlined in the *Ontario Labour Relations Act* (OLRA) would reduce genuine collective bargaining to a conservative process that perceived trade unionism in an extremely narrow sense. Under such a model, while the government publicly endorsed private sector collective bargaining they also left thousands outside the Act while denying the union's the basic right of security.<sup>9</sup> Throughout the decade, these decisions would result in the prolonged battles over union security and the increased freedom to strike, especially in those industries outside of the core of Ontario's political economy: in the mines, in the construction industry, and in small manufacturers spread outside of the large industrial centres in the province.

The important question to ask here, then, is why did a government that was publicly committed to collective bargaining on the one hand, so actively work to curtail the benefits of collective bargaining on the other? Indeed, why did a Conservative government that was openly promoting a new era of peace and prosperity for post-war growth so deliberately leave thousands of workers outside of the OLRA while limiting the strength of trade unions themselves? The answer, as will be the central argument of this paper, lies increasingly with the political and economic reality of Ontario in the 1950s. While Frost himself was a pragmatic politician who was not ideologically opposed to trade unionism *per se*, the provincial Conservative's embrace of Keynesian economic policy was overly committed to large resource extraction companies in the hinterland while increasingly relying on foreign direct investment in the manufacturing sectors in the core.<sup>10</sup> This economic strategy suggested that the Tories did not need to expand collective freedoms for trade unions, as this would hinder their two main bases of political support: the rural elites who made up a significant component of the Conservative electoral coalition, and the large, (mostly American), manufactures that employed thousands in and around the GTA, Hamilton and in the Niagara Peninsula.

In mapping out this argument, this paper will be divided into three areas. In the first section, we will examine the pressures surrounding the provincialization of labour relations in the immediate post-war period. This analysis will suggest that the Ontario government's approach to post-war economic growth was very much integrated within their political formula of regional political dominance while appealing to large employers in the core. Under such a model, the Tories Keynesian compromise would not include a political space for the trade unions. As will be argued, however, this formula did contribute to the Conservative's immediate post-war electoral dominance. The paper will then explore the political economy of collective bargaining in Ontario during the 1950s. It will be demonstrated that Frost's decision to leave union security outside of the OLRA significantly contributed to labour unrest in Ontario's mines and on the highways. In

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<sup>9</sup> See George Adams, *Canadian Labour Law: A Comprehensive Text* (Aurora: Canada Law Book, 1985), 779. Union security takes on many forms, but it is designed to provide financial security to a trade union in order to secure its survival. According to George Adams, union security "generally connotes an external compulsion on the employer to take positive action to strengthen the position of the incumbent union." The check-off would largely give unions a free hand to run their own affairs without having to resort to the timely process of collective dues from individual members. Regardless of the form of check-off it was widely acknowledged in the 1940s and 1950s that the check-off was an important tool to weaken company dominated unions and favour of bona fide trade unionism.

<sup>10</sup> K.J. Rea, *The Prosperous Years: The Economic History of Ontario, 1939-1945*. (Toronto: University of Toronto Press, 1985), 23. See also, Jonathan Manthorpe, *The Power & The Tories: Ontario Politics 1943 to the Present* (Toronto: Macmillan, 1974). 43-4.

many cases, these battles pitted the struggles over right-to-work laws emulating from the United States against the Canadian unionists demands for expanded trade union protection. As we shall see in the third section, the pressures surrounding right-to-work would play a central role in the government's investigation in the late 1950s and in the amendments to the OLRA in the 1960s. Despite the popular perception that the 1950s was characterized by a steady and slow growth of Keynesian industrial relations, it will be demonstrated that Frost's "go-slow" approach to Ontario's labour policy was characterized by long-term instability, which was reflective in the wave of industrial strikes in the late 1950s and early 1960s.

### **The Shaping of Post-War Industrial Relations in Ontario**

By the end of the war, Ontario had gone through two labour codes, a labour court, been subjected to the NWLRB which emerged from the King Government's commitment to collective bargaining after the passage of PC 1003, and finally, in 1948 established a new LRA to be administered by an independent Labour Relations Board. What is perhaps unique about this period was not that the federal government (or its provincial counterparts) had extended freedom of association rights to trade unions by endorsing collective bargaining or the collective right to organize. Rather, both the federal and provincial governments were unique for its continued delay in adopting protective labour legislation.<sup>11</sup> As has been well documented, in the United States, the American government had introduced the Wagner Act in 1935 which legitimized labour relations in that country. Yet, in Canada, the absolute rights of freedom of association (including the rights to collective bargaining and the freedom to organize) were significantly delayed by federal and provincial administrations. The prolonged strike activity during the war, however, (especially in Ontario) forced the government's hand to strengthen freedom of association rights and union security for Canadian unions, although the exact nature of that legislation varied throughout the country.<sup>12</sup> In Ontario, the end result of labour reform was the establishment of a new labour relations code to be administered by a permanent labour relations board.<sup>13</sup>

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<sup>11</sup> The war years have received an incredible amount of coverage. For an overview see, Craig Heron, *The Canadian Labour Movement: A Short History* 2<sup>nd</sup> Ed. (Toronto: Lorimer, 1996), chapter 3 *The Giant Tamed.*; Peter S. McInnis, *Harnessing Labour Confrontation: Shaping the Postwar Settlement in Canada, 1943-1950* (Toronto: University of Toronto Press, 2002); Desmond Morton, *Working People* 4<sup>th</sup> ed. (Montreal & Kingston: McGill-Queen's University Press, 1998), Chaps. 15-18; Brian Palmer, *Working Class Experience: Rethinking the History of Canadian Labour, 1800-1991* 2<sup>nd</sup> Ed. (Toronto: McClelland & Stewart, 1992) chap. 6; Laurel Sefton MacDowell, "The Formation of the Canadian Industrial Relations System During World War Two," *Labour/Le Travail* 3 (1978): 175-196.; and Judy Fudge and Eric Tucker, *Labour Before the Law: The Regulation of Worker's Collective Action in Canada, 1900-1948* (Toronto: Oxford University Press, 2001).

<sup>12</sup> F. David Millar, *Shapes of Power: The Ontario Labour Relations Board, 1944-1950* (Unpublished Ph.D. Thesis, York University, 1980), Chapter 6, *The Ford Strike*.

<sup>13</sup> H.A. Logan, *State Intervention and Assistance in Collective Bargaining: The Canadian Experience, 1943-1954* (Toronto: University of Toronto Press, 1956), 53-4. The Board would be responsible for certification of bargaining representatives, reference of conciliation services, establishing grievance procedures, granting leave to prosecute for various offenses of the Act, including the enforcement of unfair labour practices.

Interestingly, however, the exact nature of the post-war compromise was not reached through the federal government's overt commitment to expand trade union freedoms after the war. Contrary to the comments surrounding a natural progression of an inherent labour-state-capital compromise that many labour observers were making at the time, the end of the war saw the emergence of increasingly sophisticated forms of employer aggression regarding the very structure of PC 1003 itself.<sup>14</sup> Central to these campaigns was the desire to return responsibility regarding labour relations to its natural jurisdictions: the provinces, the courts, and increasingly to the police. This argument was reflected in the "provincial rights" movements by conservative politicians (led by Ontario and George Drew's government), who became increasingly aggressive after the release of war time controls by the federal government.<sup>15</sup> Perhaps not surprisingly, the return of labour relations to the provinces through a series of political conferences and constitutional challenges was seen by many trade unionists as a return to the pre-war reality of economic stagnation and heavy-handed industrial relations. Indeed, Professor Glasbeek is convinced that the relatively smaller employers in the provinces were far more wedded to "old style capitalist competitive modes of production" and were never keen on accepting the role of trade unions in their workplaces.<sup>16</sup> David Millar goes so far as to argue that the provincialization of labour relations "was an invitation to recommence the war on competing standards," because provincial legislatures were virtually dominated by private interests.<sup>17</sup> In a similar vein, Professor H.C. Pentland has argued that the dual pressures of increased provincialization and legalization of the industrial relations systems after the war had a similar influence on Canadian unions as did the Taft-Hartley reforms in the United States.<sup>18</sup> As was true of the debates

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<sup>14</sup> The Canadian Manufacturers Association and the Canadian Chamber of Commerce were both adamant on this question. These employer groups challenged the constitutionality of most labour relations boards through the courts, arguing that section 92 of the BNA Act precluded federal intervention in labour relations. In holding these arguments, the court ruled in the 1925 Snider decision that the protection of "property and civil rights" applied to most cases concerning industrial relations. This significantly weakened the Federal government's ability to regulate labour relations outside of emergency powers. See Logan, *State Intervention and Assistance in Collective Bargaining*, 38-46.

<sup>15</sup> K.J. Rea, *The Prosperous Years: The Economic History of Ontario, 1939-1975* (Toronto: University of Toronto Press, 1985), 21. At the federal-provincial meetings held after the war, Drew was a leading proponent of provincial rights, arguing vehemently for a return of war time measures to the provinces. Ironically, however, it was Drew's decision to piggyback the 1948 OLRA on the federal government's Industrial Disputes Investigation Act, 1948. While it may seem contradictory, the Drew government's decision to copy the federal act suggested that it was well in line with the Conservative's conception of 'limited' legislation. By adopting the federal code, the Conservative's could ignore the more radical proposals put forward by their own chairman of the Labour Board or by the labour movement itself. In less than a year and a half, Leslie Frost would introduce a new OLRA.

<sup>16</sup> Harry J. Glasbeek, "Labour Relations Policy and Law as Mechanisms of Adjustment," *Osgoode Hall Law Journal* 25 (1987): 201.

<sup>17</sup> Millar, *Shapes of Power*, 374.

<sup>18</sup> The Taft-Hartley Act (also known as *The Labour Management Relations Act*) was passed in 1947. The Act declared certain aspects of union security clauses illegal under federal law. In particular, the Act outlawed union shop agreements while making any other security agreements subject to a mandatory vote. The Act also made secondary boycotts and secondary strikes illegal and required trade union leaders to affirm that they were not members of the Communist Party. Taft-Hartley also left the administration of Union Shop agreements to individual states in which many chose to implement right-to-work legislation which allows individual employees to 'opt out' of an existing unionized workplace. For an overview of the

surrounding Taft-Hartley, the dual pressures surrounding legalization and provincialization of labour relations in Canada was not to destroy existing trade unions or to end the state's commitment to "free" collective bargaining. Rather, the fragmentation of labour relations that resulted after the war was institutionally responsible for placing labour on the defensive, as the movement would be forced to fight in eleven separate jurisdictions just to maintain the legal regulation emerging from the PC 1003 compromise.

In Ontario the provincial Conservative Party had moved away from the contentions labour politics of George Drew (who left Queen's Park for Ottawa in 1949) replacing him with Leslie Frost, who the party saw as a more moderate and pragmatic Progressive Conservative. Frost was a quintessential small town politician whose populist appeal was predicated on the fact that he could manage Ontario's economy very much from a business perspective.<sup>19</sup> In public, Frost was open to the demands of labour and the political left, even being amicable to the few Communist members of Parliament in the 1950s.<sup>20</sup> Unlike Drew, Frost brought a far more conciliatory tone towards industry and labour and was seen by many in the party as a leader who could unite the small town rural constituencies with the Tories expanding urban voting base.<sup>21</sup> To be sure, Frost's conciliatory tone towards the unions and the left was an important move to quash overt political opposition to his government. Yet, this peace-making tone should not be seen as an ideological drift of the Conservative Party. Frost's leadership campaign very much opposed the Party making official linkages to organized labour. Indeed, Frost's main competition for leadership came from future Attorney General Kelso Roberts, a backbench MP whose campaign advocated an expanded provincial labour code in order to increase the Tories support in working class areas of the cities and in order to reach out to the growing industrial trade unions.<sup>22</sup> According to Keith Brownsey, however, such a promise did not sit well with many members of the Party establishment and the issue died with Roberts' candidacy.<sup>23</sup>

Under Frost's leadership, the Party's strategy for post-war growth was very much predicated on infrastructure expansion and private sector development with little regard for an inclusive economic strategy which would include organized labour. In tying his administration to this strategy, the Provincial Conservatives were overly dependent on private sector investment to fuel the post-war economy. For the provincial Conservatives, the primary goal of the government would be "to clear the way for the private sector."<sup>24</sup> Under Frost's administration the provincial government would undertake thousands of capital projects, including the building of highways and schools,

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passage of this Act, see Harry A. Mills and Emily Clark Brown, *From the Wagner Act to Taft-Hartley: A Study of National Labor Policy and Labor Relations* (Chicago: The University of Chicago Press, 1950).

<sup>19</sup> Frost public message was often that he would run government like a business, "the people's business!"

<sup>20</sup> Jack Cahill, "25 years of Tory rule—and how it all began," *Toronto Daily Star* 14 February 1968, 7.

<sup>21</sup> Graham White, *Social Change and Political Stability in Ontario: Electoral Forces 1867-1977* (Unpublished Ph.D. Thesis, McMaster University, 1979), 111.

<sup>22</sup> Keith Brownsey, *Tory Life: The Life Cycle of the Progressive Conservative Party of Ontario, 1935-1980* (Unpublished Ph.D. Thesis, Trent University 1994), 163-64.

<sup>23</sup> *Ibid.*, 165.

<sup>24</sup> Keith Brownsey and Michael Howlett, "Class Structure and Political Alliances in an Industrialized Society," in K. Brownsey and M. Howlett, eds., *The Provincial State: Politics in Canada's Provinces and Territories* (Toronto: Copp Clark Pitman, 1992), 158.

hospitals, sewage and water facilities. In many ways, the priority put towards these programs spoke to the provincial state's assumption that its geographic location, its harvesting of raw materials, established markets and growing labour supply gave Ontario a comparative advantage over other Canadian jurisdictions. Such a policy stressed sound financial policies which included balanced budgets and low taxation.<sup>25</sup> Under this model the provincial state did not necessarily represent an activist program, but it certainly fostered a more interventionist role for the government in providing the conditions necessary for private sector growth.<sup>26</sup>

Despite the weak embrace of Keynesianism economic policy by the Frost government, the strategy proved highly successful. Under Frost, Ontario's manufacturing sectors (especially in auto, steel and construction) would fuel the consumer boom of the 1950s and 1960s. Although employment numbers in the manufacturing sectors would remain relatively flat throughout the decade, the value of goods produced expanded exceptionally.<sup>27</sup> On average, growth in the manufacturing sector averaged close to 5 percent in real Gross Provincial Product (GPP) throughout this period.<sup>28</sup> In the north, the forest and mining sectors would become significant players in the province's economy as gold, silver, copper, iron, zinc and uranium production all became valuable commodities on the international market.<sup>29</sup> This mining boom reshaped Ontario's north as the company towns of Timmins, Sudbury and Noranda (Quebec) expanded rapidly, while the companies of Inco, Hallnor, McIntyre Porcupine and Noranda all became household names in the north. Inherent within the post-war model of growth was a significant social shift amongst Ontario's working population. The agrarian model of economic development—so dominant in the period prior to the Second World War—would slowly evaporate as the cities in the south, those in and around the GTA, Hamilton, London and Ottawa would all become major financial and manufacturing centres.

Beginning in the late 1940s, unemployment numbers would begin to drop averaging 3.4 percent throughout the decade, only spiking briefly during the recession of the late 1950s.<sup>30</sup> (*Insert Table I: Unemployment in Ontario 1949-1961 here*). The post-war boom that began under the Frost government also brought increased employment in the service industries, increasing the share of total employment in this sector from 25 percent in 1940 which would grow to over 56 percent by the 1970s. It was in the Frost

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<sup>25</sup> D.R. Richmond, *The Economic Transformation of Ontario* (Toronto: Ontario Economic Council, 1974), 13.

<sup>26</sup> Graham White, "Change in the Provincial State 1952-2002," *Paper Prepared for the Role of Government Panel* October 2002. <http://www.law-lib.utoronto.ca/investing/reports/rp8.pdf> (Accessed May 1st, 2006), 13-14.

<sup>27</sup> Rea, *The Prosperous Years*, 196. In 1949, the year Frost became premier Ontario's manufacturing sector boasted 12, 951 establishments and employed 557, 000 people. By 1961, the year Frost retired, the manufacturing sector had actually declined to 12, 419 establishments employing 639, 000 members.

<sup>28</sup> Robert Macdermid and Greg Albo, "Divided Province, Growing Protests: Ontario Moves Right," in Keith Brownsey and Michael Howlett eds., *The Provincial State in Canada: Politics in the Provinces and Territories* (Toronto: Broadview, 2001), 166.

<sup>29</sup> Rea, *The Prosperous Years*, 162-63. Ontario's mining sector would prove to be the most valuable in the country increasing 6.5% between 1950 and 1960 compared to 5.6% in the rest of the country.

<sup>30</sup> Figures compiled from D.K. Foot, *Provincial Public Finance in Ontario* (Toronto: University of Toronto Press, 1977, 6-7 and *Ontario Statistics*, 1975.

years, however, when employment in the service sector (especially for women) began to take off.<sup>31</sup> Ultimately, this boom worked to transform the Ontario economy into a major manufacturing and financial centre throughout Canada and North America. Workers also benefited from the increase in employment, as enhanced collective bargaining rights for unions brought relatively higher wages and standards of living, which included a decrease in the number of hours worked and shorter work weeks. By 1961, personal income in Ontario reached almost 12 billion, up from 5.199 billion in 1949, with real wages (adjusted for inflation) rising from under \$1800 in 1949 to \$2200 per capita in 1961.

### Ontario's Post-War Labour Code

The growth in the provincial economy contributed significantly to the strength of organized labour in the province. As the fears of post-war unemployment evaporated, the unions sought to consolidate the gains of the war years by expanding the membership roles and moving into new industries. This hope was predicated on the federal and provincial embrace of the PC 1003 framework which had legitimized union recognition and collective bargaining. Despite the improving economic condition, however, the Ontario trade unions were increasingly weary of Frost's provincial legislative reform, as they recognized increasing employer calls for Taft-Hartley reforms in the province. In particular, the unions were convinced that the decertification procedures in the 1948 Act could not foster industrial peace, which the unions believed was the purpose of the regulation. A.F. McArthur, president of the Ontario Provincial Federation of Labour (AFL-TLC) maintained that "...the situation in the province, with its diversified industries, it is bound to create friction rather than harmony. This code has been brought into being in the shadow of the Taft-Harley Act."<sup>32</sup> In a similar vein, the CCL unions were quick to acknowledge that the 1948 Act was predicated on mirroring Taft-Hartley reforms in the United States, as they feared that union-busting and company dominated unions were still protected under the Act.<sup>33</sup>

On the surface, however, it was difficult to tell if the Conservative party was moving in this direction. By 1949 the party had publicly committed itself to the basic trade union rights of freedom of association.<sup>34</sup> In a policy document prepared by a *Special Committee of the Conservative Business Men's Association of Toronto*—who were appointed to recommend a working labour policy for the 1950s—submitted that a future policy on labour relations must “grant full approval to the system of trade

<sup>31</sup> Richmond, *The Economic Transformation of Ontario*, 15.

<sup>32</sup> “Daley listens to unions in revising labor code” *The Globe and Mail* 10 February 1949, 12.

<sup>33</sup> “Call Ontario labour law 'vicious union-buster,’” *Toronto Daily Star*, 7 January 1949, 16.

<sup>34</sup> Frederick G. Gardiner, *Memorandum with Respect to the Labour Relations Policy of the Conservative Party* (Presented to the Special Committee of the Conservative Business Men's Association of Toronto Appointed to make recommendation with respect to policy. , AO RG 3-23 Office of the Premier: Frost General Correspondence Box 88, 1948), 10. Under this model, the Party argued that bona fide trade unions would be encouraged; jurisdictional disputes would be regulated through the OLRB; organizing would be based on those institutions receiving a majority of the votes cast at an election held under the direction of an officer of the Department of Labour; and the discretionary powers of the OLRB would be expanded significantly



unionism and encouragement for their extension... the instrument which should be accorded the right of bargaining for employees shall be the instrument freely chosen by the employees."<sup>35</sup> By most accounts, Frost's 1950 Act loosely followed the policy proposals of the Conservative Businessman's Association. The new Act introduced as Bill 82, the *Labour Relations Act*, 1950 by Labour Minister Charles 'Tod' Daley in early February (receiving second reading in the house on March 8<sup>th</sup>, 1950) outlined the Tories long term vision for labour policy in post-war Ontario:

The Labour Relations Act is not a substitute for collective bargaining, which we, as a government, firmly believe in. The Act provides for collective bargaining when employers and employees are unable to reach an agreement, and I think we have a good cohesive Act—an Act that fits together will from the beginning to end, from the beginning of meetings for certification, right down through all the stages of negotiation and conciliation, and in certain cases, arbitration and settlement. It does not take away from organized labour the right to use their economic strength. It does make the rules which, if followed by employer and employee, and a Judge, which not entirely removing the necessity for a strike of lock-out, should minimize the possibility of these things being necessary....I believe that legislation should be the minimum rather than the maximum, for in the final analysis and negotiation and discussion between the parties, you will find that is the only way to settle disputes.<sup>36</sup>

Yet, in line with the Committee's recommendations, the Conservative government was also quick to reassert its commitment to free enterprise by increasing the regulation of trade union activity within the Act. Again speaking during second reading, Daley maintained that the goals of union freedoms and free enterprise were not mutually exclusive. Ultimately, he maintained, the OLRA was meant to encourage and expand free enterprise:

When I think of the progress of development in this country in my lifetime, and the culture of the people, and the good industry, you find that this Province, and this country of ours is one of the great unions of the world under free enterprise...Because under this system, this country has a greater opportunity for the people to progress than any other similar area in the world...[but] As men, employee and employer, they must work together in mutual understanding and goodwill, and it is necessary that there must be regulation and laws...there must be some rules of the game, and this Labour legislation is just that: the rules of the game.<sup>37</sup>

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<sup>35</sup> Ibid., 10.

<sup>36</sup> Ontario House of Commons Debates, *Proceedings of the 2nd Session of the 23rd Legislature*, 8 March 1950. B9-B11.

<sup>37</sup> Ibid., B-8.

Unfortunately for the unions, Daley's decision to limit 'the rules of the game' to a vague principle of balancing the interests of employers and employees came with significant restraints on trade union activity.

In keeping with the themes outlined by the federal government's PC 1003 industrial relations model, the Conservative Party's new industrial relations policy set out to impose mandatory conditions on collective bargaining. In so doing, the Tories argued that the expanding rights and influence of organized labour in the province brought with it greater demands of maturity and responsibility. Responsible unionism was promoted through further regulation of strike action; through an improved grievance procedure; greater regulation of union bargaining committees; and the continued reliance on the delaying procedures of mandatory union conciliation. Under these provisions the unions were required to wait a minimum of 30 days after the expiration of a contract and apply to a conciliation board as a precondition before engaging in a legal strike.<sup>38</sup> In other areas the new legislation called for a strengthening of the rules surrounding certification and decertification; put into legislation the basic right of association; set out rules and procedures for addressing unfair bargaining practices; and significantly enhanced the power of the Ontario Labour Relations Board to prosecute unions and employers committing violations of the Act.<sup>39</sup> A new power of the board, unique to Ontario, allowed the OLRB to conduct a certification vote if the union had met a membership threshold between forty-five and fifty-five percent.<sup>40</sup> This raised concerns for the unions as this new provision required that a union must obtain a voting majority of all members of the bargaining unit rather than simply a majority of those voting. Under these new rules, a member of the proposed bargaining unit who did not vote would, in effect, be counted against the union.<sup>41</sup> At the heart of this policy recommendation, however, was the principle theme that would guide labour relations in the Frost years; the principle of collective bargaining shall be the sole subject matter of agreements entered into between

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<sup>38</sup> Daley would later admit that the purpose of conciliation was to institute mandatory delay for as long as possible. Such a delay, he noted, was to allow production to continue unabated during the negotiation process. Usually when settlement was achieved, there would be a retroactive factor in the agreement during the delay. "Balanced Now: Leave Labor Laws Along, Daley Pleas," *Toronto Telegram* 3 March 1959, 5. The delaying process of conciliation would play a central role in collective bargaining unrest in the 1950s. In a not so veiled threat in 1951, the OFL states that "the must remind [the government]...of the growing resentment of the workers over labour legislation of this kind. If this development continues [allowing contracts to lapse in favour of conciliation] labour leaders will no longer be responsible for the actions of their people." The Ontario Federation of Labour (C.C.L.), Memorandum: The Legislative Proposals of the Ontario Federation of Labour, CCL; AO RG 7-14-0-119 Box 3 Ministry of Labour Legislation and Regulation.

<sup>39</sup> George Adams, *Canadian Labour Law*, 64.

<sup>40</sup> *Globe and Mail Labour Report*, Wilfred List, saw this provision as a concession to employers who had argued that a bare majority of members signing union cards may not reflect the true wishes of employees. Wilfred List, "Bill Eases Certification, Hits at Illegal Strikes," *The Globe and Mail*, 1 March 1950, 1, 2.

<sup>41</sup> These rules would be a constant state of concern for the labour movement as they claimed that under such rules, the voting procedure was weighted against the union in favour of the employer. Canada Department of Labour, "Ontario Federation of Labour," *Labour Gazette* (1952), 265. Interestingly the USWA would claim that these provisions hindered responsible unionism and defeated their attempt to raid the communist influenced Mine Mill and Smelter Workers in 1956. See Submission of the USWA to the Select Committee on Labour Relations 26 November 1957, 7; AO RG 49-138 Box C 92 Proceedings of Select Committee on Labour Relations. See also, Millar, *Shapes of Power*, 379-80 for the curious history of this provision.

the employer and responsible employees' representatives, independent of government interference.

Yet, despite the commitment to enhanced employer-union harmony, union security provisions—which had been legitimized by the Rand decision during the Ford strike in 1945—would be deliberately withheld from the new Act. Despite rumors that Frost and Daly both supported union security provisions, the Labour Minister argued in the House that such provisions should only be left to individual negotiations between employers and unions and was not a matter for legislation.<sup>42</sup> In other words, union security could only be attained by already existing unions who had established a stronghold in their industries. The chief concern of the Conservative's legislation seemed to be the limitation of overt conflict in the workplace while creating the infrastructure necessary for unions and employers to engage in collective bargaining where certain conditions had been met. Interestingly, this “hands off approach” to industrial relations was something that Ontario employers had been advocating since the government had been forced to introduce collective bargaining legislation during the 1943 strike wave.<sup>43</sup> In particular, employer groups were adamant that the OLRA not promote trade unionism or protect or encourage employees to join trade unions. Rather employers groups argued that the purpose of the act should be to protect the individual's right of freedom of association and to provide the basic rules of collective bargaining should it be deemed necessary.<sup>44</sup> Perhaps most importantly, employer's chief concern over Bill 82 was that it not be used to encourage or promote overt *political* trade unionism. This seems to have been the driving force behind employer opposition to the union security provisions in the Act. In a not so subtle reference to the Communist influence in the trade unions, for instance, the Toronto Board of Trade argued that “if check-off provisions were included in the Act it would be a material strengthening of Collective Bargaining agents which even the most responsible elements of labour are seeking to drive out of existence.”<sup>45</sup> In justifying their opposition to the check-off, the Toronto Board of Trade claimed that in no other jurisdictions with similar levels of industrialization had the government committed themselves to state protected union security provisions.

For the unions, the OLRA was notable for what it refused to include, as union briefs to government cried out for the inclusion of union security provisions and the elimination of several offensive provisions of the Act. This concern arose over the Tories decision to largely ignore the requests of the labour centrals, especially those in the

<sup>42</sup> Ontario Federation of Labour (CCL), “The New Labour Bill,” *CCL Bulletin* (April 1950),1.

<sup>43</sup> Canadian Manufacturers Association (Ontario Division), *Submission of the Ontario Division of the CMA to the Select Committee on Labour Relations of the Ontario Legislature* 29 October 1957, 4; Archives of Ontario (hereafter AO) RG 7-3-0-12 Box 1 Minister of Labour's Legislature of Ontario Files.

<sup>44</sup> As the Canadian Manufacturers Association would argue about the 1950 Act, “I do not see anything in the Act which states either expressly or implicitly that is public policy that Collective Bargaining is the perfect method of conducting employee-employer relationships. There is no preamble to the Act, but throughout the Act the whole purpose of the Act is designed to make Collective Bargaining possible, mandatory, as a matter of fact, if the majority of employees want it.” Testimony of the Canadian Manufacturers' Association (Ontario Division) *Proceedings of the Select Committee on Labor Relations* 29 & 30 October 1957 AO RG 49-138 Box C 90 Proceedings of Select Committee on Labour Relations, 2123-4.

<sup>45</sup> Toronto Board of Trade, Letter to Leslie Frost, March 1950. AO RG 3-24 Office of the Premier: Frost Premier's Correspondence Box 19.

Canadian Congress of Labour (CCL).<sup>46</sup> In particular, the unions were critical of the government's decision to leave hundreds of workers outside of the OLRA which included domestic workers, security guards, engineers, professional groups, police and fire fighters, public sector workers, teachers, municipal workers and agricultural and horticultural workers. In justifying these exclusions, the Conservative's maintained that most of these workers did not desire collective bargaining representation. In Daley's case, his decision to leave agricultural and horticultural workers outside of the Act was suspicious as his home riding of St. Catharines was dominated by the fruit growing industry who had been lobbying for an exclusion from the Act because of the seasonal nature of their work.<sup>47</sup> What is more, Daley's decision to allow municipal councils to "opt out" of the Act and leave municipal workers unprotected was particularly galling to the public sector unions, as they these workers were largely reduced to second-class industrial citizens.<sup>48</sup>

Despite the Tories dismissal of many of the labour centrals during the drafting of the OLRA, labour unions did not—contrary to the popular perception of the conservative climate of the 1950s—quietly accept Ontario's model of post-war industrial prosperity. In the 1950s the "thunder from the left," challenging Frost's government was not directed through a political party so much as it was consistently applied by large and often militant strikes, many of which were over the issue of union security.<sup>49</sup> In many cases these struggles were reflective of labour's inability to foster sustained economic and political pressure on the Conservative government.<sup>50</sup> Yet, despite the lack of a sustained political project, there were few industries that were not influenced by strike activity reacting to the Conservative Party's economic vision for the post-war period. (*Insert Table II and III Strike Activity in Canada and Ontario Here*) In the Auto industry, two militant strikes were launched in 1954 and 1955 involving 21,565 workers while large strikes would be launched in the Steel, Construction and Nickel industries involving 37,577 workers. In total these strikes would account for nearly 2,000,000 worker days

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<sup>46</sup> According Wilfred List by the 1950s the Tories had largely written off the CCL, as they were suspicious of the labour centrals open connection to the CCF. Of course, that said, the submission of the AFL-TLC unions seemed also to fall by the waterside. See Wilfred List, "Report on Labor: See CCF Ammunition in Labor Bill," *The Globe and Mail*, 7 April 1950., 10.

<sup>47</sup> Millar makes similar conclusions, *Shapes of Power*, 405, note 51. This exclusion would remain until 1994 when agricultural workers were finally given collective bargaining rights. That decision was revoked by the Conservative government in 1995, but was ruled unconstitutional by the Supreme Court of Canada in *Dunmore v. Ontario (Attorney General)* [2001] 3. S.C.R. 1016.

<sup>48</sup> Daley would later admit to the Select Committee that leaving municipal workers outside of the Act was not his first choice but was overruled by cabinet. One is suspicious of the Tories electoral coalition with small town (rural) constituencies in this decision. See Testimony of Jacob Finkelman, Proceedings of the Select Committee on Labor Relations 24 and 25 June 1957, 171- 177.

<sup>49</sup> Roger Graham, *Old Man Ontario: Leslie M. Frost* (Toronto: University of Toronto Press, 1990), 267-68.

<sup>50</sup> Stuart Marshall Jamieson maintains that the political conservatism of the trade unions in this decade was reflective a growing maturity of trade unionism and noted that the strikes in the 1950s were significant for their inability to sustain *social protest*. Jamieson maintains that the trade union struggles over income security, union security and seniority were reflective of a conservative notion of trade unionism as opposed to the wage battles of the 1930s and 1940s. See S. M. Jamieson, "Times of Trouble: Labour Unrest and Industrial Conflict in Canada, 1900-66," *Report on the Task Force on Labour Relations (The Woods Commission) No. 22* (Ottawa: Privy Council Office, 1968), 351-55.

lost to strikes.<sup>51</sup> Throughout the decade, strikes of this nature would continue to challenge the 1950 code. These struggles would significantly reshape the Ontario labour movement as employer's dug in their heels and the unions fought to gain the basic principles of union security while attempting to organize into new areas, something the new code deliberately curtailed. To be sure, not all strikes in the 1950s were over the Act. Many were simply over a fair and just wage or greater protection for individual unions. It is difficult to dispute, however, that a great deal of the strike activity in the 1950s lay in the fragile balance represented by the post-war labour code. This balance would be tested in the early parts of the decade as unions consistently pushed for greater security to make up for the shortfalls in the Act, especially in those outside of the province's core political economy. The Conservatives, as committed as they were to rural elites in these industries, found their Act being increasingly challenged by the unions in these communities. One of the key struggles would take place in the northern gold mines in 1953 and 1954.

### **The Limits of the Act: The Struggle over Union Security**

For many labour observers, the issue over union security had been settled during the Ford strike in 1945 in which Justice Ivan Rand issued his famous decision regarding the dues check-off.<sup>52</sup> After the Rand decision legitimated check-off provisions, the use of union security clauses would grow to include several components.<sup>53</sup> Not surprisingly, union security clauses took hold in the manufacturing and construction industries where the unions had fought militantly for such provisions. These agreements became so common that by 1951, federal officials found that nine out of every ten agreements in the manufacturing industry contained some form of negotiated union security.<sup>54</sup> Ultimately, union security agreements were at the heart of industrial unionism suggesting that unions

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<sup>51</sup> *Ibid.*, 372-73.

<sup>52</sup> Canada Department of Labour, "Rand Formula," *Labour Gazette* (January 1946). According to George Adams, under this 'formula' employees would not be obliged to join the union, but non-members in the bargaining unit would still be required to pay the union an equal amount to the dues paid by union members. Rand's logic suggested that while an individual cannot be forced to join a union, he or she will still receive the benefits negotiated in a collective agreement and thus should be expected to contribute to that process. George Adams, *Canadian Labour Law*, 779.

<sup>53</sup> In 1954, the Department of Labour found that union security provisions came in 6 broad forms:

1) Closed Shop: All employees in the bargaining unit are required to become members of the union as a condition of employment—commonly found the construction trades; 2) Union Shop: An agreement that requires all employees to become members of the union but gives no direction to the employer on who to hire. Workers must join the union within a specified period of time after being employed—commonly found in industries with high turnover of unskilled or semi-skilled industries; 3) Modified Union Shop: exempts workers from compulsory membership who are not members at the time the agreement comes into force, but requires that all those new employees to join the union. 4) Maintenance of Membership: This form of agreement workers are under no obligation to join the union, however, those who do must, as a condition of employment, maintain their membership throughout the life of a contract; 5) Optional Clause: Requires employees who are not members of a union either to join or pay dues; 6) Preferential Hiring: The employer gives preference to members of the contracting union when hiring employees. Generally found in conjunction with other membership clauses such as the union shop. Canada Department of Labour, "Union Security Clauses in Collective Agreements," *Labour Gazette* (1954), 1140-41.

<sup>54</sup> Canada Department of Labour, "Security Provisions in Collective Agreements, Manufacturing Industry" *Labour Gazette* (1951), 1359-61.

in large manufacturing plants were gaining a degree of security where they were economically strong: in large, industrial centres. In other areas, the trade unions were not as secure and the government was clear that this issue was not one to be left to legislation. The reasons for the denial of the check-off varied. Speaking in the House, Daley argued that the absence of union security legislation was deliberate on his part, as he did not believe that it was a matter for legislation. When asked why by the CCF labour critic, Daley responded by pointing out that the power of unions had grown since the war and that...

...organized labour has a job to do itself. If it does it well by organizing the workers and winning the confidence of the workers, and established itself by these actions in the confidence of the employer, then union security will follow just as sure the sun follows rain. If it fails to win the confidence of management and labour, then it should not expect legislation to give it something it does not merit. The filed is theirs, and they should accept the responsibilities that must go hand in hand with power.<sup>55</sup>

The trouble, of course was that many employers were not willing to endorse union security, nor were many of them keen on accepting trade union control in their workplaces. This was especially true in the mining industry as the price of commodities was significantly regulated by the economic reforms associated with the international economic environment.<sup>56</sup>

Yet despite the concerns of mine operators the industry was of primary importance to both the federal and provincial governments. Both Frost and St. Laurent had publicly stated that they would provide the necessary support for mining companies to continue operation in northern Ontario.<sup>57</sup> That support helped boost production and growth in the mining industry to over 6.5 percent in the two decades following the war compared to the national increase of 5.6 percent. Under Frost, the mining industry would become more diversified, shifting from precious metals to base metals of copper, zinc, iron and uranium. According to Rae, the industry received an incredible amount of government support in the form of tax concessions, scientific research and public support in building roads and other necessary infrastructure to develop and harvest Ontario's minerals.<sup>58</sup> There was little opposition from any of the political parties on these issues. Where opposition criticism did come it was more often than not surrounding the concentration of foreign (mostly American) ownership of Ontario's mineral resources.

Despite this public support, the mine owners in the north were less willing to secure trade union agreements in the sector. The arguments varied but they maintained that the depressed state of the mining industry precluded significant wage increases in the

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<sup>55</sup> Ontario House of Commons Debates, *Proceedings of the 2nd Session of the 23rd Legislature*, 8 March 1950, B10-B11.

<sup>56</sup> Contrary to the evidence that the government felt that security could be achieved through collective bargaining, the Ontario Federation of Labour argued during the 1950 OLRA debates that the mine owners . In a letter to Charles Daley, the Ontario Federation of Labour (CCL) pointed out that the seven mines, including the McIntyre group, refused to endorse the check-off, despite the recommendation of the conciliation boards. J. Mackenzie OFL President, Letter to the Members of the Ontario Legislature 20 March 1950

<sup>57</sup> Rae, *The Prosperous Years*, 181.

<sup>58</sup> *Ibid.*, 162-3.

mines.<sup>59</sup> This was particularly true in the gold industry as the depressed state the commodity did influence the mining company's bottom line, although profits were still healthy.<sup>60</sup> In this regard, the mine owners hard lines with the mining unions may have been a convenient excuse, as the Frost government's public commitment to keeping the province's mining industry afloat seems to suggest that the weight of the provincial government was behind the mining industry. Encouraged by this support the record of collective bargaining in the mine fields was very much a struggle over control of the labour process itself. Increasingly the mine operators lived up to the reputation of 'cowboy capitalists,' fighting the unions at every step of the collective bargaining process.

Chief among the mine owners' concerns was the overt political nature of the mining unions. In a personal letter to Frost, C.D.H MacAlpine, Toronto Mining Financer and Prospector (Partner in Ventures Ltd.--A Holding Company for Every Major Mining Company in Ontario) warns the government of increased labour unrest if further political gain is given to the unions in the OLRA. MacAlpine is especially concerned about union security legislation as he feared that such a provision would strengthen the unions and unavoidably funnel money to the Conservative Party's natural opposition: the CCF and the Communist Party.

The mines have had particularly vicious unions to deal with and some of the present officers are quite red. The so-called "voluntary" check-off places a company in a position of starting the entrenchment of officers in the saddle, whether good or bad.<sup>61</sup>

This attitude was made more specific as in the immediate post-war period as the two main unions in the mines—the Steelworkers and Mine Mill and Smelter Workers—had been waging a very public battle over responsible unionism. In this conflict, the Steelworkers had been in a prolonged certification battle to rid the mines of Mine Mill who had well known connections to the Communist party.<sup>62</sup> In response, the Steelworkers and the other small CCL unions went out of their way to demonstrate that they that they were good "corporate citizens, non-communist and responsible members of the community."<sup>63</sup> But despite the internal union battles between the Communist unions

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<sup>59</sup> During the mine strikes in 1953 McLeod, Young, Wier & Co. (a mining finance firm) would write to Frost indicating that the profit made by the 11 gold mines creates the impression that they could use this money for wage increases. To do this, of course, the mine owners would have to totally disregard the thousands of shareholders who provided the money to get these mines into operation at a time when there was considerable risk, for which the shareholder is surely entitled to some recompense. Otherwise this could never develop and there would be no employment for miners. McLeod, Young, Wier & Company, Letter to Leslie Frost, 6 November 1953; AO RG 3-24 Office of the Premier: Frost General Correspondence Box 19.

<sup>60</sup> William A. Buik, *Noranda Mines Ltd.: A Study in Business and Economic History* (Unpublished M.A. Thesis, University of Toronto, 1958), 160-63.

<sup>61</sup> C.D.H MacAlpine, (Partner in Ventures Ltd. (Mining Consortium)) Letter to Leslie Frost 23 March 1950. AO RG 3-24 Office of the Premier: Frost Premier's Correspondence Box 19.

<sup>62</sup> Irving Martin Abella, *Nationalism, Communism, and Canadian Labour* (Toronto: University of Toronto Press, 1973), 109-110.

<sup>63</sup> Porcupine Mine Workers Union Local 100 (CCL), Letter to Leslie Frost 1950 14 March 1950; AO RG 3-24 Office of the Premier: Frost Premier's Correspondence Box 19.

and the CCL it soon became clear that the issue of control in the mines was not the political leanings of the unions but the increasing hostility of the employers. Ironically, for the Steelworkers the battle over union security would also be one in which they demonstrated their ultimate responsibility to Cold War hysteria by defeating the “reds.” Perhaps not surprisingly, this gave the employers a trump card in gaining political support from the Frost government.

At the heart of these battles was the belligerent employers in the mine fields led by Jules Timmins of Hollinger Mines, Balmer Neilley of McIntyre, and Mr. J.Y. Murdoch of Noranda and the Porcupine Mines who were digging in their heels and preparing to fight the unions over union security and ultimate control over the price of labour in the mines. In 1951, Jules Timmins’ Hollinger Gold Mines had fought a bitter 7 week strike in the city that bore the president’s name over the union demands for the check-off.<sup>64</sup> In the 1951 strike, the miners held a great deal of community support, ranging from church donations to local restaurateurs organizing a soup kitchen to feed miners and their families. Encouraged by such support (including the backing of the entire CCL) Canadian Steelworker president C.H. Millard threatened to extend the strike to other industries organized by the union if the check-off could not be attained.<sup>65</sup> According to the USWA the opposition to the check-off seemed to be over the raw issue of control in the mines.<sup>66</sup> The union publicly claimed, however, that the issue of security was not about control but rather paramount to strengthening the internal democracy of the trade unions themselves.<sup>67</sup>

After a series of letters from company and union officials to the government, Frost intervened stating to Daley that he felt his personal connections with the mine owners could bring an end to the dispute.<sup>68</sup> Intervening through Daley and Ontario Conciliation officer Louis Fine, the company acquiesced when the government was able to get the union to drop the check-off demand in exchange for the original request of a 13 cents/hour wage increase. For Hollinger and the Broulan Reef mines—whose companies held a virtual iron grip over the gold mining industry in the province—

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<sup>64</sup> Roger Graham, *Old Man Ontario*, 272-73.

<sup>65</sup> *Ibid.* 273.

<sup>66</sup> The four key arguments that employers were making were: 1) There is a distinction between leadership and membership in the union. While the checkoff may provide financial security for the leadership it does not do so for the membership. 2) The checkoff coerces employees to join, or to retain membership, in an organization of which they do not approve. 3) The checkoff, in coercing employees to pay dues, detracts from individual freedom 4) The checkoff is not provided by law in this province. Therefore the employers are not justified in refusing to grant it. See Submission of the USWA to the Select Committee on Labour Relations 26 November 1957, 28-32; AO RG 49-138 Box C 92 Proceedings of Select Committee on Labour Relations.

<sup>67</sup> *Ibid.* 33. Stated the Steelworkers: In a recent investigation conducted to determine the causes of successful CB it was found that one of the necessary conditions for the successful operation of CB was the existence and recognition of a strong (both organizationally and financially), responsible and democratic union. The Steelworkers are more than likely speaking about an American study which made a correlation between union security and increased membership participation in the union. See Wilfred List, “Political Influence Lags as Union Men Prosper,” *The Globe and Mail* 7 November 1952, 3.

<sup>68</sup> Leslie Frost, Personal and Confidential Letter to Charles Daley, 7 August 1951; AO RG 3-23 Office of the Premier: Frost General Correspondence Box 87. The unions were well aware of the connection between the government and the mines. The unions had hoped to expose this connection when Pat Conroy (Treasurer of the CCL) asked Frost to act as a mediator between the parties. Frost did not take the bait.



granting the check-off was not an acceptable political position and it soon became clear to the government that the strike would not end if the union did not drop the checkoff demand. By fighting the checkoff to such an extent, Jules Timmins and the entire mine industry maintained that the political position of the trade unions was far more threatening than wage increases.

The tension that began with the Hollinger strike came to the forefront in the summer of 1953. The strike began at Broulan Reef mining consortium in early July and quickly spread to the smaller operations of Hallnor and Preston East Dome mines.<sup>69</sup> Although the strike seemingly began over local issues, there were clear indications that the mining industry was solidly behind Murdoch, as the potential of the strike spreading to other mines grew. Similar to the 1951 Hollinger strike, the union's chief concern was wages, hours of work and the check-off.<sup>70</sup> As picketlines went up, the threat of violence escalated as police were dispatched to the scene. Not long after, word quickly spread that the company was determined to continue production by using replacement workers. In memorandum to cabinet during the Porcupine strike, the mining consortium producers explained that their decision to hire replacement workers was brought on by the illegality of the union actions:

We were forced to hire [replacement workers] by the unlawful acts of outsiders recruited by the Union. The stoppage was illegal under the LRA. It is not a strike by Broulan Reef employees but a move by the union to prevent by force and threats of force the Company's employees from coming to work, most of whom are willing to do so.<sup>71</sup>

The mine operators went on to blame the work stoppages on the USWA, accusing their president Charles Millard and union organized James "Shaky" Robertson as agents of discontent. The companies claimed that these men had "beguiled workers from other mines to serve their own purposes in order to force unreasonable and impractical demands on the company."<sup>72</sup> The memo goes on to state that the strike continues because the union has acted in an "unlawful and violent way" and that were the company to give into such illegal demands, it would significantly reduce its competitive advantage and force it to close or lay off several hundred workers.

The union's demands for moderate wage increases and union security were centred on the question of parity with miners in other mines in northern Ontario and Quebec. According to the union, these workers "were engaged in a dirty and highly hazardous occupation [and] the men work underground long hours and receive less pay

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<sup>69</sup> The porcupine area gold mines were connected to Murdoch's Noranda group. Murdoch was also the president of Pamour, Hallnor, and Aunor gold mines in the Timmins area. In addition, Murdoch was also president of Norbeau Mines in Quebec; Waite Amulet Mines, Goldale Mines; Amulet Dufault Mines Ltd; and Vice President and Director of Pacific Gold Mines Ltd; Wright Hargreaves Mines Ltd; Hollinger Consolidated Gold Mines; the Mining Corporation of Canada; Iron Ore Company; Cariboo Quartz Mining Company Ltd; and Labrador Mining and Exploration Company.

<sup>70</sup> Roger Graham, *Old Man Ontario*, 275.

<sup>71</sup> Canadian Metal Mining Association, *Unlawful Actions by the Unions vs. The Future For Gold Mining in Ontario*; AO RG 3-24 Office of the Premier: Frost General Correspondence Box 19.

<sup>72</sup> *Ibid.*

than do workers in most other industries.”<sup>73</sup> The strike was supported by more than 4,800 miners in Timmins and stretched to another 1,600 strikes in the base metal mines in Noranda, Quebec. For the miners, the strike represented more than simply wage catch up or union security. There was also a sense that the uncertainty of layoff and wage loss was no longer comparable to the real risk that one takes in the mines—which was all too often the risk of life and limb. According to the union, the base wage at Noranda mines was \$1.05/hour for a 48 hour work week. This compared with 1.61½ at the International Nickel Corporation in Sudbury for a 46 hour work week. In addition, the INCO mines had both agreed “to far stronger forms of union security, the Rand Formula, with the Communist-controlled International Union of Mine Mill and Smelter workers.”<sup>74</sup> Red baiting aside, the message here was simple: the Steelworkers were a responsible union who were only asking for basic respect from the employer while seeking a reasonable and fair wage package that was on the same level as the rest of the industry.

Yet the strike continued. By the late summer of 1953, the situation was at a boiling point as striking gold miners were increasingly provoked by strike breakers and the local police. Added to this tension was the company’s continued insistence to hide behind what they called an illegal strike. The mine owners’ tactics were to call for an increased police presence in order to protect replacement workers. Such a strategy was meant to bypass any meaningful negotiation in order to break the strike with violence. Under these conditions, miners increasingly reacted with violence of their own. Frost biographer Roger Graham describes what happened next,

A group of about thirty picketers entered the Broulan property, while their colleagues barred the way to three OPP inspectors. As the officers engaged in extended conversation with the picketers...while the police watched, a number of picketers got into cars and sped off towards the mine. For half an hour a pitched battle raged in and around the mine building between the invading picketers and the ‘scabs’ inside, the gladiators wielding baseball bats, mining steels, picks and boards with protruding nails...<sup>75</sup>

The situation was made worse when rumors leaked that management had issued shotguns and ammunition to the mine police and strike breakers with instructions to “shoot to maim” if striking miners invaded the property.<sup>76</sup>

The violence between the workers, strike breakers and management put increased pressure on the government to intervene in the dispute.<sup>77</sup> While much of the commentary from the newspapers (and Roger Graham’s account) put the blame on the union, the government knew that openly declaring war on the union could significantly escalate the delicate labour relations situation in the province.<sup>78</sup> Indeed, as the violence escalated in

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<sup>73</sup> United Steelworkers of America, *The Men 5,000 Feet Below* (USWA National Office, 1953); OFL Archive.

<sup>74</sup> Ibid.

<sup>75</sup> Roger Graham, *Old Man Ontario*, 275-6.

<sup>76</sup> Pat McNenly, “Disarm Guards at Broulan on Crown’s Order,” *The Toronto Daily Star*, 29 July 1953, 23.

<sup>77</sup> There was also added pressure to settle the strike as it was erupting right in the middle of the federal election campaign in which former Premier George Drew was attempting to unseat the federal Liberals. Such a tender political situation was not lost on Frost.

<sup>78</sup> As a Conservative friendly paper, the *Globe and Mail* wrote numerous editorials putting the blame on picketline violence on the unions. Roger Graham more or less accepts this analysis and sees Frost as a

the mines and a violent trucker's strike engulfed the province's highways in the same month, Frost became increasingly desperate to find a way out. Frost understood that the entire situation put the Conservative Party in an awkward position as they were politically responsible for many of these areas and were increasingly reliant on the support of the mining industry (both financially and organizationally) in these one industry towns.<sup>79</sup>

Frost's immediate response was a public address deploring violence in industrial disputes while the Attorney General would quietly lay charges after an investigation was undertaken. Frost's speech outlined that violence on the picketline was contrary to the rule of law and that the rules of picketline behaviour were regulated by the OLRA and if need be, with S. 501 of the criminal code.<sup>80</sup> According to Graham, the strategy would be for Frost to take a moderate law and order approach while Daley would be dispatched to negotiate and end to the strike.<sup>81</sup> What was bizarre, however, was that Frost's speech stressed that the government was dedicated to an industrial policy predicated on peaceful collective bargaining, stability and responsible unionism. Were that true, the check-off provisions could have been easily negotiated by the province during the strike, as both Daley and Frost were intimately involved in the negotiations. Instead, both Daley and Frost continued to chastise the union for ignoring the law and warned of increased penalties for those who flouted it. This seemed of little interest to either the union or the mine operators as violence escalated and looming confrontation between the police and the strikers continued.

During negotiations, the government continued to call for peace between the two striking camps and stressed the need for a new round of negotiations. Responding to the government's plea, the union seemed willing to negotiate on several areas but remained steadfast on the check-off. In a meeting with Daley, Millard agreed to withdraw pickets from mine entrances if the company would refrain from operating the mine. Negotiations would then continue regarding the wage and the check-off. The mine operators refused.<sup>82</sup> After these early meetings the bargaining positions hardened and the strike was pushed to Noranda, Hollinger and the McIntyre mines by late September. The situation grew tenser when the court intervened into the situation imposing an injunction in mid-August when Justice McRuer (the famous civil rights advocate and chair of Premier Robarts Report on Civil Rights in the 1960s) argued that the freedom of association rights of the union had to be restrained if peaceful negotiations were to

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moderate voice in these disputes. See Editorial, "The Labour Unions and the Law," *The Globe and Mail*, 24 October 1953, 6.

<sup>79</sup> The Premier was being asked by businesses "loyal to your government" asking for police support in continuing operations during the strike. Geo T. Pepall (Vice President Samuel, Son & Co. Iron-Steel-Metals), Letter to Leslie Frost, 21 July 1953; AO RG 3-24 Office of the Premier: Frost General Correspondence Box 19.

<sup>80</sup> Leslie Frost, Statement Concerning Law Observance August 1953; AO RG 3-24 Office of the Premier: Frost Premier's Correspondence Box 19. Department of the Attorney-General, Memorandum Re: Broulan Reef and Porcupine Mine Workers Union, 23 July 1953; AO RG 3-24 Office of the Premier: Frost General Correspondence Box 19. Clearly the government was accusing the union for the continued violence. See "Frost 'Explains' Picketing Ban to Union Men," *The Toronto Daily Star* 28 July 1953, 2.

<sup>81</sup> Roger Graham, *Old Man Ontario*, 276.

<sup>82</sup> "Miners Accept Owners Refuse Daley Proposal," *Toronto Daily Star*, 31 July 1953, 13.

continue. In response, several miners defied the picketing injunction while several others attempted to burn down a company house protecting strike breakers.<sup>83</sup>

While neither the government nor the media were keen on admitting it, the root of this strike seemed to be the mine owners (and Murdoch in particular) steadfast refusal to give into union demands. Millard had continually maintained that the union's increasingly hard line action was linked to the hostile bargaining position of president, J.Y. Murdoch, President of Noranda Miners.<sup>84</sup> Having been summoned to Queen's Park by Daly for continued negotiations in late September, the mine owners remained steadfast that while wages were negotiable, the check-off was not open for discussion. At the heart of Murdoch's refusal was not simply hostility to the check-off but a much larger political agenda to rid the mines of the unions.<sup>85</sup> When asked about his steadfast opposition when he had granted the check-off in other areas, Murdoch stated quite clearly that he had granted the check-off to the communist leaning United Electrical Workers by "mistake" and it was never going to be repeated. Not surprisingly, Murdoch's close relationship with Frost allowed him to be frank with the Premier, as he continued to write to Frost pleading for right-to-work legislation in order to avoid the strikes currently engulfing his (and other) mines in northern Ontario.<sup>86</sup>

While the push for right-to-work legislation would gain momentum among employers later in the decade, Frost was not keen on putting a gun to the head of the union. The union had told the government that if Murdoch continued "his ruthless" and "confrontational" bargaining there would be a complete shutdown of the mines. The Steelworkers also threatened to extend the strike to all steel factories in the province if Murdoch was allowed to continue ignoring the union. According to Roger Graham, as the strike drifted into late September, Frost was thought to favour the check-off but his cabinet was quite concerned that such a move would face the wrath of the mining companies.<sup>87</sup> In response, Frost wrote to Daley that the strike could be settled if the check-off is dropped.

I have been reading some of the propaganda of the Union in Timmins and quite obviously check-off is only part of the issue. Preston have check-off and yet they are on strike. It would seem to me that the mines would best represent their men by recognizing that they have these difficulties in an industry which obviously does not care to co-operate. I think perhaps we might be able to make an

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<sup>83</sup> "Broulan Mine 'Work Seekers' Block Entrance," *The Globe and Mail*, 25 August 1953, 2.

<sup>84</sup> C.H. Millard, Letter to Charles Daley 30 September 1957; AO RG 3-24 Office of the Premier: Frost General Correspondence Box 19.

<sup>85</sup> Murdoch claimed that he would "not grant the checkoff of union dues as long as he lives." Both Balmer Neilley and Jules Timmins agreed. "Frost Plans Conference with Ottawa," *The Globe and Mail* 30 September 1953, 1,2. See also Graham, *Old Man Ontario*, 285.

<sup>86</sup> J. Y. Murdoch, Letter to Leslie Frost 3 September 1953; AO RG 3-24 Office of the Premier: Frost General Correspondence Box 19. The unions would later claim that that the businessmen in the mining industry would brag that they dictated the Premier's policy on this manner. "Management Dictates Frost's Labour Policy Union Leaders Claim," *Toronto Daily Star* 9 February 1954, 8.

<sup>87</sup> Roger Graham, *Old Man Ontario*, 284.

arrangement that would give the men a few signs of betterment and could be accepted as an interim arrangement, but not the check-off.<sup>88</sup>

The length of the strike was also beginning to hurt the Steelworkers. Despite its militant stance, the union was suffering pressure from the international headquarters to end the strike. Indeed, in the meeting in early September, the Steelworkers had been represented by both Millard and David J. McDonald President of the USWA in the United States. Graham concludes, probably correctly, that the presence of McDonald (and his personal emissary Arthur Goldenberg) suggested that the International was losing faith in the strike. Interestingly, however, in maintaining that Frost's primary purpose in intervening in the strike was to act as a 'neutral umpire' Graham forgets to mention that it was at Frost's request that the International intervene in the first place.<sup>89</sup> In this regard, Frost and Daley seemed to calculate that the more conservative forces in the United States could bring needed pressure on Millard to end the strike.

Despite these pressures, the strike dragged on into the late fall and early winter without any real conclusions. Frost must have been concerned as local authorities in Timmins were warning of dire financial hardship if the strike was not resolved. Daley and Frost had both intervened to bring the two sides together but found the issues irresolvable. Daley was upset that the Hollinger workers had not gone through the conciliation channels and instead opted for an illegal strike and was concerned that more illegal strikes would follow. In early December, the government decided to bring the Hollinger owner and Millard to Queen's Park. In a series of meetings, Frost took control of negotiations in an effort to bridge a settlement, but both the union and the company were reluctant to concede their position.<sup>90</sup> While negotiations continued, Hollinger revealed that they were willing to concede certain monetary issues but continued to deny the check-off.<sup>91</sup> In the end, the government was able to get Millard to agree to a 5 cent an hour increase on an 18 month contract—six months longer than the term proposed under the government's plan that had been rejected by Hollinger a week earlier. Early in 1954 the Hollinger settlement would set the pattern for the McIntyre and Noranda mines. In agreeing to these terms, the union was forced to concede the check-off. Millard stated that he was reluctant to accept the deal but the union was "faced with the alternative of great suffering for the union members."<sup>92</sup> To be sure, Millard's stance on the check-off seems to have waned even before the final settlement, but clearly the loss of the

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<sup>88</sup> Leslie Frost, Personal and Confidential Letter to Charles Daley, 19 October 1953; AO RG 3-23 Office of the Premier: Frost General Correspondence Box 87.

<sup>89</sup> Roger Graham, *Old Man Ontario*, 285-86. Wilfred List, "End Hollinger Strike, Terms Displease Union," 23 December 1953, 2.

<sup>90</sup> Wilfred List, Frost Takes Command of Gold Strike Talks in Bid for Settlement," *The Globe and Mail* 3 December, 1953, 1. Millard wrote to Frost claiming that Jules Timmins was not taking the government's attempts to negotiate a settlement seriously claiming that the Timmins negotiators (and Timmins) himself was constantly absent from negotiations.

<sup>91</sup> Frost's inability to broker this issue or to change the legislation outraged the larger labour centrals. In an open letter to the Premier, the OFL take Frost to task over his lack of action in the mining strikes, claiming that the government was in league with the mining companies and thus more reactionary than Drew or Hepburn. Pat McNenly, "Unionist says Frost 'More Reactionary' than Drew, Hepburn," *Toronto Daily Star*, 10 November 1953, 1,5.

<sup>92</sup> Wilfred List, "End Hollinger Strike, Terms Displease Union," 23 December 1953,1, 2.

International's support was the nail in the coffin.<sup>93</sup> For the Steelworkers, despite a militant effort to win security, the mining companies proved defiant. For the workers on the line, the five cent increase must have seen like a pyrrhic victory after a 7 month strike whose primary issue was strengthened union security and ultimately to expand and strengthen the democratic capacity of the union through the Labour Relations Act.

### **The Select Committee on Labour Relations and the 1961 OLRA**

The prolonged influence of the northern mine strikes continued well into the middle of the 1950s. Unfortunately for the Canadian Congress of Labour, the prolonged strike activity in the mines and in the industrial sector did not produce sustained political pressure on the Conservative government. The CCL had hoped that the momentum from 1953 and 1954 strike wave combined with a highways corruption scandal in Frost's caucus could have a spill over affect in the 1955 election. Yet, according to Donald MacDonald, Ontario voters embraced the 1955 election in a sleepy fashion and voted massively for the status quo.<sup>94</sup> In the end, Frost proved to be a dominant electoral figure winning 48.5 percent of the vote and a crushing 84 of 98 seats. The CCL friendly CCF was reduced to 3 seats (losing their seat in Timmins) while the lone Labour-Progressive candidate (Joseph Salsberg) was defeated by future Conservative cabinet minister Allan Grossman in his downtown Toronto riding of Toronto St. Andrew. For the left, 1955 witnessed a crushing electoral defeat as even the moderate program of Donald MacDonald's CCF did not resonate with the sleepy conservatism of Ontario voters. Clearly Ontario's cold-war climate was a non-haven for the political left.

Stung at the polls organized labour once again turned inward. After the merger of the two largest labour federations in 1956, the newly formed Ontario Federation of Labour launched a series of provincial hearings to pressure the government to amend the OLRA. Chief on their list was the easing of the certification procedure; the easing of the mandatory conciliation rules (with the goal being the elimination of conciliation altogether); the removal of the ban on mid-term strikes and the implementation of union security provisions.<sup>95</sup> The removal of conciliation was coming loudly from the United Auto Workers who were particularly concerned over the legalization of the conciliation process and the Department of Labour's insistence on using judges on conciliation boards. The UAW's criticism of the Act reflected the labour central's argument that the mandatory conciliation process weakened the freedom of association rights of the union and delayed meaningful collective bargaining.<sup>96</sup> Coupled with the increased use of the injunction, Ontario's largest labour bodies continued to hammer home that the Conservative government's rhetoric regarding industrial peace did not match their record. During industrial disputes, they maintained, the government would sit on their hands and only intervene when the situation was pushed to the brink. The criticism surrounding the

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<sup>93</sup> "Not Wed to Checkoff Millard Says, Call 2 Talks in Mine Strike," *Toronto Daily Star*, 30 September 1953, 1.

<sup>94</sup> Donald C. MacDonald, *The Happy Warrior: Political Memoirs* (Toronto: Dundurn, 1998), 60-1.

<sup>95</sup> Canada Department of Labour, Ontario Labour Relations Act Criticized," *Labour Gazette* (1956), 972-999.

<sup>96</sup> Testimony of the UAW (International Union, United Automobile, Aircraft, and Agricultural Implement Workers of America (UAW-CLC), Proceedings of the Select Committee on Labor Relations, 15 October 1957, 2720-24; AO RG 49-138 Box C 90 Proceedings of Select Committee on Labour Relations.

Act was also resonating from Ontario's employers who were raising concerns about the continued industrial strife in the province. Employers were especially concerned with the weakness of the law to punish unions who used the strike before proceeding through the mandatory conciliation process.

In response to some of these concerns, Frost announced in the 1957 Throne speech that the government would thoroughly review the OLRA in the forthcoming months. In response, Frost appointed a Select Committee on Labour Relations in late 1957 and after a year and a half of hearings, released their report in late 1958. The Committee was composed of 8 members of the Conservative caucus to be chaired by Minister of Mines, James A Maloney. The remaining members were Liberal Arthur Reaume, and Albert Wren (the lone Liberal-Labour Member of Parliament) and Donald MacDonald, CCF leader. In many ways, the appointment of an all party committee was an act of good public relations. But the selection of Wren and MacDonald together with Conservative Robert Macaulay, (who had well known sympathies towards labour)<sup>97</sup> gave the labour movement hope that the hearings would be an open process wedded to change. While employers were less excited about the public nature of the hearings, they were also keen on presenting a picture of post-war industrial relations in which the trade unions were no longer responsible industrial citizens.<sup>98</sup>

While the committee received hundreds of submission and heard dozens of testimony from labour personal, the position of labour and management in the late 1950s was well highlighted by the testimony of the Canadian Manufacturers Association and the Ontario Federation of Labour. The CMA submission to the Select Committee continued to push for increased regulation of trade union activity. While they stated that they were publicly committed to collective bargaining, they were overly concerned about the increased power of trade unions in modern industry. For the CMA, the unions had now reached a state where they had equaled (and in some cases surpassed) the power of many employers. Stated the CMA brief,

The fact is that, under what was designed to be protective legislation, trade unions have acquired such status and such power that there is today a marked imbalance of power between management and labour. We submit that the changed circumstances require a re-orientation in the approach to the law on labour relations. New legislation is needed now not merely in the best interests of the public and of employers but also of employees—union members and non-members—and indeed, in the long term best interests of trade unions themselves...trade unions must be required to accept equal legal responsibilities with employers and other groups in our society. They should be required to obey

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<sup>97</sup> Canada Department of Labour, Ontario Labour Relations Act Criticized," 975.

During the traveling hearings, Macaulay stated that there are omissions to be filled in and amendments to be made." Macaulay largely sided with labour's criticisms regarding the role of judges on the conciliation board and argued for greater enforcement of the Act's provisions regarding undue delay. Macaulay disagreed with the OFL and spoke against automatic certification of unions, contending that a vote on all certification cases was the best way to determine union support. He supported labour's contention that where a vote is necessary the majority of those voting should determine the outcome not a majority of those eligible to vote. He was also opposed to the use of the ex parte injunctions in labour disputes.

<sup>98</sup> In a letter to Frost, the CMA maintained that the Act should be reviewed by experts and not by a public body. Canadian Manufacturers Association (Ontario Division), Letter to Leslie Frost 19 March 1957; AO RG 7-14-0-108 Box 3 Ministry of Labour Legislation and Regulation Files.

the laws of the land, especially in view of the substantial grants of exclusive power implicit in the certification process.<sup>99</sup>

For the CMA, with such power came increasing responsibility. For the CMA, the when unions when on strike in the middle of collective agreements or before the conciliation procedure had been exhausted the unions demonstrated a lack of “legal and moral responsibility.”<sup>100</sup> As such, the CMA continued to argue against the check-off, as they feared that such security would only extend such illegal and immoral action. They were also concerned that security legislation would violate the rights of individual union members. Indeed, throughout the decade the CMA increasingly positioned itself as defenders of individual employees, as they passionately stressed that individual freedom must be protected through right-to-work laws. Chief among their concerns was the increasing “law breaking” tactics by trade unions during labour disputes. An easy solution, they argued, would be to make trade unions legally responsible for their actions. Here they advocated for legislation to be amended to incorporate trade unions so that they could be sued in court.

The OFL testimony largely reintroduced the issues put forward by the traveling hearings in 1956. The OFL stressed that the 1950s have witnessed a growing aggression of employer opposition to unions. During the hearings the OFL stressed that they continued to be good corporate citizens who had worked hard throughout the decade to rid themselves of the communist dominated unions. They maintained that in their position as a responsible labour body they had actively worked to encourage affiliates to obey the law and stressed that they have little power in regulating the internal regulation of trade unions. They also highlighted their record on pushing affiliates to follow the law and stressed that they will speak out against affiliates who violate ethical guidelines or are guilty of raiding. In addition, OFL Secretary-Treasurer Douglas Hamilton maintained that the Canadian Labour Congress had been working to find a democratic process to discipline unruly members, but that “democracy moves exceedingly slow.”<sup>101</sup>

Elsewhere, the OFL continued to advocate for the check-off; end to the ban of mid-term strikes; and ease the increasing legalization of labour relations on conciliation boards and through the OLRB. At the centre of the OFL testimony, however, was the insistence that employer’s were taking an increasingly aggressive stand against the unions which included a floundering of the law. These accusations maintained that companies were increasingly ignoring the rules of the OLRA, the Unemployment Insurance Act, and the Holidays with Pay Act. In addition the unions pointed out that employers were increasingly failing to adequately compensate workers covered by a

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<sup>99</sup> Manufacturers Association (Ontario Division), Submission of the Ontario Division of The Canadian Manufacture’s Association to the Select Committee on Labour Relations of the Ontario Legislature 29 October 1957, 5; AO RG 49-138 Box C 92 Proceedings of Select Committee on Labour Relations.

<sup>100</sup> Testimony of the Canadian Manufacturers' Association (Ontario Division), Proceedings of the Select Committee on Labor Relations, 29 & 30 October, 2174; AO RG 49-138 Box C 90 Proceedings of Select Committee on Labour Relations.

<sup>101</sup> Testimony of the Ontario Federation of Labour, Proceedings of the Select Committee on Labor Relations 1 October 1957, 867; AO RG 49-138 Box C 90 Proceedings of Select Committee on Labour Relations.



contract, criticized the firing of workers for union activity and chastised employers for the continued recruitment of strike breakers.<sup>102</sup>

After a year of hearings, the committee reported back to the legislature on July 10, 1958. The committee's recommendations—while openly supportive of collective bargaining as a tool of public policy—recommended a severe overhaul of the OLRA. While the recommendations were not entirely unanimous, there was little disagreement among the Conservative members over the issues of union certification, security and the extension of rights to strike. In this regard, the results of the hearings probably give us a good indication of where the Conservative caucus was at the time: Chief among the Select Committee's recommendation was the avocation of the check-off, provided that 60% of potential members voted in its favour.<sup>103</sup> While making this concession to the OFL, the Select Committee also recommended increased regulation of trade union activity, as they agreed with the CMA submission that the power of trade unions had grown in the 1950s and thus advocated greater responsibility measures. In particular, the Select Committee recommended easing restrictions on employer speech during an organization drive; called for an increased in the certification requirements; called for increased control over the makeup of executive members;<sup>104</sup> and (in a particularly sympathetic acknowledgment of CMA requests) recommended increased protection of individual members through a limited form of right-to-work laws. Finally, the legalization pressures continued as the Select Committee also argued that decisions of the OLRB must be able to be appealed to the courts, as the denial of the "basic right of appeal" is truly a violation of fundamental justice. Not surprisingly, the recommendations were welcomed by the CMA and other business groups.<sup>105</sup>

The OFL was forced to concede that if the recommendations of the Select Committee would more or less reproduce the Ontario Act to a mirror of the Taft-Hartley reforms in the US. As such, the OFL was forced to distance itself from the entire committee, despite the committee's support for the check-off. In the end, the OFL denunciation of the recommendations may have eased the eventual amendments to the OLRA. Yet, by the time the 1960 amendments were passed, the Frost government had come full circle. In the 1960 Act, the check-off would remain outside of legislation,<sup>106</sup> employer freedoms of speech would be eased, certification procedures would be

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<sup>102</sup> Ontario Federation of Labour, "2nd OFL Brief to Select Committee: Counter-Attack," Ontario Labour Review May 1958, 1-3. The OFL outlined one popular union-busting tactic: One Nathan Shefferman (a professional strike breaker) had been hired by many Canadian firms to legally or illegally break strikes. One of Mr. Shefferman's favourite tactics was to stage violence, and naturally the union attempting to organize was blamed. In other instances, police are used as a means to provoke peaceful strikers into disturbance.

<sup>103</sup> Select Committee on Labour Relations of the Ontario Legislature, *Report of the Select Committee on Labour Relations of the Ontario Legislature* (Toronto: Queen's Printer for Ontario, 1958).

<sup>104</sup> Ibid. The Committee called for a "majority of the Executive Committee of a labour union be British subjects resident in Canada."

<sup>105</sup> Frost's correspondence files were littered with letters from employers, especially in the mines and in the construction industry to implement the recommendations of the Select Committee in a new OLRA.

<sup>106</sup> Daley was particularly opposed to this legislation and his position seemed to harden over the decade. Speaking in the house Daley stated that "any form of check-off by legislation in fact raises the bargaining platform and deprives management of bargaining rights. This is completely unfair" Ontario House of Commons Debates, *Proceedings of the 2nd Session of the 25<sup>th</sup> Legislature*, (An Act to Amend The Labour Relations Act) March 1960, 696 ff.

overhauled to allow for more votes (allowing the time for employer counter campaigns) while also increasing the regulation of internal trade union activity, especially with regards to pensions and union finances. Interestingly, the ink was not even dry on the new Act when the construction industry exploded in labour disputes, bringing the city of Toronto to a virtual standstill in the summer and fall of 1960. The major grievances in this strike were again regarding employer abuse, unpaid wages and the check-off. As Frost's term as Premier drew to a close, the goal of labour peace would again be lost on the Conservative Party.

### **Conclusion**

The history of post-war labour policy in Canada was characterized by increased pressure from the state and employers to mediate trade union activity through increased legalization and regulation of all aspects of the collective bargaining process. Under such conditions, trade unions entered the provincial minefield to find that legislative reforms, while forthcoming, would vary greatly between economic sectors. During the Frost years, post-war labour policy was very much predicated on a minimal form of collective bargaining rights. This policy was influenced by conservative forces who argued that the government's role in labour relations should only set out the "rules of the game" rather than to support or expand trade unionism. Yet, in taking a "hands off approach" to labour relations policy the government did commit itself to opaque promises of balancing the expanding goals of free enterprise with the preservation of industrial trade unionism. In doing so, however, the Ontario government outlined a deliberate policy to shape industrial trade unionism in a non-political and non-confrontational manner. In this regard, the 1950 OLRA suggested that Ontario's post-war labour policy would be a contested and often conservative process designed to keep overt political trade unionism to a minimum. What gains were made, were done slowly and often reluctantly. Coupled with hostile employers and the increasingly stifling political environment surrounding the Cold War, Ontario's labour relations policy locked unions into a highly regulated and sectorally stagnate trade unionism that would lay the foundations for the de-politicization of trade union struggles well into the 1960s. Indeed, contrary to Kevin Burkett's analysis that the 1990s were remarkable for the "politicization" of the labour relations framework, I would stress that the conservative policy in the immediate post-war period was designed specifically to de-politicize trade union struggles in as much as employer recognition, collective bargaining, strike activity and inter-trade union rivalry all fell under the purview of the Frost government's 1950 Ontario Labour Relations Act.

Ultimately, the Frost government's labour policy was directed at sectors where trade unions had already made significant inroads. In other areas, the government deliberately left hundreds of workers outside of the OLRA. In sectors where trade unionism was able to break through, the government was still clinging to old varieties of conciliation which focused on time consuming delay in order to stifle aggressive militancy. Under Frost's legislation while the administration of the OLRA would fall to a significantly altered Ontario Labour Relations Board (OLRB) while considerable influence over trade union regulation would still be maintained with the Labour Ministry. Throughout the decade, however, the struggles surrounding the Act very much put labour on the defensive just to maintain the basic principles of PC 1003. In Frost's Ontario, this translated into prolonged battles to regain the right of union security against overly

hostile employers especially in the mines, the highways and in the construction sector. Despite the government's commitment to alter the Act after the 1953/54 strike wave, the Select Committee's ultimate recommendations were designed to further regulate trade union activity so as to promote and foster responsible trade unionism. While the 1960 Act would not introduce the more egregious recommendations of employer's groups, it did promise to stay the course. Yet, despite these reforms (or perhaps because of it) rank-and-file trade union members would respond with increasing militancy in the late 1960s to gain protections that had been deliberately left from the post-war code.