WAGNERISM IN CANADA: COMPARED TO WHAT?

Mark Thompson*

The subject of "Wagnerism" is especially appropriate for the thirty-first annual meeting of CIRA. The motives of the Program Committee were obvious—P.C. 1003 was enacted in February of 1944. That order became the basis for modern Canadian labour, and the principles of Wagnerism remain as the cornerstone of labour legislation to this day.

There is a second reason for spending time on this topic. The principles of Wagnerism are under more scrutiny than at almost any time since the original Wagner Act was passed. In the United States, where the model originated, the Dunlop Commission is considering alternate forms of employee representation. It may be that some of the fundamental principles of the Wagner Act will be subject to revision within the next two years. Since the labour movement and collective bargaining are more vital in Canada, the pressures for change are less significant. Criticism of the Wagner principles seems to be rising here, however.

Any legal system for industrial relations will have positive and negative aspects. Thus it is easy to criticize Wagner-type statutes for their shortcomings, but it is more difficult to propose viable alternatives. Any critique of the Wagner principles should examine them in terms of the feasible alternatives.

This paper will examine briefly the development of Wagner principles in Canada and then consider the alternatives available in 1944. It will then consider the record of Wagnerism in Canada before proposing several alternatives to some of the aspects of Wagnerism.

As a prelude to this discussion, it is necessary to consider what is meant by the term "Wagnerism." There is no generally accepted definition, and doubtless several will be used in this conference. The essential elements of Wagnerism are: legal protection of the right to organize for nonmanagerial employees; union certification at a work site based on the workers' choice; exclusive representation of workers in a bargaining unit; a requirement that

* University of British Columbia.

employers recognize and negotiate with certified unions; and administration of the system by an independent quasi-judicial tribunal.

Background of P.C. 1003

The path to the proclamation of P.C. 1003 was tortuous. The development of Canadian labour law has been described elsewhere (see Weiler 1986). The significant elements of that history are the years prior to the outbreak of World War II. After a brief period of relative prosperity during the First World War, the labour movement stagnated in the 1920s. Membership fell from 378,000 in 1919 to 281,000 in 1935. Density fluctuated between 12 and 16 percent (Labour Canada 1970). Employers resisted union organizing efforts with resistance to strikes, open shop campaigns and welfare capitalism. The federal legislation of the time, the Industrial Disputes Investigation Act (IDI Act), did not favour collective bargaining or protect union members from discrimination. Its purpose was the prevention of industrial disputes (Logan 1956).

The deficiencies of Canadian legislation became especially apparent after the passage of the Wagner Act in 1935. The organizing successes of the Congress of Industrial Organizations (CIO) in the U.S. stimulated pressures for similar protection in this country. Two provinces passed legislation incorporating Wagner principles in 1937, and four more followed suit in 1938. These laws banned discrimination against union members and supported labour organizations and collective bargaining in various ways, but they lacked an effective administrative mechanism and ultimately had little impact (Logan 1956).

The federal government resisted imposing Wagnerism in Canada, fearing that the Wagner principles would encourage adversarial relationships. Thus, it did not even establish collective bargaining in the defense industries that it controlled directly. Despite this reluctance, wartime conditions forced it to act. Initially, it extended the IDI Act to all industries under federal control pursuant to its emergency powers. It then proclaimed P.C. 2685 which encouraged employer recognition of unions, but remained neutral on the desirability of collective bargaining. However, the government imposed a wage control program (MacDowell 1978).

The labour movement exerted increasing pressure on the government to enact a Canadian version of the Wagner Act. Rapidly growing CIO unions were fully aware of the success that their American counterparts enjoyed under the protection of the law in the United States. Both the Canadian Congress Labour (CCL) and the Trades and Labour Congress (TLC) passed resolutions demanding that the government protect workers against discrimination for union membership and require employers to bargain collectively. Labour leaders repeatedly informed the federal government that employers were disregarding P.C. 2685. A number of major labour disputes occurred when employers refused to recognize unions. Labour's demands

were heightened by controls over their wages, which clearly worked in favour of employers (Logan 1956).

Labour unrest grew during the war. There were 120 strikes involving 41,000 workers in 1939. By 1943, the number of stoppages had more than tripled, to 401, and the number of workers involved rose fivefold, to 218,000, approximately one-third of all union members at the time (Labour Canada 1977). This experience forced the government to go beyond the statement of principles in P.C. 2685. It became clear that labour's continued participation in the war effort was contingent upon legislative reform. In 1943, Ontario enacted legislation supporting collective bargaining with only token opposition from the employer community (MacDowell 1978). This law came closer to the Wagner principles than other Canadian statutes. It imposed a duty on employers to bargain, protected workers against discrimination for union activity, provided for the reinstatement of employees discharged for union activity and established a certification process. The major departure from the Wagner principles was the creation of a labour court rather than a body modelled after the U.S. National Labor Relations Board (Logan 1956).

In response, the federal government instructed the National War Labour Board to investigate labour conditions and recommend legislation. The Board concluded that non-coercive methods for regulating labour relations had not worked. Employers, who had been encouraged to resist unions during the depression, continued to avoid recognition. It also noted that a large section of the labour movement saw collective bargaining under the principles of the Wagner Act as the only solution to labour unrest. The Board basically endorsed the principles of Wagnerism, pointing to legislation enacted in three provinces (British Columbia, Alberta and Ontario) in the previous year, and studies under way in three other provinces. It also recommended that arbitration of rights disputes be compulsory during wartime, and that strikes during the term of a collective agreement should be illegal (National War Labour Board 1944).

Alternatives to Wagnerism: The 1940s

Politically, it is clear that the federal government had little choice but to enact a variation of the Wagner Act in 1944. The labour movement had more leverage in its dealings with the government than at most other periods in Canadian history. The American example was powerful and appeared to be successful. There was no discussion of alternatives to Wagnerism apart from the status quo, and normal parliamentary procedures were suspended for the duration of the war. Voluntary union recognition and negotiation had been unsuccessful. If employers would not meet these standards at a time of full employment and war production, it was clear that the probabilities for adherence to the standards in P.C. 2685 after the end of the war would be extremely low.

Intellectually, it is possible to speculate on the alternatives to Wagnerism, but these were few. Two other systems were available for adoption in the Anglo-Saxon world. One was the common law (or voluntarist) approach which had a long history in the United Kingdom. The other was the arbitration-based system already well established in Australia.

The first option—the common law—had already been employed in this country for several decades and was rejected with P.C. 1003, although the IDI Act did go beyond the principle of voluntarism by providing that either party in a dispute in industries of a high degree of public interest (principally transportation, public utilities and mining) could invoke conciliation. (Woods 1973) The purpose of the act was to end labour disputes, not encourage recognition of unions or protect union organizing efforts. Furthermore, the evidence available to the government in 1943–44 was that large numbers of employers resisted unionization and punished union activists during organizing campaigns. The system of company unions favoured by Mackenzie King had been repudiated by workers and ignored by most employers. Whatever the virtues of voluntarism elsewhere or in theory, that system clearly did not function well in the Canadian context (Logan 1956; National War Labour Board 1944).

The second alternative, compulsory arbitration, does not appear to have been considered seriously in the 1940s. Various Canadian jurisdictions looked to Australia and New Zealand for guidance in the enactment of labour legislation around the turn of the century. The federal government passed legislation regulating railway disputes in 1906, which in turn seems to have been inspired by a Nova Scotia statue covering mining. Both provided for compulsory arbitration and apparently drew on experience in New Zealand. However, enthusiasm for this model was limited. As early as 1902, the TLC passed a resolution rejected compulsory arbitration in favour of voluntary arbitration and compulsory conciliation (Woods 1973). By 1944, there seem to have been no partisans of compulsory arbitration. Employers would have rejected the idea out of hand as restricting their ability to operate, and the labour movement had lost interest in the system.

When the provinces regained the authority to legislate on labour relations, they universally embraced the Wagner principles. Until recently, there has been little discussion of alternatives. The 1968 Woods Task Force on Labour Relations, which conducted the most thorough review of Canadian industrial relations ever undertaken, did not examine alternatives to Wagnerism. Although the Task Force gathered information on several European countries and Australia, their report accepted the basis elements of Wagnerism and did not discuss other systems of representation, even for purposes of argument (Task Force 1968).

Results of Wagnerism After 1944

The immediate results of the enactment of P.C. 1003 confirmed the government's decision to embrace Wagnerism. The labour movement became committed to cooperate in the war effort for the remainder of the conflict (Weiler 1986). The protection of the freedom to organize had positive results. After a slight dip in 1945, union membership rose by over 250 percent in absolute terms rose virtually without interruption through 1967, when the impact of heightened interest in unionism and collective bargaining in the public sector began to affect union membership figures. Similarly, union membership as a percentage of paid nonagricultural workers rose from approximately 20 percent in 1944 to 32 percent in 1967. The impact of Wagnerism was especially strong in those industries which were in the minds of policy makers when legislation was enacted. Union density rose by at least 50 percent in manufacturing, construction and public utilities. It rose over 15 percent in railways (where density was almost 70 percent in 1944) and declined about the same proportion in mining (Labour Canada 1970).

Another objective of the Wagner Act was to promote economic stability by increasing workers' purchasing power. This was never a stated objective of P.C. 1003, although the labour movement certainly had that goal as it lobbied for the law (Weiler 1986). While it is difficult to estimate the impact of a single piece of legislation on purchasing power, there is no doubt that union members receive higher wages than their nonunion counterparts, particularly in blue-collar occupations. (For reasons that are not completely clear, the wage differential for white-collar workers is lower than for manual occupations). Estimates of union wage differentials in Canada vary, but they were found to be in the 15 to 20 percent range in the 1970s and 1980s. Differentials are smaller in the public sector than in the private sector and favour low-skilled workers more than the high-skilled. Evidence from the United States suggests that unionized workers are more productive than their nonunion counterparts. At the same time, there is also evidence that the conditions of nonunion workers may be hurt by the advantages that labour organizations are able to extract from employers (Gunderson and Riddell 1992).

A third objective of P.C. 1003 was labour peace, especially in wartime. Immediately after P.C. 1003 was enacted, the number of strikes and workers on strike fell by at least half. With the end of the war, however, there was burst of long labour disputes, so that over four million person days were lost due to stoppages (Labour Canada 1977). The story of labour disputes since then is well known. Time lost due to strikes is proportionately higher in Canada than in other developed nations. Governments have enacted ad hoc legislation to end specific labour disputes and made numerous legislative changes to create conditions that will diminish labour conflict. Until the late 1980s, the number of strikes in this country remained relatively high. Time

lost due to work stoppages did not fall below two million person days until 1991.

Finally, Wagnerism promoted local decision making by the parties in labour relations. The certification of individual bargaining units helped establish a decentralized collective bargaining structure. The requirement that arbitration be used to resolve rights disputes has increased the opportunities for self-government through collective bargaining. Consultation on subjects such as technological change became commonplace, even when the scope of bargaining did not provide for joint decision making (Weiler 1986).

On balance, in the years after the enactment of P.C. 1003, Wagnerism would have to be judged a success in Canada. The extent of worker protection against arbitrary employer actions and the vagaries of the marketplace expanded considerably. Workers who came under the scope of labour legislation generally attained at least adequate standards of living. Democracy in the workplace was achieved through various legal procedures and consultative mechanisms. These advantages offset the record of labour disputes, which would have disappointed the authors of P.C. 1003.

Wagnerism Today: Evaluation

Viewed from the perspective of the 1990s, an evaluation of Wagnerism is somewhat different. In general, Wagnerism has achieved most of its objectives in those environments for which it was originally designed. Union density in the heavy industries that figured so prominently in the minds of the policy makers of the 1940s remains relatively high. For example, union densities in most blue-collar industries reached their highest levels about 1960. In that year, union membership in construction was 55 percent. Density in transportation, communications and utilities was approximately 60 percent, while the figure in manufacturing was 41 percent. By contrast, density in trade was 5.6 percent, and 14.4 percent in services (Labour Canada 1970). Those figures have remained remarkably constant in the intervening 33 years. By 1991, density in construction, mining, manufacturing, trade, transportation, communication and utilities were all within 5 percentage points of the 1960 levels. The private service sector fell from to 8.7 percent, virtually in the same 5 percent range as other sectors (Statistics Canada 1993).

These numbers emphasize two facts well known to observers of North American industrial relations—that Wagner-style industrial relations has been relatively successful in those industries for which it was designed—blue-collar workers employed at relatively large work sites and the contrasting lack of success in other areas of the economy, small business, high technology firms and the service sector, where most employment growth occurs. Even in relatively industrialized regions of the country, the importance of the small business sector cannot be ignored. In British Columbia, for instance, almost 75 percent of all employers have fewer than 5 employees,

and over 90 percent of all firms have fewer than 20 employees. Firms with fewer than 20 employees accounted for 32 percent of all full-time equivalent employees in the province. Only 31 percent of all workers were employed by organizations with more than 500 employees. Nationally, approximately 28 percent of all full year equivalent employment is in firms with fewer than 20 employees, and small firms have been responsible for most of the job creation in the past decade. (Thompson 1992). After eliminating the public sector, which includes many large employers, and a few major private sector employers, such as retail stores or financial institutions, it is apparent that a about half of all employees work for private sector firms with fewer than 500 employees, many of which have multiple workplaces.

The procedures for obtaining representation under Wagnerism have been ineffective in extending representation rights to these workplaces. Indeed, it is not clear how much benefit organization would bring to employees in some competitive service industries, since a union would not be able to take wages out of competition. Moreover, the principles of exclusive representation and majority unionism ensure that workers in these employment settings lack formal collective representation.

As outlined above, Canada has had a relatively high strike record since the passage of P.C. 1003. International comparisons of strike experiences can be misleading, but there is little doubt that the number and especially the length of Canadian strikes is an undesirable feature of industrial relations in this country.

The perspective on the impact of Wagnerism on labour's purchasing power has changed in the intervening fifty years, perhaps due to the ascendence of neo-classical economics in policy making circles. Based on U.S. research, Canadian economists have estimated that union wage differentials result in a reduction of approximately 0.2 percent in the Gross National Product (Gunderson and Riddell 1992).

Finally, the application of Wagnerism in the workplace has given Canadian workers extensive protection against arbitrary employer actions and rights of consultation superior to those in many other industrial relations systems. However, the legalism surrounding the administration of collective agreements has diminished the role that workers and their immediate representatives can play in workplace decisions. The structure of these agreements have reinforced the separation of employer and employee interests by the delineation of management's reserved rights. Most collective agreements provide relatively little protection for job security beyond the operation of seniority clauses (Drache and Glasbeek 1992).

Wagnerism is relatively inflexible in terms of the types of collective representation it permits. Many employee involvement programs in both union and nonunion settings risk violating the law. The principles of exclusive representation and the certification process mean that employees who

wish collective representation but are in a minority in their workplaces are denied any representation (Adell 1985).

Despite its considerable virtues as an organizing principle for Canadian labour law in the 1940s, all of these facts point to the need for a reevaluation of Wagnerism in the 1990s. If a reevaluation must take account of the cultural and economic contexts of Canadian industrial relations, as well as the traditions of employer and union behaviour under the Wagner umbrella, the issue becomes what are the viable alternatives to Wagnerism as it exists today.

Alternatives to Wagnerism: The 1990s

Unlike the 1940s, the contemporary industrial relations scene provides many alternatives to Wagnerism which preserve the principles of collective representation and provide protection against total employer control of the workplace. Neither of the logical alternatives to Wagnerism when P.C. 1003 was enacted are seen as viable today. The United Kingdom has retreated from the voluntarism in labour law in favour of relatively extensive legal regulation of individual and collective labour rights. New Zealand has abandoned compulsory arbitration, and Australia is in the process of dismantling most of the significant features of its labour court system. However, at least three alternatives to the present system of labour law are available[1]—a broader application of Wagnerism, works councils and graduated representation systems.

The broader application of Wagnerism accepts the basic elements of the current system except for the certification process. A report to the Minister of Labour of British Columbia recommended the implementation of "sectoral certification." The report proposed a special system for certification for those sectors (defined by industry and geography) which were "historically underrepresented by trade unions" and where the average number of full-time equivalent employees per work site was less than 50. A union claiming membership of at least 45 percent of the employees at each of more than one work site within the sector could apply for certification of all work sites after a representation vote in the sector where 45 percent of employees were union members (Baigent, Ready and Roper 1992).

On its face, this proposal was a modest modification of Wagner principles. The majority of the committee of advisers noted the lack of coverage of collective bargaining in the service sector. They presented their recommendations as an extension of the practice of multiemployer bargaining, traditionally a prominent feature of British Columbia industrial relations. Arguably, it was a more extensive departure from Wagnerism, especially with the

1. A number of suggestions for labour law reform in the United States call for more effective application of the Wagner principles. See, for example, Weiler (1990), Cobble (1994) and Wial (1994).

designation of sectors for special treatment in the certification process. Modest or not, this was one of the few recommendations in the report to the Minister of Labour that did not attract unanimous support from the three members of the advisory committee. The employer community opposed it vigorously, and the government yielded to its pressure. The lesson from the British Columbia experience is that employers are implacably hostile to any effort to extend unionism into industrial sectors where it is now weak. Even NDP governments have been unwilling to change the certification process fundamentally to accomplish that end.

The second alternative to Wagnerism, works councils, is more fundamental and has been advocated by a number of commentators (Adams 1994; Freeman and Rogers 1993; Weiler 1990). Although there are several models of works councils in Europe, the essential elements of most North American proposals are that councils not bargain over wages and have the legal right to be consulted on some elements of the employment relationship, such as the effects of technological change, layoffs and the like. In addition, they may have responsibility for representing workers in the regulation of health and safety.

Works councils proponents present rather idealized views of the operation of these bodies in Europe and seldom deal with the reality of comparable bodies in North America. The most obvious distinction between European councils and North American proposals is the role of trade unions. Works councils were created in part to exclude unions from the workplace, where European unions typically were weak in any case, but where North American unions have their greatest strength. Councils can concentrate on workplace issues with the security of distributive bargaining mechanisms at levels beyond the enterprise and active social democratic parties to secure legal protection. Employees also often have access to labour courts to resolve rights disputes, thus removing another adversarial issue from the scope of workplace industrial relations.

It is not clear whether works councils are a realistic alternative to Wagnerism in this country. (For an examination of these issues, see Weiler (1990)). Organized labour would see them as a threat in those industries where unionism is well entrenched. They would have no place in most workplaces where a union is certified. The best predictor of employer reactions to works councils is in the treatment of health and safety committees. Five provinces and the federal government require joint health and safety committee. In four provinces, the minister of labour can order that they be formed (Christie, England and Cotter 1993). To date, there is little information on how well these committees operate. Labour representatives in British Columbia complain that management ignores committee recommendations, does not appoint knowledgeable or experienced representatives and that the committees lack the resources to carry out their assigned tasks. A survey of committees in Saskatchewan found them useful in addressing health and safety issues, although they met slightly more than once each

year on the average (Bryce and Manga 1985). A proposal of the Ontario government to require employer-paid training for worker representatives on health and safety committees, to expand their representational rights and to permit either party to stop production when a threat to safety and health existed, has provided stiff employer resistance and a breakdown in tripartite efforts to improve accident and disease prevention in the workplace.

The final alternative to Wagnerism is "graduated representation," something of a hybrid of Wagnerism and works councils. Graduated representation systems would establish several degrees of employee representation. The most basic level of representation would be the provision of information on specified subjects to employees. The information might include planned work schedules, warnings of hiring or layoffs, accident data and the like, without any requirement to consult on these subjects. The next level of representation would be consultation with employees or their representatives on several subjects, most of which are on the agenda of works councils—redundancies and layoffs, technological change, training, promotions and transfers and health and safety. Employers would be free to act unilaterally, but would be required to discuss these matters with an employee committee. A third level of representation would include the two previous systems, but add to them requirements that committees agree to certain management actions, such as dismissals for cause, major changes in work schedules, training programs and the like. Employee representative would also have the right to make representation on economic matters prior to any changes in these conditions by employers.

These different levels of representation would be triggered by employees' desires on rather generous terms, i.e., a minority of perhaps one third for the first level, perhaps forty percent for the second level, and a majority for the third. The rights of employees to choose among these models would be guaranteed by law. Choices would be valid for a fixed period of time, certainly not less than two years, but perhaps as long as four or five years. Employee committees would be required to represent all persons in their electorate and could charge dues. Representation systems could be chosen on a fairly narrow basis—a department within a firm, or a single restaurant in a fast food chain, for instance. An administrative body would determine the appropriate unit for representation and regulate the consolidation or fragmentation of units as their needs or desires changed. These systems resemble some arrangements for employment relations currently in place at a number of universities.

What are the advantages of this proposal (which I have not seen in other sources)? First, it overcomes the "all or nothing" element of Wagnerism. Employees can choose the degree of representation they wish in the affairs of their employer. Many employees would like to be consulted and informed, but have no desire for full-fledged bargaining. Secondly, it focuses on matters of immediate concern to employees while avoiding most of the adversarial aspects of labour relations. Employees can exert some influence

over management decisions. Collective representation is enhanced without contributing to overall levels of labour conflict. Thirdly, it gives employers incentives to consult and cooperate with employees to avoid the choice for elevation of their representational rights. Finally, the system gives the parties the opportunity to try collective representation. If one of the first two levels meets their needs, the system could continue indefinitely. If the employees' taste for collective action leads them to full-fledged unionism under the Wagner principles, that option remains. Unions would work with these bodies to induce them to become members or perhaps establish more permanent arrangements for assistance to groups that have no desire for union status, but who could afford to pay for consulting services.

Employers would resist such suggestions. Examples of employers not resisting any infringement on their managerial prerogatives are difficult to find. However, this proposal would enable firms which have or would like to have employee involvement programs of various types to start or continue them. Politically, it would be difficult for employers to resist the first two levels, since many assert that they are engaging in such behaviour already.

Conclusion

Wagnerism has served Canada well in most respects. Since 1944, the nation has enjoyed some of the most prosperous periods in its history, with unionized industries being among the leaders in economic development. This occurred despite relatively high levels of industrial unrest. Canadian union members and other workers in heavy industry have achieved enviable standards of living. Unionized industries are as competitive as any other sectors in the Canadian economy.

While there were few viable alternatives to Wagnerism fifty years ago, many other systems exist or have been proposed. The time for reconsideration of the Wagner principles has arrived. It is difficult to avoid the conclusion that Wagnerism does not work well in the emerging sectors of the economy, where wages are often low and job security tenuous. To suggest alternatives to Wagnerism does not imply abandoning that system in those sectors where it has worked well, although many proposals for improvement of Wagnerism deserve careful attention. All participants should focus their attention on new forms of employer-employee relations to meet the needs of the new industrial structures.

REFERENCES

ADELL, Bernard. 1985. "Law and Industrial Relations: The State of the Art in Common Law Canada," in Gérard Hébert, Hem C. Jain and Noah M. Meltz, eds., *The State of the Art in Industrial Relations*, Kingston and Toronto, Indus-

trial Relations Centre, Queen's University and Centre for Industrial Relations, University of Toronto, 107-46.

BAIGENT, John, Vince Ready and Tom Roper. 1992. *Recommendations for Labour Law Reform: A Report to the Honourable Moe Sihota Minister of Labour*, Victoria, Queen's Printer.

BRYCE, George and Pran Manga. 1985. "The Effectiveness of Health and Safety Committees," *Relations industrielles/Industrial Relations*, vol. 40, no. 2, 257–83.

CHRISTIE, Innis, Geoffrey England and Brent Cotter. 1993. *Employment Law in Canada*, 2nd ed., Toronto, Butterworths.

COBBLE, Dorothy Sue. 1994. "Making Postindustrial Unionism Possible," in Sheldon Friedman, Richard W. Hurd, Rudolph A. Oswald and Ronald L. Seeber, eds., *Restoring the Promise of American Labor Law*, Ithaca, ILR Press, 285–302.

DRACHE, Daniel and Harry Glasbeek. 1992. *The Changing Workplace: Reshaping Canada's Industrial Relations System*, Toronto, Lorimer.

FREEMAN, Richard B. and Joel Rogers. 1993. "Who Speaks for Us? Employee Representation in a Nonunion Labor Market," in Bruce E. Kaufman and Morris M. Kleiner, eds., *Employee Representation: Alternatives and Future Directions*, Madison, Wisconsin, Industrial Relations Research Association, 13–80.

GUNDERSON, Morley and W. Craig Riddell. 1992. *Labour Market Economics: Theory, Evidence and Policy in Canada*, 3rd edn., Toronto, McGraw-Hill Ryerson.

LABOUR CANADA. 1970. *Union Growth in Canada, 1921–1967*, Ottawa, Information Canada.

———. 1977. *Strikes and Lockouts in Canada, 1974–1975*, Ottawa, Minister of Supply and Services.

LOGAN, H.A. 1948. *Trade Unions in Canada: Their Development and Functioning*. Toronto: Macmillian.

———. 1956. *State Intervention and Assistance in Collective Bargaining: The Canadian Experience, 1943–1954*, Toronto, University of Toronto Press.

MACDOWELL, Laurel Sefton. 1978. "The Formation of the Canadian Industrial Relations System During World War Two," *Labour/Le Travailleur*, vol. 3, 175–96.

STATISTICS CANADA. 1993. *Corporations and Labour Unions Reporting Act, 1991*, Ottawa, Minister of Supply and Services.

TASK FORCE ON LABOUR RELATIONS. 1968. *Canadian Industrial Relations: The Report of Task Force on Labour Relations*, Ottawa, Privy Council Office.

THOMPSON, Pat. 1992. *The Small Business Sector in British Columbia, 1990*, Toronto, Canadian Federation of Independent Business.

WEILER, Joseph M. 1986. "The Role of Law in Labour Relations," in Ivan Bernier and Andrée Lajoie, eds., *Labour Law and Urban Law in Canada*, Toronto, University of Toronto Press, 1–65.

WEILER, Paul C. 1990. *Governing the Workplace: The Future of Labor and Employment Law*, Cambridge, Mass., Harvard University Press.

WIAL, Howard. 1994. "New Bargaining Structures for New Forms of Business Organization," in Sheldon Friedman, Richard W. Hurd, Rudolph A. Oswald and Ronald L. Seeber, eds., *Restoring the Promise of American Labor Law*, Ithaca, ILR Press, 303–13.

WOODS, H.D. 1973. *Labour Policy in Canada*, 2nd edn., Toronto, Macmillan.

RÉSUMÉ

Le passage du CP 1003 en 1944 fut un élément majeur de la croissance du wagnerisme dans le Code du Travail du Canada. Le wagnerisme existe depuis 50 ans, mais il est maintenant remis en question.

Les arrêts de travail et les disputes entre les travailleurs et entreprises durant la Seconde Guerre démontrèrent que la législation de l'époque était inadéquate, particulièrement lorsque comparée à celle des États-Unis. Après avoir refusé la création d'une législation de style Wagner, le gouvernement fédéral renversa sa politique et passa le CP 1003. Les choix du gouvernement étaient politiquement réduits par la pression des travailleurs et par le nombre élevé d'arrêts de travail. Intellectuellement, il n'y avait pas d'autres alternatives viables.

Le wagnerisme connut beaucoup de succès durant les premières années, mais il n'a pas accompli beaucoup de progrès depuis les 15 dernières années. Le wagnerisme a probablement augmenté le standard de vie des travailleurs. Il n'a pas affecté les conflits de travail, mais le mouvement a introduit une forme d'autonomie sur les lieux de travail. Par contre, le wagnerisme n'a pas permis d'étendre les droits des ententes collectives dans le secteur privé plus loin que ses sources traditionnelles de force.

Il y a maintenant des alternatives aux systèmes de négociations qui impliquent une représentation collective. Des conseils du travail furent proposés, mais ne s'harmonisent pas dans le présent système des relations industrielles. La représentation sectorielle rencontre une forte opposition de la part des employeurs. Une représentation graduelle semble possible. Les employés pourraient choisir le type de représentation qu'ils préfèrent, de l'accès à l'information jusqu'à une négociation en bonne et due forme, en passant par une consultation, sur une série de sujets. Plusieurs employeurs et employés pourraient préférer un tel système comparé à une représentation de type Wagner, ou à aucune représentation pour les travailleurs.