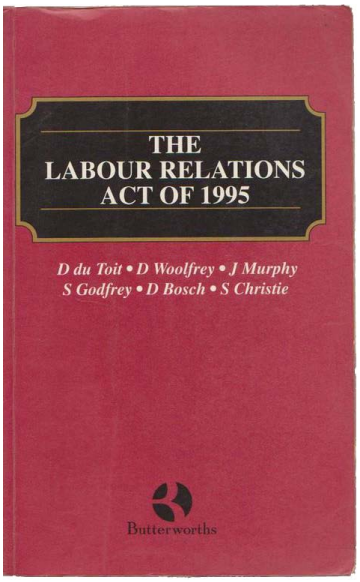
Share some 21st Century insights with Joe Mulhall

Dues or Investment?

Contributing to Building for Tomorrow

In 1999 a group of workers came together to form a "trade union" under the definition of the Labour Relations Act 1995 in the Province of Ontario. The result of this meeting was the formation of CUSW as a trade union.

"Trade union" (Ontario LRA 1995) means an organization of employees formed for purposes that include the regulation of relations between employees and employers and includes a provincial, national, or international trade union, a certified council of trade unions and a designated or certified employee bargaining agency.



The founding meeting was only the first step in becoming a recognized "trade union" for the purpose representing members. In 2002 CUSW made an application for a Certification to represent the workers at Langley Utilities. This application required that we prove to the Labour Relations Board that we had a Constitution in place that conformed to the requirements of the Law, that we had an elected Executive Board to oversee the operation of the union and that we had the **financial ability to carry out the responsibilities that come with taking on the representation of members.**

We very seldom discuss the test of **"financial ability"** to carry out the duties required by the Law. We simply take it for granted.

In the early days of union development in Canada the struggle was over the right to bargain collectively. The Employers had the luxury of using profits earned from the labour of the workforce in their employ to finance the fight against those same Workers being granted the right to bargain collectively. The Workers had little food and no savings so the only tool that they had to balance the financial power of the Employers was to withdraw their labour. The right to bargain collectively was eventually gained through the use of these illegal, sometimes violent **Recognition Strikes**.

Over time the right to bargain collectively was legally recognized. The Law that emerged was based on the concept that there must be an organization in place to manage these rights. In Canada the Law clearly states that there must be a "trade union" structure in place before workers can gain the legal right to bargain collectively. The effectiveness of these organizations is directly connected to their **"financial ability"** to carry out the role granted by the "certification."

Employers lost the battle over the workers legal right to bargain collectively, but the war against organized labour continued. The Employers recognized that, if these "trade unions" had no access to funding,

see page 2...

Dues or Investment

they would be ineffective and that workers would abandon them. The strategy worked. Many of the early unions failed during their first strike. There was no money to support the organization and in effect they went bankrupt. The Workers response was to demand that a portion of their salary be sent to the "trade union" to fund the operating cost.

It took until 1946 before Canadian Supreme Court Judge **Ivan Rand** settled a strike over this issue with a decision that introduced for the first time the right to have a portion of salary sent to the "trade union" that represented them. This became known as the "Rand Formula".

In summary he concluded: "I consider it entirely equitable," wrote Rand, "that all employees should be required to shoulder their portion of the burden of expense for administering the law of their employment, the union contract [the collective agreement]." (*Ivan Rand 1946)*

The result of this Arbitration decision has provided Workers with the **"financial ability"** that they need to represent themselves through the "trade union" as required by the Law. Over time, Legislation in Canada and the Provinces has evolved to include language that supports the principle set out by Ivan Rand.

In Ontario, the Labour Relations Act reads: "**Deduction and remittance of union dues**, 47. (1) Except in the construction industry and subject to section 52, where a trade union that is the bargaining agent for employees in a bargaining unit so requests, there shall be included in the collective agreement between the trade union and the employer of the employees a provision requiring the employer to deduct from the wages of each employee in the unit affected by the collective agreement, whether or not the employee is a member of the union, the amount of the regular union dues and to remit the amount to the trade union, forthwith."

When we founded CUSW it was with the view that we would have to balance the interests of CUSW members against this legal institution called CUSW the "trade union". We understood that the Employers had not abandoned their fight to restrict Workers from having a say in collective bargaining. We knew that there would be a continued attack on the concept called the "trade union". We knew that there would be a day when "Right to Work" or the threat to eliminate the "Rand Formula" would arrive on our doorstep.

The participation model that is contained in the CUSW Constitution was built to ensure that every member can see themselves as the Union.

The right to make financial contributions from our salary to support our "trade union" was a hard fought battle. When Employers and other political interests attempt to undermine CUSW by trying to cut off the funding needed to maintain our **"financial ability"** to meet our obligations we can look at what we have built together and not allow ourselves to be duped by those that would benefit from our demise.

When we were challenged to prove "financial ability" in the application for status for CUSW-BC, we were able to use the Audited Financial Statement of CUSW to win the case.

Our Union, our Money, our Future.

– Joe Mulhall