

Managerial Opposition to Union Certification in Quebec and Ontario

L'opposition des employeurs à l'accréditation au Québec et en Ontario

Oposición Empresarial a la sindicalización en Quebec y Ontario

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*Managerial Opposition to Union Certification in Quebec and Ontario*¹

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Using data collected from a survey of union organizers, this paper is the first to examine employer behaviour during certification campaigns in Canada. It investigates the extent and impact of opposition practices used by Quebec and Ontario employers during the late 1980s and early 1990s. The authors find that the prevalence of opposition tactics is not pronounced in either Quebec or Ontario. Nevertheless, these tactics are effective in reducing the level of union support in certification campaigns, if not the probability of certification. Most tactics examined appear to decrease the proportion of employees supporting the union, while captive audience speeches have a consistent negative and significant effect on certification probability.

It is well known that union density trends in Canada and the United States have diverged markedly in recent years. In the United States, the proportion of workers represented by unions has fallen from 28.9 percent in 1975 to 14.5 percent in 1996. Canadian union density remained static at about 35 percent during most of this period, although it appears to have declined slightly in recent years (Taras 1997). A number of hypotheses

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have been advanced to explain this divergence. These include differences in economic structure (Troy 1990); differences in the strategy and tactics of the labour movements in the two nations (Robinson 1992; Kumar 1993); and differences in the legal environment, which permit greater resistance to union formation by employers in the United States than by their Canadian counterparts (Weiler 1983).²

Several studies that use U.S. data have found that managerial resistance reduces support for the union during certification campaigns. However, there is little empirical research examining the relationship between employer behaviour and the certification process in Canada. This paper, which is the first to examine union resistance practices of Canadian employers, adds to existing research in a number of ways. Specifically, survey data collected from union organizers is used to determine the prevalence of opposition tactics among Quebec and Ontario employers during the late 1980s and early 1990s. These data are compared with similar estimates from U.S. studies and are used to determine the impact of managerial opposition practices on union support and certification probability in Quebec and Ontario.

UNION CERTIFICATION PROCEDURES: A COMPARATIVE PERSPECTIVE

In many respects, a similar process is used to certify unions as collective bargaining agents in Quebec, Ontario, and the United States.³ In all three jurisdictions, the union must demonstrate that a majority of employees in an “appropriate” bargaining unit wish to be represented by that union in order to be certified as the collective bargaining agent for those employees. The appropriateness of the bargaining unit is based on similar criteria in the three jurisdictions and is ultimately determined by the agency supervising labour relations activity in each.⁴

2. See Kumar (1993) for a more comprehensive discussion of alternative theories and evidence.
3. This information is relevant for the period covered by the study and predates changes made to Ontario legislation since 1992. These changes include 1992 amendments by the NDP government (Bill 40) as well as subsequent legislation (Bill 7) by the Progressive Conservative government in 1995 that repealed Bill 40 and added new provisions requiring that all certification applications be determined by an election.
4. The agencies are the National Labor Relations Board in the United States, the Ontario Labour Relations Board, and the office of the labour commissioner-general (Bureau du commissaire général du travail) in Quebec. Criteria used to determine the appropriateness of a proposed bargaining unit include the history of collective bargaining within the industry; the wishes of the parties, including the union, the employer and the employees; similarities in skills, interests, duties and working conditions among employees; and the nature of the employer's organization (Adams 1993: par. 7.30-7.220).

In Ontario and Quebec, as well as in the United States, the certification process begins with the collection of signatures from bargaining unit employees, but the legal significance of these signatures varies across jurisdictions. In the United States, employees sign “authorization cards” which indicate that they are requesting that the National Labor Relations Board (NLRB) conduct an election to determine whether the union will represent them in collective bargaining with the employer. At least 30 percent of the proposed bargaining unit must sign authorization cards before the NLRB will conduct a representation election, which is typically held about two months after the union submits its petition for an election.

In contrast, Quebec and Ontario employees sign membership applications, which indicate that the signatory employee would like the union to act as his or her collective bargaining agent. The union will be certified if it collects membership applications from a majority of employees in the proposed bargaining unit in Quebec and a super-majority of 55 percent in Ontario.⁵ If the union collects applications below these required levels, but above a threshold minimum, elections will be conducted to determine whether the union enjoys majority support.⁶ During the study period, the threshold minimum in Ontario was 45 percent while in Quebec it was 35 percent. Certification applications are dismissed if the number of signatures collected as a proportion of bargaining unit employees is below these threshold minimums.⁷ It is widely believed that the “automatic” recognition of the union based on authorization card signatures limits management’s ability to discourage unionization in Canada since they have fewer opportunities to influence employees than in the more protracted organizing campaigns involving elections that are the norm in the United States.

RELEVANT LITERATURE

In the last two decades numerous studies have sought to determine which factors influence the outcome of union certification campaigns. By

5. As noted earlier, since November 1995, Ontario has required secret ballot elections in every certification bid. In addition, Alberta and Nova Scotia also require certification elections.
6. Administrative data from Ontario indicate that of all non-construction industry petitions between 1982 and 1989, 20.9 percent were decided by an election. Unfortunately, we lack similar data from Quebec. In our sample, 18.69 percent of certifications were decided by an election in Ontario, compared to 5.73 percent in Quebec.
7. Additionally, in Ontario a union that can demonstrate that it has the support of at least 35 percent of employees in the proposed unit can request an expedited process, called a pre-hearing election, to determine if it enjoys majority support. This procedure is designed to counter possible delays involved when certification hearings are held subsequent to the objections of employers, employees or other unions who may be contesting the certification application.

and large these studies assume that the individual employee's decision to support union certification is based on a utility calculus that compares the costs and benefits of this support (Cooke 1983; Ashenfelter and Pencavel 1969). These individual decisions are influenced by a variety of "contextual" or environmental factors, including the demographic characteristics of the workforce, the organizational structure and technology of the employer, union organizational characteristics, economic conditions, and the legal, political and social environment as well as the actions of the two principal actors in the industrial relations process, unions and employers (Lawler 1990).

Employer behaviour is believed to have a substantial effect on the outcome of certification campaigns. Yet, based on an extensive literature review, Lawler (1990) concludes that empirical research investigating employer campaign activities in the United States has produced contradictory evidence regarding the effectiveness of employer resistance. To date, only one Canadian study (Thomason 1994) has examined the effect of employer behaviour during the certification process, and his investigation was limited to the impact of unfair labour practices (ULPs). Thomason found that Ontario employers are less likely to commit ULPs during the course of an organizing campaign and that the impact of ULPs was less pronounced than it is in American certification elections. He attributed the differential effect of ULPs in Ontario and the U.S. to Ontario's accelerated certification procedures that reduce employer opportunities to commit ULPs. These findings suggest that the effect of employer opposition tactics may differ between the two countries. This paper seeks to further explore the impact of various tactics used by Quebec and Ontario managers during union organizing drives.

We hypothesize that a variety of employer actions will reduce support for the union and the probability of certification.⁸ Most of these actions are intended to influence employee support for the union. These include requiring employees to attend anti-union speeches by the employer (captive audience speeches), meetings between supervisors and small groups of bargaining unit employees, the distribution of anti-union literature, threats against union supporters, or inducements to employees, such as the promise of higher wages or benefits. Two tactics (training of supervisors and tightening of work rules) evaluate the extent and impact of employer efforts to control the organization context during the certification campaign; supervisors who are adequately trained are more likely to successfully influence employees and enforce work rules that restrict organizing activity during work hours. To measure the extent of support

8. For an extensive review of employer opposition tactics, see Lawler (1990).

for the union and anticipate the union's actions, employers also rely on monitoring activities (surveillance of employees and interrogation of workers). A well-informed employer is more adaptable and hence better able to increase the effectiveness of his response to the union organizing threat. Finally, consultants who specialize in developing and implementing union avoidance techniques should generally reduce the union's ability to gain or maintain support during an organizing campaign.

DATA

The study is based on a survey of union organizers conducted during the winter of 1992. Administrative records from the Ontario Labour Relations Board and the Ministère du Travail du Québec were used to identify 1480 certification applications initiated in Quebec between 1988 and 1990 and 534 applications initiated in Ontario between 1987 and 1991.⁹ Unions involved in these applications were initially contacted by mail. In most cases the letter was followed by one or more telephone calls to solicit participation. Fifty-four unions agreed to take part in the study, involving 986 certification campaigns. Bilingual (French and English) questionnaires were sent to union officials who distributed them to the organizers responsible for or familiar with the campaign. That portion of the survey questionnaire relating to employer tactics is reproduced in Appendix A.

Of the 986 questionnaires distributed initially, 361 were completed, for a response rate of 37 percent. Many of the questionnaires were not completed because the organizer was unavailable or because the union could not identify the certification application from the information provided. Additionally, many questionnaires distributed in Quebec were not returned because they involved renewal applications (e.g., a change in one or both parties' name or address), or applications where two or more bargaining units were consolidated into a single unit. Unfortunately, administrative records provided by the Ministère du Travail du Québec did not allow prior screening of such cases.

9. Data furnished by the ministries included the name of the union (and in some cases, the local), the name and location of the firm, and the year that the certification application was initiated. Location data for many Ontario applications did not include a street address, however. This stratified random sample over represents manufacturing firms and excludes primary sector employers and construction firms since the number of observations in the latter two categories was insufficient for meaningful analyses. Construction firms were excluded since the certification process in the construction industry in both provinces differs substantially from that which applies to other sectors. Public sector employers were also excluded since they are expected to be less likely to oppose unionization than private sector employers who have a profit motive.

After excluding observations missing data from one or more variables, we retained 264 questionnaires for analysis; each questionnaire refers to a separate certification application. Chi-square and t-tests were conducted to determine whether the characteristics of the final sample differed from those of other applications in the original sample of 1480 Quebec and 534 Ontario certification applications. Results from these statistics suggest that the final sample differs slightly from other applications in the original sample, though the differences are less significant for the Ontario subgroup.

More specifically, Table 1 presents results for the five characteristics for which information is available from both Quebec and Ontario administrative records on certification applications.¹⁰ For the Quebec subgroup, there are significant differences with respect to industrial composition and probability of a ULP charge between the final sample and other applications filed in the jurisdiction during the 1988-90 period. These results may reflect differences between new and renewal (or merger) applications, however. While we have no way of testing this hypothesis, it is possible that renewal (or merger) applications are more likely to occur in certain industrial sectors.¹¹ In addition, employers would have little reason to commit a ULP during a renewal process.

The data used in this study must be approached cautiously. Since they are based on self reports by union organizers, they are subject to problems related to recall and bias. As a result, it is possible that our figures overestimate the extent to which employers engage in various opposition practices.¹² However, there is no reason to believe that problems related to recall and bias affect Canadian and U.S. organizers differently, so these problems

10. Statistical tests were also conducted for eleven other characteristics available for the Ontario data only. These characteristics include: whether the certification hearing was waived; whether the employees filed a Statement of Desire petition to indicate their objection to the union; whether a pre-hearing election was held; bargaining unit type; the employment status of employees in the union; whether a pre-hearing or regular vote was held; the economic region; the number of days elapsed between initial application and the disposition of the certification; the percentage of employees supporting the union; the population of the municipality in which the proposed bargaining unit was located; and the number of employees in the firm. Only the results for economic region were statistically significant at the .05 level or higher.
11. Employers in our sample were distributed in the following industries: 29.35 percent were non-durable goods manufacturers, 38.64 percent produced durable goods, 1.52 percent were in the transportation, communications, and utilities sector, 7.58 percent were wholesalers, 4.17 were retail establishments, and 18.56 percent were service sector firms.
12. For example, results from an employer survey of campaign activities reported by Freeman and Kleiner (1990) indicate that 41 percent of U.S. employers hired an outside consultant, beyond normal counsel. In comparison, unpublished data from a survey of 313 Quebec and Ontario employers conducted by the authors suggests that 21 percent reported hiring an outside consultant. These figures suggest that if employer estimates are lower than those reported by union organizers (see Table 2), relative differences in estimates persist.

TABLE 1
Results from Chi-square and Two-tailed *t*-tests Comparing
the Characteristics of the Final Sample with those of Other
Certification Applications in the Original Sample

Characteristic	Total sample (N = 264)		Quebec (N = 157)		Ontario (N = 107)	
	Test value	Significance level	Test value	Significance level	Test value	Significance level
Industrial classification code	$\chi^2=25.441$	$p=.000^{***}$	$\chi^2=21.814$	$p=.000^{***}$	$\chi^2=4.249$	$p=.514$
Employer charged with unfair labour practice (Yes/No)	$\chi^2=0.450$	$p=.502$	$\chi^2=4.549$	$p=.033^{**}$	$\chi^2=1.856$	$p=.173$
Union certified as bargaining agent	$\chi^2=3.095$	$p=.079^*$	$\chi^2=2.477$	$p=.116$	$\chi^2=2.122$	$p=.145$
Number of employees in bargaining unit	$t=-0.851$	$p=.395$	$t=-0.760$	$p=.449$	$t=-0.339$	$p=.735$
Number of unfair labour practices	$t=1.423$	$p=.155$	$t=0.457$	$p=.648$	$t=0.615$	$p=.540$

* Statistically significant at the .10 level; ** at the .05 level; *** at the .01 level.

are unlikely to explain any divergence noted below in the reported prevalence of managerial resistance tactics in the two countries.

Furthermore, Canadian-U.S. comparisons discussed in the next section may not accurately reflect differences in the degree of managerial resistance among employers on opposite sides of the border, since our measures – as well as the measures of most U.S. studies – fail to capture the extent to which each of these tactics is used. For example, while we know whether anti-union literature was distributed, we do not know the number of times the employer distributed literature nor are we able to quantify its content.

While our data set may not be perfectly representative of the population of certification applications or provide ideal measures of employer opposition practices, it is the only one of its kind examining the behaviour of Canadian firms. It thus provides a unique opportunity to explore employer behaviour during union certification campaigns in Quebec and Ontario and compare outcomes with previous research examining U.S. employers.

THE INCIDENCE OF MANAGERIAL OPPOSITION PRACTICES

Table 2 compares estimates of the incidence of marginal anti-union practices reported by previous U.S. research examining the impact of

TABLE 2
Incidence of Managerial Opposition Practices and Measures of
Union Success: U.S. Studies Versus Canadian Data

Panel A: Frequencies of Managerial Opposition Practices and Measures of Union Success									
	U.S. Studies ¹					Canadian data			
	Lawler ² (1990)	Reed (1989)	Freeman & Kleiner (1990)	Peterson <i>et al.</i> (1992)	Bronfen- brenner (1997)	Total sample (N=264)	Quebec (N=157)	Ontario (N=107)	Chi- Square ¹⁰
<i>Managerial Opposition Practices</i>									
Management consultant	73 % ³	72 %	70 %	90/44 % ⁴	71 %	33 %	36 %	27 %	2.45
Captive audience speeches	67 %	-	91 %	-	-	41 %	36 %	49 %	3.97**
Small group meetings	36 %	-	92 %	-	-	47 %	45 %	50 %	0.88
Anti-union literature	70 %	-	80/91 % ⁵	18 % ⁶	-	24 %	16 %	36 %	13.44***
Promise of increased wages	5 %	64 %	-	42 % ⁷	56 %	38 %	37 %	40 %	0.28
Threats against union supporters	10 %	49 %	-	36 % ⁸	-	38 %	30 %	49 %	9.46***
Tightening of work rules	-	56 %	-	-	-	50 %	48 %	55 %	1.38
Training of supervisors	38 %	63 %	-	-	-	22 %	23 %	20 %	0.41
Surveillance of employees	33 %	45 %	-	-	-	46 %	52 %	37 %	5.17***
Interrogation of workers	1 %	63 %	-	29 % ⁹	-	45 %	43 %	49 %	0.90
<i>Measures of Union Success</i>									
Proportion supporting the union	52 %	54 %	-	-	-	74 %	79 %	66 %	4.76***
Union certified	50 %	53 %	-	52 %	-	81 %	83 %	78 %	1.43
Panel B: Nature of samples used in U.S. Studies									
Study	Period	Size	Sampling Technique						
Lawler (1990)	1975-82	210	Random sample of NLRB elections drawn from field reports filed with the Organizing Department of the AFL-CIO.						
Reed (1989)	1982-86	435	Directors of Organizing for 21 large unions with records of extensive organizing efforts asked to participate. Questionnaires sent to 229 organizers selected by eight unions that agreed to participate. Responses were received from 64 organizers who were asked about each organizing campaign that they had managed during the reference period.						
Freeman & Kleiner (1990)	1982-83	274	Field survey of organizers involved in NLRB election drives conducted by the AFL-CIO Department of Organization and Field Services.						
Peterson, Lee & Finnegan (1992)	?	221	Questionnaires sent to all union officials of a large AFL-CIO international union who had primary or secondary responsibility for union organizing activities at a national or local level. Respondents were asked to recall 2 elections in the last 12 months in which they had been involved on a day-to-day basis. Responses were received from 149 organizers.						
Bronfenbrenner (1997)	1986-87	261	Random sample of 189 NLRB certification elections in units of over 50 surveyed by AFL-CIO, augmented by a random sample of 72 elections involving unions underrepresented in the original sample and surveyed by the author.						

1. These studies represent the bulk of research that simultaneously evaluates the impact of several of the same employer tactics examined in this paper. For comparative purposes, the table focuses only on studies of the organizing campaign at the bargaining unit level that are based on data collected from union surveys or records. Despite what may appear to be restrictive criteria, only a handful of studies that examine several managerial opposition tactics together have been excluded to the authors' knowledge. Getman, Goldberg and Herman (1976), and Dickens' (1983) reanalysis of the Getman *et al.* study, are not retained in Table 2 because their interest lies in individual voting behavior during representative elections rather than bargaining unit level outcomes. Porter and Murman's (1983) work is excluded because it is based on a survey of employers and uses correlation; these characteristics make comparisons difficult with the research described in the table which is based on organizer surveys and regression analysis.

2. With the exception of the "management consultant" category (see note 3 below), these data are essentially similar to those that originally appeared in Lawler and West (1985). Discrepancies can be attributed to a slight adjustment in the sample.

3. This figure includes attorneys who act as campaign advisers while the figure of 20% reported in Lawler and West (1985) for this category excludes attorneys.

4. First figure refers to "hiring a labor lawyer", while the second refers to "Using a consultant known for questionable or illegal tactics".

5. First figure represents the proportion of campaigns in which the firm distributed anti-union leaflets, while the second figure represents the proportion of campaigns in which the firm mailed letters to employees.

6. "Distributing right-to-work literature".

7. "Giving new benefits".

8. "Firing union activists".

9. "Polling employees".

10. Figure for "Proportion supporting the union" is an absolute t-statistic.

** p <.05; *** p <.01

managerial behaviour on union organizing success with our estimates.¹³ Panel A of this table presents the relative frequency of employer resistance tactics in Quebec and Ontario with similar estimates from prior research that used U.S. data. Panel B contains summary information with respect to the methodology employed by the American studies. While there are some important differences with respect to sample construction and survey methodology across U.S. studies, as well as between the U.S. research and our own work, a number of interesting and noteworthy patterns emerge from this comparison.

First, the data suggest that American employers are much more likely to employ consultants in a certification campaign than their Quebec or Ontario counterparts. Union organizers estimate that consultants are used in about 70 percent of U.S. certification campaigns compared to 33 percent of the campaigns conducted in central Canada.¹⁴ The difference in consultant utilization between the two countries is possibly attributable to the duration of the organizing campaign. For example, Thomason (1994) reports that the median duration between initial application for certification and final disposition of the application was approximately one month in Ontario in the mid-1980s, compared to a median duration of nine to ten months in the United States during this same period. In other words, the long duration of the organizing campaign provides U.S. employers with greater opportunity to employ consultants.

13. See the first footnote of Table 2 for criteria used to select U.S. studies.

14. It is important to note that there is substantial heterogeneity among managerial consultants. Not all consultants are "union-busters" engaged to prevent unionization. Unfortunately, our questionnaire failed to make this distinction. In addition, it is possible that respondents did not identify anti-union attorneys employed by the firm as "consultants". To the extent that respondents did not distinguish between anti-union and more benign consultants, we have overestimated the incidence of managerial resistance; to the extent that respondents failed to identify anti-union attorneys as consultants, we have underestimated resistance. Nevertheless, with respect to our Canada-U.S. comparisons, these are faults shared with U.S. studies.

Quebec and Ontario employers are also less likely than American employers to utilize other tactics. These include captive audience speeches, anti-union literature¹⁵ and the training of supervisors in anti-union tactics. Managers in both countries seem similarly likely to survey employees and tighten work rules. With the exception of threats against union supporters, at least one U.S. study out of the five reported in Table 2 found that each of the other tactics examined was employed in a majority of campaigns surveyed. On the other hand, combined data for Quebec and Ontario indicate that no practice occurred in more than 50 percent of the surveyed organizing campaigns.

When the Canadian data are considered alone, several interesting observations emerge. First, the use of managerial opposition tactics during certification campaigns is generally higher in Ontario; seven of the ten practices are found more often in Ontario than in Quebec. Pearson chi-square tests comparing proportions in the two provinces, which are reported in the last column of the table, indicate that the incidence of three of these tactics – captive audience speeches, anti-union literature, and threats against union supporters is significantly more likely to occur in Ontario. Most notably, Ontario employers are approximately 20 percent more likely to distribute anti-union literature and threaten union supporters than are Quebec employers. One exception is the lower frequency of employee surveillance in Ontario relative to Quebec, a statistically significant difference; the latter practice is also the tactic most frequently used by Quebec employers.

MANAGERIAL OPPOSITION AND UNION ORGANIZING SUCCESS

The data reported in Table 2 indicate that Canadian unions are substantially more successful than their U.S. counterparts. Overall, 74 percent of Quebec and Ontario employees supported the union and 81 percent of organizing campaigns in these jurisdictions resulted in certifications; comparable measures for the U.S. are approximately 50 percent. When these figures are considered together with opposition tactic frequencies, it is tempting to conclude that there is a relationship between the two. But since organizing success is affected by a variety of factors that may be correlated with managerial opposition, a multi-variate approach is in order.

To determine the relationship between employer opposition tactics and union success, we estimated multiple regression equations predicting

15. Recall that the figure of 18% reported by Peterson, Lee and Finnegan (1992) refers to the distribution of right to work literature, which is a much narrower category than that utilized by our survey questionnaire.

both the percentage of employees supporting the union (i.e., signing cards or voting for the union) and certification probability. Double-truncated, tobit regression was used to estimate the former dependent variable and probit regression the latter.¹⁶ Equations were estimated for the total sample, which pools data from Quebec and Ontario, and separately for the Quebec and Ontario sub-samples. Control variables include the number of employees in the bargaining unit, the number of employees squared, a dummy indicating whether the campaign was initiated by the firm's employees (as opposed to the union on its own), a dummy indicating that an election was held, a dummy indicating that the certification application was initiated in Quebec (included only in regressions for the total sample), and dummies indicating the industrial sector (non-durable manufacturing, durable manufacturing, or other).

Sample means and variable descriptions are presented in Table 3. With the exception of the dichotomous (0-1) dependent variable indicating whether the union was certified and industry dummies, all variables are derived from the survey data. The former variables are taken from the administrative records of the Ontario Labour Relations Board and the Ministère du Travail du Québec.

Two sets of regression equations were estimated. In the first, ten dummy variables, each indicating the utilization of a different managerial tactic, were included as regressors in the same equation; in the second set, each managerial tactic was entered as a single regressor (along with control variables) in separate equations. By and large, the results for opposition tactics in the first set of equations were not statistically significant. This was most likely due to substantial multi-collinearity between these measures.

Results for control variables from the first set of regressions are discussed briefly below and, while not presented here, outcomes for managerial opposition tactics are available from the authors on request. The former results are consistent with expectations. There is an apparent U-shaped relationship between support for unionization and bargaining unit size; this relationship is found for both dependent variables and holds for the total sample as well as both the Quebec and Ontario sub-samples, although it is not statistically significant for certification probability in the two sub-samples. These results are consistent with the notion

16. Double-truncated tobit regression is a maximum likelihood estimation technique that accounts for the fact that the value for the dependent variable is limited to a particular range of values. Since we are estimating proportions, the values of our dependent variable lie between zero and one. Probit regression is also a maximum likelihood technique that accounts for the fact that the dependent variable is binary, i.e., it can only assume a value of zero or one.

TABLE 3
 Sample Means and Variable Definitions
 (Standard deviations in parentheses)

<i>Variable</i>	<i>Total (N=264)</i>	<i>Quebec (N=157)</i>	<i>Ontario (N=107)</i>	<i>Variable Definition</i>
Dependent Variables				
Percent Union	.736 (.206)	.785 (.187)	.664 (.213)	Proportion of employees supporting the union by signing authorization cards or voting for the union if election held
Certification	.811 (.393)	.834 (.373)	.776 (.419)	1,0—Union certified as collective bargaining agent
Independent Variables				
<u>Managerial Opposition Practices</u>				
Management consultant	.326 (.470)	.363 (.482)	.271 (.447)	1,0— Employer tactic used
Captive audience speeches	.413 (.493)	.363 (.482)	.486 (.502)	1,0— Employer tactic used
Small group meetings	.470 (.500)	.446 (.499)	.505 (.502)	1,0— Employer tactic used
Anti-union literature	.239 (.427)	.159 (.367)	.355 (.481)	1,0— Employer tactic used
Promise of increased wages or benefits	.383 (.487)	.369 (.484)	.402 (.492)	1,0— Employer tactic used
Threats against union supporters	.375 (.485)	.299 (.459)	.486 (.502)	1,0— Employer tactic used
Tightening of work rules	.508 (.501)	.478 (.501)	.551 (.500)	1,0— Employer tactic used
Training of supervisors	.216 (.412)	.229 (.422)	.196 (.399)	1,0— Employer tactic used
Surveillance of employees	.458 (.499)	.516 (.501)	.374 (.486)	1,0— Employer tactic used
Interrogation of workers	.451 (.499)	.427 (.496)	.486 (.502)	1,0— Employer tactic used
Index of employer tactics	.384 (.314)	.365 (.322)	.411 (.303)	Continuous variable from 0 to 1 measuring the mean of the ten employer tactic variables identified above
<u>Control variables</u>				
Number of employees in bargaining unit	68.2 (208.9)	69.2 (246.5)	66.8 (137.1)	Continuous variable from 1 to 3000 measuring the number of employees in the bargaining unit
Employees initiated campaign	.705 (.457)	.869 (.339)	.592 (.493)	1,0—Organizing campaign initiated at the request of the company's employees
Election	.110 (.313)	.057 (.233)	.187 (.392)	1,0—Certification election held
Quebec	.595 (.492)	—	—	1,0—Certification application initiated in Quebec
Non-durable manufacturing	.295 (.457)	.325 (.470)	.252 (.436)	1,0— Non-durable goods manufacturing
Durable manufacturing	.386 (.488)	.389 (.489)	.383 (.488)	1,0— Durable goods manufacturing
Other industries (excluded category)	.318 (.467)	.287 (.454)	.364 (.484)	1,0— Other industrial classifications except primary, construction and public

that smaller units are easier to organize because communication is facilitated and the pressure to conform is higher, making it easier to maintain cohesion during an organization drive involving fewer employees. It is

more difficult to explain why this relationship is reversed in very large units. However, we may speculate that either (1) the impersonal nature of bureaucratic controls in large organizations creates greater demand for unionization or (2) there are scale economies for union organizing that are captured once unit size reaches a certain point.

While we expected that organizing campaigns initiated by employees would receive greater support than campaigns initiated by union organizers, we failed to find support for this hypothesis. Findings for the control variables also indicate that union organizing campaigns enjoyed greater employee support in Quebec than in Ontario, a result that might reflect a marginally more favorable legal environment.¹⁷ Elections were negatively associated with certification probability in both provinces.

Table 4 presents coefficient estimates associated with employer resistance variables from the second set of regressions, each of which predicts the dependent variable – union support or certification probability – as a function of a single managerial opposition tactic and control variables. Equations are estimated using the entire sample and both the Quebec and Ontario sub-samples. The first ten rows report coefficient estimates for specific tactics, while the bottom row of Table 4 reports estimates associated with an index of employer resistance that is equal to the proportion of tactics used by employers.

All coefficient estimates reported in this table are negative and many, including five of the six estimates associated with the index, are statistically significant at the .05 level or better. In addition, the index of employer resistance is significantly and negatively related to both union support and certification probability in the Quebec and Ontario sub-samples as well as the total sample.

Several interesting patterns emerge from an examination of these results. First, captive audience speeches appear to be the most effective tactic to reduce union support and certification probability. Our results for captive audience speeches contrast with more mixed findings from previous American studies. Lawler and West (1985) examined the effect of captive audience speeches on the proportion of employees supporting the union and fail to find a statistically significant relationship between the two variables. On the other hand, Bronfenbrenner (1997) reports that

17. Unions may apply for certification at lower levels of initial support in Quebec than in Ontario. In addition, it may be argued that “anti-scab” legislation endowed Quebec unions with greater bargaining power in collective negotiations than enjoyed by their Ontario counterparts during this period. Greater union bargaining power is more likely to tilt the potential union member’s cost-benefit calculus in the direction of union support.

TABLE 4
 The Proportion of Employees Requesting Union
 Representation and the Probability of Certification:
 Selected Coefficients from Tobit and Probit Regressions
 (Absolute t-ratios in parentheses)

Variable	Total Sample (N=264)		Quebec (N=157)		Ontario (N=107)	
	Pct. union	Certifica- tion	Pct. unio	Certifica- tion	Pct. unio	Certifica- tion
Management consultant	-.120*** (4.137)	-.080 (0.381)	-.147*** (4.043)	-.195 (0.679)	-.066 (1.422)	-.101 (0.291)
Captive audience speeches	-.097*** (3.449)	-.714*** (3.489)	-.081** (2.148)	-.770*** (2.699)	-.143*** (3.579)	-.733** (2.208)
Small group meetings	-.053* (1.923)	-.636*** (3.199)	-.056 (1.533)	-.164 (0.622)	-.098** (2.561)	-1.367*** (3.537)
Anti-union literature	-.057* (1.677)	-.304 (1.334)	-.049 (0.988)	-.014 (0.038)	-.107** (2.423)	-.356 (1.075)
Promise of increased wages or benefits	-.088*** (3.127)	-.425** (2.122)	-.086** (2.295)	-.651** (2.267)	-.115*** (2.861)	-.212 (0.678)
Threats against union supporters	-.101*** (3.638)	-.540*** (2.740)	-.096** (2.483)	-.393** (2.239)	-.118*** (3.118)	-.492 (1.597)
Tightening of work rules	-.070** (2.488)	-.382** (1.984)	-.087** (2.402)	-.484** (2.393)	-.089** (2.184)	-.230 (0.709)
Training of supervisors	-.078** (2.337)	-.205 (0.910)	-.057 (1.327)	-.412 (1.372)	-.102** (2.045)	-.033 (0.086)
Surveillance of employees	-.108*** (3.990)	-.304 (1.565)	-.144*** (4.135)	-.276 (1.038)	-.095** (2.293)	-.220 (0.711)
Interrogation of workers	-.091*** (3.268)	-.275 (1.397)	-.115*** (3.136)	-.607** (2.161)	-.072* (1.794)	-.067 (0.215)
Index of employer tactics	-.207*** (4.166)	-.939*** (2.953)	-.204*** (3.714)	-.913** (2.179)	-.292*** (4.358)	-1.092* (1.898)

* Statistically significant at the .10 level; ** at the .05 level; *** at the .01 level (two-tailed tests).

union support and certification probability both decline as the number of captive audience speeches increases.

The results in Table 4 also suggest that the distribution of anti-union literature and supervisor training are among the least effective managerial opposition tactics in Quebec and Ontario. Existing U.S. research offers partial support for these findings. Lawler and West (1985) and Reed (1989) both found that supervisor training has no significant impact on union support, though Reed reports a negative and significant effect of supervisor training on union organizing success. Lawler and West's (1985) results also show a positive but insignificant relationship between the distribution of anti-union literature and the proportion of employees voting

in favour of collective bargaining. However, two studies relying on alternative measures of this variable reach different conclusions. Peterson, Lee and Finnegan's (1992) findings indicate that the distribution of right-to-work literature reduced support for the union and certification probability; Bronfenbrenner (1997) found that the number of company letters distributed during U.S. certification election campaigns significantly reduced the proportion of votes received by the union and the likelihood of a union win.

Managerial opposition practices are uniformly associated with a statistically significant reduction in the proportion of employees requesting union representation in the total sample. The results are less consistent for certification probability; five of the ten opposition variables, as well as the index measure, have a negative and significant impact on the probability of certification. Results for the total sample, however, appear to mask some important differences in the relative efficacy of managerial tactics in Quebec and Ontario. Notably, the data reveal that small group meetings are associated with a significant reduction of union support and certification probability in Ontario, but are apparently unrelated to these measures in Quebec. Three other employer opposition practices – promise of increased wages or benefits, threats against union supporters, and tightening of work rules – significantly decrease the proportion of employees supporting the union and certification probability in Quebec, but have a negative and significant impact only on union support in Ontario.

Our results for threats against union supporters contrast with those of American research. Three studies (Lawler and West 1985; Reed 1989; Peterson, Lee and Finnegan 1992) examined the effect of threats on the proportion of employees supporting certification, while two of these (Reed 1989; Peterson, Lee and Finnegan 1992) examined the impact of employer threats on certification probability. All fail to find a significant relationship between employer threats and union organizing success.¹⁸

For the most part, however, American studies offer inconclusive evidence for many of the managerial opposition tactics we examine. Only Lawler and West (1985) investigated the effect of small group meetings; they found the tactic had a significant and negative effect on union support. Four studies (Lawler and West 1985; Reed 1989; Peterson, Lee and Finnegan 1992; Bronfenbrenner 1997) examined the relationship between promises of increased wages and benefits and employee support for certification; however, only one (Bronfenbrenner 1997) reported that this tactic is negatively and significantly related to certification probability.

18. The variable used by Peterson, Lee and Finnegan (1992), "firing union activists", is actually a stronger measure of employer resistance than threats.

Unexpectedly, Reed (1989) found that tightening work rules increased union support and certification probability, although only the latter result was statistically significant. Limited evidence suggests that employee surveillance (Lawler and West 1985; Reed 1989) and interrogation of workers (Reed 1989; Peterson, Lee and Finnegan 1992) are not significantly associated with either union support or certification probability. Finally, several studies fail to find a statistically significant relationship between certification probability and the use of a management consultant (Reed 1989; Peterson, Lee and Finnegan 1992; Bronfenbrenner 1997).

There are several possible explanations for the lack of consistent results for measures of managerial resistance, including differences in samples, model specification and methodology among studies. Lawler (1990) suggests that the employer's overall strategy during the certification campaign, rather than the separate tactics used, may be the critical determinant of union support since some practices may reinforce one another while others may conflict. If so, analyses that examine the separate effects of these tactics on union certification may be misleading. Unfortunately, our small sample size prohibited a useful examination of potential interaction effects, so that we were unable to explore this hypothesis.

CONCLUSION

Managerial opposition to unions is often asserted to be the primary factor explaining the decline in union density in the United States (Freeman 1989). A corollary proposition is that a difference in the degree of managerial opposition to unions between employers in the United States and employers in Canada is responsible for the divergence of union density trends between the two countries. There is little existing research directly addressing this issue (Chaison and Rose 1991). One study (Saporta and Lincoln 1995), which used attitude survey data of managerial and non-managerial employees in Canada and the United States, failed to find significant differences with respect to hostility toward unions between Canadian and American managers. They concluded that: "Our finding of agreement among U.S. and Canadian managers is direct evidence against the argument that decreasing U.S. unionization rates are attributable to U.S. managerial leadership."

Nevertheless, while managerial attitudes may be similar, our results suggest that behaviour is not. There appear to be important differences between Canadian and U.S. managers with respect to their ability to translate anti-union sentiments into actions that effectively prevent union formation. Specifically, U.S. employers are more likely to engage in practices designed to thwart the union organizing drive than Canadian employers.

Our survey results suggest that the use of several managerial opposition tactics, including management consultants, captive audience speeches, the distribution of anti-union literature and training of supervisors, is substantially lower in Quebec and Ontario than in the United States. A notable difference is that Canadian firms are only half as likely to hire consultants as their American brethren.

While Canadian employers utilize these managerial resistance tactics less intensively than their U.S. counterparts, these practices are, nevertheless, effective in reducing the proportion of employees that support the union. This result raises the question: if Canadian employers can effectively reduce union support by utilizing these tactics, why do they not use them more frequently or at least as frequently as American employers? Data collected by Mark Thompson (1995) in a survey of Canadian industrial relations executives indicate that while Canadian companies prefer to be nonunion, they respect their employees' choice to be union members. Interestingly, he quotes one manager of an American-owned firm, which is nonunion in the U.S. but partially organized in Canada, as saying: "We play by the rules where we operate. In the United States, there are no rules. Here rules exist, and we follow them." (Thompson 1995: 113).

This quotation suggests that differences in the legal environment are responsible for the differences in managerial behaviour. There are several important dissimilarities between the legal environments of the two countries that could potentially affect employer behaviour. These include the law with regard to union security (i.e., right-to-work legislation in several U.S. states), use of replacement workers during strikes, the processing of and penalties attached to unfair labour practices, and the possibility of first contract arbitration (Kumar 1993). More directly, accelerated certification procedures in Canadian jurisdictions may also account for lower levels of managerial opposition (Weiler 1983; Thomason 1994). Automatic certification based on employee signatures may limit employer opportunities to resist union formation in Canada relative to the United States where every certification is determined by an election.

The need for further research that addresses the limitations of this study is evident. As previously indicated, results from this study and U.S. research are problematic because they rely on self-report data that are subject to problems of bias and recall. Obviously, data based on direct observation would represent a substantial methodological improvement. In addition, this study – and most U.S. research – uses relatively crude measures of employer resistance, which only allow the researcher to determine whether the employer adopted a particular resistance tactic. More refined measures of the extent to which these practices are utilized,

as well as the timing, context, and manner of presentation of such tactics, would undoubtedly shed greater light on the certification process.

Such research should follow the lead of recent American work and provide a more comprehensive test of the determinants of employer behaviour during certification campaigns. This would include measures of union substitution activities, union responses, possible legal maneuvers when an election is held, etc. Since investigations based on individual tactics fail to account for possible interrelationships among tactics, it may be important to identify and evaluate employer strategies rather than individual tactics. Clearly, this list is far from exhaustive, but it may provide an initial direction for future work.

APPENDIX 1

Survey Questions Concerning Employer Resistance Tactics to Union Organizing

5. Did the employer have rules prohibiting solicitation or the distribution of literature on company property?	Yes	No
6. Were these rules enforced:		
Before the organizing campaign began?	Yes	No
After the campaign began?	Yes	No
7. Please indicate whether the employer utilized any of the following tactics in an attempt to defeat the union's organizing drive?		
Management consultants	Yes	No
Captive audience speeches	Yes	No
Small group meetings	Yes	No
Anti-union literature	Yes	No
Surveillance of employers	Yes	No
Promises of increased wages or benefits	Yes	No
Threats against union supporters	Yes	No
Interrogation of workers	Yes	No
Tightening of work rules	Yes	No
8. To the best of your knowledge did supervisors receive special training in tactics that would help management defeat the union's certification bid?	Yes	No

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RÉSUMÉ

L'opposition des employeurs à l'accréditation au Québec et en Ontario

Les tactiques utilisées par les employeurs canadiens dans les campagnes d'organisation syndicale, ainsi que leur impact sur la formation des syndicats, ont été peu étudiés. Cependant, les recherches américaines laissent présager que les mesures d'opposition patronale s'avèrent efficaces pour réduire l'appui des travailleurs au syndicat. Cette étude est la première à s'intéresser aux moyens utilisés par les employeurs québécois et ontariens pour faire obstacle à la formation d'un syndicat. Pour effectuer l'étude, des données ont été recueillies en 1992 par questionnaire auprès d'un échantillon de 264 représentants syndicaux responsables du recrutement. Ces données permettent de déterminer avec quelle fréquence certains moyens d'opposition ont été utilisés par les employeurs visés par une requête d'accréditation au Québec et en Ontario à la fin des années quatre-vingt et au début de cette décennie. Pour mieux situer les réactions des employeurs canadiens, ces données sont comparées avec des informations semblables tirées d'études américaines. Nous avons comme but d'évaluer l'effet des mesures d'opposition patronale sur l'appui syndical et la probabilité que la requête d'accréditation soit accordée.

Les résultats de la recherche montrent que le recours à des moyens pour faire obstacle à la formation d'un syndicat n'est pas prononcé, ni chez les employeurs québécois, ni chez ceux de l'Ontario. Quatre des dix mesures d'opposition patronale étudiées (le recours à un consultant, les discours patronaux auxquels les employés sont obligés d'assister, la distribution de documentation antisyndicale et la formation des superviseurs sur les moyens à prendre en ce qui concerne la formation d'un syndicat) ont une fréquence considérablement moins élevée au Québec et en Ontario par rapport aux États-Unis. Il est intéressant de constater que les employeurs canadiens engagent des consultants deux fois moins souvent de leurs homologues américains. Selon les perceptions de responsables syndicaux, les employeurs américains font appel aux services d'un consultant dans 70 % des campagnes d'organisation syndicale, tandis que notre recherche suggère que ce chiffre se situe à 33 % pour le Québec et l'Ontario pris ensemble.

Cependant, les résultats de nos analyses de régression multiple laissent supposer que les mesures d'opposition patronale réduisent la proportion d'employés appuyant le syndicat. De plus, plusieurs de ces mesures diminuent aussi la probabilité que la requête en accréditation soit accordée. Les discours patronaux auxquels les employés sont obligés d'assister semblent être le moyen d'opposition le plus efficace pour réduire l'appui au syndicat et les chances que la demande d'accréditation soit accordée au Québec et en Ontario. Parmi les mesures les moins dissuasives se trouvent la distribution de documentation antisyndicale et la formation donnée aux superviseurs sur les moyens à prendre par rapport à la formation d'un syndicat.

Une comparaison de la fréquence d'utilisation des mesures d'opposition pendant les campagnes d'organisation syndicale chez les employeurs québécois et ontariens indique qu'elles sont généralement plus répandues en Ontario qu'au Québec. Notamment, des tests de khi carré montrent que la proportion d'employeurs ontariens qui font des discours auxquels leurs employés doivent assister, qui distribuent des documents antisyndicaux et qui menacent les employés appuyant le syndicat, est significativement plus élevée qu'au Québec. En contrepartie, la mesure d'opposition la plus répandue au Québec, la surveillance des employés, est moins populaire en Ontario et la différence entre les fréquences d'utilisation de ce moyen dans les deux provinces est significative. Quand les résultats des analyses de régression pour le Québec et l'Ontario sont mis en parallèle, certaines conclusions additionnelles émergent. Six des dix moyens d'opposition patronale étudiés ont un impact négatif et significatif sur l'appui au syndicat tant au Québec qu'en

Ontario ; cependant, l'effet de ces mesures sur la probabilité que la requête en accréditation soit accordée est variable.

En somme, nos résultats suggèrent que les employeurs canadiens se servent moins souvent de moyens d'opposition afin de décourager la formation d'un syndicat que les employeurs américains, bien que ces mesures semblent réduire l'appui au syndicat. Alors, pourquoi les firmes canadiennes n'utilisent-elles pas ces moyens plus fréquemment ? Plusieurs études suggèrent que les lois canadiennes régissant les rapports collectifs, et particulièrement le processus d'accréditation accéléré basé sur la signature de cartes d'adhésion syndicale, restreignent la marge de manœuvre des employeurs cherchant à s'opposer à la formation d'un syndicat. Cependant, les limites de notre étude invitent à une interprétation prudente des résultats ; entre autres, nos données sont basées sur le rappel et les perceptions d'un seul groupe (les représentants syndicaux responsables du recrutement) et les analyses de régression sont entachées de problèmes de multicollinéarité parmi les variables d'opposition patronale.

RESÚMEN

Oposición Empresarial a la sindicalización en Quebec y Ontario

Usando información obtenida de un estudio de organizadores sindicales, este documento es el primero en analizar el comportamiento patronal durante las campañas de subscripción sindical en Canadá. Estudio las tácticas de oposición de los patrones en las provincias de Quebec y de Ontario durante el periodo 1980 - 1990. Los autores no encontraron ningún indicio de una oposición sistemática a la sindicalización en ninguna de las dos provincias. Sin embargo las tácticas utilizadas en ambas provincias lograron reducir el apoyo sindical por parte de los empleados si bine no la sindicalización. La gran mayoría de las tácticas examinadas parecen estar orientadas a disminuir el apoyo al sindicato mientras que tácticas de dialogo publico o demagogia tienen el efecto contrario.