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RECENSIONS BOOK REVIEWS

Freedom, Democracy and Economic Welfare, edited by Michael A. Walker, Vancouver, The Fraser Institute, 1988, 369 pp., ISBN 0-88975-116-1

This volume is the edited proceedings of an international symposium on Economic, Political and Civil Freedom, sponsored by Liberty Fund Inc. and organized by the Fraser Institute. As might be expected of such organizations, the emphasis is on the importance of unregulated, laissez-faire markets in ensuring economic growth and political and civil freedoms.

The conference involved a distinguished array of Libertarians from various countries and disciplines including economics, political science, philosophy and history. Part I of the Volume consisted of three overview papers. The first, by Douglas North, emphasizes the importance of generally accepted institutional rules and norms in ensuring the freedom to engage in impersonal but mutually beneficial exchange, specialization, and interaction that is key to sustained growth. This in turn implies a legitimate role for governments to establish, monitor and enforce those rules. As emphasized by North (pages 7, 8): «The evolution of government from its medieval mafia-like character to that embodying modern legal institutions and instruments is a major part of the history of freedom. It is a part that tends to be obscured or ignored because of the myopic vision of many economists, who persist in modelling government as nothing more than a gigantic form of theft and income redistribution». As also emphasized by North, a key research issue is to try to model or explain the determinants of these institutional rules and arrangements — why they change over time and vary across countries. Clearly this is of potential relevance to industrial relations, given the importance of institutions, rules and norms.

The second overview paper consisted of excerpts from **Capitalism and Freedom** by Milton Friedman, one of the participants. The third paper presents the results of the Comparative Survey of Freedom, done annually since 1973, which categorized 167 countries according to their degree of political and civil freedoms. The survey also provides quantitative measures of infant mortality and wealth. This enabled Milton Friedman to estimate regression equations (economists simply can't resist such temptations!) illustrating that infant mortality is lower and wealth higher in countries with greater civil liberties, albeit no statistically significant effect is found for political freedom as a separate independent variable. Of course, the direction of causality is not obvious in such relationships.

The second part of the volume contains a discussion of the relationships between political, economic and civil freedoms in various countries or city states — Singapore, Hong Kong, South Africa, Latin America, Sweden and Yugoslavia. With respect to industrial relations per se, there is little direct information. In fact, the volume itself has little to say about industrial relations issues except for a few tidbits like (p. 76): «I regard them [unions] as bands of criminals who compete with the government gangs. Somehow they have wrested some legitimacy and some ability to initiate coercion from the government». (In fairness, the rest of the quote says: «But, just like government, they do provide some legitimate services». Nevertheless, this doesn't exactly lend itself to a balanced picture of unions.)

There are a number of potentially important industrial relations issues for which libertarian concepts could provide one perspective. Such issues include: the duty of fair representation; union security issues such as the compulsory checkoff of union dues, «free-rider problems» and right-to-work laws; anti-scab laws; union exemptions from anti-trust laws; successor rights; minority rights in collective agreements; employment standards legislation; human rights laws and pay and employment equity; job property rights; and the public interest and the right-to-strike. These issues are not dealt with in the volume because the focus was on general issues of freedom, democracy and economic welfare, and not on labour relations issues.

In essence, an industrial relations audience will not find much of direct relevance to industrial relations. The more general issues, however, may be of interest, especially if one wants the libertarian view.

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Le contrat d'emploi, par A.E. Aust, Cowansville, Édition Yvon Blais, 1988, 235 pages, ISBN

Retour de la pendule, individualisme, réaction contre le prêt-à-porter en matière de conditions de travail, ou tout simplement cham inoccupé de la convention collective, quelles que soient les raisons, le contrat individuel de travail connaît une vogue que les plus clairvoyants parmi les tenants du collectivisme n'auraient pu entrevoir au début de cette décennie. Depuis quelques années, les tribunaux de droit commun ont rendu un nombre considérable de décisions sur le contrat de travail et l'activité importante de la Cour d'appel en ce domaine, ces deux dernières années, sont là pour en témoigner.

C'est dans ce contexte que vient s'inscrire l'ouvrage du praticien A. Edouard Aust. Il fallait inventorier, classer cette explosion jurisprudentielle qui, comme tout éclatement, implique des retombées dans toutes les directions.

L'ouvrage regroupe la matière autour des grands axes du contrat de travail: obligations de l'employeur: fournir le travail, rémunérer et assurer la sécurité; obligations de l'employé: exécuter le travail et faire preuve de loyauté; finalement mais surtout la résiliation du contrat d'emploi autour duquel s'articule la quasi-totalité de la jurisprudence.

L'employeur doit fournir le travail convenu, ce qui, après coup, peut s'avérer difficile à déterminer et donner lieu à une recherche laborieuse des obligations des parties, surtout si l'employeur devait modifier unilatéralement les fonctions de l'employé. Fonctions générales ou spécifiques, conditions de travail implicites, intention des parties, autant d'éléments qui pourront jouer pour décider s'il y a congédiement déguisé quand l'employeur redéfinit une fonction, fait de nouvelles affectations, restructure son entreprise ou déplace un employé dans une autre ville; souvent le travail aura été plus ou moins bien défini, pour une durée plus ou moins déterminée.

Des dispositions statutaires viennent poser des normes minimales de rémunération. L'employeur doit verser celle qui a été convenue: ici encore on nage souvent en plein clair-obscur. Une modification significative des conditions de rémunération équivaut à une violation du contrat d'emploi et le travailleur pourra invoquer le congédiement déguisé. De multiples difficultés peuvent surgir en regard du salaire, qu'il s'agisse des avances, commissions, bonis, augmentations ou avantages divers.