Historically, two paths have been put forward to reach « Industrial Democracy », i.e. to attain a real democratization of the Economy in order to complete the expanding political democracy. This goal was to be reached through workers’ participation to the regulation of the industry, in one way or another. Industrial Democracy, « Démocratie industrielle », « Wirtschaft Democratie » was seen as indispensable by the founders of Industrial Relations and Modern Labour Law; without a significant level of democratization of the Economy, the plight of the workers would stay the same as it was at the time, utterly subordinated to the absolutism of employers.

Those two paths are collective bargaining and workers councils. They appeared in highly different historical and political contexts. Collective bargaining developed first in England in the 19th century, than spread rapidly to other industrialised countries, such as Germany and the United States. At the beginning of the 20th century, a significant number of the workforce in those three countries was covered by collective agreements. In none of these lands though was collective agreements recognized by the law of the State; but workers disposed nevertheless of powerful, albeit precarious, means to enforce collective agreements, such as strikes and boycotts. Subsequently, collective agreements were recognized by the State, as a sphere of collective autonomy, in a purely voluntarist fashion in England or subject to procedural rules fixed by the State, as in Germany and the United States. Collective bargaining was then seen as the privileged path to Industrial Democracy by such prominent authors as Beatrice and Sydney Webb in England or John R. Commons in the United States. Later, in two variants (the American and the English ones), collective bargaining as the road to Industrial Democracy was theorized, under the name of « Industrial Pluralism », by such eminent authors as Cleggs, Flanders and Otto Kahn-Freund in United Kingdom, or Dunlop and others in the United States.

If collective bargaining was essentially a reformist process, workers councils are borne as a revolutionary tool in the context of acute class struggles. They appeared for the first time in Russia in 1905 and in 1917, as instruments of direct democracy by the workers. As everybody knows, after the October Revolution in 1917, they were soon to be taken over by the Bolshevik Party and ceased to play any significant role. But they did reappeared in another revolutionary context, I mean the German Revolution in 1919. When the workers and soldiers wanted to put an end to the War and the Monarchy, they resorted spontaneously to workers councils, following more or less the Russian example. Soon a coalition of socialist parties (the SPD and USPD) took power, backed by the
numerous workers councils that have flourished here and there. Contrary to Russia, Germany then opted for a Parliamentary democracy, but the workers councils stayed in place as an instrument of industrial democracy at the workplace, complementing collective bargaining which remains the exclusive prerogative of trade-unions. This dual system of workers’ representation was theoretized in a brilliant fashion by Hugo Sinzheimer, one of Europe’s most important labour law theoretician. After the Second World War, workers councils were reinstated in Federal Germany and the dual system of worker’s representation was progressively extended, but not without setbacks and hesitations, to most of Continental Europe, under different names (Arbeitsräte, comités d’entreprise, etc.).

In this paper, we look at the situation of Industrial Democracy in North-America. Following the Wagner Act and under the paradigm of “Industrial pluralism”, collective bargaining (and not work councils) was seen as the only road to a democratization of the Economy. But since the 80’s and principally, but not exclusively, in the United States, there is a swift decline of collective bargaining and union density. For most observers, the positive effects of the Wagner Act model have come to an end: “…since the 1980s it has become clear that this form… of regulation can neither empower workers in the long run nor protect them against job loss in the short run “ (Stone, 2000: 376).

In order though to be able to pose an accurate diagnostic, we have to examine more in details the short-comings of Industrial Pluralism and the Wagner Act model. We may say here that there is a “Québec Problem” to be dealt with, in the sense that although built upon the Wagner Act model, the Québec Industrial Relations system still appears to be quite healthy, with a level of unionization of 40%, the trade-unions staying important actors in everyday life, and collective bargaining far from being about to collapse, despite all the set-backs that the globalization of the economy have produced here has elsewhere in North-America. Mainly from a socio-legal perspective, we will proceed by comparing the Quebec situation with the American one, pointing to such important differences as the accreditation process, the scope of collective bargaining, the right to strike, the public function of grievance arbitrators, the precedence of constitutional fundamental rights and so on. We will argue that, for cultural reasons, Industrial Pluralism has never been a dominant paradigm in Québec, at least from the trade-unions and worker’s standpoint. And we will show further that the Quebec Industrial relations system has incorporated some features of the alternative works councils model. Should this later model be formally implemented in Québec, as a “voie royale” to Industrial Democracy? That’s a question that we will raise in our concluding remarks.