**Relations industrielles**
**Industrial Relations**

# Collective Bargaining and Part-Time Work in Ontario
# L'accréditation des employés à temps partiel en Ontario

Wendy Weeks

Volume 33, numéro 1, 1978

URI : https://id.erudit.org/iderudit/028845ar
DOI : https://doi.org/10.7202/028845ar

Aller au sommaire du numéro

Éditeur(s)

Département des relations industrielles de l'Université Laval

ISSN

0034-379X (imprimé)
1703-8138 (numérique)

Découvrir la revue

Citer cet article

Weeks, W. (1978). Collective Bargaining and Part-Time Work in Ontario. *Relations industrielles / Industrial Relations*, *33*(1), 80–92. https://doi.org/10.7202/028845ar

Résumé de l'article

L'article précédent traite de la condition des salariés à temps partiel en Ontario et de l'attitude de la Commission des relations de travail à leur endroit. Celle-ci considère comme salariés à temps partiel ceux dont la durée habdomadaire de travail est moins de 24 heures et elle les accrédite séparément des salariés à plein temps. Il en résulte que les salariés à temps partiel ne forment qu'une faible minorité de l'ensemble des travailleurs syndiqués. D'une part, cette catégorie de salariés est difficile à syndiquer et elle intéresse peu les syndicats. D'autre part, la tendance des employeurs à conserver de longues listes d'employés embauchés sur appel pour de courtes périodes rend leur situation plus pénible et l'attitude de la Commission de les accréditer séparément entrave leur syndicalisation.

La loi ontarienne ne définit pas ce qu'il faut entendre par travail à temps partiel. La pratique de la Commission de ranger dans cette catégorie les salariés qui travaillent moins de 24 heures est une vieille coutume qui remonte à l'origine même de la Commission. Elle englobe aussi les étudiants qui travaillent pendant les vacances scolaires. Deux motifs principaux ont incité la Commission à adopter une telle attitude: une coutume établie de longue date et surtout la diversité d'intérêts, avec les employés à plein temps, parce que les salariés à temps partiel ont des conditions de travail différentes, notamment en ce qu'ils ne bénéficient généralement pas d'avantages sociaux et qu'ils n'ont pas accès à la permanence et à la sécurité d'emploi. En pratique, on ne tient pas compte de leurs besoins économiques et sociaux, mais de la position qu'ils occupent sur les marchés du travail.

Les groupes formés d'employés à temps partiel et de salariés temporaires, comme les étudiants, sont très faibles numériquement et ils n'ont guère de pouvoir de négociation. Cette pratique de la Commission ontarienne est exclusive au Canada. Dans les autres provinces, sauf à l'île du Prince-Edouard, sans qu'il s'agisse d'une norme absolue, on a tendance à regrouper les salariés à temps partiel avec les salariés à temps plein. Il faut noter cependant que le syndicalisme canadien a la réputation de favoriser la fragmentation des unités de négociation et que la pratique d'accréditer distinctement les employés à temps partiel accroît encore davantage la balkanisation. En 1973, le secrétariat ontarien pour le développement social a proposé un réexamen de cette situation, mais il n'y a pas eu de changement.

Il ressort d'ailleurs des décisions analysées que les employeurs voient dans cette pratique un moyen de freiner la syndicalisation de leurs employés et, à ce dernier propos, on cite l'affaire des restaurants MacDonalds à Windsor. La lecture des décisions de la Commission donne l'impression qu'il s'est engagé une lutte entre employeurs et syndicats sur cette question, car, du point de vue syndical, l'exclusion des employés à temps partiel a pour conséquences de les affaiblir économiquement et de réduire, parfois considérablement dans certaines conventions collectives, le nombre des travailleurs régis. De plus, il leur faut, dans nombre de cas, sacrifier ce groupe de salariés pour obtenir la majorité nécessaire pour avoir droit à l'accréditation.

La politique de la Commission ontarienne a de sérieuses implications, surtout en un temps où le pourcentage de la main-d'oeuvre formée de salariés à temps partiel ou temporaires va s'accroissant. En effet, il y a au moins un dixième de la main-d'oeuvre qui est constitué d'employés à temps partiel. Il s'agit surtout de femmes dont plus d'un cinquième travaillant à temps partiel, c'est-à-dire moins de 30 heures par semaine, alors que, chez les hommes, on retrouve cette catégorie de salariés parmi les étudiants et les travailleurs qui, en raison de leur âge ou de leur état de santé, ont cessé de travailler à temps plein. Il ne faut oublier non plus que les salariés à temps partiel sont concentrés dans le commerce et les services.

Autre point à noter: tant que le travail à temps plein demeurera la norme, les employés à temps partiel seront considérés comme des marginaux dont on fait assez peu de cas. Une chose au moins pourrait être faite: la norme établie pour considérer un travailleur salarié à temps partiel devrait être réduite, de 30 heures comme on le retrouve dans les statistiques et de 24 heures comme le veut la pratique de la Commission de travail de l'Ontario, à vingt heures par semaine. Ce fait ne se justifie-t-il pas par l'abaissement général de la semaine normale de travail?

D'autre part, la Commission ontarienne devrait cesser de considérer comme employés à temps partiel des salariés qui, pendant des périodes plus ou moins longues durant l'année, effectuent une semaine normale de travail. L'utilisation du critère de « la communauté d'intérêts » aurait pour effet de permettre aux salariés à temps partiel qui travaillent à plein temps pendant certaines périodes de l'année d'être compris dans les unités de négociations générales sans qu'il soit nécessaire de les reclasser comme employés à temps plein. Il s'imposerait aussi que l'on distingue entre le salarié à temps partiel, qui peut ainsi travailler pendant plusieurs années pour un employeur, et l'étudiant qui n'est sur le marché du travail que pour un temps limité. Enfin, on éviterait ainsi que des salariés, surtout des femmes, continuent d'être traités comme une main-d'oeuvre secondaire et être gravement désavantagés, alors qu'ils sont pleinement engagés dans une entreprise et qu'ils font véritablement partie de la main-d'oeuvre du pays.

# Collective Bargaining and Part Time Work in Ontario

**Wendy Weeks**

*This paper examines the situation of part time workers in Ontario and the attitude the Ontario Labour Relations Board has developed towards them.*

Ontario Labour Relations practice has considered part time workers to be those employed for less than 24 hours a week. Part time workers are usually linked with summer student employees in collective agreements, and it is the Ontario practice to certify separate agreements for part time and full time workers. Unionised part timers are a small minority. Part time workers are mentioned in only one in five Ontario agreements and 1.5% of all contracts are for part time workers only.[1] Part timers are difficult to organise, have lower priority than full time workers in the view of unions, and the business practice of keeping long lists of «call-in» part time staff exacerbates the problem. However, I suggest that the Ontario Board practice encourages, albeit unintentionally, the limited unionisation of part time workers and reinforces their peripheral employment status.

Part time work has been steadily increasing since the early fifties, and in June 1977 one in ten working Canadians were employed part time.[2] Women have consistently comprised two-thirds of the part time labour force, and their participation continues through their adult years.[3] In Ontario, in 1975, 21.9% (299,000) of all women in the labour force were working part time, less than 30 hours a week.[4] Men who work

---

* WEEKS, W., Assistant Professor, School of Social Work, McMaster University, Hamilton, Ontario

[1] Ontario, Department of Labour figures computed by Barbara NICOL, 1977 (unpublished research project, McMaster University).

[2] See figures of part time and full time work, 1953-1975. Canada: Statistics Canada: *The Labour Force* (December 1975), p. 68, *The Labour Force* (June 1977), p. 34, which showed 1,114,000 part time workers in a labour force of 10,044,000.

[3] *Ibid.*, Females comprised 63.5% of part time labour force in 1953 and 68.4% in 1975.

[4] Ontario: Labour, Women's Bureau. Memorandum, July 22, 1976. These calculations use the definition of part time workers as persons «usually working less than 30 hours a week» which was introduced by Statistics Canada in January 1976.

part time are typically students, moonlighters or persons retired from full time work. An increasing number of part timers are under 25 years of age: students and non-students.[5] The increase of the part time workforce has been in the context of rising unemployment and the growth of the service sector. Part time workers are concentrated in trade and service occupations and are typically peripheral workers in the secondary job market.[6]

As part of a larger study, the practice of the Ontario Labour Relations Board (O.L.R.B.) related to part time work was studied because the Board is one of the key provincial forums for the meeting of government, business and unions on labour relations.[7] The practice of the Board is therefore significant in its impact on the situation on part-time workers.

The Ontario Labour Relations Board library houses reports of Board hearings and decisions. Approximately 200 of the 2000 or so annual hearings are reported, on the basis that they embody important and precedent setting decisions or « other interesting disputes ».[8] At the time of this study, the reports between 1969 and 1974 (inclusive) had been catalogued, and 30 of these were recorded as pertaining to part time employment. These cases cannot be said to be representative in any strict sense however the Board personnel considered them to be a good cross section of cases other than the very routine, and a sample of issues of dispute between labour and management. The 30 reports were examined in detail, as were some other precedent setting decisions regarding « part time employment », for example, the USARCO case with its statement on « community of interest ».[9] An interview was held with one of the alternative chairmen of the Board in order to further clarify Board practice.

The Ontario Labour Relations Act does not define part time work, nor does it specify guidelines for policy about part time workers,[10]

---

[5] See tables of part time workers by age and sex. *The Labour Force* (June 1976).

[6] *Ibid.*, p. 21. For a discussion of the dual labour market, see Michael PIORE, « The Dual Labour Market: Theory and Implications » in David Gordon (ed.), *Problems in Political Economy*. Massachusetts: Heath and Co., 1971, p. 91. See also Dean W. MORSE, *The Peripheral Worker*, New York: Columbia, 1969.

[7] Wendy WEEKS, *Part time Work in Canada: A Study of Ideology and Implications for Women* (M. A. Sociology thesis), 1977.

[8] Discussion with librarian O.L.R.B.

[9] *USARCO*, 1967, O.L.R.B. report, Sep. 526.

[10] See Government of Ontario. *The Labour Relations Act*. Thatcher 1975. This is also true of the Federal and other provincial labour relations acts.

however, over the years certain practices have developed and certain precedents have been established regarding these employees.

In Board practice, part time employees are those who « work regularly for not more than 24 hours a week ».[11] In the event of any disagreement about whether an employee falls within this category, the matter is decided by reviewing the person's hours of work during four of the seven weeks preceding application for certification.[12] The figure of 24 hours was established early in the history of the Board when the « normal » full working week was 48 hours. The Board official interviewed commented that there had occasionally been discussion at the Board about the possible inappropriateness of 24 hours now that the work week was typically closer to 40 hours. He added that there had been no pressure to change it, and that it would probably require an amendment to the Act to change such a long standing practice.[13]

Casual and temporary employees are included in a bargaining unit according to whether they work full time or part time, not according to whether the work is regular or intermittent. A precendent setting decision (Sydenham District Hospital) clarified that more or less than 24 hours of work per week was the significant issue, and that no distinction would be made between those who worked irregularly or *regularly* less than 24 hours.[14] Another important decision ruled that persons who occasionally work more than 24 hours are still included as part time employees, in that they do not work regularly more than 24 hours.[15] This decision allows for the movement of part time (year round) workers into full time labour at peak periods of demand without their reclassification as full time workers.

Students who work during the summer vacations and persons who regularly work less than 24 hours a week are treated in labour relations according to the same principles. In the « save and except » clause, if persons working less than 24 hours a week are excluded, so too are students working during summer vacations. Similarly if one category is included, so too is the other.[16] This means that persons who work part of the year are given the same status as persons who work shorter

---

[11] Jeffrey SACK and Martin LEVINSON, *Ontario Labour Relations Board Practice*, Butterworth 1970, p. 71.

[12] *Sydenham District Hospital.* 1967 OLRB report May 136.

[13] Interview with alternative Chairman to Board 9, December, 1976.

[14] Sydenham District Hospital, *op. cit.*, p. 137.

[15] *Wander Co.* 1966 O.L.R.B., August 341.

[16] Chapples 1970 O.L.R.B., report July 530; Wander Co. *ibid.*

hours throughout the year. More significant perhaps is the assumption of a «community of interest» between regular part time workers and students. Students are temporarily part time workers, in a period of transition, and not considered to have an on-going attachment to the workplace of their student employment Their part year, or part time work, is peripheral to their central social status as «student». To link continuous part time employees with students implies a similar peripherality and temporary attachment in continuous part time workers.

Separate bargaining units for full and part time workers are certified by the Ontario Board, when either party requests this. When there are no part time employees at the time of application for certification, the unit is described as including «all employees» («says and except» certain categories of management). Similarly, when the Company only employs one part time person (that is, insufficient to create a separate bargaining unit) the part time person is included in the full time unit. If there are two part timers, it is sufficient to certify units separately, in spite of the meager power base such a duo would have in negotiations. This practice is unique in Canada. In other provinces, practice ranges from the inclusion of part timers with full time workers (in British Columbia) to the practice of exclusion without separate certification (in Prince Edward Island).[17] The origin of the Ontario practice is not entirely clear. An official of the Board said that he believed this to have been decided in the early discussions between labour and management consultants in the establishments of the Board. It was thought likely to have been part of the trading-off of interests and priorities which were part of the development of some initial labour relations Board practices. In the cases recorded during the last 15 years, it has simply been referred to as a «long standing practice of the Board». Canadian unionism is renowned for its fragmentation, and the practice of certifying separate agreements increases this fragmentation. In view of the small number of part timers it may be that it actually serves to exclude part time workers from collective bargaining. In 1973 The Ontario Secretariat for Social Development, in its Green paper *Equal Opportunity for Women in Ontario:* a plan for action, proposed «that the policy of separate bargaining units for part time and full time workers be examined with a view to integration».[18] To date there has been no such change.

---

[17] See Canada, Labour, Women's Bureau, «Women and Part time Work in Canada» *Bulletin No. XIX*, Oct., 1966.

[18] Ontario: Secretariat for Social Development: *Equal Opportunity for Women in Ontario:* A Plan for Action, June 1973, p. 8.

'Practice wisdom' at the Board has elaborated upon this policy to suggest that there is a different « community of interest » for full and part time employees.[19] The USARCO case is renowned for its documentation of « community of interest » as one of the four factors to be taken into account in determining the appropriateness of bargaining units.[20] (The other three are centralisation of managerial authority, the economic factor of one bargaining unit, and source of work.) « Community of interest » is to be determined by the nature of the work performed « conditions of employment — similar working conditions and the same fringe benefits »; skills of employees; administration; geographic circumstances; and « functional coherence and interdependence » (of the group of employees).[21] The striking feature of such a list of criteria is the extent to which they are management oriented. The social or economic needs of workers are not mentioned as criteria for establishing « community of interest ». Rather their place in the work operation is paramount. The second criterion, conditions of employment — feeds into a vicious circle by separating those employees with superior working conditions and remuneration from those without. Part time workers are almost always excluded from fringe benefits, permanence and tenure of employment and treated according to separate wage and seniority scales.[22] For the labour relations Board to presume this separates their interest from full time workers, implicitly reinforces a dual labour market and perpetuates a separate full time and part time labour force.

## DISPUTES IN THE CERTIFICATION OF PART TIME WORKERS

The thirty catalogued cases referring to part time employment included 28 separate cases. They covered a range of companies, (for example, MacDonalds restaurants, Children's Aid Society of Sault Ste. Marie, Tradeswood Manor Nursing Home, Sprucedale Lumber, Dominion Glass) and consequently a range of unions (for example, United Steelworkers, United Rubber Workers, C.U.P.E., Service employees, Hotel and Restaurant Employees).

The reasons for the hearings were diverse and included applications for certification of « all employees », certification of part time units, and disputes about the inclusion of part time workers. (See Table 1)

---

[19] See for example *MacDonalds* 1973 O.L.R.B., report May 287.

[20] USARCO, *op. cit.*, p. 526.

[21] *Ibid.*, p. 529.

[22] Wendy WEEKS, *op. cit.*, Chapter 3.

**TABLE I**

**Ontario Labour Relations Board 30 Cases (1969-1974) Related to Part Time Employment**

| *Reasons for Hearing* | Number |
|---|---|
| Application for certification of all employees | 12 |
| Request to exclude part time workers from a previously certified unit of all employees | 6 |
| Request to exclude full time employees | 1 |
| Request for declaration terminating bargaining rights | 1 |
| Applications for separate full time and part time units | 2 |
| Application for certification of full time employees only | 1 |
| Application for part time unit | 4 |
| Application for inclusion of casual employees previously excluded from a part time unit | 1 |
| Group of employees objecting to inclusion in part time unit | 1 |
| Further hearing on dispute repart time unit, originally an application for certification of all employees | 1 |
| | n = 30 |

An examination of the cases of application for certification of all employees (full time and part time) shows that in 10 of the 12 applications the employer requested the exclusion of part time employees; in one case the applicant requested exclusion after the initial hearing when it was disclosed that the Company employed two part timers unknown to the union; and in one case the respondent and applicant agreed with exclusion of part time persons after the initial request for one unit. Although no reason need be given for a request for exclusion of part timers, given the Board's long standing practice of certifying separate units, it appeared that employers sometimes requested this to reduce the present or potential power base of the union. For example, in several cases they did not presently employ part timers or students, but announced that they intended to do so, and in two cases said they had recently advertised for some. In one case the employer attempted to obtain the exclusion of part time physiotherapists from a unit of all physiotherapists on the grounds that there were other part time workers in the hospital, and the part time physios should be classified with them, rather than with full time members of their own profession![23]

In 6 of these 12 cases, the Board ruled the inclusion of part timers and students (that is, they certified a unit of all employees.)

[23] *Niagara Regional Health Unit* 1974 O.L.R.B. report October 694.

Reasons given were that there was presently only one part time employee, or there were none present in spite of declared plans by employer. Part time employees and summer students were excluded in 5 instances, and I remained undecided as the employer requested a judicial review of the certification process.

In an additional 6 instances the employer requested a reconsideration of a previous Board decision to include part time workers in the full time unit. Reasons included the request to have students excluded; a revised listing of employees which included students; and otherwise employers relied on quoting the typical practice of the Board. All 6 were denied on the grounds that employee listings at the time of certification application were those considered and that the Board held to the similar treatment of part time employees and summer students.

Taken together, 16 of the 18 cases show the employer requesting the exclusion of part time workers. In 12 instances the Board disallowed their request. The numbers involved are too smalll to permit generalization, and the numbers of part time workers involved was also very small. However, the reader is left with questions about a policy which enables employers to make such requests, especially when the presence of larger numbers of part time workers in each of the 12 cases would have ensured their exclusion «according to Board practice».

It appears from the reports examined that companies go to considerable efforts to resist the unionisation of employees. One example is a lengthy dispute between the Hotel and Restaurant Employees Union and MacDonalds Restaurant. It involved many hearings, two of which were reported in the sample of 30 reports examined. Four issues were used to limit and block unionisation. The original application was a request for certification of all employees. The employment situation was described as follows in one report:

> The business pattern of MacDonalds is such that it 'fits the availability of people who are students better than any other segment of the working population'. At Windsor the employment situation is typical. Of all MacDonalds operations about 75-80% of the employees are between the ages of sixteen and twenty-one with another group of short term workers who are a little older. These students and part time employees work six to nine months with a turnover of three to four times annually.[24]

[24] *MacDonalds* 1974 O.L.R.B. report October 755.

At the first hearing in March 1973 the Company suggested that all three restaurants in Windsor were the appropriate bargaining unit, rather than the one store filing application. This delayed, with the potential for entirely destroying, the possibility for unionisation. At the same time they had requested separate bargaining units. The Company also attempted to have excluded from a potential unit all the swing managers (who were apparently full time workers). The later result of this was that the union did not have sufficient membership for a full time unit. The claim for a unit for full time workers was therefore dismissed. The Company then attempted to invalidate the original request for certification, however the Board allowed the discussion of a part time employees unit to continue. The Company's response was to request an adjournment to allow a judicial review of the appropriateness of a part time unit. Eighteen months after the first hearing, in October 1974, the Board certified a part time unit at the one store from which application for certification of all employees had been made.

Another case (Weiner Electric Ltd. vs. United Steel-workers) illustrated a Company's efforts to resist unionisation, and also showed how trade-offs of requests and demands occurred. The company president attended the hearing to request adjournment because he had been overseas at the time of application for certification. He also requested the exclusion of part timers. The Board denied his first request as his compnay had taken all the appropriate procedures. The report then stated

> The only controversial point raised in reply was with respect to the bargaining unit and the Board is prepared to resolve that in favour of the proposal made by the respondent. This was a request to exclude from the unit persons regularly employed for not more than 24 hours per week and students.[25]

The reader of the Labour Relations Board reports is left with an impression of a power struggle between unions and management, with the latter attempting to reduce the power base of unions, and retain unregulated working arrangements wherever possible. From the union's point of view, the exclusion of part times from bargaining units of full time workers reduces their power base, as well as limiting the number of workers covered by collective agreement. The unions, however, accept this readily in industries where there are a large number or a majority of part time employees because of the impossibility

[25] *Weiner* O.L.R.B. report February 1225.

of organizing and obtaining support of the required 55% of employees before making application for certification for «all employees» in one unit. The O.L.R.B. policy of certifying separate agreements on request is one which is in danger of colluding in the perpetuation of an unregulated labour force for the convenience of management.

## IMPLICATIONS OF O.L.R.B. PRACTICE FOR PART TIME WORKERS

A number of issues emerge from this examination of Board practice which have significance for the social status of part time workers.

First, the problem of who is defined as a part time worker, and who is included in the «full time worker» category, is one which pervades the discussion of part time work, and plagues the experience of part time workers. As long as full time work remains the norm, part time workers are likely to be forgotten or relegated to marginality, in spite of their increasing numbers.

Theoretically, the absence of an explicit definition of part time workers in labour legislation allows equal treatment with their full time counterparts. In practice, however, working definitions have been established and these vary in different parts of the country, different government policies and different sectors of the labour market. What, then, are the implications of the O.L.R.B.'s practice definition of part time workers as persons «working less than 24 hours a week»? This «rule of thumb» gives the status of «full time worker» to more employees, and broadens the conception of «full time worker», beyond that of the Canadian statistical definition of part time workers as persons «working less than 30 hours a week». It would however presumably be in the interests of part time workers to lower the figure further to half of the typical working week, i.e. 20 hours, and thus increase the number of workers who experience the status and benefits of full time employees. It is relevant here to note, that in spite of repeated submissions by unions to government to have the 40 hour week legislated in Ontario, 48 hours remains in legislation, the maximum work week before overtime must be paid. The effect of a 20-hour definition of part time work is difficult to predict. Many retail establishment operate with a skeleton staff of full time workers and the majority of employees work part time. It is possible that either a greater number of full time positions could be created, or in light of the

unemployment rate, perhaps the number of part time jobs would increase, to reduce the added costs of paying fringe benefits.[26]

Whatever the upper or lower limit of hours used to circumscribe the category of workers defined as «part time workers», it would be useful to have some consistency between the definition used in labour relations, government statistics and other social and labour policies. This would certainly clarify the status of part time workers, even if only to sharpen the knowledge of the second class employment status which they possess at present.

Second, the term «part time workers» includes persons who regularly work shorter than normal hours each week, and those who work on an occasional, or intermittent basis throughout the year. In Canada the vast majority of part time workers are in the second category. This group merges with seasonal labour in that their part time status derives from a part year working arrangement, and may include full days or even full work weeks during *periods* of demand. In the retail trade and some other companies a distinction is made between «regular» part time employees and «occasional» or «call-in» part timers. Bossen (1975), in her recommendations to the Canadian Department of Labour suggested that this distinction be further emphasized.[27] The function of such a suggestion may however be to protect «the cream» of the part time labour force — a minority — and leave the great majority unprotected and their working arrangements unregulated and beyond public scrutiny.

In Board practice the critical distinction for the definition of part time employees is more or less than 24 hours a week, rather than a distinction between regular and intermittent workers. Regular and occasional or intermittent workers are similarly treated. This reinforces the conception of part time workers, regular or casual, as a like group distinct from full time workers. Regular attachment to the labour force, but for varying weekly hours, is not considered a criterion for «community of interest», but «part time work» is seen as the uniting attri-

---

[26] Fringe benefits are an increasing payroll cost for full time workers. See Clayton SINCLAIR, Fringe Benefits gobbling up *31% of* payroll, *Financial Times* 65 (8) July 26, 1976, p. 18. Survey shows 13% cost rise in staff benefits *Globe & Mail* June 3, 1976, p. B34. Employee benefit costs increasing *Globe & Mail*, Oct. 7, 1976, p. 81. New study: fringe benefits headed higher, *Banking* 67: 16 May 1975.

[27] Marianne BOSSEN, *Part time Work in the Canadian Economy*, Canada: Labour, 1975, p. 105.

bute. At least theoretically it implies the possibility of similar protections and working arrangements and conditions for intermittent workers with regular part timers. It could be used to improve the status of casual workers. In fact it is likely that this practice reinforces the conception of part time workers as casual labour.

The second effect of this assumed «community of interest» between regular and occasional part time workers is that it allows the movement of part time workers into full time labour at peak periods, without requiring that they be reclassified as full-time workers, and therefore without changing their seniority and benefit rights.

The third implication for the status of part time workers arises from the Board practice of treating part time workers on the same basis as summer students. As I have already noted, students, by definition are primarily involved in education, not work, and yet a common peripherality in and temporary attachment to the workplace is attributed to students and other part time workers alike, whether or not this is true from the point of view of the workers. While moonlighters, like students, may have a temporary attachment to their place of part time work, this common assumption penalises married women who work part time throughout their adult and productive years, frequently with the same employer. Two thirds of part time workers are women (many of them married), and there is evidence to suggest attachment to the workforce, high productivity and considerable interest in continuing to work part time.[28] The common view that all part time workers are peripheral, marginal and temporary feeds into the experience and treatment of such part timers. It makes it difficult for persons whose family responsibilities make part time work a viable possibility to be treated and remunerated on an equivalent pro rata basis.

Fourth, part time workers are all too readily presumed to be well-suited to the secondary job market — second class status employees in a

---

[28] See for example WEEKS *op. cit.*; Kathie GRAHAM «Part time employment: another alternative to the traditional work week» *Canadian Personnel and Industrial Relations Journal* 8 (1) 35-38 Jan. 74. Carol S. GREENWALD and Judith LISS, «Part time Workers Can Bring Higher Productivity» *Harvard Business Review*, Sept.-Oct. 1973. Robert I. LAZER, «Job sharing as a pattern for permanent part time work» *Conference Board Record*, Oct. 1975, p. 57-61, Part time are more efficient and productive and have less absenteeism and turnover than comparable full time employees, p. 59. Richard J. SCHONBERGER, «Ten Million U.S. Housewives Want to Work» *Labor Law Journal*, June 1970.

split labour force. The Ontario labour relations practice of certifying separate bargaining units encourages the further fragmentation of Canadian unions, and feeds into a bifurcation of the labour force.

The criteria used to determine the supposedly different «community of interest» between part and full time workers are management and work place oriented, and are not based on the social or economic needs of the workers, or the attachment to the work place and commitment to the job. The criteria perpetuate the existence of employees working under different conditions, by specifically referring to the provision or not of fringe benefits as one relevant indicator. This practice appears to support Ralph Miliband's observation that

> Whenever government have felt it incumbent, as they have done more and more, to intervene directly in disputes between employers and wage-earners, the result of their intervention has tended to be disadvantageous to the latter, not the former.[29]

## L'accréditation des employés à temps partiel en Ontario

L'article précédent traite de la condition des salariés à temps partiel en Ontario et de l'attitude de la Commission des relations de travail à leur endroit. Celle-ci considère comme salariés à temps partiel ceux dont la durée habdomadaire de travail est moins de 24 heures et elle les accrédite séparément des salariés à plein temps. Il en résulte que les salariés à temps partiel ne forment qu'une faible minorité de l'ensemble des travailleurs syndiqués. D'une part, cette catégorie de salariés est difficile à syndiquer et elle intéresse peu les syndicats. D'autre part, la tendance des employeurs à conserver de longues listes d'employés embauchés sur appel pour de courtes périodes rend leur situation plus pénible et l'attitude de la Commission de les accréditer séparément entrave leur syndicalisation.

La loi ontarienne ne définit pas ce qu'il faut entendre par travail à temps partiel. La pratique de la Commission de ranger dans cette catégorie les salariés qui travaillent moins de 24 heures est une vieille coutume qui remonte à l'origine même de la Commission. Elle englobe aussi les étudiants qui travaillent pendant les vacances scolaires. Deux motifs principaux ont incité la Commission à adopter une telle attitude: une coutume établie de longue date et surtout la diversité d'intérêts, avec les employés à plein temps, parce que les salariés à temps partiel ont des conditions de travail différentes, notamment en ce qu'ils ne bénéficient généralement pas d'avantages sociaux et qu'ils n'ont pas accès à la permanence et à la sécurité d'emploi. En pratique, on ne tient pas compte de leurs besoins économiques et sociaux, mais de la position qu'ils occupent sur les marchés du travail.

---

[29] Ralph MILIBAND, *The State in Capitalist Society*. London: Weidenfeld and Nicolson, 1972 edition, p. 80.

Les groupes formés d'employés à temps partiel et de salariés temporaires, comme les étudiants, sont très faibles numériquement et ils n'ont guère de pouvoir de négociation. Cette pratique de la Commission ontarienne est exclusive au Canada. Dans les autres provinces, sauf à l'Île du Prince-Édouard, sans qu'il s'agisse d'une norme absolue, on a tendance à regrouper les salariés à temps partiel avec les salariés à temps plein. Il faut noter cependant que le syndicalisme canadien a la réputation de favoriser la fragmentation des unités de négociation et que la pratique d'accréditer distinctement les employés à temps partiel accroît encore davantage la balkanisation. En 1973, le secrétariat ontarien pour le développement social a proposé un réexamen de cette situation, mais il n'y a pas eu de changement.

Il ressort d'ailleurs des décisions analysées que les employeurs voient dans cette pratique un moyen de freiner la syndicalisation de leurs employés et, à ce dernier propos, on cite l'affaire des restaurants MacDonalds à Windsor. La lecture des décisions de la Commission donne l'impression qu'il s'est engagé une lutte entre employeurs et syndicats sur cette question, car, du point de vue syndical, l'exclusion des employés à temps partiel a pour conséquences de les affaiblir économiquement et de réduire, parfois considérablement dans certaines conventions collectives, le nombre des travailleurs régis. De plus, il leur faut, dans nombre de cas, sacrifier ce groupe de salariés pour obtenir la majorité nécessaire pour avoir droit à l'accréditation.

La politique de la Commission ontarienne a de sérieuses implications, surtout en un temps où le pourcentage de la main-d'œuvre formée de salariés à temps partiel ou temporaires va s'accroissant. En effet, il y a au moins un dixième de la main-d'œuvre qui est constitué d'employés à temps partiel. Il s'agit surtout de femmes dont plus d'un cinquième travaillant à temps partiel, c'est-à-dire moins de 30 heures par semaine, alors que, chez les hommes, on retrouve cette catégorie de salariés parmi les étudiants et les travailleurs qui, en raison de leur âge ou de leur état de santé, ont cessé de travailler à temps plein. Il ne faut oublier non plus que les salariés à temps partiel sont concentrés dans le commerce et les services.

Autre point à noter: tant que le travail à temps plein demeurera la norme, les employés à temps partiel seront considérés comme des marginaux dont on fait assez peu de cas. Une chose au moins pourrait être faite: la norme établie pour considérer un travailleur salarié à temps partiel devrait être réduite, de 30 heures comme on le retrouve dans les statistiques et de 24 heures comme le veut la pratique de la Commission de travail de l'Ontario, à vingt heures par semaine. Ce fait ne se justifie-t-il pas par l'abaissement général de la semaine normale de travail?

D'autre part, la Commission ontarienne devrait cesser de considérer comme employés à temps partiel des salariés qui, pendant des périodes plus ou moins longues durant l'année, effectuent une semaine normale de travail. L'utilisation du critère de «la communauté d'intérêts» aurait pour effet de permettre aux salariés à temps partiel qui travaillent à plein temps pendant certaines périodes de l'année d'être compris dans les unités de négociations générales sans qu'il soit nécessaire de les reclasser comme employés à temps plein. Il s'imposerait aussi que l'on distingue entre le salarié à temps partiel, qui peut ainsi travailler pendant plusieurs années pour un employeur, et l'étudiant qui n'est sur le marché du travail que pour un temps limité. Enfin, on éviterait ainsi que des salariés, surtout des femmes, continuent d'être traités comme une main-d'œuvre secondaire et être gravement désavantagés, alors qu'ils sont pleinement engagés dans une entreprise et qu'ils font véritablement partie de la main-d'œuvre du pays.