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Abstract
Equal pay legislation in Ontario has been a source of considerable attention, concern, and conflict since the late nineteenth century. A variety of women's organizations, human rights groups, labour unions, and political parties actively promoted equal pay for equal work legislation. In March 1951, the Ontario provincial government did enact an equal pay law to rectify perceived inequities between male and female workers. Since that initial legislation, numerous individuals and groups have complained that this legislation has done little to narrow the male-female wage differential in Ontario. In this article we argue that, in fact, the Ontario government's equal pay law of 1951 did serve to reduce the male-female wage gap in a variety of jobs over the past thirty years. This contention is seen as providing a positive context for the equal pay for work of equal value legislation recently enacted by Ontario's present Liberal government.
THE SOCIO-LEGAL IMPACT OF EQUAL PAY LEGISLATION IN ONTARIO, 1946-1979

BY ROBERT MALARKEY* & JOHN HAGAN**

Equal pay legislation in Ontario has been a source of considerable attention, concern, and conflict since the late nineteenth century. A variety of women's organizations, human rights groups, labour unions, and political parties actively promoted equal pay for equal work legislation. In March 1951, the Ontario provincial government did enact an equal pay law to rectify perceived inequities between male and female workers. Since that initial legislation, numerous individuals and groups have complained that this legislation has done little to narrow the male-female wage differential in Ontario. In this article we argue that, in fact, the Ontario government's equal pay law of 1951 did serve to reduce the male-female wage gap in a variety of jobs over the past thirty years. This contention is seen as providing a positive context for the equal pay for work of equal value legislation recently enacted by Ontario's present Liberal government.

I. INTRODUCTION

Women's organizations, political opposition parties, and academics frequently have argued that equal pay legislation in a province like Ontario has done little or nothing to reduce the male-female wage differential. They maintain that wages for females in

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1 S. Ostry, The Female Worker in Canada (Ottawa: Queen's Printer, Census Monograph, D.B.S., Cat. No. 99-553, 1968); M. Clarke, "Equal Pay In Ontario: Challenges and Options" Issues and Options: Equal Pay/Equal Opportunity (Toronto: Ontario Ministry of Labour, 1978); M. Gunderson, "Time Patterns of Male-Female Wage Differentials: Ontario, 1946-
the work force have been approximately 65 percent of male wages, with minimal improvement over time. This view is a source of political pressure on the present Ontario Liberal government to enact equal pay legislation that will be effective. But is it accurate to say that Ontario’s equal pay legislation has had little or no impact on male-female wage differentials? Is a conclusion of little or no impact actually a valid prerequisite for new legislative efforts? Or, is there a different and more encouraging context in which to place past legislative efforts in Ontario? This paper offers answers to such questions.

Before assessing the impact of Ontario’s equal pay law, first enacted in March 1951, we emphasize that this law dealt with a serious problem. Wage differentials between male and female workers in Ontario were large and had existed for years prior to the enactment of Ontario’s equal pay law. The teaching profession, for example, has a long history of females being paid less than males for essentially the same work. A salary schedule from 1858 in Toronto illustrates how substantial these wage differentials were (see Table 1). Regardless of rank, male teachers made approximately twice as much money as their female counterparts. By 1902 female teachers in Ontario outnumbered male teachers 6,297 to 2,200. As Table 2 indicates, however, male-female wage differentials persisted well into the twentieth century. For the years 1858-1930, starting salaries for male teachers in Toronto were two to three times higher than for female teachers.

1971" (1976) 31 Relations Industrielles/Industrial Relations at 57-71.

2 Ontario's equal pay law of March 1951 was entitled The Female Employees Fair Remuneration Act, S.O. 1951, c. 26 [hereinafter FEFRA]. FEFRA was later incorporated into the Ontario Human Rights Code, S.O. 1961-62, c. 93, s.5. This law was transferred back to the Ministry of Labour in 1968 as part of the Employment Standards Act, S.O. 1968, c. 35, s. 19.

3 See infra at 327.


5 See infra at 328.
The teaching profession was not the only occupation in which wage gaps existed. An Ontario Bureau of Industries report for the year 1884 indicates that the average annual wage for men during that year was $394.34, based on an average work week of 59 hours. The average annual wage for women was $133.09, based on a work week of 59.5 hours. Male bookkeepers earned $11.83 for a 57-hour week; females earned $4.90 for a 54-hour week. Male cigar makers earned $9.45 for a 58-hour week; females earned $3.72 for a 59.7-hour week.\(^6\)

An 1892 report by Jean Thomson Scott, *The Conditions of Female Labour in Ontario*, dealt in part with male-female wage differentials. Scott indicated that in areas such as tailoring, retail sales, stenography, bookkeeping, and teaching, the wages for female workers were consistently lower than those for male workers.\(^7\)

Wage differentials between male and female workers doing similar work continue on a yearly basis. The federal Department of Labour has been publishing data since 1921 in volumes entitled *Wage Rates, Salaries and Hours of Labour in Canada*.\(^8\) These data were analyzed for the years 1921, 1930, 1940, and 1950. Few occupations had data for both male and female workers, as women generally did not work in construction, metal trades, lumbering, and mining, for instance. In cotton and wool manufacturing, however, separate information is provided for male and female workers.

Summary measures of wage differentials for the years 1921-1950 in cotton and wool manufacturing are reported in Table 3.\(^9\) From the summary chart in Table 3, it appears that between 1921 and 1950 the wage gap between male and female employees improved; that is, the ratio of female to male wages (Wf/Wm) increased. But in 1950, women in Ontario were still experiencing

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\(^6\) L.S. Bohnen, "Women Workers in Ontario; A Socio-Legal History" (1973) 31 U.T. Fac. L. Rev. at 45-74.


\(^8\) Canada, Department of Labour, *Wage Rates, Salaries and Hours of Labour in Canada* (Ottawa: Department of Labour, Economics and Research Branch, 1920-1980).

\(^9\) See *infra* at 328.
wage differentials as low as .58 (Sales Clerk) with a median wage differential of .76 (see Table 4).¹⁰

Yearly wages in Ontario in agriculture for the years 1920-1939 show a similar trend. The median wage differential was .72 for the period 1920-1929 and .77 for the period 1930-1939.¹¹

Wage differentials are a long-term problem. From 1850 to 1950, there is a clear trend of female workers being paid less than their male counterparts. Not all of this wage gap can be attributed to sex discrimination. More will be said later about this gap, but for now it seems obvious that some form of male-female wage differential existed during the years 1850-1950. What is also obvious from a study of the equal pay issue during this period is that the existence of a wage gap did not go unnoticed or unprotested.

II. EQUAL PAY SUPPORT, 1850-1950

Equal pay legislation in Ontario did not occur in a social, political, economic, or historical vacuum. Unions, women’s organizations, international organizations, the media, and governments themselves protested unequal pay for women workers and advocated various solutions. These concerns and protests were not as intense in the nineteenth and early twentieth centuries as in later years because many women were not doing the same jobs as men. In addition to domestic service, many women worked as dressmakers, seamstresses, and milliners in small factories and textile mills. Nevertheless, male-female wage differentials did become a focus of concern for various interest groups.

One of the earliest initiatives for promoting equal pay for equal work in Canada came from the Toronto Trades and Labour Council in 1882. Point three of their platform of principles stated the objective: "Equal pay for equal work for both sexes."¹² The

¹⁰ See infra at 329.


¹² Canada, Department of Labour, Equal Pay for Equal Work (Ottawa: Queen’s Printer, 1959) at 4.
National Council of Women had been pushing for equal pay legislation since the Council began in 1893. The *Labour Gazette*, the official organ of the federal Department of Labour, reported on the twentieth annual convention of the National Council of Women in 1913. One of the eight recommendations adopted at this convention advocated: "Equal rewards for equal work regardless of sex." These resolutions were used as policy statements by the National Council to federal and provincial governments.\(^{13}\)

Female teachers made known their resentment of being paid one-half the salary of their male colleagues. In 1904, women teachers in Toronto marched into a Board of Education meeting to demand pay equal to that of male teachers.\(^{14}\) In April 1913, a correspondent to the *Labour Gazette* in Toronto reported that the Toronto Board of Education was under "considerable criticism" for its salary schedule for that year. The report stated that "women teachers feel that there is an unfair discrimination in the matter of salaries, and equal pay for equal work is their contention."\(^{15}\) The report gave an example of the current salary schedule in which a male teacher made twice the money per year as did a female teacher teaching the same grade, both with five years of experience. In 1918, the Federation of Women Teachers' Association of Ontario organized and made equal pay for equal work one of their central objectives.\(^{16}\) None of these efforts experienced much success, however, until the 1940s.

Although the federal public service had a policy of equal pay for equal work since the 1880s, it was seldom implemented because

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\(^{13}\) *Canada, The Labour Gazette* (Ottawa: Department of Labour, June 1913) at 1372-75.


\(^{15}\) *Canada*, "Conditions of Employment Among Women Workers in Leading Industrial Centres – Reports of Women Correspondents to the Labour Gazette" *The Labour Gazette* (Ottawa: Department of Labour, April 1913) at 1077.

women seldom assumed government positions held by men. But with the increased demand for labour created by World War I, women increasingly were doing jobs that previously only men had done. Women worked in munitions factories and the railways, and a large number worked in steel, cement, and shoe manufacturing. As a result of increased experience and training, more women were doing the same job as the men in factories and shops. In 1918, the last year of the war, the Privy Council issued an Order-in-Council with respect to equal pay for women involved in war production: "That women on work ordinarily performed by men should be allowed equal pay for equal work and should not be allotted tasks disproportionate to their strength." However, this Order-in-Council applied only to industries involved in war production and only for the duration of the war.

The period between the two world wars was relatively quiet with respect to the equal pay issue. In the economic prosperity of the 1920s, fewer women had to work and if they did work, their wages were improving. In the economic depression of the 1930s, the issue was having a job, not equal pay. With jobs at a premium and the wages of virtually everyone reduced by 50 percent or more, the issue of equal pay for female workers receded into the background.

With the advent of another world war, the demand for labour became greater than the supply. Once again many women were performing jobs that previously only men had performed. The issue of equal pay for equal work emerged with renewed intensity. The federal government issued a Wartime Wages Control Order in 1941 that prohibited an employer from changing "the basic scales of wage rates or altering the terms of employment which were in effect on November 15, 1941." After World War II, labour unions, women's organizations, and opposition parties like the CCF (Canadian Commonwealth Federation) converged on the equal pay issue. They invested a great deal of time, money, and effort to promote an equal pay law

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17 See Bohnen, supra, note 6 at 61.

18 Canada, The Labour Gazette (Ottawa: Department of Labour, August 1918) at 617.

19 Supra, note 12 at 6.
in Ontario. The Progressive Conservative government of Leslie Frost eventually responded with the enactment of the Female Employees Fair Remuneration Act, 1951.\(^{20}\) This legislation was the first equal pay law enacted in the entire British Commonwealth. The operative section stated:

(1) No employer and no person acting on his behalf shall discriminate between his male and female employees by paying a female employee at a rate of pay less than the rate of pay paid to a male employee employed by him for the same work done in the same establishment.\(^{21}\)

III. THE IMPACT OF FEFRA

Frost's Progressive Conservative government had high hopes for FEFRA. Did these hopes materialize? It depends on whom we ask. When we consult the Annual Reports of the Ministry of Labour, it appears that FEFRA did the job. The Fair Employment Practices Branch had been established in June 1951 to administer FEFRA and The Fair Employment Practices Act, 1951.\(^{22}\) FEFRA came into force 1 January 1952. By the time of the Annual Report for the year ending 31 March 1952,\(^{23}\) FEFRA had only been in effect for three months. One complaint had been received, however, and a conciliation officer had been sent to investigate the complaint. The Annual Report stated that "the differential in the rate of pay was found to be the result of actual difference in job content."\(^{24}\)

During the period 1952-1960, 124 complaints alleging violation of FEFRA by twelve employers had been sent to the director. Conciliation officers apparently "resolved" those complaints. No


\(^{21}\) Ibid., s. 2.


\(^{23}\) Ontario, Department of Labour, Annual Reports (33d Report) (Toronto: Baptist Johnston, 1952) at 35.

\(^{24}\) Ibid.
commissions, prosecutions, or fines occurred during these years.\textsuperscript{25} On the basis of this information from the Ministry of Labour, we might say that \textit{FEFRA} had been an unqualified success.

Other organizations and individuals were not greatly impressed with the effectiveness of \textit{FEFRA}, however. Writing in 1954, Margery Pewtress expressed considerable doubt about the effectiveness of Ontario's equal pay act.\textsuperscript{26} Pewtress began her article in \textit{Saturday Night} by stating that \textit{FEFRA} definitely "did not usher in the millennium."\textsuperscript{27} Pewtress maintained that some school boards were still advertising for teachers using different rates for male and female teachers. Pewtress asserted that although some employers in Ontario had revised their wages to conform to \textit{FEFRA}, others had not. In fact, employers were adding some additional duties to male job descriptions to "circumvent the Act." According to Pewtress, even labour unions had not pushed for equal pay in collective agreements and had not challenged "hair splitting" job descriptions aimed at justifying lower pay to women.\textsuperscript{28}

In March 1955, the United Electrical, Radio and Machine Workers of America sent a formal complaint about \textit{FEFRA} to Charles Daley, Minister of Labour. The union complained about loopholes in the \textit{Act} and about the fact that individuals had to carry out the complaint procedure without union representation. The union further complained that the penalty for violation was meaningless.\textsuperscript{29}

In 1956, a Private Member's Bill was introduced into the Ontario Legislature to change what was perceived as basic weaknesses in \textit{FEFRA}. In particular, the Bill proposed that the phrase "the same work" in section 2(1) be amended to read "work of comparable character, the performance of which requires comparable

\textsuperscript{25} Ontario, Department of Labour, \textit{Annual Reports} (Toronto: Baptist Johnston, 1952-1960).

\textsuperscript{26} M. Pewtress, "Equal Pay" \textit{Saturday Night} (6 March 1954) 26.

\textsuperscript{27} Ibid.

\textsuperscript{28} Ibid.

\textsuperscript{29} R. Chud, "The History of the Equal Pay Laws in Ontario" (Toronto: Ontario Department of Labour, Women's Directorate, April 1976) [unpublished].
Frost's Progressive Conservative government defeated the Bill. In May 1956, the Ontario Federation of Printing Trades Union met in Windsor for their annual convention. One of the several resolutions passed was "to amend the Female Employees Fair Remuneration Act of 1951 to prevent discrimination against women wage earners and to allow unions to represent their members in any such complaint." The union felt that \textit{FEFRA} had been generally ineffective, and they were disturbed that the \textit{Act} did not permit them to represent a woman in their union who had a complaint.

We have some indication of how the business community responded to equal pay legislation from a 1955 \textit{Financial Post} article written by Jack McArthur. This article came at a time when the federal government had introduced an equal pay bill in the House of Commons and criticism of the "unworkability" of the Ontario law was mounting. McArthur attempted to explain why there was opposition to equal pay laws. The title of the article summarized the thrust of McArthur's remarks — "Strong Opposition, Weak Voice: The Case Against Legislating Equal Pay for Women." The article began with these words: "There is a massive unvoiced reluctance to the passing of legislation giving women the same pay as men for comparable work. Few quarrel with the principle. Like opposition to sin, preservation of the family unit, and a chicken in every pot, it's wonderful."

McArthur makes the point that opposition to equal pay legislation is not a very popular position to take publicly. Therefore, many who have criticisms don't voice them. It is too easy to be misunderstood. Furthermore, many who may be in favour of the principle of equal pay for equal work see a huge problem in turning

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30 Canada, "Bills Not Passed" \textit{The Labour Gazette} (Ottawa: Department of Labour, November 1956) at 1412.

31 Canada, "Ontario Printing Unions Hold Annual Convention" \textit{The Labour Gazette} (Ottawa: Department of Labour, June 1956) at 628.


33 Ibid.
this principle into a law that works. There are always too many loopholes.

McArthur then outlines some of the "sincere contentions" about equal pay legislation held by people within government, management, and labour about equal pay legislation. There is the old problem of determining whether a woman is in fact doing equal work, especially when it comes to aspects like the exercise of responsibility. Secondly, there is the difficulty of determining if a wage differential is due to sex discrimination or to some other factor. Thirdly, enforcement of an equal pay law could result in the shutdown of a business because of increased labour costs. A job with lower pay is better than no job at all. Lastly, the "most powerful weapon" to counteract wage discrimination is for women themselves to refuse to accept lower wages for equal work. The importance of this article is in its indication of the attitudes and perceptions that were still very much alive after FEFRA became law. The law did not eradicate deeply held opinions, values, and prejudices of men about women workers.

Is there any objective evidence with respect to the impact of FEFRA during the 1952-1962 period? In one fundamental respect this is an irrelevant question. The crucial factor was how government officials, labour unions, women's organizations, and the business community were looking at Ontario's equal pay law. They were the relevant social actors whose words and deeds served to promote, change, or resist FEFRA. The perceptions of these various interest groups were examined above. There is some value, however, in placing alongside the perceived impact of FEFRA an independent analysis of this Act. Such analysis provides a degree of distance from the situation not possible for those who were intimately caught up in the conflict.

An often cited 1968 study by Sylvia Ostry of the Federal Department of Labour, Women's Bureau, reported that in 1951, the ratio of median wages and salaries of female to male workers in Canada was 55.2 percent. In 1961, this figure stood at 54.9 percent. During this ten-year period, the earnings differential remained

34 Ibid.
unchanged or even increased slightly.\textsuperscript{35} Ostry points out, however, that these are gross calculations and need to be adjusted for factors such as the different occupational distribution of male and female workers, part-time employment, education, training, work experience, and absenteeism. Calculations which account for the earnings differential with respect to full-time versus part-time employment show that the gap narrows somewhat — from 54.2 to 59.3 percent — when all occupations are aggregated. In specific occupations, such as those in the Professional and Technical category, the earnings differential decreases significantly — from 43.3 to 61.2 percent (see Table 5).\textsuperscript{36}

When occupational distribution, age, and educational level were adjusted for, the earnings gap narrowed further. Weighted averages showed that the differential had decreased for full-time workers from 59.3 percent to a range of 77.5 to 85 percent (see Table 6).\textsuperscript{37} The earnings differential after these adjustments was reduced to between 15 to 22 percent. Other factors such as the urban-rural distinction, regional differences, turnover, and absenteeism could further decrease this wage gap. Ostry concluded: "However it seems clear that some portion of the residual differential stemmed from 'discrimination', i.e. from the fact that women were paid less than men for comparable work."\textsuperscript{38}

Ostry's analysis, however, does not speak directly to our particular issue. Ostry used data for all of Canada, not specifically for Ontario. Also, Ostry's data aggregated numerous occupations and did not deal with specific jobs in specific business establishments. Morley Gunderson has analyzed wage differentials for specific jobs in Ontario. Gunderson did a time series regression analysis of nine specific occupations in Ontario between the years 1946-1971 with

\textsuperscript{35} See Ostry, supra, note 1 at 39.

\textsuperscript{36} See infra at 330.

\textsuperscript{37} See infra at 331.

\textsuperscript{38} See Ostry, supra, note 1 at 43.
respect to male-female wage differentials.\textsuperscript{39} This is an important advance over earlier work, as it replaced the use of demographic decomposition procedures with more sophisticated structural equation models. Using such models, Gunderson found no evidence that equal pay legislation had any effect on narrowing the wage gap during this time period. However, Gunderson’s analysis has a different focus than our own. Rather than assess the possible impact of \textit{FEFRA} beginning with its enforcement in January 1952, Gunderson used January 1969 as the critical date and structured his time series regression analysis around that point in time. Gunderson was aware that equal pay provisions existed prior to January 1969, but his focus was on later developments. He explains that before 1969 Ontario’s equal pay policy was administered by the Ontario Human Rights Commission, which "relied mainly on persuasive tactics."\textsuperscript{40} In January 1969, the equal pay provisions were transferred to the Ministry of Labour and became part of the \textit{Employment Standards Act}.\textsuperscript{41} Gunderson refers to the 1946-1968 period as the "pre-legislation period" and to the 1969-1971 period as the "post-legislation period.\textsuperscript{42}

Our own focus is on the initial passage of \textit{FEFRA}. This focus includes a period when the Ministry of Labour enforced Ontario’s equal pay law (from January 1952 to January 1962), prior to the provisions of \textit{FEFRA} being transferred to the Ontario Human Rights Commission.\textsuperscript{43} The Human Rights Commission administered the equal pay provisions until January 1969, when the provisions were transferred back to the Ministry of Labour.\textsuperscript{44} The intention is, then,

\begin{itemize}
  \item \textsuperscript{39} See Gunderson, supra, note 1 at 57-71.
  \item \textsuperscript{40} Ibid. at 64. Actually, \textit{FEFRA} was administered by the Ministry of Labour from 1952 to 1962 and then was transferred to the Ontario Human Rights Commission from 1962 to 1969.
  \item \textsuperscript{41} S.O. 1968, c. 35, s. 19(1).
  \item \textsuperscript{42} See Gunderson, supra, note 1 at 64-65.
  \item \textsuperscript{43} See supra, note 2.
  \item \textsuperscript{44} See infra, notes 79-80 and accompanying text.
\end{itemize}
to set up the time series analysis in a way that allows us to identify the possible impact of FEFRA on male-female wage differentials prior to 1969. By this time, FEFRA had been in place for seventeen years. The impact that Ontario's equal pay law might have achieved might well have taken place by January 1969. Building on Gunderson's application of structural equation time series techniques, we offer a new analysis of the impact of FEFRA.

IV. FEFRA's IMPACT

Our objective in this analysis is not to identify the variable with the most explanatory power with respect to variation in male-female wage differentials. Rather, we are attempting to evaluate whether or not Ontario's equal pay law had any influence in narrowing the gender wage gap in Ontario. In order to evaluate the impact of FEFRA on wage differentials, we need to recognize that this equal pay legislation was not operating in a socio-economic vacuum. Changes in the social, economic, and political dimensions of Ontario society were taking place during the post-legislative time period. Therefore, it is important to include in our analysis variables other than the equal pay law in order to get a more complete picture of how equal pay legislation may have affected wage differentials. The two other variables chosen for our analysis are time and the annual unemployment rate in Ontario. Through the variable of time, we can obtain some idea of the combined impact of social, economic, and political factors that were at work during the 1946-1979 period. The Ontario unemployment rate measures the impact of fluctuations in the business cycle on male-female wage differentials. Historically, business cycles have been a powerful determinant of wages and wage differentials.

There are various dimensions of time as an explanatory variable relevant to male-female wage differentials. Consider the

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45 I am using the same independent variables as Gunderson used in order to evaluate his conclusion about Ontario's equal pay law. I am indebted to Gunderson for permission to use his data base. The critical difference between the quantitative analysis in our study and Gunderson's research is our use of 1952, rather than 1969, as the important historical point for post-legislative impact analysis.
following range of possibilities. The increased labour force participation of women after World War II could have served to continue and entrench existing wage differentials. On the other hand, this factor could have broken down barriers that discriminated against women in the workplace. As more women worked in various types of jobs, sex stereotyping may have been reduced, providing better jobs and better pay for females. Over time, increased knowledge about the productivity and competence of women in the work force could lead to a reduction of the wage gap between males and females.

We know that the growth of the service sector during the past forty years has been particularly important in increasing the demand for female workers. With the increased supply of female workers, there was also an increased demand for their labour force participation. It would be reasonable to expect that this new demand would function to reduce the male-female wage gap. Nevertheless, forces of competition could work to continue or even increase gender wage differences. To reduce costs and increase profits, employers may try various means to hire women at lower wages than men. Or, an employer, in the name of "pay equity," could decide to freeze male salaries or at least decrease the rate of annual increase in order to reduce labour costs and, therefore, be more competitive. Such a decision would serve to decrease the gender-related wage differential.

Since the 1940s, federal and provincial government agencies and services have grown at a phenomenal rate. We would expect the government, as a major employer in the Canadian economy, to honour its own anti-discrimination policies. In this regard, we could anticipate a decrease in the differences between male and female wages during the time period that we are analyzing. On the other hand, Kathleen Archibald has argued in Sex and the Public Service that sex discrimination in government has been rampant over the years in terms of employment opportunities and wages for females.

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46 See Gunderson, supra, note 1 at 59.

If there is any merit to this argument, government hiring activity would have been a factor in increasing the gender wage gap.

Thus, in and of itself, time as an independent explanatory variable does not provide us with a compelling theoretical argument for the decrease or increase of male-female wage differentials. The question has to be resolved empirically. Within the dimension of time, there are various contradictory forces which may increase the wage gap during one period of time and decrease it during another. Even though all the time-related factors cannot be disentangled and isolated, the time variable does provide us with information about the overall influence of these factors as they act and interact with each other. Time series regression analysis is particularly suited to capture this net impact of time on wage differentials.

The annual unemployment rate in Ontario is being used to measure the nature of economic conditions in Ontario during the 1946-1979 period. The unemployment rate is a standard indicator of the health or lack of health of a particular economy. The unemployment rate reflects the fluctuations in the business cycle that have become an integral part of an industrial economy. As an explanatory variable, the unemployment rate would be expected to affect male-female wage differentials in a direct manner. When there is low unemployment because of economic prosperity, there is a growing demand for workers, including females. Such demand for female workers would be expected to lead to an increase in female wages and a decrease in the male-female wage gap. During an economic recession, however, the opposite effect should occur. A surplus of female workers would tend to reduce female wages, as employers implement cost-cutting measures to survive the economic downturn. When business survival becomes the major priority, demands for pay equity tend to be ignored.

Again, however, the actual impact of unemployment on wage differentials is an empirical question. Some economists have argued that business prosperity draws so many women into the labour force that it has a depressing effect on female wages. In other words,

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48 See Gunderson, supra, note 1 at 59-61.

49 Ibid. at 62.
there is low unemployment but wages do not necessarily reflect this economic prosperity. Rather, increased profits dominate the prosperous business cycle. This is especially true in non-unionized business establishments, which constitute a large segment of the labour force at any given time. Our time series regression analysis should provide useful information as to which theoretical possibility actually occurred in Ontario during the 1946-1979 time period.

Our variable of central interest is the equal pay legislation enacted by the Ontario government in March 1951 and proclaimed in force in January 1952. Indeed, the reason for doing this time series regression analysis is to evaluate the impact of *FEFRA* on male-female wage differentials in Ontario after the legislation was in force. As in the case of the variables of time and unemployment, theoretical arguments can be offered both for a positive and a negative impact. The more obvious argument is that employers complied with *FEFRA* and adjusted female wage rates to conform to the equal pay for equal work law. In economic language, the equal pay law increased the cost of pay discrimination against females in terms of possible fines and loss of a "good reputation" in the community.\(^{50}\) Businesses are image conscious and have no desire to be labelled publicly as "exploiters" of women. We would, therefore, expect the equal pay law of March 1951 to have begun a process of reducing male-female wage differences.

This argument, however, can be countered by the observation that, given the narrow terms of *FEFRA* — the same job in the same establishment — employers could have easily side-stepped the requirements of this law. If this occurred to any significant extent, we would see minimal or no decrease in the wage gap due to equal pay legislation. Employers could have reclassified the jobs of male workers by adding an additional responsibility or two and attaching a minimal increase in pay to this reclassification. Such an attempt to avoid the equal pay provisions would have served to increase further wage differences between male and female workers.

These theoretical possibilities can only be resolved empirically, not theoretically. A time series structural equation approach allows us to control for the impact of the long-term time

\(^{50}\) *Ibid.* at 63.
trend and the short-term business cycle so that we can determine if Ontario’s equal pay legislation had any independent effect on gender-related wage differentials.

A. Data Base for Analysis

Data were obtained from the annual volumes produced by the Economics and Research Branch of the Federal Department of Labour, entitled *Wage Rates, Salaries and Hours of Labour.* During the 1946-1979 period, continuous wage data in cents per hour are reported for nine occupations with male and female workers. These are jobs in which women were working in sufficient numbers, along with their male counterparts, to be reported to the federal government by business establishments in Ontario having twenty or more employees. The nine jobs, together with their industry groups, are as follows:

<table>
<thead>
<tr>
<th>Industry Group</th>
<th>Occupation</th>
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<tbody>
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<td>BAKERIES</td>
<td>1. Baker Helper</td>
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<td></td>
<td>2. Packager</td>
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<tr>
<td>HOSIERY AND KNITTED GOODS</td>
<td>3. Cutter</td>
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<td></td>
<td>4. Knitting Machine Tender</td>
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<tr>
<td>MOTOR VEHICLE PARTS</td>
<td>5. Inspector</td>
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<td></td>
<td>6. Machine Tool Operator</td>
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<td></td>
<td>7. Product Assembler</td>
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<tr>
<td>ELECTRICAL INDUSTRIAL EQUIPMENT</td>
<td>8. Assembler</td>
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<td></td>
<td>9. Coil-Winding Machine Tender</td>
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</tbody>
</table>

These are the same nine occupations used by Gunderson in his studies of the impact of equal pay legislation on male-female wage differentials in Ontario. These jobs are narrowly defined, which is important for our purposes because the need to control for factors such as differences in training and experience is minimized.

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51 Supra, note 8.
The nine jobs are all unskilled or semi-skilled occupations in which males and females performed essentially the same work. If this had not been the case, the male and female workers would not have been grouped together under the same occupational category. We are dealing, then, with male-female wage differentials in specific jobs, that is, intra-occupational wage differences. This type of wage differential is precisely what FEERA was intended to correct. We are not involved in an analysis of the impact of equal pay legislation on inter-occupational wage differentials such as that between a female secretary and a male janitor. The Ontario government is only now beginning to deal with that issue legislatively.

Using structural equations, we can control for the long term influence of time and the short term influence of business cycle fluctuations in order to evaluate the impact of Ontario’s equal pay law on male-female wage differentials. The initial equation for this analysis is: \( \frac{(W_m - W_f)}{W_f} = b_0 + b_1 T + b_2 U + b_3 L \), where \( \frac{(W_m - W_f)}{W_f} \), the dependent variable, is the proportionate male-female wage differential, \( T \) is time, \( U \) is the unemployment rate, and \( L \) is the Ontario equal pay law of 1952; \( b_0 \) is the regression constant and \( b_1, b_2, \) and \( b_3 \) are the regression coefficients. The dependent variable is measured in cents per hour, time is measured by the last two digits of each year from 1946 to 1979, the unemployment rate is indicated by percent of work force unemployed per year, and the equal pay law is quantified by a dummy variable (1946-1951 = 0; 1952-1979 = 1).

B. Empirical Results

Our time series results are somewhat different than Gunderson’s. Gunderson concludes from his time series analyses that "there is no clear narrowing of the differential in response to the equal pay legislation of 1969," and that "after controlling for the long run trend and short run cyclical fluctuations of the male-


\[53\] See Gunderson, supra, note 1 at 68.
Equal Pay Legislation

female wage gap the equal pay legislation did not usually have a significant impact on narrowing the gap. Our results suggest a selective and modest narrowing of male-female wage differentials in Ontario.

The time series regression results are presented in Tables 7-9. Table 7 presents results for a linear fit of the data. Looking at the column labelled Equal Pay, we see that there are four statistically significant beta coefficients for this variable — two with a positive sign and two with a negative sign. This means that in occupations 3 and 8 (hosiery cutter and electrical equipment assembler), the equal pay legislation tended to increase the male-female wage gap. In occupations 5 and 7 (auto parts inspector and product assembler), however, the equal pay law decreased the gender wage differentials. Such results are at least consistent with the argument that the Ontario equal pay law of 1951 had a modest narrowing impact on selected male-female wage differences. As we will see, further evidence is available to support this conclusion.

However, some further observations and remarks should first be made about these initial linear regression results. To this point, our analysis assumes an error term with a random probability distribution. It is assumed that the error terms in any given analysis are independent of one another. However, in time series analysis this assumption is often not correct. Since we are working with variables over time rather than cross-sectionally, there is a strong presumption that the error term in one time period influences the error term in the next time period. This phenomenon is referred to as serial correlation or autocorrelation. When autocorrelation is present in a time series regression analysis, it does not affect the regression coefficients. It does affect the variances of the coefficients, the coefficient of determination ($R^2$), and all tests for statistical significance. In the presence of high autocorrelation, the estimated variance will be significantly underestimated, $R^2$ will

54 See Gunderson, supra, note 52 at 9.

55 See infra at 332-334.

be substantially overestimated, and the t-test and F-test for statistical
significance are no longer reliable.

We checked the regression results in Tables 7-9 for
autocorrelation in any occupation which showed that the equal pay
legislation decreased or increased the male-female wage differential.
We used a three-stage process to evaluate potential autocorrelation,
beginning with the standard Durbin-Watson statistic for
autocorrelation. If the Durbin-Watson d-statistic for any given
occupation was in the inconclusive region, a Theil-Nager Q-value
was calculated. If the Durbin-Watson (D-W) statistic was below
the Theil-Nager Q-value, an autocorrelation coefficient was
calculated.

Occupation 5 (auto parts inspector), as indicated in the last
column of Table 7, had a Durbin-Watson statistic of 1.66, which is
above the upper limit of the D-W test. We can conclude that the
distorting effects of the autocorrelated error terms were minimal in
this case. The Durbin-Watson result of 1.55 for occupation 7
(product assembler) was below the D-W upper limit and slightly
below the Theil-Nager Q-value of 1.58. The autocorrelation
coefficient was calculated and found to be \( p = .24 \), which is well
below significant autocorrelation and passes the rigorous test of
Hibbs which calls for using generalized least squares rather than
ordinary least squares if \( p > .30 \). Both of our occupations that
indicate that the 1951 equal pay law had a narrowing effect on male-
female wage differentials, then, pass the autocorrelation test.
Occupations 3 and 8, which indicate an increase in male-female wage
differentials, do not pass the autocorrelation test; they yield
autocorrelation coefficients of .33 and .51 respectively.

Another problem associated with structural equation models
involves the distorting effects of the collinearity of independent
variables. If one independent variable is a linear function of another

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57 Ibid. at 34-35.

58 The formula used to calculate the autocorrelation coefficient is \[ \frac{T^2 (1-1/2d) + K^2}{(T^2 - K^2)} \] where \( T \) equals the number of years for which data has been collected, \( d \) equals
the Durbin-Watson statistic, and \( K \) equals the number of regressors used in the regression
analysis.

59 See Ostrom, supra, note 56 at 35.
independent variable, collinearity results; that is, the two independent variables are not independent of each other. This problem can be visualized using vector geometry. Collinearity exists when two lines lie on top of one another so that each point on one line also defines the coordinates of the second line. When collinearity exists, the independent variables in question do not provide uniquely defined regression estimates and are, therefore, unreliable.\footnote{M. Lewis-Beck, \textit{Applied Regression} (Beverly Hills: Sage Publications, 1980) at 58-59.}

We checked for the presence of multicollinearity among our three independent variables of time, unemployment, and equal pay. Each independent variable was regressed on the other two independent variables. The coefficients of determination ($R^2$) indicated the presence of some multicollinearity ($R^2 = 66, 57, \text{ and } 44$ percent, respectively) but not in the high multicollinearity range of 80 to 90 percent.\footnote{Ibid. at 60.}

Occupations 5 and 7, then, have successfully passed minimum tests for distorting effects of autocorrelation and multicollinearity. This serves to increase our confidence in the argument that Ontario’s equal pay legislation of 1951 did have some influence in decreasing male-female wage differentials in some occupations in the province. The values of our negative beta coefficients for the equal pay variable highlight the fact that the narrowing impact was weak to moderate. Comparing the three beta coefficients of occupation 7, we see that the influence of time and unemployment had three to four times more causal influence than the equal pay variable — 1.36 and .697, respectively, versus .295 for equal pay. The equal pay variable plays a more substantial role in occupation 5 at .608 versus 1.27 (time) and .864 (unemployment), but still shows the weakest influence of the three variables.

Occupations 5 and 7 have an $R^2$ of 61 and 69 percent, respectively, so we are not dealing with insignificant variables with regard to their explanatory power of male-female wage differentials in Ontario. The equal pay variable makes up a part of this composite coefficient of determination and, therefore, cannot be dismissed as inconsequential. Incidentally, any multicollinearity that
does exist among our three variables does not affect $R^2$. We can with some degree of assurance, then, argue for the modest narrowing impact of FFEFRA on the gender-related wage differential in Ontario for at least two occupational groups.

Even though our linear time series regression analysis yielded supportive evidence for the moderate, differential influence of FFEFRA on narrowing the male-female wage gap, examination of the plots of the nine wage differentials over the thirty-four years suggests that a linear regression is not the best fit for our data. The curvilinear character of these wage differentials over time is striking. Informed by these plots, it makes good statistical sense to conduct a non-linear regression analysis to determine if the explanatory power of the three variables combined and of equal pay, in particular, is enhanced by such a transformation. The specific transformation chosen was a non-linear time variable, that is, time squared. Most of the plots have a parabolic shape, which suggests that $x$ and $x^2$ for time would represent the best estimate of the non-linear character of these data over time. This decision is rooted in the mathematics of conic sections. When a cone is cut by a plane at various points on the cone, it results in a circle, ellipse, hyperbola, or parabola, each with its own defining formula. The formula for a parabola is the quadratic equation $y = ax^2 + bx + c$.

With the mathematics of parabolic shapes in mind, a non-linear time series analysis was conducted. The quadratic equation employed was: 

$$\frac{(Wm-Wf)}{Wf} = b_0 + b_1T + b_2T^2 + b_3U + b_4L.$$ 

Each term has the same meaning as in the linear regression where the dependent variable $(Wm-Wf)/Wf$ is the proportionate male-female wage differential, $T$ is time, $U$ is the unemployment rate, and $L$ is the equal pay variable; $b_0$ is the constant and $b_1$, $b_2$, $b_3$, $b_4$ are the regression coefficients. The unique features of this equation are the quadratic term, $T^2$, and the use of four rather than three independent variables.

From Table 8 we see that the equal pay variable evidences a more significant narrowing effect on male-female wage differentials than in the linear regression model. Eight occupations have a

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negative sign, as opposed to three in the linear fit. Three of these eight beta coefficients indicate a statistically significant narrowing of wage differentials. Occupation 6 has been discounted because of a modestly high autocorrelation coefficient of .49 that produces a regression result in which the equal pay variable no longer passes the t-test for significance. The autocorrelation coefficient for occupation 9 is only .26, which passes Hibb's critical value of .30.

In comparing the beta coefficients of equal pay with the unemployment variable, we see that the relative strength of the equal pay coefficients improves somewhat, especially in occupation 9, where it shows four times the influence of the unemployment coefficient — .822 versus .207. No comparison or interpretation will be attempted for the time and time squared variable, since they obviously are involved in a high degree of multicollinearity. Their beta coefficients are unstable and unreliable. In this regression analysis, however, the collinearity of time and time squared does not affect the reliability of the beta coefficients for unemployment and equal pay. Nor does it affect the reliability of $R^2$.

The overall fit generated by this non-linear time series regression analysis has improved the explanatory power of our three variables. Comparing the $R^2$ of the linear versus non-linear model, we see that $R^2$ has increased in eight of the nine occupations (occupation 5 remained the same). The largest increase was in occupation 4, which went from 18 to 37 percent. This result would be expected after looking at the parabolic shape of the plot for occupation 4.

The specific influence of the equal pay variable and the overall fit of the data are improved, therefore, by our non-linear regression analysis. These regression results lend additional weight to the argument that Ontario's equal pay law did have a modest to moderate narrowing effect on gender wage differentials.

Another consideration further improves the explanatory power of our three variables. We know that the impact of a variable is often not registered immediately. It takes time for the dependent variable to respond to the impact of the independent variable. Regression analysis in the standard form, however, assumes

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63 Ibid. at 128-29.
a contemporaneous interrelationship between the dependent and independent variables. To account for the delayed impact of an independent variable, it is necessary to *time lag* the variables in question.\(^6^4\) In our regression analysis the most obvious variable to lag is the unemployment rate. We carried out a time series regression analysis, therefore, with the unemployment variable lagged by one year. In doing so, we are modelling mathematically and statistically the idea that the effects of any given unemployment rate on wage differentials will be more significant for the following year than for the current year. The regression equation is identical to the non-linear, non-lagged model except for the unemployment variable which is now \(b_3U_{t-1}\) rather than \(b_3U\). The full expression is: 

\[
\frac{(W_m - W_f)}{W_f} = b_0 + b_1T + b_2T^2 + b_3U_{t-1} + b_4L.
\]

This lagged specification further improves the overall fit of our data and enhances the explanatory status of the equal pay variable. The lagged regression results are not as dramatically improved as between the linear versus non-linear model, but they continue to add credence to the central argument that Ontario's equal pay law was more than a meaningless piece of rhetoric.

The lagged regression results in Table 9 indicate that eight of nine occupations have negative beta coefficients for the equal pay variable and that four of these are statistically significant. The autocorrelation coefficient of occupation 9 is minimal with an autocorrelation coefficient of .25. The relative importance of the equal pay variable versus the unemployment variable is strengthened somewhat, as two of the four significant coefficients (occupation 6 and 9) evidence greater influence on male-female wage differentials than the unemployment rate. We found only one such equal pay coefficient in the non-linear, non-lagged regression (Table 8) and none in the linear regression (Table 7). Once again, the high multicollinearity of the time variable does not allow for any reliable interpretation, but this does not invalidate the beta coefficients of our unemployment and equal pay variables. Nor does it undermine the reliability of the coefficient of determination, \(R^2\), which evidences strong explanatory power for the composite impact on our dependent variable. Comparing the \(R^2\) of this lagged regression with

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\(^6^4\) See Ostrom, *supra*, note 56 at 44-46.
the R² of Tables 7 and 8, we see moderate to substantial increase in all nine occupations.

In conclusion, we have found in our time series analysis that the equal pay law, following its enactment in March 1951 and its enforcement in January 1952, had a differential and modest impact on male-female wage differentials. These results call into question the conclusion that Ontario's equal pay legislation did not narrow the male-female wage gap. The specific temporal focus of this analysis on the January 1952 enforcement of FEFRA may be crucial to these new findings. In any event, our analysis allows us to conclude with some degree of confidence that the Female Employees Fair Remuneration Act of 1951 was more than political posturing to gain votes from women and labour. It actually had some impact.

V. QUALITATIVE ANALYSIS OF FEFRA'S IMPACT

Qualitative analysis of other occupations in Ontario also lends support to the argument that the equal pay legislation of 1951 had some influence in narrowing male-female wage differentials. Two days after FEFRA was introduced into the Ontario Legislature, Premier Frost ordered all civil service wages and salaries to be adjusted in conformity to this Act (10 March 1951). The Globe and Mail report indicated that, based on a survey, FEFRA would affect "probably not more than 200 to 300 women in government service." Apparently, most women were already receiving equal pay for equal work. Nevertheless, even if FEFRA only equalized the pay of 200 to 300 women, it clearly functioned to bring greater "justice" to those who were being paid less for substantially equivalent work. There were 13,000 civil service employees in Ontario in 1951, so FEFRA did not affect much more than two or three percent of the provincial government work force. But such a modest and differential impact is precisely what our quantitative analysis indicated.

We noted when analyzing the Ministry of Labour Annual Reports that FEFRA was used by various women to complain about

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alleged equal pay violations. In 1954, for example, 69 complaints involving eight employers were received by the Ministry of Labour. By the time of the 1955 Annual Report, all of these complaints had been "resolved" by conciliation officers. We are not given the details of how these complaints were settled, but it would be reasonable to assume that, in at least some of these cases, female employees were granted wage adjustments.

Additional evidence for the narrowing impact of FEFRA is provided by the 1954 Saturday Night article mentioned earlier. In general, Margery Pewtress was highly critical of FEFRA. She complained, for instance, that employers in the blue-collar work sector were circumventing the law by adding a few additional responsibilities to male employees. It is all the more significant, therefore, when Pewtress concedes in this article that "some employers in Ontario have revised their wage schedules to comply with the new Act." Assuming that Pewtress is correct, we again find a pattern of a differential, modest influence of the 1951 equal pay law in reducing male-female wage differentials.

As already mentioned, wage differentials between male and female teachers over the years were substantial. Did FEFRA have any narrowing effect on the gender wage gap in the teaching profession? In line with what we have found in other occupations, the answer to the question is both yes and no. It depends on which teachers and which school board we are talking about. Some school boards did comply with FEFRA by equalizing, or beginning to equalize, salaries of male and female teachers with the same academic training and experience. For instance, the Etobicoke school board responded to the enactment of FEFRA by spending $210,000 (in 1987 dollars)

66 See supra, note 23 and accompanying text.

67 Ontario, Department of Labour, Annual Reports (35th Report) (Toronto: Baptist Johnston, 1954) at 44.

68 Ontario, Department of Labour, Annual Reports (36th Report) (Toronto: Baptist Johnston, 1955) at 52.

69 See Pewtress, supra, note 26.

70 Cf. Tables 1 and 2, infra at 327, 328.
to reduce the salary discrepancies between their male and female teaching staff. The Lakeshore school board was planning to adjust their salary schedule in 1952 in compliance with FERA. The estimated cost was $700,000 (in 1987 dollars).\(^7\)

Numerous other schools apparently complied with the provisions of FERA. The Ontario Secondary School Teachers Federation (OSSTF) published the annual salary schedules of all high schools in Ontario in their monthly magazine, *The Bulletin*. The salary schedules for the years immediately prior to FERA's enactment show many schools reporting male-female salary categories with salary differences of approximately $200 per category ($1,400 in 1987 dollars). For example, the November 1950 *Bulletin* presented reports from 248 high schools in Ontario of which 65 (26 percent) still built male-female salary differences into their salary schedules.\(^7\) This was just four months before FERA was enacted. However, by the time that the 1952 salary schedules were published in the October 1952 *Bulletin*, only eight high schools indicated that they were still paying male teachers more money than female teachers in each category. This observation provides fairly strong circumstantial evidence that Ontario's equal pay law of 1951 had some influence in narrowing wage differentials in the teaching profession. In fact, in the case of teachers, we should not talk of a narrowing of the wage gap, but of an elimination of the differential. When female teachers' salaries were adjusted to conform to the equal pay law, they usually received full parity with their male colleagues. In this sense, the impact of FERA was substantial, not modest.

Not all school boards needed to revise their salary schedules to comply with FERA. Some already had equalized the salaries of their male and female teachers prior to January 1952. In the Toronto area, the school boards of Weston, York, North York, Swansea, Forest Hill, Scarborough, and Toronto had an equal pay policy prior to the enactment of Ontario's equal pay law.\(^7\)

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\(^7\) "Equal Pay for Women to Hit School Budgets" *The [Toronto] Globe and Mail* (12 March 1951) 1.


\(^7\)\(^3\) Supra, note 71.
In 1962 the *Female Employees Fair Remuneration Act* was transferred from the Ministry of Labour to the newly formed Ontario Human Rights Commission. *FEFRA* became part of *The Ontario Human Rights Code, 1961-62*.

The Ontario Human Rights Commission was actively involved in attempting to administer Ontario's human rights laws. During the years 1963 to 1968, the Commission dealt with 1,299 complaints of alleged discrimination (see Table 10). It would be a misrepresentation to say that the Human Rights Commission *did nothing* about equal pay for equal work.

Some complaints could not be resolved by conciliation officers and, therefore, went to a board of inquiry appointed by the Minister of Labour at the request of the Human Rights Commission. For instance, Judge Horace Krevar presided over a hearing on 7 May 1968, involving a complaint by Mrs. Mildred Fortey against Middlesex Creamery Limited of London, Ontario. Fortey's complaint read:

> I have worked as egg grader for Middlesex Creamery Ltd., London, Ont. for the past seven years continually. I was placed on the present automatic egg grading machine in January 1966. Since that time I have performed exactly the same egg grading work as my two male co-workers. To the best of my knowledge there is absolutely no difference in work and circumstances of work on the machine compared to my male co-workers. I am receiving at this time $1.70 per hour, while the male employees are receiving $1.91 per hour for the same type of work. I feel I have been discriminated against in not receiving equal pay for equal work.

On the basis of the evidence presented at the inquiry, Judge Krevar decided that "in paying Mrs. Fortey less than the male egg graders the respondent company has been violating public policy as expressed in Section 5 of the Ontario Human Rights Code 1961-62." Judge Krevar did not fine Middlesex Creamery, but he did order the company "to pay Mrs. Fortey the difference between what

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74 S.O. 1961-62, c. 93, s. 5.

75 See infra at 335.


77 Ibid. at 10.
she has been paid and what she would have been paid if no differential had existed" from January 1966 to the date of repayment.\textsuperscript{78}

Besides recovering back wages for female employees, the Ontario Human Rights Commission carried on an extensive education effort during these years to inform employers, employees, and the public about Ontario's \textit{Code of Human Rights}, including the equal pay for equal work provision. The Commission distributed thousands of pieces of literature every year, conducted workshops and conferences, made films for distribution, placed posters in public places, and gave talks on radio and television. It is not possible to measure the impact of such efforts in dollars and cents, but most people agreed that education was a key factor in attempting to eliminate discrimination in employment and in other areas of society.

By 1968, the Minister of Labour apparently decided that more could be done by way of enforcing Ontario's equal pay law. Dalton Bales, as Minister of Labour, introduced two bills in May 1968 to implement this concern. In Bill 133,\textsuperscript{79} the \textit{Ontario Code of Human Rights} was amended by repealing the equal pay section. This section was then transferred to Bill 130,\textsuperscript{80} a new \textit{Employment Standards Act}. When introducing this transfer of the equal pay provision, Mr. Bales gave the following justification:

\begin{quote}
The commission (Human Rights Commission) acts only on the receipt of a complaint. This provision has been transferred to The Employment Standards Act where it will be enforced on a regular basis by the appropriate field staff of the department. The wording of the section has been broadened and clarified to assist field staff in making on-the-job assessments.\textsuperscript{81}
\end{quote}

It is clear from this statement that the Ministry of Labour had decided to be more aggressive in enforcing Ontario's equal pay law. Rather than wait for complaints to be sent in by individuals,

\begin{footnotes}
\item[78] Ibid. at 17.
\item[81] Ontario, Legislative Assembly, Debates, No. 94 at 3387 (27 May 1968).
\end{footnotes}
the Employment Standards Branch was planning to undertake a regular, systematic check of business establishments to determine if they were in compliance with the equal pay section. The wording of the equal pay provision was revised and expanded for the first time since 1951. The operative section read as follows:

(1) No employer or person acting on behalf of an employer shall discriminate between his male and female employees by paying a female employee at a rate of pay less than the rate of pay paid to a male employee, or vice versa, employed by him for the same work performed in the same establishment, the performance of which requires equal skill, effort, and responsibility, and which is performed under similar working conditions...  

This equal pay law was still a "same work, same establishment" piece of legislation, but it defined more clearly what "same work" meant and added provisions to prevent employers from side-stepping the intent of the equal pay law. Also the new Act gave the director of the Employment Standards Branch the legal authority to investigate a company and to make on-the-spot assessments and collections of unpaid wages. The employer was obligated to produce all records for the Ministry of Labour, which had the right to "inspect and examine all books, payrolls and other records" relevant to any provision of the Employment Standards Act, including the equal pay section. Any employer who dismissed or threatened to dismiss an employee for complaining or giving information to the Ministry of Labour's Employment Standards Branch was subject to a $1,000 fine. Any employer charged with violation of the equal pay section was not only required to pay back wages but could be fined up to $1,000.

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82 Employment Standards Act, S.O. 1968, c. 35, s. 19.

83 Ibid., s. 19(1).

84 Ibid., ss 19(2)-(3).

85 Ibid., s. 19(4).

86 Ibid., ss 32-33.

87 Ibid., s. 36.
The Employment Standards Branch reports on a yearly basis how many employers were involved in alleged equal pay violations, how many employees were involved, and how much money was collected in back wages for female employees. Table 11\textsuperscript{88} presents these data for the years 1969 to 1984. The Employment Standards Act had only been in force for three months by the time of the March 1969 Annual Report, so the number of cases and dollar settlements are low for that year. Data for the years 1971, 1972, 1974, and 1977, however, indicate substantial back wages recovery for female employees in Ontario. The highest annual monetary settlement occurred in 1974, with 409 female employees receiving $547,192 in back wages from eighteen employers who had violated Ontario's equal pay law. These dollar amounts are back wages and do not take into account the large sums of money that employers had to pay out in order to remain in compliance with the equal pay law.

The equal pay section of the Employment Standards Act was further revised in 1974 to make the law more enforceable. Only two words were added to the operative section, but they were important words. In line with what the CCF and Liberal parties had been advocating since 1951, the Progressive Conservatives added the word "substantially" to the law so that it read as follows:

\begin{quote}
(1) No employer or person acting on behalf of an employer shall differentiate between his male and female employees by paying a female employee at a rate of pay less than the rate of pay paid to a male employee, or vice versa, for substantially the same kind of work performed in the same establishment, the performance of which requires substantially the same skill, effort, and responsibility, and which is performed under similar working conditions....\textsuperscript{89}
\end{quote}

Although the revised law still applied only to male-female wage differentials within the same business establishment, the word "substantially" broadened the meaning of "same work" to include jobs that were basically the same. A second word was added to strengthen this idea. Instead of the expression "the same work" found in the 1951 and 1968 equal pay laws, we find the phrase "the same kind of work." With this loosening of the requirements,

\textsuperscript{88} See infra at 336.

\textsuperscript{89} Employment Standards Act, S.O. 1968, c. 35, as am. S.O. 1974, c. 112, s. 33.
officers from the Employment Standards Branch could more aggressively pursue the male-female wage issue with Ontario employers. This version of the equal pay section of the Employment Standards Act has remained in force from 1974 to the present.

Between the years 1969 to 1984, the administration of this equal pay law has allowed for the collection of $3,349,898 in back wages for female employees in Ontario (see Table 11). When academics, women’s organizations, and political opposition parties charge that equal pay legislation in Ontario has been a failure, they are simply uninformed about the 15,990 female employees in Ontario who have collected back wages over the past sixteen years through the efforts of the Ministry of Labour’s Employment Standards Branch.

More generally, our results suggest that the Female Employees Fair Remuneration Act, the first of its kind in the Commonwealth, had a selective and modest impact on wage differentials in Ontario. This does not in any way detract from an argument that more effective legislation is required. Indeed, we take the small but significant measure of success that we have found as encouragement for the process of legislative reform. Our evidence suggests that such reforms can make a difference.
TABLE 1
Salaries in the Toronto Common School System
1858

<table>
<thead>
<tr>
<th>Title</th>
<th>Pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>Superintendent</td>
<td>$1,200</td>
</tr>
<tr>
<td>Secretary (male)</td>
<td>600</td>
</tr>
<tr>
<td>Headmaster</td>
<td>700</td>
</tr>
<tr>
<td>Male Assistant</td>
<td>520</td>
</tr>
<tr>
<td>Headmistress</td>
<td>400</td>
</tr>
<tr>
<td>Female Teacher</td>
<td>320</td>
</tr>
<tr>
<td>Female Assistant</td>
<td>280</td>
</tr>
<tr>
<td>Female Junior Assistant</td>
<td>240</td>
</tr>
<tr>
<td>Monitor Teacher (female)</td>
<td>170</td>
</tr>
</tbody>
</table>

### TABLE 2

Salaries of Teachers in Toronto

<table>
<thead>
<tr>
<th>Date</th>
<th>Women</th>
<th>Men</th>
</tr>
</thead>
<tbody>
<tr>
<td>1858</td>
<td>$240 - 400</td>
<td>$520 - 700</td>
</tr>
<tr>
<td>1870</td>
<td>222 - 400</td>
<td>600 - 700</td>
</tr>
<tr>
<td>1881</td>
<td>200 - 600</td>
<td>750 - 1,100</td>
</tr>
<tr>
<td>1901</td>
<td>225 - 675</td>
<td>600 - 900</td>
</tr>
<tr>
<td>1910</td>
<td>400 - 900</td>
<td>900 - 1,400</td>
</tr>
<tr>
<td>1920</td>
<td>1,000 - 2,000</td>
<td>1,625 - 2,500</td>
</tr>
<tr>
<td>1930</td>
<td>1,000 - 2,400</td>
<td>1,200 - 3,000</td>
</tr>
</tbody>
</table>

Source: Ibid., Table 1.

### TABLE 3

Comparison of Gender Based Wage Differentials (Wf/Wm)*
Cotton and Wool Manufacturing, Ontario 1921-1950

<table>
<thead>
<tr>
<th></th>
<th>1921</th>
<th>1930</th>
<th>1940</th>
<th>1950</th>
</tr>
</thead>
<tbody>
<tr>
<td>Range</td>
<td>.75</td>
<td>.67</td>
<td>.46</td>
<td>.34</td>
</tr>
<tr>
<td>Mean</td>
<td>.64</td>
<td>.57</td>
<td>.70</td>
<td>.77</td>
</tr>
<tr>
<td>Median</td>
<td>.54</td>
<td>.51</td>
<td>.73</td>
<td>.76</td>
</tr>
</tbody>
</table>

* Wf = female wages; Wm = male wages
TABLE 4
Hourly/Weekly Wage Rates, 1950
Ontario/Toronto
Selected Occupations

<table>
<thead>
<tr>
<th>Occupation</th>
<th>Male</th>
<th>Female</th>
<th>Wf/Wm</th>
</tr>
</thead>
<tbody>
<tr>
<td>Combing Tender</td>
<td>$.99</td>
<td>$.90</td>
<td>.91</td>
</tr>
<tr>
<td>Spinner</td>
<td>1.25</td>
<td>.89</td>
<td>.71</td>
</tr>
<tr>
<td>Warper Tender</td>
<td>1.02</td>
<td>.81</td>
<td>.79</td>
</tr>
<tr>
<td>Weaver</td>
<td>1.10</td>
<td>1.01</td>
<td>.92</td>
</tr>
<tr>
<td>Packer</td>
<td>1.07</td>
<td>.81</td>
<td>.76</td>
</tr>
<tr>
<td>Knitter</td>
<td>.95</td>
<td>.79</td>
<td>.83</td>
</tr>
<tr>
<td>Cutter</td>
<td>1.04</td>
<td>.73</td>
<td>.70</td>
</tr>
<tr>
<td>Trimmer</td>
<td>1.10</td>
<td>.88</td>
<td>.80</td>
</tr>
<tr>
<td>Stitcher</td>
<td>1.07</td>
<td>.79</td>
<td>.74</td>
</tr>
<tr>
<td>Sales Clerk (Time)</td>
<td>46.73</td>
<td>29.12</td>
<td>.62</td>
</tr>
<tr>
<td>Sales Clerk (Commission)</td>
<td>56.27</td>
<td>32.63</td>
<td>.58</td>
</tr>
<tr>
<td>Cook</td>
<td>43.76</td>
<td>32.39</td>
<td>.74</td>
</tr>
<tr>
<td>Dishwasher</td>
<td>28.25</td>
<td>24.30</td>
<td>.86</td>
</tr>
</tbody>
</table>

Range = .92–.58 = .34  Mean = .77  Median = .76

*Source:* Canada, Department of Labour, *Wage Rates, Salaries and Hours of Labour in Canada* (Ottawa: Department of Labour, Economics and Research Branch, 1950) Tables V and X.
TABLE 5
Sex Ratios in Annual Earnings
Canada, 1961

<table>
<thead>
<tr>
<th>Occupation</th>
<th>All Wage Earners</th>
<th>Full-year Earners</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Occupations</td>
<td>54.2</td>
<td>59.3</td>
</tr>
<tr>
<td>Managerial</td>
<td>48.1</td>
<td>51.6</td>
</tr>
<tr>
<td>Professional/Technical</td>
<td>43.3</td>
<td>61.2</td>
</tr>
<tr>
<td>Clerical</td>
<td>60.8</td>
<td>74.1</td>
</tr>
<tr>
<td>Sales</td>
<td>35.2</td>
<td>44.8</td>
</tr>
<tr>
<td>Service/Recreation</td>
<td>47.4</td>
<td>47.2</td>
</tr>
<tr>
<td>Transportation</td>
<td>62.2</td>
<td>69.4</td>
</tr>
<tr>
<td>Farmers</td>
<td>43.3</td>
<td>59.6</td>
</tr>
<tr>
<td>Craftsmen</td>
<td>50.1</td>
<td>55.7</td>
</tr>
<tr>
<td>Labourers</td>
<td>67.2</td>
<td>66.9</td>
</tr>
</tbody>
</table>

### TABLE 6
Sex Ratios in Annual Earnings
Unadjusted and Adjusted Data
Canada, 1961

<table>
<thead>
<tr>
<th>Adjustment Factor</th>
<th>Female Weights</th>
<th>Male Weights</th>
</tr>
</thead>
<tbody>
<tr>
<td>Unadjusted</td>
<td>59.3</td>
<td>59.3</td>
</tr>
<tr>
<td>Occupational Distribution</td>
<td>67.2</td>
<td>65.6</td>
</tr>
<tr>
<td>Age</td>
<td>72.5</td>
<td>68.5</td>
</tr>
<tr>
<td>Education</td>
<td>79.2</td>
<td>74.1</td>
</tr>
<tr>
<td>Age and Education</td>
<td>85.0</td>
<td>77.5</td>
</tr>
</tbody>
</table>

*Source: S. Ostry, *ibid.* at 43.*
### TABLE 7
Standardized Linear Regression Results for Male-Female Wage Differentials in Nine Select Occupations, 1946-1979

<table>
<thead>
<tr>
<th>Occup.</th>
<th>Time</th>
<th>Unemployment</th>
<th>Equal Pay</th>
<th>$R^2$</th>
<th>D-W</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>-.783*</td>
<td>.528*</td>
<td>.172</td>
<td>22</td>
<td>1.05+</td>
</tr>
<tr>
<td>2.</td>
<td>-.096</td>
<td>-.478</td>
<td>.213</td>
<td>22</td>
<td>1.33+</td>
</tr>
<tr>
<td>3.</td>
<td>.374</td>
<td>.112</td>
<td>.370*</td>
<td>58**</td>
<td>1.38+</td>
</tr>
<tr>
<td>4.</td>
<td>.204</td>
<td>-.458</td>
<td>.379</td>
<td>18</td>
<td>0.96+</td>
</tr>
<tr>
<td>5.</td>
<td>1.270*</td>
<td>-.864*</td>
<td>-.608*</td>
<td>61**</td>
<td>1.66</td>
</tr>
<tr>
<td>6.</td>
<td>1.040*</td>
<td>-.856*</td>
<td>.038</td>
<td>49**</td>
<td>0.90+</td>
</tr>
<tr>
<td>7.</td>
<td>1.360*</td>
<td>-.697*</td>
<td>-.295*</td>
<td>69**</td>
<td>1.55+</td>
</tr>
<tr>
<td>8.</td>
<td>-.496*</td>
<td>-.441*</td>
<td>.370*</td>
<td>49**</td>
<td>1.02+</td>
</tr>
<tr>
<td>9.</td>
<td>-.417</td>
<td>-.021</td>
<td>-.200</td>
<td>34**</td>
<td>1.28+</td>
</tr>
</tbody>
</table>

Notes: The regression equation is $(\text{Wm - Wf})/\text{Wf} = b_0 + b_1T + b_2U + b_3L$.

- N = 34 years based on 1946-1979.
- * Significant t-statistic for regression coefficients at .05 level (critical t value = 2.04).
- ** Significant F-statistic for the overall relationship at .05 level (critical F-test value = 2.92 at $F_{3,30}$).
- Positive autocorrelation at .05 level (critical Durbin Watson statistic: $d_T = 1.12d_\mu = 1.63$; Theil-Nagar $Q = 1.58$).
### TABLE 8

Standardized Non-linear Non-lagged Regression Results for Male-Female Wage Differentials in Nine Select Occupations 1946-1979

<table>
<thead>
<tr>
<th>Occup.</th>
<th>Time</th>
<th>Time Sq.</th>
<th>Unemp.</th>
<th>Equal Pay</th>
<th>$R^2$</th>
<th>D-W</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>6.92</td>
<td>-7.52</td>
<td>.720*</td>
<td>-353</td>
<td>33**</td>
<td>1.21+</td>
</tr>
<tr>
<td>2.</td>
<td>7.03</td>
<td>-6.96</td>
<td>-300</td>
<td>-273</td>
<td>31**</td>
<td>1.76</td>
</tr>
<tr>
<td>3.</td>
<td>7.70</td>
<td>-7.16</td>
<td>.295</td>
<td>-130</td>
<td>68**</td>
<td>1.91</td>
</tr>
<tr>
<td>4.</td>
<td>10.50</td>
<td>-10.00</td>
<td>-203</td>
<td>-319</td>
<td>37**</td>
<td>1.29+</td>
</tr>
<tr>
<td>5.</td>
<td>1.09</td>
<td>0.17</td>
<td>-868*</td>
<td>-596*</td>
<td>61**</td>
<td>1.66</td>
</tr>
<tr>
<td>6.</td>
<td>9.57</td>
<td>-8.33</td>
<td>-643*</td>
<td>-544*</td>
<td>63**</td>
<td>1.08+</td>
</tr>
<tr>
<td>7.</td>
<td>3.82</td>
<td>-2.40</td>
<td>-635*</td>
<td>-462*</td>
<td>70**</td>
<td>1.64</td>
</tr>
<tr>
<td>8.</td>
<td>2.35</td>
<td>-2.78</td>
<td>-370</td>
<td>.176</td>
<td>51**</td>
<td>1.01+</td>
</tr>
<tr>
<td>9.</td>
<td>8.71</td>
<td>-8.91</td>
<td>.207</td>
<td>-822*</td>
<td>50**</td>
<td>1.52+</td>
</tr>
</tbody>
</table>

Notes: The regression equation is \((W_m - W_f) / W_f = b_0 + b_1 T + b_2 T^2 + b_3 U + b_4 L\).

* Significant t-statistic for regression coefficients at .05 level (critical t value = 2.04).

** Significant F-statistic for the overall relationship at .05 level (critical F-test value = 2.70 at $F_{4,29}$).

+ Positive autocorrelation at .05 level (critical Durbin Watson statistic: $d_T = 1.06$, $d_\mu = 1.70$; Theil-Nagar Q = 1.64).

(1) The autocorrelation coefficient for occupation six is .49 which renders this regression unreliable. A regression to eliminate the autocorrelation gave a non-significant equal pay coefficient of -173, an $R^2$ of 35%, and a D-W of 2.09.
## TABLE 9
Standardized Non-Linear Lagged Regression Results for Male-Female Wage Differentials in Nine Select Occupations, 1946-1979

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>.042</td>
<td>6.37</td>
<td>-7.01</td>
<td>.745*</td>
<td>-.236</td>
<td>36**</td>
<td>1.42+</td>
</tr>
<tr>
<td>2.</td>
<td>-.040</td>
<td>9.14</td>
<td>-9.10</td>
<td>-.108</td>
<td>-.377</td>
<td>30**</td>
<td>1.88</td>
</tr>
<tr>
<td>3.</td>
<td>-.002</td>
<td>8.14</td>
<td>-7.57</td>
<td>.308</td>
<td>-.089</td>
<td>69**</td>
<td>1.99</td>
</tr>
<tr>
<td>4.</td>
<td>-.071</td>
<td>12.80</td>
<td>-12.20</td>
<td>-.181</td>
<td>-.378</td>
<td>45**</td>
<td>1.43+</td>
</tr>
<tr>
<td>5.</td>
<td>-.127</td>
<td>3.62</td>
<td>-2.11</td>
<td>-1.030*</td>
<td>-.729*</td>
<td>81**</td>
<td>1.77</td>
</tr>
<tr>
<td>6.</td>
<td>-.099</td>
<td>12.60</td>
<td>-11.20</td>
<td>-.593*</td>
<td>-.686*</td>
<td>69**</td>
<td>1.75</td>
</tr>
<tr>
<td>7.</td>
<td>-.103</td>
<td>6.48</td>
<td>-4.89</td>
<td>-.670*</td>
<td>-.583*</td>
<td>80**</td>
<td>1.64</td>
</tr>
<tr>
<td>8.</td>
<td>-.088</td>
<td>4.76</td>
<td>-5.03</td>
<td>-.409*</td>
<td>.101</td>
<td>57**</td>
<td>1.37+</td>
</tr>
<tr>
<td>9.</td>
<td>-.008</td>
<td>9.86</td>
<td>-10.10</td>
<td>.331</td>
<td>-.823*</td>
<td>52**</td>
<td>1.55+</td>
</tr>
</tbody>
</table>

Notes: The regression equation: \( \frac{(Wm-Wf)}{Wf} = b_0 + b_1T + b_2T^2 + b_3U_{t-1} + b_4L \).

$N = 34$ based on years 1946-1979

* Significant t-statistic for regression coefficient at .05 level (critical t value = 2.04).

** Significant F-statistic for the overall relationship at .05 level (critical F-test value = 2.70 at $F_{4,29}$).

+ Positive autocorrelation at .05 level (critical Durbin-Watson statistic: $d_I = 1.06$, $d_\mu = 1.70$; Theil-Nagar $Q = 1.64$).
### TABLE 10
**Cases Investigated, 1963-1968, Ontario Human Rights Commission**

<table>
<thead>
<tr>
<th>Year</th>
<th>Employment</th>
<th>Accommodation</th>
<th>Housing</th>
<th>Publication</th>
<th>Equal Pay</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1963</td>
<td>19</td>
<td>7</td>
<td>13</td>
<td>6</td>
<td>0</td>
<td>45</td>
</tr>
<tr>
<td>1964</td>
<td>59</td>
<td>18</td>
<td>15</td>
<td>2</td>
<td>0</td>
<td>94</td>
</tr>
<tr>
<td>1965</td>
<td>88</td>
<td>5</td>
<td>13</td>
<td>3</td>
<td>13</td>
<td>122</td>
</tr>
<tr>
<td>1966</td>
<td>113</td>
<td>9</td>
<td>31</td>
<td>1</td>
<td>12</td>
<td>166</td>
</tr>
<tr>
<td>1967</td>
<td>173</td>
<td>15</td>
<td>49</td>
<td>8</td>
<td>89</td>
<td>336</td>
</tr>
<tr>
<td>1968</td>
<td>157</td>
<td>70</td>
<td>84</td>
<td>20</td>
<td>165</td>
<td>536</td>
</tr>
<tr>
<td>Total</td>
<td>609</td>
<td>124</td>
<td>205</td>
<td>40</td>
<td>279</td>
<td>1299</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Year</th>
<th># of Employers</th>
<th># of Employees</th>
<th>Amount Collected*</th>
</tr>
</thead>
<tbody>
<tr>
<td>1969</td>
<td>11</td>
<td>75</td>
<td>$3,227</td>
</tr>
<tr>
<td>1970</td>
<td>19</td>
<td>761</td>
<td>91,171</td>
</tr>
<tr>
<td>1971</td>
<td>37</td>
<td>1,129</td>
<td>477,415</td>
</tr>
<tr>
<td>1972</td>
<td>49</td>
<td>3,673</td>
<td>488,616</td>
</tr>
<tr>
<td>1973</td>
<td>14</td>
<td>176</td>
<td>37,154</td>
</tr>
<tr>
<td>1974</td>
<td>18</td>
<td>409</td>
<td>547,192</td>
</tr>
<tr>
<td>1975</td>
<td>15</td>
<td>114</td>
<td>40,211</td>
</tr>
<tr>
<td>1976</td>
<td>17</td>
<td>76</td>
<td>31,248</td>
</tr>
<tr>
<td>1977</td>
<td>39</td>
<td>452</td>
<td>535,966</td>
</tr>
<tr>
<td>1978</td>
<td>9</td>
<td>20</td>
<td>6,673</td>
</tr>
<tr>
<td>1979</td>
<td>8</td>
<td>29</td>
<td>8,312</td>
</tr>
<tr>
<td>1980</td>
<td>11</td>
<td>50</td>
<td>66,607</td>
</tr>
<tr>
<td>1981</td>
<td>41</td>
<td>386</td>
<td>216,648</td>
</tr>
<tr>
<td>1982</td>
<td>66</td>
<td>749</td>
<td>331,561</td>
</tr>
<tr>
<td>1983</td>
<td>33</td>
<td>1,781</td>
<td>341,138</td>
</tr>
<tr>
<td>1984</td>
<td>27</td>
<td>110</td>
<td>126,758</td>
</tr>
<tr>
<td>Total</td>
<td>414</td>
<td>15,990</td>
<td>$3,349,898</td>
</tr>
</tbody>
</table>

* rounded to nearest dollar