



# STATE of the UNIONS

A NATIONAL POST / GLOBAL NATIONAL LABOUR DAY POLL

In this exclusive series, National Post looks at the role of unions in the Canadian workplace. Much of the content is based on a poll of Canadians commissioned by the Canadian LabourWatch Association and conducted this August by Leger Marketing. The series ran September 2 to 5, 2003.

## Court rulings entrench unions

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Canadians think more like Americans than Europeans when it comes to labour unions.

Some 93% of Canadians who responded to a National Post/Global National poll said they feel workers should be able to choose the union that represents them. Nearly two-thirds, or 62%, said removing a union should be as easy as voting in one.

Nice sentiments, but no such rights exist here. Canadians only think they do.

Nearly one-third of Canada's workers belong to unions that are entrenched because of laws and court decisions that are as restrictive as Germany's or pre-Thatcher Britain's.

It's all but impossible to unseat unions.

For instance, an individual offered work at a unionized company or government department does not have to become a member of the union, but must pay dues and be subject to its edicts. Likewise, an individual already in a union, who no longer wants to be a member, can quit but must pay dues and pay allegiance.

Worse than being forced to support a union, individuals cannot replace one because existing unions belong to a monopoly -- the Canadian Labour Congress -- which forbids its members from competing against one another for new "customers."

The only alternative is to form an independent union, but these are sandbagged by provincial labour relations boards which are comprised of patronage appointees drawn from the ranks of the union establishment.

As for removal, labour laws impede voting out a union as opposed to voting in one.

This new poll reveals how out of sync governments and courts are with the Canadian public. It's a mismatch that dates back to 1946 and a landmark decision by Mr. Justice Ivan Rand.

Judge Rand ruled that workers in union shops do not have to "join" a union but must let that union bargain on their behalf. In return for this service, he wrote, workers must pay dues. Intended as a compromise between individual rights and union rights, the formula has clearly subordinated the individual to the union.

It also handed unelected union leaders the power of taxation which has, in turn, given them the money to lobby against reforms or democratization and to support politicians and parties such as the New Democrats and Parti Québécois that have maintained the status quo.

For instance, Quebec's construction unions are so powerful that workers have been, and can still be, jailed for the crime of working unless they have a union card.

Gatineau contractor Jocelyn Dumais and allies mounted a Supreme Court of Canada charter challenge on the grounds that a worker's right of assembly or association, contained in the Charter of Rights and Freedoms, also guaranteed his right to NOT have to associate or belong to a union.

The court rejected the argument.

Likewise, the law has not protected individual workers, captive to union leaders, who use dues to further their own agenda. About 73% of polled respondents already in unions said their dues should not be spent on political or other causes.

In 1982 an Ontario community college teacher named Merv Lavigne launched a Charter challenge to win the right to direct a portion of his union dues to the political party of his choice, rather than allow it to be directed to the New Democrats.

Mr. Lavigne fought his case all the way to the Supreme Court of Canada, with the help of the National Citizens' Coalition, and eight years later lost to high-priced lawyers from dozens of powerful unions. The court ruled that his rights had not been transgressed.

Union privileges have also cost taxpayers. In the poll, roughly 65% of respondents said they disagreed with governments that restrict bidding on public contracts to unionized companies.

But this is more common than not, at all three levels of government. Unions control Toronto's city council, through NDP members, and only unionized contractors can bid for work even though their costs are often twice as much as independents charge.

Without a doubt, Canada's pro-union labour laws transgress individual liberties and damage the economy.

Fortunately, the union movement is shrinking in the private sector, where people still have choice. But, unfortunately, Canada's unionized workers still need, and deserve, their own charter of rights.

Part four of a four-part series. [dfrancis@nationalpost.com](mailto:dfrancis@nationalpost.com)