

## Relations industrielles Industrial Relations



*Partnership or Marriage of Convenience? (A critical examination of by contemporary labour-relations in West Germany with suggestions for improving the Canadian Labour-management relationships based on the West German experience) Charles Connaghan, Ottawa, Labour Canada, 1976, 102 p.*

Ray Sentes

Volume 31, numéro 4, 1976

URI : <https://id.erudit.org/iderudit/028752ar>

DOI : <https://doi.org/10.7202/028752ar>

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Éditeur(s)

Département des relations industrielles de l'Université Laval

ISSN

0034-379X (imprimé)

1703-8138 (numérique)

[Découvrir la revue](#)

Citer ce compte rendu

Sentes, R. (1976). Compte rendu de [*Partnership or Marriage of Convenience? (A critical examination of by contemporary labour-relations in West Germany with suggestions for improving the Canadian Labour-management relationships based on the West German experience) Charles Connaghan, Ottawa, Labour Canada, 1976, 102 p.*] *Relations industrielles / Industrial Relations*, 31(4), 682–684. <https://doi.org/10.7202/028752ar>

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## RECENSIONS BOOK REVIEWS

**Industrial Relations Research in Canada/La recherche sur les relations industrielles au Canada**, Ottawa, Travail-Canada, 1976, 264 p.

Cette huitième édition de *La recherche sur les relations industrielles au Canada* présente les travaux de recherches terminés ou en cours d'exécution pendant l'année civile 1975. Elle se fonde sur une enquête par correspondance faite par Travail-Canada à la fin de 1975 et pendant les premiers mois de 1976.

L'ouvrage est divisé en quatre parties: la liste des chercheurs; le répertoire de travaux; les publications résultant de ces travaux et; enfin, l'index des sujets.

La liste des chercheurs, incluant leur adresse postale ainsi que leur numéro de téléphone, est extrêmement précieuse, car elle permet à tous ceux qui sont intéressés à leurs travaux de pouvoir se mettre en communication avec eux.

Le répertoire des travaux fournit les renseignements sur leur nature, la méthode utilisée, le stade de réalisation, le mode de financement etc. Il y en a ainsi 572. Ce panorama assez important montre la diversité des projets et aussi, en certains cas, l'existence de plusieurs chercheurs différents travaillant sur les mêmes sujets.

La partie la plus faible en quantité et en qualité de l'ouvrage (deux pages) est celle qui touche aux publications des travaux. La liste est très incomplète. Nous savons, par exemple, que les projets 40, 104, 501, 544 ont donné lieu à une publication. Les compilateurs de cette section ne se sont pas donnés la peine, non plus, de consulter les informations contenues dans la section précédente, car ils y auraient appris que des projets 23, 33, 194, 327, 418, 548 une publication a été faite. Mais le comble, c'est que les projets 33 et 375 qu'on ne trouve pas dans cette liste ont été publiés par Travail-Canada lui-même.

Les lacunes de cette section n'infirmement cependant pas totalement la valeur ni l'utilité de l'ensemble de l'ouvrage. Nous sommes le premier à reconnaître la difficulté d'une telle entreprise laquelle repose

en grande partie sur la collaboration des chercheurs eux-mêmes qui négligent parfois de fournir les informations demandées alors qu'ils en sont les grands bénéficiaires.

On nous dit qu'étant donné le programme de restriction du gouvernement il a été décidé de suspendre l'enquête qui aurait été effectuée à la fin de 1976 et au début de 1977 et que par conséquent il n'y aura aucune édition concernant la recherche entreprise ou complétée en 1976. On se demande même s'il faut continuer une telle publication. Ce serait, à notre avis, une erreur grave. Le répertoire sur la recherche en relations industrielles au Canada que publie Travail-Canada est un instrument absolument indispensable au développement de la recherche et à la communauté académique en ce domaine. Il permet de connaître ce qui fait l'objet des travaux des chercheurs et favorise l'établissement des liens et la collaboration entre eux. Seul d'ailleurs Travail-Canada possède en ce moment, les ressources financières et humaines pour mener à bonne fin une telle entreprise qui entre pleinement dans son rôle. Si, pour une raison ou autre, il n'est pas possible comme par le passé de publier une édition annuelle, il faut à tout prix qu'on ne dépasse pas deux ans. De plus, les délais entre l'enquête et le moment de la publication des résultats devraient être réduits au strict minimum.

Université Laval

Gérard DION

### **Partnership or Marriage of Convenience?**

(A critical examination of by contemporary labour-relations in West German with suggestions for improving the Canadian Labour-management relationships based on the West German experience) Charles Connaghan, Ottawa, Labour Canada, 1976, 102 p.

Normally, this type of government sponsored report could be safely ignored by trade unionists. These are not normal times. Traditional collective bargaining is suspended by the wage and price control program. Attacks on collective bargaining as an institution are mounting daily. The

media, company presidents and government officials stridently proclaim «there must be a better way.» The Federal Labour Minister, John Munroe thinks a better way can be found in Mr. Connaghan's report. Events, therefore, compel us to respond to Connaghan's proposals.

The report oozes with praise for the German system. Management is well organized. Trade unions are «sophisticated» and make «realistic» demands. Individual workers are contented and the country, naturally, is prosperous. Little wonder we inefficient, unsophisticated, strife-torn Canadians are invited to imitate Germany's «movable feast.» There are several serious criticisms that can be made of the report. Only two or three will be mentioned here.

First, a number of misleading statements regarding the legislative framework for collective bargaining are made. Since this report may be the first overview some trade unionists have of the German system one must point out such inaccuracies.

Regarding strikes, for example, Connaghan maintains that «there is no legislation which covers illegal strikes in Germany... There is no mechanism in legislation for dealing with illegal work stoppages... Because there is no legislation, there are no penalties for illegal walkouts.» (p. 26) It is a strange assertion. The Federal Labour Court considers unofficial strikes *per se* to be torts. Moreover, under Sec. 830 of the Civil Code the person who, together with others, has caused damage by committing a tort is responsible for the damage. Damages of DM. 30 million were levied against the metal workers union for one unofficial strike. German law regulating industrial relations may not be easily identifiable as a body of law. Nevertheless, it certainly exists. Where strikes are concerned, it is more restrictive than Canadian Law. Strikes are regulated by the doctrine of «social adequacy.»

This doctrine was formulated by Professor Nipperday (later President of the Federal Labour Court) in response to the 1952 printers' strike for changes in the proposed co-determination legislation. Since then a strike is *only* legal if it meets certain conditions. It must be capable of being resolved by a collective agreement; called by the official union bureaucracy; and carried out after specified settlement procedures have been exhausted. In the public sector (not discussed in the report) over a million and a half workers are denied the right to strike.

Second, regarding the co-determination scheme, Connaghan offers a glowing tribute. «....Co-determination has given the average German worker a close identity with his place of employment and associates him directly with the responsibility for everything that affects him and his employer. The individual is aware that no important decision can be made that affects him and his work place, unless he himself or his representative has had an equal voice in those decisions and shares responsibility for them. In turn, this leads to a degree of knowledge and understanding of the economic developments affecting his work place.»

In effect this gives the average worker a psychological stake in his company. The proponents of co-determination point to the success with which massive manpower reductions were initiated, without work disruptions, in the steel and coal industries. The obvious inference which can be drawn from that example is that had those workers not been so directly aware and involved in the actual lay-off decisions then large scale work stoppages would have occurred.» (p. 83)

This is one assessment of the power, functioning and effects of co-determination. Whether it is entirely accurate is however debatable. Works Council jurisdiction is largely limited to individual plants severely curtailing the ability to influence multi-plant activities. Works Council representatives are not entitled to organize or even participate collectively in a strike since to do so would be against the best interests of the enterprise. One observer argues that overall, «the link between participation and the plants benefit disassociates the representatives from the workers and transforms them into a special kind of manager.»

The claim that individual workers are highly aware of co-determination and playing an active part in shaping events is also highly suspect. One study found that only half of the co-determination workers even knew about the existence of co-determination in their enterprise.

Maria Walther, a psychologist at the Frankfurt Management and Productivity Association stated that «the individual does not directly benefit very much from co-determination. But it becomes important when, for example, a coal mine has to be closed — it can assure that retraining measures are introduced and so on. So in times of crisis it can be extremely useful.» «Even this alleged therapeutic power may be due to factors other than co-determina-

tion. During a recent ten year period in Britain, 400,000 mine workers, two-thirds of the labour force, were made redundant also without a major work stoppage».

Worker representation on company supervisory boards is the other major component of Co-determination. To illustrate the representative's role one must be aware of the boards' function under German company law. Ultimate power to decide all company affairs rests with share holders at the annual general meeting. The managing board (Vorstand) exercises day to day control over company's policy. Supervisory board meetings, where worker representatives are in the minority, are held about once every three months. Annual company reports and future plans etc., are presented by the Vorstand for review.

As a member of the supervisory board, worker representatives have the same responsibilities and legal duties as other share holder appointed members. It is of little consequence that they have been elected by the workers. They must act in the best interests of the company as a whole. The precise nature of such «interests» is of course, determined by the shareholders. Several studies, including the Biedenkopf Commission confirm that worker representatives seldom oppose management investment decisions but rather try simply to mitigate the effects of such decisions on the work force.

Generally, the value of co-determination to individual workers seems to be less than Connaghan suggests. Rank and file workers are increasingly prepared to challenge the immense power wielded by the high level union bureaucracy (Contracts can be negotiated and signed without membership ratification). From 1964 to 1968, 83% of all strikes were unofficial. Since then widespread unofficial strikes have occurred in 1969, 1970, 1973 and 1975. It has been suggested that a militant shop steward movement is emerging to represent shop floor dissension. The remoteness of industry-wide bargaining often leads to significant wage drift and further questioning of the technique itself.

Finally, most remarkable about the report is its failure to raise several issues crucial to any discussion on industrial relations. For instance, what is the precise relationship between Works Councils and collective bargaining? Why has German trade union membership dropped from 40 to 30% since Works Councils were introduced? What is the effect of extending wages and conditions negotiated by unions

to the non-union sector? To what extent do Works Council agreements actually compete with or undermine collective agreements?

The absence of such questions may be due to Mr. Connaghan's background as management's labour-relations practitioner for the B.C. Construction Labour Relations Association. As far back as 1971 Mr. Connaghan was insisting that trade unions had become too powerful. The legislative pendulum was «swinging farther and farther to labours' side. Governments were afraid of labour unions.» This unsubstantiated pronouncement led him to conclude that collective bargaining is «coughing and sputtering along and personally, I'd like to push it off the road onto the scrap heap.» because the «process is simply out of step with the society in which it lives.» Moreover, «in a period of serious and rising unemployment there's something obscene about a strike or slow down, especially when the work stoppage has a cumulative effect on other industries.» From managements' view point perhaps collective bargaining has failed. It is understandable, then, if management seeks to minimize threats to its' power by introducing participative schemes. From an organized worker's view point however, collective bargaining has probably been quite successful. Efforts to weaken that system are likely to be strongly resisted.

To conclude, one gets the impression that Mr. Connaghan's choice of Germany as a model is not accidental. (France's post-war economic development has been no less impressive than Germanys'). Perhaps he and the Federal Government feel that introducing parts of the German system will help to restore Canadian management to its «rightful» position of absolute dominance over its workers. If so, the next few years will be important ones for all trade unionists.

Calgary, Alberta

Ray SENTES

**Help for the Working Wounded**, by Thomas F. Mancuso, M.D., Washington. The International Association of Machinists and Aerospace Workers, 1976, 221 pp.

The Author of this book, a professor of Occupational Health at the University of Pittsburg, has had a long career in industrial medicine. He has served on numerous U.S. government agencies and is a medical consultant to the Machinists Union.

Traditionally, workers have been dependent upon employers and governments