Union's Legal Brutality is Destroying Lives

The International Brotherhood of Electrical Workers are American union bullies and benefit from oppressive Ontario labour laws, which are financially damaging Canadians.

Here are two stories that show how Ontario (like B.C. and Quebec) conspires with unions to repress the rights of individuals through labour laws that benefit organized labour monopolies like the electrical brotherhood and others.

The Tragedy of Eli Himelfarb

Eli Himelfarb and his family escaped the Holocaust in Poland and found their way to Israel via Russia. He immigrated to Canada years ago and has built a life. But now he faces financial ruin as a result of Ontario's labour laws and the lack of constitutional protection against them.

"My husband is 56 and I'm 54, and they've just taken away our life," said his wife Mary Ellen Himelfarb, who works with him. "We're both suffering from depression. The union thing hangs over our heads like a guillotine. He spends his days mopping and drinking. Is this Russia? It's horrendous taking away a man's opportunities. Let the man work. Let him try to make a living. This is just hell."

His nightmare began a few months ago when the American electrical union set its high- priced lawyers against him and his small electrical contracting firm. The union took its case to the Ontario Labour Relations Board, alleging that he was operating illegally as a non- union contractor. This week the board imposed huge fines on the Himelfarbs. Even worse, there is no appeal process unless the couple can prove that the board itself acted negligently or wrongly.

The union claimed that because Himelfarb was a minor partner in a union shop until 1975 he must remain unionized. This is called "succession," which forbids a union shop from closing down and reopening as a non-union shop just to get around unionized rules.

The only "legal" way to become non-union in Canada is to get a majority of the same union workers who were employed by the union shop to agree to decertify.

The succession argument in this case is absurd. Himelfarb started a new business in 1984, but because he once held a piece of a union shop back in 1975, the union argues he's just trying to frustrate the rules.

By the way, in between ownership in a union shop and starting a new non-union shop in 1984, Himelfarb was employed by other companies as an electrician.

Here are the facts: Between 1972 and 1975 Himelfarb was a minor partner in a contracting business that hired unionized workers. The company, which eventually went out of business, had never formally signed a collective agreement with a union.

Himelfarb worked from 1975 to 1982 as a unionized electrician doing odd jobs, mostly outside Ontario.

In 1982 he was laid off and decided to start his own business. He gradually built up his contacts and by 1984 was incorporated, employing three or four electricians at a time.

But, in December 1993, a complaint was made by the electrical workers union to the Ontario Labour Relations Board, which led to a four-day hearing in February. The union wanted blood - dues on all wages Himelfarb's company had paid from 1984 to 1992 .

"We are in dire straits," said his wife. "It has cost us $15,000 in legal fees and it will destroy us. It is destroying us. We feel it was unjust because there was a great deal of time between when he was hiring union guys and now.

"Before the hearing, we wanted to settle with the union but they wanted us to hire union men for a job we were doing which we had bid at non-union wages."

"Union wages are 250% higher. Helpers wanted $23 an hour to make coffee. They didn't accept our counter-offer. They just would not let us off the hook and they said there is no figure we could pay them to make up for all the years we didn't pay."

"The union is arguing that there was succession, or that he merely continued the business from 1975 to 1982, and therefore was just trying to get around the laws," she added. 'But that's crazy."

The case is also ridiculous because there is no way Himelfarb could ever have legitimately decertified the company he held a small partnership in between 1972 and 1975. That is because he was dismissed by the company and the firm subsequently went out of business. That means there were no unionized "employees" from whom to obtain a majority vote to decertify.

In essence, the law enslaves Himelfarb to this union forever. Put another way, he cannot operate a business in the way he wants to operate a business, unless he leaves the province. This is outrageous in a democratic society. He also faces enormous fines, which will be equivalent to the difference between union scale and what he paid his staff from December 1992 to the present.

That may force the Himelfarbs to declare personal bankruptcy. It has already cost them $15,000 in legal fees defending against an incredibly wealthy union. In the meantime, Himelfarb cannot accept work because he could be subject to fines equivalent to $40 an hour for every hour he pays non-union staff.

"Here we have money spent by a union to persecute an individual and deprive him of a means of making a living," said his lawyer and nephew, Ron Himelfarb, with the Toronto firm Kerzner Papazian MacDermid.

"The union's thinking must be that by taking him out of the non-union system they will somehow get more union business. That's crazy and it's totally unjust."

Canadians do not realize that wealthy unions - one-third of which are American - have insidiously hijacked the country's labour laws. They dominate the patronage appointees who sit on provincial labour relations boards and impose their biases on the country's enterprises. They also control the country's two socialist parties, the New Democrats and the Parti Quebecois.

Canadians also do not realize that they have absolutely no constitutional protection against oppressive labour laws because such laws ignore the Charter of Rights and Freedoms. Neither do the normal rules of evidence nor a statute of limitations apply to these laws.

There is also no protection against union monopolists under the federal Competition Act, which is supposedly designed to punish those who lessen competition.

The Plight of Vince Cutruzzola

Vince Cutruzzola is an electrician from Italy who has permanently lost the right to own his own firm in Ontario, thanks to laws and the ruthlessness of the International Brotherhood of Electrical Workers.

Like Eli Himelfarb, Vince was a small-time operator. A good electrician, he employed others from time to time depending upon whether he had landed some big jobs or not. Most of the time, he operated as a sole practitioner doing the work, estimating and organizing.

In 1990, he got a lead on some work involving construction of a shopping mall. It was a unionized job, meaning only union shops could bid. Ambitious, Vince joined the union to bid for the work. He said he was assured he could opt out of membership later if he decided to. He won the contract, hired three unionized electricians and finished the job. Then he wrote a letter to the union, calling it quits and thought that was that.

"I was mislead by the union guy who told me a letter would do it," alleges Vince. "Now I'm ruined. This is just not right. I can't believe this has happened to me."

After writing the letter to the union, Vince spent the next three years working around the province as a non-union operator. Then the union finally caught up to him. They took him to the Ontario Labour Relations Board on the basis that he was operating illegally, circumventing laws that required him to hire only union labour. His lawyer told him he may have been misled - he had less than a 50-50 chance of winning his case. Worse yet, if he lost he'd stand to lose $200,000 (fines the union was requesting for back pay on labour) plus legal fees. Facing financial ruin, he capitulated and agreed to sign on again as a union shop a second time.

He should not have been forced into the position of having to face catastrophe. This is nothing more than state-supported extortion. Now Vince is enslaved as a union shop forever and cannot obtain work at the union rates, which are double the true marketplace value. "I'm going to be unemployed forever. I also cannot operate a company under another name owned by somebody else," he said.

This is because the unions have won "key man" provisions in labour laws which stipulate that if someone is essentially running the show they cannot hide behind the ownership of someone else and pretend they are an employee. If he tries to do so, the union will take him to the board again and punishment could be severe.

So his only option is to work underground, or to work as an employee in a non-union shop, or leave the province or his trade. In essence, labour laws have deprived Vince of the ability to support himself as he wishes.

Unsympathetic, a labour lawyer said of his case: "He can go to another province and start a non-union firm. He can become another tradesman, non-union. But he gave up his right to operate a non-union business as an electrical contractor in the province."

Vince responded: "I don't want to move. I don't want to do anything else. I don't have the financial backing to be a union shop. They only get the large jobs. All my options are illegal. If I change my name, the whole thing starts over again. And I'm told if I'm caught, the fines are $50 an hour for every non-union hour my guys and I work. Than would ruin me. I have to work and I'll have to do it by hiding. I don't believe this is happening to me in Canada."

Neither do I. These cases point out one of Canada's most grave competitive disadvantages: The power and ruthlessness of unions in this country. They not only impose inefficiencies on the economy but also lessen competition, violate individual rights and impede free enterprise.

What's most annoying to me, as a Canadian, is that fully one-third of the 500 unions in Canada are U.S. unions. The Americans must be laughing at this country for paving the way for such conduct. U.S. labour laws uphold the right of individuals to join unions voluntarily. But here, the state intervenes in the economic lives of its citizens to such an extent that it imposes taxes in the form of union dues on Canadians and, unforgivably, actually ruins the lives, and livelihoods, of hundreds of Canadians like Eli and Vince.

The Competition Act should not exempt unions. The federal government should not allow provincial labour laws to ignore individual rights. That this has happened in our country, is nothing less than a national embarrassment and the Yankee unions must be laughing at us all the way to the bank.