History and Development of Unions in Canada

General Information

What influenced the development of trade unions in Canada?

Developments in Great Britain and the United States greatly influenced Canadian trade unions. Immigrant workers from Great Britain were instrumental in establishing early unions in Canada and much of the early legal history and legislation was taken from Great Britain. Later, unions from the United States spread into Canada and the framework for much of the current labour legislation in Canada derives from post-World War II United States legislation.

What distinguishes Canadian labour laws from those of Great Britain and the United States?

Distinguishing features of Canadian labour laws compared to those of Great Britain and the United States include

- the unique feature of the delay of the work stoppage, and
- the decentralized control of labour relations.

The provinces govern labour and most employment matters. On a smaller scale, most collective agreements are concluded between one union and one employer, rather than across an industry.

What world historical developments led to the formation of trade unions?

The major impetus for trade unions in the western world was the Industrial Revolution in the 1800s, which created the working class. Society changed from being mainly rural to industrial with many people living in towns and cities. More people lived and worked in poor conditions, fuelling the development of trade unions.

Some unions had formed in Canada prior to the time of the Industrial Revolution, most notably in industries requiring a skilled craft, for example, shoemaking or printing. They had also formed in industries where there were large groups of workers, for example, the shipping industry. Generally, these early unions provided assistance in times of unemployment, illness, or death.

When more workers began to work in factories and larger centres, however, unions began to become active for the purpose of representing workers'' rights across a much wider spectrum.

Why is industrial action (for example, striking, picketing, working to rule) so important to union activity?

Unions evolved as a way for workers to join together to face the power that an employer has as the owner or operator of a business. The inequality of bargaining power between a worker and employer can be evened up in this way. As long as an employer is dealing with one employee, the balance of power is with the employer. When the employer is dealing with an organization that represents all employees, there is less power imbalance.

One of the few threats available to a worker in a disagreement with an employer is the withdrawal of labour or a strike. Obviously the threat or reality of a withdrawal of labour is greater if the whole workforce is involved rather than one person.
The timing of strike action is just as crucial as the fact of a strike itself. A union could plan to take strike action at a point when it would be crucial for an employer to have the business running. Strike action is arguably most effective if it happens when an employer has no contingency plans in place. If a requirement of delaying strike action is introduced, a union might be seen to have lost a valuable advantage.

Definitions

What is "collective bargaining"?
Collective bargaining is the process of negotiating terms and conditions of work between an employer and a union. A union negotiates on behalf of the union members. The agreement reached between an employer and a union is called a **collective agreement**.

Historically, there is a distinction between voluntary collective bargaining and collective bargaining imposed by law. England had a well-developed system of voluntary collective bargaining in the early to mid-twentieth century. This meant that employers generally negotiated with unions on a voluntary basis, without any framework for bargaining being imposed by law. By contrast, in Canada, the law has largely imposed collective bargaining. Not until the law imposed a duty upon employers to recognize a union representing a majority of its employees, and imposed a duty to bargain with the union in good faith, did collective bargaining become entrenched in industrial relations in Canada.

What is a "collective agreement"?
A collective agreement is an agreement between a union and an employer that deals with terms and conditions of employment of all workers covered by the collective agreement. Generally, a collective agreement must be in writing and it is legally binding upon the employer, the union, and the employee that the agreement covers. This means that legal action can be taken against anyone who breaks a term of the collective agreement.

What is a "combination of people"?
A combination of people is a term that was used in the nineteenth century in England to describe a group of people that joined together for a common purpose. A trade union was a combination of people that joined together for the common purpose of lowering hours and/ or raising wages.

What does "the delay of the work stoppage" mean?
Delay of the work stoppage is a key feature of Canadian labour law. It means that

before a strike or lockout can occur certain procedural steps have to be taken, for example, a strike vote amongst employees and notice of the strike given to the employer.

Any strike or lockout taking place before the required steps are taken is unlawful. The intention is to give both sides a cooling off period and to try to avoid the industrial action.

What is "industrial action"?
Industrial action is an umbrella term including **striking**, **picketing** and **secondary picketing**, **working to rule**, and a **lockout**. Such action is taken to resolve a dispute with an employer or a union.

What is an "injunction"?
An injunction is a court order for someone to stop doing something pending the outcome of a legal case. If an employer began a civil action against a union for inducing breach of contract, he or she could immediately ask the court to make an injunctive order that the union stop the industrial action until the case was decided.

Historically, an injunction was a legal tool to preserve a situation until a case was finally decided, but in the case of industrial action it totally destroyed the reason for the case. Even today, once a union cannot take immediate industrial action, the impetus for the dispute is lost, the dispute is often lost, and there is no reason to go to court. Union leaders face an impossible decision: whether to disregard the injunction and face personal and union liability for contempt of court, or to abide by the order and potentially give ground in the dispute.

What is a "lockout"?
Most commonly, a lockout is defined as an industrial action when an employer locks workers out of their workplace and will not let them in. The definition can also include the suspension of work by an employer or the suspension of employees in order to make them accept certain terms and conditions of work. Generally, a lockout can only take place in accordance with certain rules and cannot occur while a collective agreement is in force.

What does the term "picketing" cover?
Picketing in the field of labour relations refers to the action of persuading others not to do any business with a particular employer. Most commonly, pickets are seen outside a business where the workers are on strike. The pickets try to persuade others not to cross the picket line to do business with the employer or work for the employer. **Secondary picketing** occurs where people picket at a location away from the business place of the employer involved in the dispute. For example, pickets might go to the business place of a supplier of the employer to persuade the supplier not to make deliveries to the employer.

What does the term "strike" mean?
Strike refers to the action of withdrawal of labour by workers. Employees stay away from work during a strike. Today, the law distinguishes between a legal and an illegal strike. To be legal a strike must take place in accordance with certain rules with regard to a vote of the union membership, and a strike cannot occur during the life of a collective agreement.

What is "work to rule"?
Work to rule happens when employees work according to a strict interpretation of the workplace rules. Usually this means that work slows to a deliberate pace, with no extra items, such as overtime, being performed.

Types of Unions

What is a "craft union"?
A craft union was the term traditionally given to unions that represented members who specialized in a particular craft. Crafts included printing, shoemaking, carpenters, painters, bakers, bookbinders, upholsterers, bricklayers, and stonecutters. In many respects, unions representing such craft industries were similar to the craft guilds that existed in medieval Europe.

What is an "international union"?
An international union is one that crosses national borders in the same way that an international company might. Due to proximity to the United States, Canada plays host to various international unions.

Who were the Knights of Labour?
One of the first international unions to operate in Canada was the Knights of Labour. The union organized members in Canada in the 1880s. The Knights organized unskilled labour as well as those belonging to particular trades and crafts. The union was also successful at organizing on a plant basis.

The Knights ultimately failed in the United States because of divisions between the craft unions and their central organization, the American Federation of Labour, and because the leadership of the Knights did not always support their members, particularly when it came to industrial action.

In Canada, the Knights had given some workers their first opportunity to belong to a union. The Knights were very popular in Quebec and eventually combined with craft unions to establish the Trades and Labour Congress.

Were there any issues associated with the operation of international unions in Canada?
Historically, yes, but a more recent solution has been to break from international unions to form national ones.

The major issue with the operation of international unions in Canada was that the union was usually controlled in the United States. All major decisions were taken at the headquarters, which removed power from the union members in Canada.

In more recent years, some unions have broken away from the international union to form a Canadian union. For example, the Canadian Auto Workers left the United Auto Workers in 1985, after 50 years of affiliation, because of disagreement over Canadian control of wage bargaining, strike authorization, and staff appointments.

What is an "industrial union"?
The term industrial union characterizes a type of union that crosses craft and occupational boundaries within an industry. For example, instead of workers in a factory belonging to different unions based on their skill, craft, or occupation, everyone in the factory belongs to the same union. This kind of organization gives the members the power of unity rather than being fragmented into different groups. Mining and the textile industry were particularly open to organization by industrial unions.

Examples of early industrial unions were the Western Federation of Miners, which led workers in a serious strike in Rossland, British Columbia, in 1901, and the Industrial Workers of the World (IWW), which was an American-based international union in the resource industry.

Nine Hours Movement

What was the Nine Hours Movement?
In Canada in the late 1800s, the Nine Hours Movement campaigned for a working day of nine hours instead of the more usual eleven or twelve hours. Strikes were held in 1872 in support of the movement.

In Toronto, printers, who were members of the Typographical Society, joined the action. George Brown, editor of the Globe newspaper, opposed the printers. Brown warned the printers' wives that the strike was bad because the men would become a nuisance at home.

Following a large demonstration in Toronto on April 15, 1872, all twenty-four members of the Toronto Printers' Vigilance (strike) committee were arrested. The printers were charged with criminal conspiracy.

Why were the Toronto printers charged with criminal conspiracy for going on strike in 1872?
The conspiracy charge arose simply because the strikers had combined together with the purpose of lowering working hours. The act of combining, that is, forming a trade union, for this purpose was alleged to be illegal. In effect, the trade union was seen as a conspiracy because it had illegal purposes.

Why was a combination of people to increase wages or lower hours illegal in Canada before 1872?
Before 1872, a combination of people to increase wages or lower hours was seen as obstructive to trade and commerce. In legal terms, this was called acting in restraint of trade and was illegal.

In Britain, it had been illegal since 1721 to combine for the purpose of raising wages. Combination Laws were passed in 1800, which banned combinations of people or any meetings about combination relating to hours of work, wages, or employment conditions. The laws were partly repealed in 1824 so that unions could form but they could not use violence, threats, intimidation, molestation, or obstruction to make others join a union or to make employers change the way they did business. Later laws in 1871 and 1875 freed union members from prosecution for criminal conspiracy, and allowed actions by a combination if they furthered a trade dispute as long as the act was not illegal if done by an individual.

When the Toronto printers were charged with conspiracy in 1872, courts determined that the British law of 1871 did not apply in Canada, so that unions were still essentially unlawful.

What happened to the strikers after they were charged with conspiracy?
The printers appeared in court on April 18, 1872. Their defence lawyer pleaded that the union had existed for 25 years and had been accepted by the community. The prosecutor said that combinations of labour were illegal at common law. The magistrate ruled for the prosecution that the men were guilty of belonging to an illegal body, a combination.

That same day, however, Prime Minister John A. Macdonald introduced a bill into Parliament, modeled on the British law, which freed unions from charges of conspiracy for combining to increase wages or lower hours. This bill became the Trade Union Act, 1872.

Is it against the law to belong to a union in Canada today?
No. Immediately following the prosecution of the Toronto printers the Canadian government passed the Trade Union Act, which stated that the purposes of a registered trade union are not unlawful just because they are in restraint of trade. This principle is now confirmed in the Criminal Code of Canada, which provides that union members cannot be prosecuted for criminal conspiracy unless their actions were already illegal under the law.

Is it still a crime to picket in Canada?
Not if it is carried out peacefully. The government passed a law in 1872 to outlaw violence, intimidation, and coercion when carried out to force someone to do something he or she had a right to do, or not to do something he or she had a legal right to do. This action was defined as intimidation in the Criminal Code, but

essentially defined the action of picketing. The law was later amended in 1876 to allow for peaceful picketing by stating that being at a workplace just to obtain or communicate information did not fall within the definition of intimidation.

The peaceful picketing amendment was left out when the Criminal Code was passed in 1892. It was re-enacted in 1934 and remains in place today. Picketing is therefore not a criminal activity as long as it is carried out in accordance with the peaceful picketing amendment.

Were the strikes in support of the Nine Hours Movement successful?
For the most part, yes. The unions in several different industries claimed success with the institution of nine-hour days. After a demonstration in Hamilton in May 1872, a trade unionist, Alec H. Wingfield, wrote the following that was published in the Colonial Advocate:

> ***The Nine Hour Pioneers***
> Honour the men of Hamilton,
> The Nine Hour pioneers,
> Their memory will be kept green
> Throughout the coming years.
>
> And every honest son of toil
> That lives in freedom's light
> Shall bless that glorious day in May
> When might gave way to right.
>
> Your cause was just, your motives pure,
> Again, again, again,
> You strove to smooth the path of toil
> And help your fellow men.
>
> And Canada will bless your name
> Through all the coming years,
> And place upon the scroll of fame
> The Nine Hour pioneers.

New Laws in the Twentieth Century

How did the Canadian government react to widespread industrial action by unions at the beginning of the twentieth century?
The federal government reacted by passing laws to halt industrial action. The Conciliation Act was passed in 1900 providing for voluntary conciliation or arbitration. The Act was devised by Mackenzie King, who was the Deputy Minister of Labour at the time. He saw the cessation and settlement of industrial disputes as extremely important, even if the underlying issues causing the disputes were never solved.

The Conciliation Act did not work well because it was a voluntary process and there was no tradition of voluntary collective bargaining in Canada. The Act did create a precedent, however, for what was to become the hallmark of Canadian collective bargaining — a regulatory system of collective bargaining imposed by the government.

The delay of the work stoppage has been called a prominent feature of Canadian labour law. When did this feature become law in Canada?
The delay of the work stoppage was introduced into Canadian law in 1907 in the federal Industrial Disputes and Investigation Act. The key feature of the Act was that in certain industries any dispute has to be reported to a board of conciliation and mediation. Any strike or lockout taking place before the board completes its report is unlawful. The intention is to give both sides a cooling off period and try to avoid the industrial action.

Today, the rules concerning strikes and lockouts are contained in the labour act of each province and federal acts that govern areas within federal law.

Was the Industrial Disputes and Investigation Act of 1907 successful in preventing strike action?
No. The union movement was not very happy with the way that processes under the Act worked. There were many complaints about delay and employer bias. In the years leading up to the First World War, other events put pressure on unions. Efficiency methods were introduced by the government to assist the war effort, which led to fears in craft union members that their skills would be diluted. This fear was increased by the fact that women were entering the workforce in large numbers and taking jobs previously held by skilled workers.

In 1916, there were 168 strikes in Canada involving 26,971 workers. By 1920, there were 459 strikes involving 76,624 workers.

The Winnipeg General Strike

What events led to the Winnipeg General Strike in 1919?
The Winnipeg General Strike was the culmination of labour unrest that had been building across Canada since the introduction of the Industrial Disputes and Investigation Act. Causes included:

- changing labour conditions and practices as a result of the war;
- sympathy with the Russian revolution that occurred in 1905;
- unions still having no rights of recognition by employers;
- an influx of immigrants to Canada from Europe;
- many immigrants coming from countries where they had fought or been fighting capitalists and landlords and bringing their ideas and enthusiasms with them to Canada;
- soldiers returning from the war causing a shortage of jobs.

Further, the cost of living had gone up but employers were still making large profits. Socialist ideas were discussed widely at labour meetings.

The immediate events preceding the Winnipeg strike were demands from workers' councils in Winnipeg for fewer working hours, higher wages, and union recognition.

What happened during the Winnipeg General Strike?
Between 25,000 and 30,000 workers went on strike in Winnipeg on 15 May 1919. Sympathy strikes spread across the country and included those in industries that had not been particularly militant until this time, for example, postal workers, fire fighters, cooks, and waiters.

In Winnipeg, demonstrations became more and more violent. After a large demonstration on 21 June, two strikers were killed and others were injured. Military control was put in force in the city. The union leaders called off the strike.

What was the outcome of the Winnipeg General Strike?
The unions did not win a resounding victory. They had won nothing and many lost their jobs as a result. There were no major reforms introduced. Labour unrest and dissatisfaction continued. Governments and employers continued to use tactics to discourage union membership and discredit unions. In Quebec, the Roman Catholic Church set up its own union fearing the effect of people joining other groups. It was called the Canadian and Catholic Confederation of Trade Unions.

Jurisdiction Over Labour Law

Today, the responsibility for making laws about labour belongs to provincial governments. How did jurisdiction over labour law change from being federal to provincial?
When the federal government passed the Industrial Disputes and Investigation Act in 1907, many protested at the ability of the federal government to pass laws that affected all workers in all industries across Canada. They felt that under the British North America Act of 1867 the power to legislate about the civil rights of employers and employees was given to the provinces alone.

Several cases challenged the authority of the federal government but for one reason or another were not resolved. Then in 1923 a legal challenge was raised to the appointment of a board under the federal act concerning street railway workers in Toronto. In 1925, the Privy Council declared in the Snider case that the Industrial Disputes and Investigation Act was unconstitutional. The provinces had the right to make laws regarding the civil rights of employers and employees, unless it was in an area specifically in the domain of the federal government. The only time that this power could revert back to the federal government would be in a time of national crisis.

What areas does the federal government have the power to legislate in concerning employees and employers?
Today the federal government can make laws governing labour in the following areas:

- industries that have an extra-provincial or international character, for example, trucking, ferries, tunnels, bridges, railways, air transport, aircraft, airports, telecommunications, telephone and cable systems, and banks;
- works declared to be for the general advantage of Canada or of two or more provinces;
- most federal Crown corporations.

Public service legislation passed by the federal government covers those that are employed by the federal government.

What happened to the Industrial Disputes and Investigation Act after the decision in the Snider case?
After the Snider case decision, the federal government amended the Act to state that it only applied to matters that were not within the jurisdiction of the provinces, but that it could apply in a national emergency and where a province chose to use it provincially.

All provinces except Prince Edward Island did subsequently pass laws similar to the Industrial Disputes and Investigation Act so that the same principles applied provincially.

When the provinces passed similar acts to the Industrial Disputes and Investigation Act, did they change the terms in any way?
No. The failings of the federal act as far as the unions were concerned were not changed, just carried over to provincial legislation. There was still no protection of union organization or direction on how collective agreements would work. Employers could still use methods to try to stop union organization. Even if a union did organize, there was no obligation for an employer to recognize or bargain with the union.

Union Recognition

What does "union recognition" mean?
Union recognition means that an employer acknowledges a particular union as the bargaining agent for some or all of the employees at his or her workplace. Once the union is recognized the employer will bargain collectively with that union. When a majority of employees at a workplace indicates that it wishes to be represented by a particular union, the law now requires that the employer recognize the union. Before the law set out the process for union recognition, an employer was free to disregard the union, even if most employees belonged to it.

Were unions able to represent their members once they had been freed from prosecution for conspiracy under the criminal law in 1872?
Not really. Although unions and their members could no longer be prosecuted for criminal conspiracy and were free to join unions, there were no corresponding rights of recognition by employers. Unlike Great Britain where there was an extensive

history of voluntary collective bargaining, Canadian unions had no such history and employers were generally not willing to recognize unions in their workplaces on a voluntary basis.

If employers had no obligation to recognize a union, did this mean that collective bargaining did not happen at all?
No. The willingness of an employer to bargain with a union depended upon either the goodwill of the employer or the pressure that a union could bring to bear by industrial action. For example, a strike by auto workers in Oshawa in 1937 ended with a settlement agreement on certain key issues, as did strikes in the same year by workers in the textile industry in Quebec and Ontario.

How did the Depression era of the 1930s affect unions in Canada?
During times of depression there is often high unemployment. This leads to lower rates of union membership. This was the situation in Canada in the 1930s Depression.

In a few areas, events led to union membership and protest. In Quebec, the Roman Catholic union movement became very active as more secular leaders became involved. The Communist Party formed the Workers Unity League, which was particularly active in the West and Northern Ontario amongst miners. The League was eventually disbanded by the Communist party in 1935.
For the most part, most Canadians were just trying to survive in a very difficult time with little or no social help.

What caused the change in how unions were treated by the law in terms of rights of recognition?
The major impetus for change came from laws the United States passed that were to some extent adopted by the Canadian federal government in wartime emergency legislation. Prior to this, an act had been passed in Quebec that was later adopted by five other provinces. The Collective Labour Agreement Extension Act of 1934 allowed the Quebec provincial government to extend the terms of a collective agreement concerning wages and hours to an entire industry while the agreement was in force.

Alberta, Nova Scotia, Ontario, Saskatchewan, and New Brunswick also adopted the Act.

Influences from the United States

Did unions in the United States have the right to recognition in the 1930s?
Unions did not have rights to recognition in the United States, although the Clayton Act of 1914 had recognized the right of workers to join unions. In 1926, the Railway Labor Act allowed workers to join unions free of interference from employers, and imposed collective bargaining by putting employers under a duty to negotiate with the union. The government could intervene to suspend strikes and disputes during a collective agreement had to be settled by agreement or by arbitration. The Act only

applied to the railway industry, but represented a departure from previous law and set the stage for the National Labor Relations Act in 1935.

During the Depression, unions in the United States became very militant. The American Federation of Labour, which had traditionally represented mostly craft unions, accepted memberships from industrial unions. The Committee for Industrial Organizing (CIO) was formed to pursue new union memberships especially in the large new industries of auto, meatpacking, and steel production.

What was the United States National Labor Relations (Wagner) Act?
The Wagner Act (1935) applied to industry at large in the United States. The Act gave workers the rights of freedom of association and to choose a union to represent them. It defined unfair labour practices by an employer and made them unlawful. The Act also stated that an employer had to bargain with a union that represented a majority of the employees — in short, collective bargaining became mandatory when a union had a majority membership in a workplace.

Did the Wagner Act have any influence in Canada?
Yes. As a result of international unions operating in Canada, information about the law in the United States was followed closely. The Committee for Industrial Organizing was very active in Canada for unions based in the United States.

In 1937, the Trades and Labour Congress prepared a draft statute for provinces to adopt, taking a great many ideas from the Wagner Act. All provinces, except Ontario and Prince Edward Island, then passed laws based on the draft statute, which confirmed that collective bargaining was legal. This legislation made it illegal for an employer to interfere with the rights of an employee or to refuse to bargain with a union that represented the majority of the workforce. Later, Ontario passed a law that went further in establishing a Labour Court to deal with issues of union selection.

Labour Laws During World War II (WW II)

What was the impact of World War II on labour laws?
As a result of the Snider case in 1925, in times of national emergency the responsibility for the civil rights of employers and employees reverted to the federal government. During the Second World War, the federal government passed laws regulating industries associated with the war effort, in fact covering most industries. The laws were consolidated into the Wartime Labour Relations Regulations (1944), which were also known as PC1003.

What were the terms of PC1003 (Wartime Labour Relations Regulations)?
PC1003 tried to achieve a balance between the competing rights of employees, both individually and collectively, and the rights of employers. Therefore,

- unions were not allowed to interfere in employers' organizations or to use

tactics to force union membership. Unions could only carry out union activity at a workplace during working hours with the agreement of an employer and could not cause any restrictions on production such as slow downs.

- employers were not allowed to interfere in union affairs or to discriminate against workers who took part in union activities. Certain employees were not included in the law, for example, those who could hire and fire, and those working in agriculture.

Perhaps most importantly a comprehensive system of collective bargaining was established.

How did collective bargaining under PC1003 work?

A Wartime Labour Relations Board was established to give authority to a unit of employees to bargain. A union had to have a written request from an employee before it could represent him or her. If there was disagreement between a union and an employer, a conciliation officer worked with them to resolve the matter. If there was no agreement, the issue was taken to a conciliation board. During the whole period of conciliation, strike action was illegal.

All employees were bound by a collective agreement even if they did not belong to the union. If there was no collective agreement and an employer wanted to change working conditions, he or she had to give 60 days' notice so that the employees could elect a bargaining representative. The Wartime Labour Relations Board had to approve wage clauses in collective agreements. Any disagreements about the collective agreement had to be settled by the parties themselves. If they could not reach agreement, the Board could impose a procedure. This process was the beginning of compulsory arbitration for grievance disputes.

PC1003 also included provisions requiring more accountability of the internal affairs of unions.

Post World War II (WW II)

What happened to PC1003 (Wartime Labour Relations Regulations) after WW II?

Once the emergency situation was over the wartime legislation was extended to 1948. A conference of labour ministers from the provinces came to agreement on fundamental principles to be covered by provincial legislation to ensure a kind of national policy. The principles included

- freedom of association;
- recognition of unions;
- certification of unions, to establish the right to bargain collectively;
- state intervention in the right to strike and lockout;
- outlawing of unfair labour practices by employers and unions;
- creation and maintenance of investigative tools to support the collective bargaining system.

The federal Industrial Disputes and Investigation Act was passed in 1948 to apply to employees in federal jurisdiction. The majority of provinces then followed suit and passed their own versions of the act.

What new challenges did unions face after WW II?
Following WW II, there were marked differences in workplace environments. Technology was beginning to have a large impact. More young people were staying in school longer and women were much more common in the workplace, producing new discussions about equal pay and maternity rights. Probably the largest factor, the public service sector was growing.

Once collective bargaining had become legitimate, disputes more often tended to be about the contents of the collective agreement. Perhaps surprisingly, the radical changes in the law ushered in a time of many strikes and disputes across Canada. Often the disputes ended up in court where employers sued the unions in civil law for losses suffered as a result of industrial action.

The Rand Formula

What was the significant decision in the Rand case in 1945?
The Rand case determined that all employees had to pay union dues whether or not they belonged to a union. They did not have to belong to a union, but they still had to pay the dues.

The case arose out of a dispute between the Ford Motor Company and the United Auto Workers. A strike took place and as part of the settlement an arbitrator, Mr. Justice Ivan Rand, was appointed to bring the union and employer together. The payment of dues by all workers was one of the terms of the subsequent agreement reached by the union and employer. The rational for the principle was that every employee benefited from union representation.

The principle became generally accepted and is now known as the **Rand formula**. One of the immediate benefits to unions was an improved degree of financial security.

Civil Liability of Unions

How could employers sue unions for losses suffered due to industrial action?
Since unions had been exempted from being a criminal conspiracy back in 1892, employers had to look for other ways to take legal action. The civil law, which deals with rights and responsibilities between people and organizations, provided an answer. In civil law, it is possible to sue someone else in tort. A tort is an injury or a wrong for which it is possible to pursue a claim for compensation or damages. For example, the tort of negligence allows someone to sue someone else for the reasonably foreseeable consequences of actions if he or she is negligent and causes injury.

In response to actions brought by employers against unions, the court developed a subset of torts, called economic torts, that applied in business situations where the losses were purely economic and not physical. This body of law began to develop in Britain and was imported to Canada over the course of the 1900s. Examples of economic torts are civil conspiracy, inducing breach of contract, intimidation, trespass, nuisance, and breach of a labour relations law.

Could employers use the law to stop unions from taking strike action, even when it is lawful to strike under the processes set out in the labour relations statute?
Yes. Unions could end up being responsible for huge financial damages if an employer successfully sued them for damages arising out of industrial action. Therefore, even the threat of legal action might be sufficient to make a union think twice; although, many unions have taken such cases on in support of their members' rights.

Nevertheless, employers had another legal mechanism that could be used to stop the industrial action before it even started — the injunction.

Canadian Labour Congress

What is the Canadian Labour Congress?
The Canadian Labour Congress (CLC) is an umbrella body for unions across Canada. Unions choose whether to register with the Congress. CLC represents union interests at a national and international level.

The CLC evolved over a long period of time. The Canadian Labour Union was formed in 1872 from groups that had promoted the Nine Hours Movement. In 1883, the Trades and Labour Congress evolved as successor to the Canadian Labour Union. In 1939, the Trades and Labour Congress expelled all unions affiliated with the Committee for Industrial Organizing (CIO). The American- based CIO pursued industrial union membership aggressively; some felt to the detriment of craft unions. The expelled unions formed the Canadian Labour Council. In 1956, the Trades and Labour Congress and the Canadian Labour Council merged to become the Canadian Labour Congress.

Are there other umbrella union organizations that were created in Canada?
Yes — all in Quebec. In 1921, the Roman Catholic Church had set up an umbrella trade union organization to try to stop people from joining other unions. It was called the Canadian and Catholic Confederation of Trade Unions. In the 1960s, the Catholic unions severed ties with the church and evolved into the Confederation of National Trade Unions (CNTU). Also influential are the Quebec Teachers' Corporation and the Quebec Federation of Labour.