WORKS COUNCILS IN GERMANY

By

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FOREWORD.

Among the social institutions which have arisen since the war in various countries, works councils have aroused especial interest. What, it may be asked, is their object, and to what extent has the institution, as contemplated by the law, been realised in practice?

In January 1921, in its series of Studies and Reports, the International Labour Office published a brief summary of the history, provisions, and practical effects of the German Works Councils Act of 4 February 1920. Shortly afterwards the International Labour Review, published a critical analysis of the same Act. Finally, a few months later, there appeared in the Review an article on the relations between works councils and co-operative societies in Germany.

It may reasonably be contended, however, that the subject is far from being exhausted. The reports published in 1921 could do no more than recall the general movement of thought from which emerged the Act of 1920 and bring into relief the fundamental characteristics of the Act, which had not at the time been law long enough for its effects to be fully appraised. Moreover, an institution such as the works council cannot be conceived as immutable; its proper functions will be determined not so much by the Act as by the experience of daily practice. To judge, therefore, of the nature and importance of the institution, it is impossible to separate consideration of legislative provisions as such from consideration of their application in practice; since it is more than possible that the predominant factors of 1920 may have changed or disappeared, or that new factors may have modified the original elements of the problem.

Now that works councils in Germany have four years of practical experience behind them, it would appear possible, and not without interest,

1 Works Councils in Germany. Studies and Reports, Series B. No. 6, 29 Jan. 1921, 34 pp.
to consider their evolution in detail up to the present time, to determine what exactly are their duties in practice, to draw up a "balance sheet" of their activities and perhaps even, in the light of the experience of the last few years, to discover the part which they may be called upon to play in the future in the social and economic sphere.

Mr. Marcel Berthelot — who in 1922, in collaboration with Mr. Maurice Baumont, published a book entitled *L'Allemagne. Lendemains de guerre et de révolution*, and who is also the author of a work, now in the press, on *Les lois du travail en Allemagne* — was able, during the four and a half years which he spent in the Department of Social Research attached to the French Embassy at Berlin, to make a direct study on the spot of the origin and history of works councils. He undertook the task of following their development and of disentangling their exact functions, and the part which they have played in practice, from the welter of contemporary events. In order to obtain a faithful picture, he went beyond the study of mere legislative texts, and to a considerable extent had recourse to information derived from the press. He also made use of information supplied to him personally by members of trade unions, representatives of political parties and employers' circles. The results of his research are published in the following pages.

The International Labour Office.
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WORKS COUNCILS IN GERMANY

CHAPTER I

Workers' Representation under the Empire and during the Revolution

The German Act of 4 February 1920 provided for the creation of councils of wage-earning and salaried employees in every public or private undertaking employing 20 or more persons. The Act thus brought to fruition a scheme which dated from long before the Revolution; its gradual development may be followed in all the social legislation of the Empire.

Towards the middle of the nineteenth century the workers had begun to group themselves in trade unions for the defence of their corporate interests; but these trade unions were politically suspect and were only tolerated by the Government as economic and industrial associations. They did not constitute a legal method of representation, the decisions of which were respected and the advice of which was listened to by public authorities or employers. From early times there had been a movement in Germany for the direct participation of the worker in the regulation of labour conditions, and for allowing him certain rights of control within the factory. This was when the idea of workers' councils first took shape. In many cases, indeed, their proposed competence was not confined to the factory; the idea grew up of a whole system of workers' representative bodies, a hierarchy of councils for the protection of workers' interests in the districts, in the states, and in the Empire as a whole. Although these schemes were supported with peculiar energy by the Social Democratic Party, they were not its exclusive possession. The Bourgeois, Centre, Democratic, and National Liberal Parties also considered the question closely and the Imperial Government had finally to carry out certain reforms, at the same time promising others.

The Republic thus found a completed system, which it enlarged and adapted to the new social conditions. In acting thus it avoided following the hazardous experiments of the Bolshevists. In Germany the influence
of Moscow has affected only certain constitution-mongers. The legisla-
tion which derives from the Revolution, and in particular the Works
Councils Act, bears no trace of Bolshevist influence; on the contrary, it
is the direct development of progress achieved in preceding years. The
Revolution has at least the merit of having brought quickly to fruition
reforms the execution of which were retarded by the Empire, and of
having entrusted to a democratic Government the task of supervising the
development of these reforms.

In 1869 the Prussian Industrial Code (Gewerbeordnung), which was
ultimately extended to the whole Empire, had granted workers the right
of association. The progress of the trade unions and of social demo-
cracy in general was certainly hampered by the Emergency Acts which
Bismarck caused to be carried in October 1878, and which were not
repealed until twelve years later.

Nevertheless the Socialist deputies in the Reichstag brought up the
question of workers' representation on many occasions. They began to
do so in a vague enough fashion. In 1877 Bebel confined himself to
urging the creation, in several big centres, of chambers of industry
whose work was to consist in "safeguarding the interests of manufac-
turers and of labour, and in forwarding statements and proposals to the
authorities". These local organisations, few in number and lacking
direct contact with the factory, were to be constituted of employers and
workers in equal numbers and would have received purely theoretical
powers. The scheme was completed in 1885, thanks to Auer, who also
respected the principle of joint organisation. To the chambers of labour
(Arbeitskammern) which he proposed to establish in each important locality there were to be added labour offices (Arbeitsämter) in districts with
from 200,000 to 400,000 inhabitants and, at the head of the social hier-
archy, there was to be a Federal Labour Office (Reichsarbeitsamt). The
Reichstag Committee rejected the scheme, which was not even discussed
in plenary session.

During this period of repression, the activities of the workers slack-
ened considerably. The better to escape the supervision of the author-
ities, the workers grouped themselves in small specialised local and auton-
omous associations (lokale Fachvereine), and for the time being drifted
away from the great trade organisations. This local spirit of particu-
larism, against which, after the repeal of the Emergency Acts, the trade
unions conducted an energetic campaign, had nevertheless certain favourable results. It brought the worker into close touch with the factory and showed him how close were the bonds which united his interests with those of production. Moreover, the trade unions were far-seeing enough to take account of this point. When, in 1890, the problem of workers' representation once more became a living issue, the theoretical principles of former days were no longer adequate. It became necessary at once to consider the institution of workers' control in the factories themselves. This was the real origin of works councils.

All kinds of schemes saw the light between 1890 and 1914. The Imperial Edict of 4 February 1890 had promised in vague terms that, "for the furtherance of social peace between employers and workers, the methods of securing the collaboration of representatives who enjoy the confidence of the workers in the regulation of questions of common interest shall be considered". The result of this promise was an amending Act to the Industrial Code (Gewerbeordnungsnovelle, 1891) which obliged employers to post up works regulations (Arbeitsordnung) in their offices. It also provided for the creation of permanent workers' committees (Arbeiterausschüsse) to ensure the enforcement of the regulations. Employers might consult the committees on proposed amendments in the regulations, and might even authorise them to draft new clauses, but there was nothing which compelled employers to comply with the advice received. The Act was careful not to give the workers' committees the character of compulsory institutions: it made them voluntary organisations, and avoided recognising them as the accredited representatives of the proletariat in the factories.

The committees multiplied rapidly, but they had to face the ill-will of

1 According to Section 134 (6), the works regulations had to fix: (1) the time of commencement and cessation of work together with the periods of rest granted to adult workers; (2) the day on which wages are paid, and the method of payment; wages in no case to be paid on Sunday except under special authorisation; (3) the period of notice, together with the reasons for which any worker may be discharged or leave the undertaking without being entitled to receive or compelled to give notice; (4) the amount of any fines inflicted, and the use made of such fines; (5) the use to which stoppages out of wages are put in case of confiscation as the result of the departure of the worker without good reason or previous authorisation.

2 As early as 1848-1849 the Frankfort Parliament had considered a scheme of this nature and had thought of creating workshop committees (Fabrikausschüsse); but the matter went no further.
the employers and the Government, and were often reduced to insignifi-
cance. Reports of factory inspectors showed that, ten years after
their creation, the majority of them had done no useful work, or were
obliged to confine themselves to dealing with certain detailed questions
of social welfare and insurance.

The Government thought that it had gone far enough in the direction
of progress. In 1891 it rejected the new scheme of the Social Demo-
cratic Party concerning chambers of labour, and took little account of the
Erfurt programme, which urged the institution of labour offices in
the districts and in the Reich. Nevertheless, the idea of workers' represen-
tation continued to develop, its advocates became more and more numerous
and before long were also found among the bourgeois parties. At the time
of the foundation of the Christian trade unions in 1894, the Centre de-
puty, Hitzer, urged the foundation of workers' chambers side by side
with chambers of commerce, industry and agriculture, which were legally
recognised bodies representing the employers. He proposed further that
the workers' committees which were created in 1891 should be made
compulsory. On several occasions in 1895 and 1898 he renewed his
attempts, but without success. It was then the turn of the Democrats
who, through the medium of Pachnicke and Bösicke in 1898-1899,
recommended the formation of an Imperial Labour Office composed of
employers and workers. Even the National Liberals, who were the accred-
dited representatives of large-scale industry, were not indifferent to the
question. Their leader, Bassermann, supported a scheme to extend
the competence of the industrial courts (Gewerbegerichte) and attach them
to the chambers of labour, to which workers' delegates were to be ad-
mitted.

After several years of fruitless effort, an important step forward was
taken in the Prussian Mines Act of 14 July 1905. This Act for the first
time, though in a restricted sphere, gave an obligatory character to the
system of workers' representation. It provided that workers' committees
must be elected in all mining undertakings employing more than 100 per-
sons, for the purpose of formulating requests and supervising the obser-
vance of the works regulations and the operation of welfare institutions.
Special delegates, called "safety representatives" (Sicherheitsmänner), also
elected by the workers, were entrusted with periodical inspection of the
mines.

From now on, the working classes had certain effective means at their
disposal for direct intervention in the ordinary life of an undertaking,
but these means were as yet inadequate. In 1905, the “free” Socialist trade unions thought the moment ripe to extend the scope of the discussion. The committees formed in the mines, or in the various industries, had a limited field of action. A whole series of general labour questions remained outside their purview. The forces of labour were dispersed instead of concentrated, and the committees, lacking mutual liaison, frequently became slaves to local feeling, with the consequent danger of internal division and mutual opposition. The trade unions then took up again the former plans of the Social Democratic Party and urged that the work of centralising and co-ordinating labour problems should be entrusted to special chambers. This would have been to legalise the representation of the working class; but they introduced a radical change into all former schemes by abandoning, at the Congress of Cologne, the principle of mixed Labour Chambers representing both Employers and workers \((\text{Arbeitskämmern})\). On the proposal of Otto Hue, they decided to demand the institution of chambers of workers representing the workers only \((\text{Arbeiterkämmern})\) and thus analogous to chambers of commerce or industry on the side of the Employers. Chambers of workers became from now on one of the continual claims of the Social Democratic Party. The trade unions formulated the claim at each of their triennial congresses and the Social Democratic Party supported it with no less energy.

In 1908 the Government determined to prepare a Bill which was far from satisfying the trade unions. In fact, the proposal was for the institution of joint chambers of labour and the limitation of such chambers to industrial undertakings, to the exclusion of agriculture and commerce. For three years the Bill drifted from committee to committee, in turn amended and rejected by the Government and the political parties. It was finally abandoned in 1911, and when the war broke out no fresh attempt had been made. The only legal workers’ representative bodies in existence were to be found in the committees provided for in the Industrial Code of 1891 and in the Mines Act of 1905. The rest was no more than theory.

As the war dragged on, the Imperial Government realised more fully the advantages of conciliating the powerful army of the trade unions. For the purpose of getting intensive work out of the labourer and of hushing the complaints provoked by the insufficiency of food supplies, it was essential to give definite satisfaction to the industrial proletariat. Thus, when on 5 December 1916 the Government mobilised all civil
labour for a supreme effort, and carried the National Auxiliary Service Act (Helfdienstgesetz), it coupled its demands with concessions which were this time favourably received by the trade unions. The workers' committees which, with the exception of the mines committees, were still voluntary, became henceforward obligatory for every industrial undertaking employing more than 50 persons. Salaried employees were granted similar bodies (Angestelltenausschüsse) to defend their special interests. The powers given to the committees by the Industrial Code of 1891 were enlarged and extended, in particular as regards the regulation of wages. An important clause provided for the creation, in the event of disputes, of mixed arbitration boards composed of six members and one chairman. "For the first time", said the semi-official Norddeutsche Allgemeine Zeitung (No. 334, 5 December 1916), "the method of fixing labour conditions, in particular wages, no longer depends entirely on the freewill of the contracting parties. Considerable influence in the actual preparation of labour agreements is given to mixed arbitration boards unconnected with the undertaking in question". Exaggerated as this criticism may have been, it was nevertheless true that the Act conferred valuable privileges on the workers, and it was clear that it strengthened the authority of the committees in associating with them an arbitral jurisdiction.

As the end of the war was not yet in sight, the Government, in its desire to allay the first manifestations of anxiety on the part of the working classes, promised in 1917 to complete the work of 1916 by preparing a Bill on chambers of labour. The great metal workers' strike at Berlin (January 1918) hastened the birth of the scheme, which was tabled by Count Hertling in the Reichstag on 4 May 1914. The Socialists were disappointed. The Bill, needless to say, maintained the principle of mixed chambers of labour; it excluded whole sections of the working classes-agricultural workers, state employees, and salaried employees. Finally, it included the principle of the occupational grouping of workers' delegates, whereas the trade unions had decided in November 1917 to declare in favour of the organisation of chambers of labour on a local basis. The Reichstag Committee took the side of the trade unions and modified the Bill in a sense displeasing to the Government. Discussion of the Bill was adjourned and later the Revolution rendered it superfluous.
One of the results of the war was a rapprochement, which the Government did its best to foster, between the employers’ associations and the trade unions. Thanks to mutual concessions, the social peace of the country had never been endangered. The workers had succeeded in protecting their most pressing material interests and the employers had succeeded in stimulating production. When the Empire fell in the Revolution of 9 November 1918, employers and workers confronted one another not as adversaries differing on every point at issue between them, but rather as fellow workers who had learnt to give and to receive help. Thus the big industries did not wait for the Republican Government to be finally constituted in order to regulate their relations with the proletariat. The representatives of large-scale industry approached the heads of the trade unions directly and, in agreement with them, drew up a charter sanctioning and developing in certain essential points those social reforms which had already been achieved under the Empire. This agreement, known as the Joint Industrial Association (Arbeitsgemeinschaft)\(^1\), was concluded at Berlin on 15 November 1918\(^2\), and was approved by the Revolutionary Government, which published it in the Official Gazette. It is of the first importance, not only as being still the basis of relations between employers and workers, but also because it accepts and defines on behalf of the employers the principle of the workers’ participation in works management\(^3\).

The trade unions agreed to the establishment of joint assemblies for the various districts and for the whole country, to regulate the most im-

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\(^1\) The word Arbeitsgemeinschaft has been very variously rendered into English. Among the translations adopted are joint labour association, joint trade association, joint industrial league, and joint industrial association. The German word may be applied indifferently to the agreement between employers and workers or to the body set up under the agreement. The phrase here adopted is therefore an attempt at interpretation rather than an exact translation. (Ed.)

\(^2\) It was signed on behalf of the employers’ association by Stinnes, Vogler, and Silverberg; on behalf of the workers’ organisations by Legien (“free” trade unions), Stegerwald (Christian unions), and Hartmann (Hirsch-Duncker unions).

\(^3\) In June 1922 the congress of “free” trade unions at Leipzig still pronounced, although by a small majority, in favour of the maintenance of the Joint Industrial Association. At the end of 1923 the offensive conducted by the employers against the 8-hour day aroused in the trade unions certain tendencies in favour of the revision of the Joint Industrial Association. The Democratic Hirsch-Duncker unions went so far as to urge the denunciation of the 1918 agreement.
portant labour questions. This was an apparent renunciation of the resolutions of the Cologne Congress of 1905 which had pronounced against the creation of mixed chambers of labour and in favour of chambers consisting purely of workers. But the experiences of the war had considerably softened the rigidity of theoretical systems. Associations for their mutual interest were formed to a considerable extent between employers and workers, for the preparation of the collective labour agreements which tended more and more to replace individual agreements, to centralise and co-ordinate supply and demand in employment (Tarifgemeinschaften), etc. Co-operation of this nature had existed in practice for some time when the agreement of 15 November gave it formal ratification. The trade unions obtained on the whole more than they gave. They were recognised as the authorised representatives of the proletariat and triumphantly asserted one of the claims which they had most at heart, namely, the principle of collective labour agreements (Tarifvertrag), to which the legislation of the Empire had always avoided alluding. The preparation of labour agreements tended to become the chief work of the new joint associations. Further, an organisation was contemplated for grouping vacancies and applications for employment and following the model of the 1916 Act (Hilfsdienstgesetz), mixed arbitration boards were created to deal with labour disputes. Finally, the workers' committees, which the Act in question had set up in every industrial undertaking employing at least 50 persons, were maintained.

1 The constitution of the Joint Industrial Association provided for: a Managing Committee and a Central Committee of 42 members; the Managing Committee carries out the decisions of the Central Committee, administers the Joint Industrial Association, and appoints its officials; the Central Committee discusses and settles all questions with which the Association deals; local joint associations corresponding to the 14 branches of industry (mining, textiles, metals, transport, building, wood, clothing, paper, leather, glass and pottery, chemicals, oils and fats, foodstuffs, stone and earthenware); Federal joint associations under which the local associations are grouped.

2 A resolution of the Central Association of German Manufacturers (Zentral-Verband deutscher Industriellen), adopted in 1905, stated that "the conclusion of collective agreements is extremely dangerous. . . . Collective agreements are serious obstacles to the technical progress of German industry and to the development of its organisation".

3 The National Auxiliary Service Act had been repealed by the Manifesto of 12 November 1918.
and it became their business to check within the factory the proper observance of collective agreements.

Thus the trade unions and large-scale industry had succeeded in organising by agreement a vast system of workers' representative bodies and joint representative bodies, which the legislation of the Empire had merely outlined. It might well seem to them that they had succeeded in sheltering labour and production from the whirlwinds of revolution, and that the industrial and economic life of the country would quickly resume its normal development.

But scarcely had the twenty-two thrones of Imperial Germany gone down, when the Bolshevists and their disciples endeavoured to adapt the Revolution to the Russian pattern. The workers' and soldiers' councils, which appeared on all sides on the model of soviets, endeavoured to monopolise the economic forces of the country and thus to stultify any form of parliamentary government. These new councils (Räte) had nothing in common with the workers' committees (Ausschüsse) which previous legislation had set up in industrial undertakings. For the disciples of Moscow, the councils were intended to become the organs of the dictatorship of the proletariat, whereas the former committees were no more than a small cog in the economic machine, dependent upon the trade unions and intended merely to facilitate relations between employers and workers. There was a wide gulf between these two conceptions. On the one hand, there was the revolutionary theory, called the Rätesystem, i.e. the immediate concentration of power in the hand of the Räte, as representing the will of the proletariat and proceeding to the immediate execution of socialisation. On the other hand, there was the democratic theory, the progressive evolution of social legislation side by side with the development of political liberty for all classes of the nation. This question of workers' representative bodies, their competence, and their relations with the Government and the trade unions, was the question which, on the very morrow of the Revolution, caused the bitterest internal divisions between the defenders of the new order.

An Executive Committee (Vollzugsrat) was formed at Berlin on 10 November 1918. This Committee united under its general direc-

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1 The right of concluding agreements was still exclusively reserved for the representatives of trade unions and employers' organisations. The trade unions have always attached importance to the maintenance of this distinction.
tion the workers' and soldiers' councils of the capital (Arbeiter und Soldatenräte) and its influence soon extended throughout the country. Composed as it was of advanced revolutionaries and Spartacists, it soon came into conflict with the six People's Commissaries who represented the real executive power\(^1\). The respective functions of the two sets of authorities had been inadequately defined in an agreement of 22 November. Moreover, they never succeeded in reaching any agreement on the rights and duties of the workers' councils. The Majority Socialist members of the Board of People's Commissaries were hostile to any class dictation. They did not dare to come out openly against the Räte, but they took the view that workers' councils were an ephemeral phenomenon in the political life of Germany. The "free" trade unions also looked askance at the sudden appearance of these "Soviets" on German soil, and were apprehensive for their own prestige. They wished to acquire from the outset a preponderant influence over the new works committees (Betriebsausschüsse) which the agreement of 15 November had set up in the factories. The Berlin Trade Union Committee urged immediate elections. It made a great show of asserting that the committees would be reduced to playing a purely economic part and would in no way prejudice the action of the revolutionary councils under the control of the Vollzugsrat. But the Vollzugsrat was not blind to the danger. Its object was to keep for itself complete economic as well as political power, and not to let any fraction of this power be seized from it by the trade unions. Against the Betriebsausschüsse of the trade unions it set the principle of corresponding workers' representative bodies, the Betriebsräte\(^2\), which were to work in the factories under its authority and to maintain direct connection with the Arbeiteräte, though endowed with wider powers.

The Majority Socialists and the trade unions came out openly against the workers' councils during the first congress of the Räte, which was held at Berlin on 16 December 1918. With the object of turning the

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\(^1\) Three Majority Socialists: Ebert, Scheidemann, and Landsberg, and three Independent Socialists: Haase, Dittman, and Emil Barth.

\(^2\) The word Betriebsrat was in the end adopted in legislation as the word for works councils. But the Betriebsräte which were established under the Act of 4 February 1920 have nothing but the name in common with the organisation contemplated by the revolutionary Vollzugsrat. They are the direct descendants of the old Ausschüsse set up under the National Auxiliary Service Act of 1916 and maintained under the Agreement of 15 November 1918 on joint industrial associations.
Revolution into democratic channels by a swift, unexpected stroke, Scheidemann demanded the complete suppression of the councils and the convocation of a Constituent Assembly. Without going as far as this, the greater part of the Majority Socialists urged that the workers' councils should have no more than clearly defined economic powers, and that the control over production which it was proposed to give them should in no way involve hasty measures of socialisation. The Spartacists, on the other hand, circulated the magic catchword "All the power for the Räte", and Däumig and Richard Müller, the chiefs of the Vollzugsrat, had much to say in support of their opinions. Several Independent Socialists, supporting Haase, tried to find a compromise and urged that the absolute dilemma as between the Rätesystem and the parliamentary system should not be insisted upon, but rather that the two conceptions should be united. The Majority Socialists won the day. All legislative and executive functions were taken from the Vollzugsrat and given to the People's Commissaries. The activities of the Vollzugsrat were confined to Berlin and a Central Council (Zentralrat) composed of moderates was appointed. The Central Council made good its authority over all the workers' councils of Germany and was entrusted with the duty of supervising the Government of the People's Commissaries until such time as the Constituent Assembly should meet.

This success encouraged the Government to issue, on 23 December 1918, a Decree officially sanctioning the underlying principles of the Joint Industrial Association and providing for its regular development. The Decree, which was divided into three parts, recognised the legal validity of the collective agreement, fixed the method of organisation of the committees of wage-earning and salaried employees, and the procedure to be adopted by conciliation boards. The committees of wage-earning and salaried employees were extended to include every private or public undertaking comprising at least 20 persons (instead of 50 persons as hitherto). No distinction was henceforth to be made between workers in agriculture, industry and commerce, state employees, etc. The duties of the committees were thus defined:

Together with the employers they will supervise the observance of existing collective agreements. In the event of no collective system existing, they

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1 The Manifesto of 12 November 1918 had already abolished the special legislation regarding agricultural workers. The old laws were replaced by an Agreement on Councils of Peasants and Agricultural Workers, dated 22 November 1918, which was completed by a Provisional Decree on Agricultural Labour, dated 24 January 1919.
will co-operate with the economic organisations of wage-earning and salaried employees concerned, for the regulation of wages and conditions of labour. It will also be their business to encourage proper mutual understanding between wage-earning and salaried employees and their employers. They will have to do their utmost to promote the adoption of preventive measures against accidents and occupational diseases and to co-operate with the factory inspectors in offering suggestions and advice.

When the National Assembly met at Weimar in February 1919 the Government, which had passed entirely into the hands of the Majority Socialists, undertook the task of drawing up, in agreement with the Assembly, the basic principles of a labour constitution. Scheidemann, the President of the Council, could not be suspected of any affection for the revolutionary Räte, and Legien, the leader of the free trade unions, described them as "superfluous". There seemed to be only one obstacle left to prevent the party in power and the trade unions from turning the government of the country into democratic channels and from voting a republican Constitution.

The Decree of 23 December was completed by a series of measures. On 8 February 1919 the Government issued a Decree granting further privileges to miners. Two joint chambers of labour, one for the Ruhr, the other for Upper Silesia, were set up to supervise more strictly the observance of collective agreements and to co-operate in the consideration of laws on socialisation, in the organisation of production, and in the distribution of coal.

It was the policy of the Government to carry through its reforms step by step and not to allow revolutionary propaganda to disturb the deliberations of the National Assembly. It now thought itself strong enough to refuse, in the new Constitution, to recognise even the principle of the Räte. "No member of the Cabinet", said a circular of 25 February 1919, "thinks, or has ever thought, of introducing the system of workers' councils in any form whatever into the Constitution or the administration". But the Spartacists, who since 31 December 1918 had become the Communist Party, continued a desperate struggle for the dictatorship of the proletariat. The Independant Socialists, now also in opposition, urged that the Constitution drawn up by the National Assembly should sanction the principle of workers' councils, and that the principle of equality of rights, as between workers and employers in each industrial undertaking, should be explicitly recognised. The Government was
induced to give way on these two points by a general strike which broke out at Berlin at the end of February.

On 4 March it was agreed that the workers' councils (Arbeiterräte) should be recognised as legal institutions and should appear in the Constitution, that the powers of the joint industrial associations should be extended to cover the control of production, that in every undertaking wage-earning and salaried employees should co-operate with equal rights (Gleichberechtigung) in the regulation of conditions of labour and, finally, that district workers' councils and a Federal Labour Council should be set up. When the first mutterings of revolution were heard at Munich, the Government reiterated its promises. On 5 April it published a draft amendment to Section 34 of the Provisional Federal Constitution; the right of workers to co-operate on an equal footing in the determination of wages and conditions of labour was proclaimed. On 10 April, when Munich was already under the dictatorship of the councils, the Berlin Government added to its concessions the right of the workers to co-operate on an equal footing in the regulation of discharge and engagement.

It had needed several months of acute struggle to secure these official promises. It remained to insert them in the Constitution and to apply them in practice. How, for example, would workers' councils function within a business? Would they be confused with the committees set up under the Decree of 23 December? What did "control of production" and "co-operation on an equal footing with employers" really mean? How would it be possible to build up, on the basis of private undertakings, a complicated system of district councils culminating in the Federal Council?

All these questions were the subject of further general discussion which took place at the second Congress of Workers' Councils at Berlin from 8 to 14 April 1914.

The Communists stated that they attached no value to these theoretical discussions, and therefore the Independent Socialists alone defended the prerogatives of the revolutionary workers' councils. But even within their ranks opinions were divided. Their Party Congress had with great difficulty adopted in March a vague resolution which proclaimed the principle of the dictatorship of the proletariat without breaking openly with the parliamentary system. Kautsky, on the right wing, thought the Räte a provisional organisation which would certainly disappear as soon as the democratic Constitution was adopted. Haase
wavered between theories of revolution and evolution, but Däumig and Richard Müller asserted that the system of workers' councils was incompatible with parliamentary authority. They developed their point of view at some length before the second Congress of Workers' Councils. Two kinds of workers' representative bodies would, they said, act side by side and would monopolise power to the exclusion of the bourgeois classes: the workers' councils properly so called (Arbeiterräte), to which would fall the political duties hitherto entrusted to parliaments, provincial assemblies and municipalities; and the works councils (Betriebsräte), with the more specially economic duties of controlling production in all its stages, of considering measures of socialisation and of supervising their execution.

As against this radical plan, Wissel, the Majority Socialist Minister of Public Economy, brought forward an original theory of "systematic economy" (Planwirtschaft). In his view, the councils should be confined to strictly economic functions and a system should be elaborated to secure fruitful co-operation between the two great productive forces of the nation, capital and labour. In order that the closest possible ties might be established between them, two types of assembly would be set up, one on a regional, the other on an occupational basis. These assemblies would enjoy a certain measure of autonomy and would regulate the complicated mechanism of production and distribution. Some of the assemblies would be composed exclusively of workers or employers, as the case might be; others, on the contrary, would be joint assemblies open to both workers' and employers' representatives. A Federal Labour Council would in the last resort decide on economic questions. In common with all the Majority Socialists, Max Cohen, the President of the Zentralrat, and Kaliski rejected the interference of the councils in political life; but in their view the Wissel scheme unnecessarily complicated the mechanism of the joint industrial association and did not give sufficient authority to the new economic assemblies. They held that the political parliament should be supplemented by an economic parliament, which would be a constitutional second chamber and would legislate side by side with the first chamber without encroaching upon its functions. Below this second parliament and in direct contact with it, regional chambers of labour and local economic councils, including both employers and workers, would supervise the organisation and proper working of production. Within the factory, works councils consisting solely of workers (Betriebsräte) would be instituted under the authority of
the trade unions. To these councils would fall more or less the same duties as those of the workers' committees (Ausschüsse), as defined in the Decree of 23 December 1918.

The Congress accepted the views of Max Cohen and approved the idea of an economic parliament and chambers of labour. But these theoretical discussions did nothing to solve the problem. The disagreement among the Majority socialists was as profound as that among the Independent Socialists. Wissel's "systematic economy" found energetic opponents, and the trade unions viewed with suspicion the creation of an economic parliament which might compete with them. At the Majority Socialist Party Congress at Weimar in June 1919, the question of the Räte and their possible functions was shelved. During this time the trade unions, who foresaw the extent to which the discussions would be dragged out and complicated, worked to strengthen their position. They were anxious to make use of the results so far achieved and to develop them instead of merely speculating about the future. By purely practical methods and without taking any official steps, they succeeded in securing the conclusion of labour agreements which considerably increased the rights of the workers' committees as they had been laid down in the Decree of 23 December 1918. Two agreements of this nature, one for the mining industry, dated 12 March 1919, and the other for the metal-working industry, dated 19 April 1919, constituted precedents which the legislation of the Republic could not avoid taking into account.

The agreement of 12 March 1919 with the miners of central Germany set up works councils which served as direct models for the Act of 1920. The councils were given the right to be informed of all the business of a given undertaking, provided that they took no steps prejudicial to manufacturing secrets. The text of the agreement stated that:

They shall assist the management with their advice and shall supervise in agreement with it the methods for obtaining the best possible output. Three delegates of the works council shall be entitled, if they so desire, except where otherwise provided, to enquire into all the details of the business. The council shall see to the strict execution of all measures concerning mining police and protection against accidents. It must come to an agreement with the management on all questions of wages and salaries, and on labour conditions, within the scope of the law. Special agreements shall be drawn up by the employers' and workers' organisations on the subject of cessation of work and dismissal of staff; the works council shall see to their application.
Similar provisions were contained in an arbitral award given in the Berlin metal-working industry on 19 April 1919 and in "instructions concerning works councils in the mining basin of Rhenish Westphalia", dated 26 May 1919. The decision of 19 April is particularly important, because for the first time it compelled employers to inform the works council of the engagement or discharge of all wage-earning or salaried employees, and because it entitled the councils to make certain complaints. It was now that several Federal States passed special Works Councils Acts, e.g. Anhalt (17 April 1919), Bavaria (22 April and 4 June 1919), and Brunswick (4 August 1919)^1.

The trade union leaders succeeded in getting their policy approved by the Nuremberg Congress on 4 July 1919. The fundamental principle of the policy was the systematic extension of labour agreements. By reserving for themselves the right of concluding such agreements and of entrusting to the works councils the duty of supervising their enforcement, the trade unions made sure of exercising an undisputed authority over the general system of workers' representation. The Congress drew up a detailed code concerning the rights of works councils, their relations with the trade unions and the organisation of district economic councils and of a Federal Economic Council. The Code was a real Constitution in embryo. "In agreement with the trade unions and backed by their authority, the works councils will introduce the principles of democracy into the factory. The basis of this democracy is the collective labour agreement legally sanctioned and with the force of law." Generally speaking, the works councils were to "defend all the rights granted to workers under the collective labour agreement". They were to "co-operate with the employer in all questions of health, accident insurance, engagement and discharge of workers (no discharge may take place without previous consultation with the works council), employment of women, children, and apprentices, hours of labour, wages and piece work, holidays, and the settlement of any disputes which may arise".

During this time the National Assembly at Weimar was considering and discussing the Constitution, which was finally adopted on 11 August 1919. As the Government had had to promise during the previous March to introduce into the Constitution a scheme for workers'

^1 All these Acts were repealed by the Federal Works Councils Act of 4 February 1920.
councils, and as it had guaranteed workers the right to co-operate with employers, Section 34 of the draft Constitution became, after several redrafts, Section 165 of the final Constitution, in the following form:

Wage-earning and salaried employees are called upon, with equal rights in common with the employers, to co-operate in the regulation of wage and labour conditions, as well as in the whole economic development of production.

The organisations on both sides and their agreements are recognised.

For the protection of their social and economic interests, wage-earning and salaried employees are legally represented in the works councils formed in industrial undertakings, as well as in the district workers' councils (Bezirksarbeiterräte) and in a Federal Workers' Council (Reichsarbeiterrat).

The district workers' councils and the Federal Workers' Council meet, for the accomplishment of all economic tasks and for co-operation in the execution of social laws, with the representatives of the employers and other sections of the population concerned, to form district economic councils (Bezirkswirtschaftsräte) and the Federal Economic Council (Reichswirtschaftsrat). These economic councils shall be so constituted as to represent all important groups of occupations in proportion to their economic and social importance.

All Bills of fundamental importance involving social and economic policy shall, before they are actually brought forward, be submitted by the Federal Government to the Federal Economic Council. The latter has the right of proposing such Bills itself. Should the Federal Government not approve of a Bill proposed by the Federal Economic Council, it must nevertheless introduce such Bill into the Reichstag together with a statement of its own views. The Federal Economic Council may submit its proposals to the Reichstag by one of its members.

Powers of control and administration in questions assigned to them may be transferred to the workers' councils and the economic councils.

It is exclusively the business of the Federal Government to regulate the constitution and spheres of action of workers' councils and economic councils, as well as their relation to other self-governing bodies.

Section 130 of the Constitution laid it down that officials should obtain special representation, the precise nature of which was to be defined later. The legislation thus adopted was a compromise between the "systematic economy" of Wissel, the ideas of Max Cohen and the schemes

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1 The Prussian Government had been the first to set up committees of officials in very department with at least 20 members (Decree of 24 March 1919).
of the trade unions. The effect of the Constitution was to establish:

(1) representation for workers alone (Arbeiterräte), divided into works councils (Betriebsarbeiterräte), district councils (Bezirksarbeiterräte), and a Federal Council (Reichsarbiterrat); (2) joint representation (Wirtschaftsräte), including district economic councils (Bezirkswirtschaftsräte) and a Federal Economic Council (Reichswirtschaftsrat).

Of all these methods of representation two alone took shape: among the bodies representative of the workers, the works councils set up under the Act of 4 February 1920 and, among the joint representative bodies, the Federal Economic Council. This latter, however, is at present no more than provisional. The question of its final constitution is at present under discussion, together with the question of joint district economic councils. It would appear that the district workers' councils and the Federal Workers' Council have been overlooked.

Thus the fundamental principles upon which the future Works Councils Act was to be based were laid down. The text of the Constitution and the practical results achieved by the trade unions since the proclamation of the Republic were sufficient to determine their duties and their rights.

(1) The works council was to be in no way a political body, its duties being purely economic.

(2) In the economic sphere, it was not to serve as an instrument of class dictatorship, but merely as a new method put at the disposal of the workers to allow them to defend the rights which were granted to them by legislation and by the Constitution, and to supervise the practical working of labour conditions.

The Works Councils Act, consideration of which was undertaken by the National Assembly immediately after the Constitution was adopted, is thus the first stone of the great social edifice which Germany has planned.
CHAPTER II

The Works Councils Act of 4 February 1920

As early as May 1919 the Government had sketched the main outlines of a preparatory Works Councils Bill. The draft had been submitted to a committee of trade union and employers' representatives, which amended it in many important particulars. Serious differences of opinion soon arose in the committee. The employers had only agreed to co-operate in drafting the Bill with the object of attenuating its severity, whereas the workers desired the triumph of their fundamental claims at least. A combined draft, which did not completely satisfy either party, was published in the official Gazette of 9 August 1919 before being discussed in the National Assembly. The authors of the Bill had avoided giving works councils the least semblance of political power; they had endeavoured carefully to define their economic and social functions. The fundamental idea of the scheme was thus described in Vorwärts of 10 August 1919.

The work of the councils is to substitute a democratic for an autocratic system in the actual administration of business and to replace the uncontrolled decision of the employer by the principle of the co-operation of the workers in all questions concerning them, and thus to prepare a new Labour Constitution. But it is otherwise as regards questions concerned with the economic and technical management of business. In this connection the works council cannot be given equal rights with the employer, but merely a right of supervision and inspection. Direct participation of the workers in the management of a business is not Socialism but Syndicalism. Inspired by this principle, the Bill claims for the works councils the right of co-operation in all questions of a social order, sets up an arbitration board as a final court of appeal, and grants the workers the right of inspection in all purely economic questions.

In accordance with the Socialist view, the scheme provided for a single works council for wage-earning and salaried employees together. The two classes of workers were only to act separately in electing their representatives. The minimum age of the electors, which in the former workers' committees had been 20 years, was lowered to 18 years. Candidates for election had to be at least 20 years of age, and to have been six months in the business or three years in the appropriate union. Members of the council were to hold office for one year, but any dele-
gate might be recalled before the end of this period if the majority of the electors so demanded.

The duties of the works councils were of two kinds: social and economic. The social duties were merely the ordinary development of those entrusted by the Decree of 23 December 1918 to the committees of wage-earning and salaried employees. Workers and employers had an equal right of decision in this sphere. In the event of disputes, an conciliation board gave decisions which might or might not be made compulsory. The chief duty of the works council was to supervise the observance of collective labour agreements or, in default of an agreement, to co-operate in the regulation of labour conditions, such as wage payment, holidays, etc. It secured the right, which had hitherto been reserved for the trade unions, of intervening in strike questions, and in particular of enforcing respect for the principle of the two-thirds majority necessary for the declaration of a strike. Finally, the Bill sanctioned an important right which had been admitted for the first time, in the case of the metal workers' committees, by the arbitral award of 19 April 1919. Henceforth the works council was to be informed of all engagements and discharges. It might if necessary protest and obtain from the conciliation board an award with compulsory force. The only exception was in cases in which the total or partial closing down of the undertaking involved the discharge of staff.

On the other hand, the economic duties of the works councils were confined to the right of inspection, i.e. examination of paybooks, and access to information concerning the conduct of business, on condition that business secrets were not disclosed thereby. Every year the employer had to submit his balance sheet and profit and loss account to the works council. Finally, the works council was to send delegates to the control boards of the various companies. These delegates were to have powers equal to those of the other members, which powers were to be defined in greater detail by a later Act.

The Federal Council (Reichsrat) modified certain sections of the Bill in a sense favourable to the interests of the employers. Among other things, it raised the age of the electorate to 20 years and the age for eligibility to 24 years. Further, it extended the period of office to two years. The employer retained his freedom to engage at his discretion

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1 Schlichtungsausschuß. These bodies discharge functions both of conciliation and arbitration. Their awards have therefore generally been alluded to as “arbitral awards”
wage-earning and salaried employees for particularly responsible positions. Further, certain special clauses were introduced to prevent the divul­
gation of business secrets.

The National Assembly discussed the Bill briefly at its first reading on 21 August and referred it to the Social Committee. The principle of the Act was approved by the Government majority (Majority Socialists, Democrats, and Centre Party), but criticisms of detail arose on all sides. The Independent Socialists complained of the inadequacy of the rights granted to the councils in labour questions, and still more of the quite illusory nature of the rights accorded to them in connection with the supervision of production. The "free" trade unions could not accept the principle of works councils being empowered to intervene in the preparation or conduct of strikes, and wished to preserve absolute authority in this connection. The Democrats claimed for salaried employees representation altogether independent of that of wage earners. They also feared that the practical application of the clauses dealing with engagement and discharge, and with the right of enquiring into the conduct of business, might prove serious obstacles to the efficiency of the business. The Centre Party made similar objections. It also criticised the principle of the possible recall of delegates, before the expiration of their period of office, by a decision of the majority of the electors.

But the most violent opposition did not come from the political parties. It came from industry, agriculture, and commerce, which, although they did not venture to protest against the institution of works councils, thought the rights given to the councils exaggerated and dangerous.

The two great employers' associations, the Federation of German Industries (Reichsverband der deutschen Industrie) and the Federation of Employers' Associations (Vereinigung der deutschen Arbeitgeberverbände), met at Berlin in September. After hearing the criticisms put forward by their chairman, Mr. Sorge, and by Mr. Karl Freidrich von Siemens, they adopted the following resolution:

German industry, which takes its stand upon the principle of joint industrial association, has willingly co-operated in the preparation of a provisional Works Councils Bill. It was hoped that, by this work in common, the duly qualified representatives of employers and workers would find a solution satisfactory to both parties. In view of the fact that the improvements suggested by it have remained practically a dead letter, and in view of the introduction of new and more extreme provisions into the text of the Bill, German industry makes a
unanimous and formal protest against the Bill. The influence which the councils will exercise in the conduct of business, their right of decision in questions of engagement and in connection with the introduction of new methods of work, the power given to the workers to recall at any moment the delegates whom they have elected, the obligation to submit a balance sheet and a profit and loss account to the works council and, finally, the admission of members of the works council to the control board, would appear to involve such dangers to the management, discipline, and output of the undertaking that it is desirable to prevent the Bill from becoming law.

A little later, the Berlin delegates of the Central Association of German Wholesale Commerce (Zentral-Verband des deutschen Grosshandels) passed similar resolutions:

Wholesale commerce fully realises the necessity of collaborating with the organisations of wage-earning and salaried employees, which organisations should receive rights equivalent to those of the employers in all questions concerning the regulation of wages and conditions of labour. It is ready to encourage such co-operation by the establishment of joint industrial associations, and to join with the workers' organisations in settling salary and wage questions by means of collective labour agreements. It agrees that the committees of wage-earning and salaried employees should be transformed into works councils, which will become the instruments through which the trade unions will exercise supervision, will watch over the execution of collective labour agreements, and will be the accredited intermediaries between employers and their staff.

On the other hand, it is practically impossible to agree that the works councils should interfere, with rights equivalent to those of the employer, in the actual conduct of business. Such a course would threaten the business with ruin and would be prejudicial both to the economic life of the country as a whole and to the interests of wage-earning and salaried employees. In particular, the appearance of members of works councils on control boards is an impracticable innovation. Further, it cannot be admitted that the councils should intervene in every individual case of engagement.

The principal committee of the Congress of Industry and Commerce (Industrie und Handelstag), which is the central authority representing the chambers of industry and commerce, considered the question of works councils most carefully and decided in November 1919:

To make a formal protest against the admission of members of works councils to control boards, against the obligation imposed on employers to submit a balance sheet and profit and loss account, and against the danger of divulging business secrets. Nor is it desirable to transfer these rights to trade unions. The right given to works councils to intervene in questions of engagement should be absolutely rejected. It is only possible to grant them a similar right.
in cases of discharge if the discharged worker complains of unfair treatment and appeals to the council for the purpose of obtaining either an amicable settlement of the question with the employer or an award by the conciliation board. Finally, in order to avoid transforming the councils into political bodies, it should be made impossible for the delegates, or for the council as a whole, to be recalled at any moment by their electors.

The Social Committee of the National Assembly met on 23 September, and on 18 December completed its examination of the Works Councils Bill. By this time the original draft had been modified by important amendments introduced by the Centre Party, and, above all, by the Democrats. The principle of a single works council for wage-earning and salaried employees was maintained, but it was specifically laid down that the works council should only be entrusted with the duty of defending the common interests of these two classes of workers, and that, for all questions which specially concerned either class, separate councils of wage earners and of salaried employees should be created. Officials were excluded from the benefits of the Act, but were promised special consideration in a later Act. The employer was not obliged to present himself in person "like a criminal" before the works council, but was authorised to appoint a delegate. The age of the electorate was kept at 18 years as in the original draft, but the age of eligibility was fixed at 24 years as proposed by the Federal Council. The period of office was fixed at one year and the right of the majority of the electors to recall a delegate before the expiration of this period was dropped. The presentation of the balance sheet was only compulsory in large-scale undertakings, where the personal fortune of the employer was neither directly nor exclusively involved. As compensation for this concession, the employer was to be requested to communicate to the workers a quarterly statement of the position of the business. The workers' representatives on control boards were no longer, as in the original draft, to enjoy the same rights as the other members, but were confined to representing the interests and supporting the claims of the workers in questions connected with the organisation of the business. Finally, the right of deciding, on an equal footing with the employer, questions of the engagement of staff, which in the original draft had been granted to works councils, was now subjected to certain restrictions.

These modifications were by no means enough to allay the apprehensions of the employers. At a meeting of the Hanseatic League at Berlin in September 1919, the same criticisms were repeated, just as if the Act
had not been remodelled. All the general objections already put forward against the admission of workers’ representatives to control boards were maintained, and the fear was expressed that any revelation of even the least important business secrets might give rise to the most deplorable abuses. A few days later Dr. Sorge, the chairman of the two chief industrial employers’ associations, expressed the view that the modifications introduced into the Bill by the committee were most objectionable and that the Bill was still in the nature of political propaganda. Mr. von Borsig maintained the doctrine of the absolute authority of the employer within his factory, and a resolution was adopted protesting most strongly against the compulsory communication to the workers of the balance sheets of big businesses, against the admission of workers’ delegates to control boards, and even against the somewhat attenuated right of decision accorded by the Act to works councils in questions of engagement and discharge.

While their attitude on these three questions was not so extreme, the Centre and Democratic Party deputies did their utmost to delete from the Act certain principles which they considered over-bold. Mr. von Payer, the leader of the Democratic section of the National Assembly, stated in Correspondenz, the organ of his party, that the best means of averting the economic crisis was not to be found in giving workers seats on control boards, nor in submitting balance sheets to them. The Reichstag Committee had been right in amending this clause, which was altogether too absolute, by providing for the submission of quarterly statements on the position of the business. Unfortunately the Government had gone too far to be able to think of dropping these two reforms completely. His party had in any case done their best to introduce improvements into the Act.

In the Berliner Tageblatt of 12 December, the deputy Erkelenz, one of the leaders of the Hirsch-Duncker unions, criticised as follows the right, which the Socialist Parties claimed for the workers, of equal decision in matters of engagement:

The Democrats have rejected this right of decision in each individual case, and have proposed that the employer should, in agreement with the works council, draw up a series of general principles (Richtlinien) to serve as a model. The right to debate the question would then only be allowed if these principles were infringed. No one can demand that, under the pretence of granting works councils an equal right of decision in questions of engagement, we should abandon millions of workers to the persecutions of a radical minority.
The Christian Miners' Union had already explained its point of view. It was in favour of a right of decision for the workers, but it was unwilling to make this right absolute or of such a nature as to replace the absolute authority of the employer by the absolute authority of a section of the proletariat. It condemned the principle of the intervention of works councils in each individual case of engagement, on the ground that such a reform might allow Socialist works councils to refuse employment to Christian workers; but it was essential that the Act should provide measures to protect workers against arbitrary dismissal. On the other hand, the Union stated that it unreservedly approved the principle of the admission of workers to control boards, and the principle of the communication of the balance sheet to the workers.

The Centre Party showed itself in many ways more liberal than the Democrats, who were concerned to protect the interests of large-scale commerce. The Party had many supporters among the working classes, and the Christian trade unions exercised a continuous influence on its policy. In Germania of 20 December, the deputy Ehrhart protested in the following terms against the unrelenting attitude of the manufacturers:

It may be true that the workers will not gain greatly by the communication to them of the balance sheet; many experts have already stated that the balance sheets of joint stock companies are not very informative. But it may be asked in what way the obligation to produce a balance sheet will injure the employers. Business secrets are not contained in a balance sheet. Experience will gradually show that the communication to the workers of the balance sheet has not the disastrous influence which avowed reactionaries attribute to it. It is equally impossible to suppose that the admission of one or two workers' representatives to the control board of a business threatens that business with ruin. The workers have just as much interest in the prosperity of a business as many shareholders who, in buying a share, consider nothing but the prospect of a fat dividend.

The report which the Democratic deputy, Gustav Schneider, published on behalf of the Social Committee explained the chief amendments introduced into the text of the Act. The Act was submitted to the National Assembly on 13 January 1920. The amendments introduced into it by the Committee aroused the lively indignation of the Communist and Independent Socialist supporters of the Ratesystem. "We demand", said

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1 Cf. Proceedings of the National Assembly, No. 928.
Richard Muller on behalf of the Vollzugsrat, which was still in existence, “that the works councils should enter into the very smallest details of a business”.

On 7 January the Berlin Trade Union Committee, which was directed by the Socialists of the Left, protested against the new text of the Bill and put forward its claims as follows: “Rights of control and decision, absolutely equivalent to those of the employers, in questions relating to production, and particularly in questions of engagement, wages, transfers of staff, promotion and discharge; also in questions concerning the technical administration of the business, improvements, changes of business method, etc.; right to examine pay-books, balance sheets, and all relevant documents; right of the electors at any moment to recall their delegates on the works councils”.

Nor did the Majority Socialists venture to show themselves satisfied. “It is true”, said Vorwärts of 11 January, “that the Bill is inadequate, but if we refuse to pass the Bill, we shall play into the hands of the conservative parties whose view is that the workers are being given excessive rights of intervention in business matters”. The Majority Socialists were equally apprehensive of playing into the hands of the radicals, who wished to enlarge the powers of the works councils in order to reduce those of the trade unions. Thus Vorwärts found it astonishing that the Berlin Trade Union Committee had claimed for works councils the sole right of fixing wages in agreement with the employer. “It is not their business”, it said, “but that of the trade organisations. Works councils are supervisory bodies and nothing more.” The prerogatives of the unions and the authority of the labour contract could not have been more energetically upheld.

Discussion of the Bill in the National Assembly was begun in tragic circumstances. The Communists and Independent Socialists had decided to arrange a great protest demonstration before the hall of the Reichstag on 13 January. Noske, who was then Minister of National Defence, had given strict instructions that there was to be no disturbance. The police more than carried out his orders and brought machine guns into action. Before there was any danger of disorder, and without any provocation from a perfectly peaceable crowd, 45 workers were killed.

The National Assembly hurried on the discussion. It dealt with the Sections of the Act summarily and adopted them without serious modification. Most of the amendments proposed by the opposition, either by the National German and Popular Parties or by the Independent
Socialists, were rejected, and on 18 January the Bill as a whole was adopted by 213 votes (Centre Party, Democrats and Majority Socialists) to 64.

The main characteristics of the Bill were summarised on 19 January by the Deutsche Allgemeine Zeitung, which was then a semi-official government organ:

The Act is a compromise. The opposition of the Right, as well as the opposition of the extreme Left, has endeavoured to misrepresent this compromise by pretending that it was entirely to the advantage of the opposite party. This is really the proof that it represents an intermediate solution of the question. In any case the Act marks a new era of development in the economic life of the country. It ensures workers the right of collaboration in questions of production, and it is, above all, the first step towards the organisation of collective work and towards co-operation in the development of the economic life of the country by all sections of the population and all occupations concerned.

Schlicke, the Minister of Labour, who defended the Act in Parliament, also recognised that it was a provisional reform susceptible of further perfection and development. "On many points it has been necessary to confine the provisions of the Act to generalities. At the moment everything is in a state of flux, and everything depends upon future economic changes. It may be that the Act will sometimes be proved inadequate, but it does point out the methods of social reorganisation and, as such, is of great value".

The Act of 4 February 1920 is divided into six parts: I. General provisions (Sections 1-14); II. Organisation of works councils (Sections 15-65); III. Duties and powers of works councils (Sections 66-92); IV. Settlement of disputes (Sections 93-94); V. Protective and penal provisions (Sections 95-100); VI. Administrative and temporary provisions (Sections 101-106).

Part I lays down that councils shall be set up in all private or public undertakings employing at least 20 persons (Sections 1 and 9). In similar undertakings which employ at least five persons entitled to vote, of whom three at least must also be eligible, a single delegate (Betriebs­obmann) shall be elected for the undertaking (Section 2). There are special provisions for home workers. On condition that there are at least 20 of them and that they do not themselves employ any worker, they
may in every branch of industry appoint a special works council (Section 12).

In principle, all undertakings, including agricultural and forestry undertakings, come under the Act (Section 4). The only exception is navigation, which is to be dealt with in a later Act (Section 5). In practice, however, quite a number of workers and undertakings are outside the Act of 1920, e.g. state officials (Section 10), who are subject to special legislation which, in accordance with Section 130 of the Constitution, determines the procedure by which they secure representation, and also the powers of their representatives.

Exceptions to the general provisions of Part I are also contained in Sections 62, 67, 73, and 85 of Parts II and III. Section 62 states that "a works council shall not be constituted or, if already existent, shall be dissolved if special difficulties are encountered in respect of its constitution or activities on account of the nature of the undertaking; and, if some other body representative of the employees of the undertaking already exists or may be constituted on the basis of a collective agreement recognised as binding on all concerned, the said representative body shall have the powers and duties of a works council under this Act". Sections 67, 73, and 85 diminish the powers of works councils in all "undertakings which serve political, trade union, military, denominational, scientific, artistic, or other similar purposes". In such cases the councils are to be deprived of the right of assisting the managing body by advice and of co-operating in the introduction of new methods of work. They will not be allowed representation on the control boards of the undertakings in question, nor the right to demand the communication to them of balance sheets and profit and loss accounts. Finally,

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1 Section 4 provides that agricultural and forestry undertakings must, for the purpose of being entitled to a works council, employ permanently at least 10 workers. Gangs of seasonal workers employed temporarily for harvest or fruit gathering have no right to a works council. Section 18 lays down the conditions under which such gangs of seasonal workers will be allowed to put forward their claims. Two special delegates will represent them on existing works councils.

2 A Bill on the representation of officials was passed by the Reichstag at its first reading in May 1922. Since then the Bill has been several times amended and the third reading has been continually adjourned.

3 The Government may, however, authorise officials in certain special cases to elect works councils (Section 13, which is repeated and defined in Section 61). Under Section 61, the Federal Government has allowed postal and railway officials to elect works councils (Decrees of 30 April 1920 and 3 March 1921).
they will not be allowed to make complaints in the event of discharge of
a wage earner or salaried employee, if the dismissal was made for polit­
ic, military, denominational, or similar reasons.

During the discussion on the Act, a long controversy arose on the
question whether there should be a single works council for wage-earning
and salaried employees, or a council divided into two distinct sections,
one for wage earners and the other for salaried employees. But the
Democrats finally succeeded in securing the latter solution of the ques­
tion, despite the opposition of the Socialists, and this solution is en­
shrined in Section 6 of the Act. “In order to protect the special economic
interests of wage-earning and salaried employees in relation to their em­
ployers, councils of wage-earning and salaried employees shall be con­
istituted in every works where both wage earners and salaried employees
are represented on the works councils.”

Part II, which deals with the application of this principle, covers the
organisation of works councils, of councils of wage earners, and of coun­
cils of salaried employees.

The works council must be composed of at least three members when
the number of workers employed does not exceed 49, and of at most
30 members (Section 15). Wage-earning and salaried employees are to
be represented on the council in proportion to their number, unless a
majority of the two groups of workers decides otherwise (Section 17).
Each group will thus appoint its own delegates by direct secret ballot
(Section 18). Nevertheless, wage-earning and salaried employees may
proceed to an election in common if, after a separate and secret vote, a
two-thirds majority is in favour of this procedure (Section 19). The
age of the electorate is fixed at 18 years for workers of both sexes. Candi­
dates for election must have attained the age of 24 years, have been
employed in the undertaking for not less than six months, and have
belonged for not less than three years to the workers' association con­
cerned.

The legal period of office is one year, and members are eligible for re­
election (Section 18). Members carry out their duties without remun­
eration (Section 35) 1. If a member retires, his place is automatically
taken by the next name on the list (Section 40). At the request of the

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1 Section 35 adds that unavoidable loss of working time in this connection shall not
be made a ground for the reduction of wages or salary of members of the works
councils.
employer or of not less than one-fourth of the workers entitled to vote, the district economic council, or, where none exists, the conciliation board, may dissolve the works council on account of gross neglect of its duties (Section 41).

Works councils consisting of less than nine members shall appoint a chairman and vice-chairman (Section 26). Those consisting of nine members or more shall elect a works committee (Betriebsausschuss) of five persons composed of both wage-earning and salaried employees. The works committee shall then elect a chairman and vice-chairman from among its members (Section 27). The chairman shall represent the works council in dealing with the employer and before the conciliation board (Section 28). He also calls all meetings of the works council, draws up the agenda and conducts the proceedings. The employer also has the right to propose a meeting, and attends meetings to which he is invited and meetings called at his request. At such meetings he may take the chair (Section 29). Works councils shall as a rule meet outside working hours, but when it is necessary to hold a meeting during working hours the employer must be given proper notice (Section 30).

In order to allow trade unions to exercise supervision over the works council, Section 31 lays down that one delegate of each of the workers' organisations represented in the undertaking shall have the right to attend meetings in an advisory capacity, provided that one-fourth of the members of the works council demand their attendance. The employer may on his side require that one delegate of each of the economic associations to which he belongs shall be invited to attend, in an advisory capacity, meetings which he has convened, or to which he has been invited. The employer is obliged to supply the necessary premises for the meetings of the works council and to bear the necessary expenses arising out of its proceedings (Section 36).

Sections 46 and 47 provide that the chairman of the works council may on his own authority, and must on the demand of the employer or of not less than one-fourth of the employees entitled to vote, call a general works meeting (Betriebsversammlung). As in the case of meetings of the works council, representatives of the trade unions may attend the works meeting in an advisory capacity. The works meeting is entitled to forward recommendations and proposals to the works council.

When the same proprietor possesses in the same locality, or in neighbouring localities, several undertakings of a similar nature, the works council may decide whether it is desirable to set up either a general
works council (Gesamtbetriebsrat), to act side by side with the councils for individual works, or a common works council (Gemeinsamer Betriebsrat) instead of the several works councils (Sections 50 and 51).

Part III, which relates to the powers and duties of works councils and of councils of wage earners and salaried employees, is of especial importance.

It is essential to note at the outset that the authority of the trade unions is protected by a series of specific clauses which assign collective labour agreements concluded by trade associations a right of priority over decisions of the works councils. Section 8 lays down that "the right of economic associations of wage-earning and salaried employees (trade unions) to represent the interests of their members shall not be affected by the provisions of this Act". It has already been seen with what care the authors of the Act recommended the trade unions to send delegates to works councils or works meetings (Sections 31 and 47) and how, in Section 62, the works council itself disappears as soon as a collective agreement recognised as binding on all concerned has instituted some other form of workers' representation in the undertaking.

Paragraph 5 of Section 66 and paragraph 3 of Section 78, which authorise the works councils and the councils of wage-earning and salaried employees to determine or to amend conditions of labour in agreement with the employer, explicitly state that this right can only be exercised "subject to the terms of existing collective agreements". If there is no collective agreement in existence, the councils are requested to consider with the trade unions what amendments it would be desirable to introduce into wages regulations and other conditions of labour. Paragraph 8 of Section 78 which instructs councils of wage-earning and salaried employees to draw up, in agreement with the employer, general principles for the engagement of staff, restricts the right in question to undertakings where these matters are not regulated by existing collective agreements. In order to avoid confusion, Section 81 repeats that engagements based upon a collective agreement have priority over all other provisions. Finally, Section 85 takes away from councils of wage-earning and salaried employees the right to protest against any individual dismissal which may have been made in accordance with the clauses of a collective agreement. Thus it would be difficult to criticise the Act for not having taken sufficient precautions to protect collective labour agreements from the interference of works councils.

The functions of works councils are partly social and partly economic.
The social functions include the supervision and determination of labour conditions, the settlement of labour disputes, and questions of health and insurance. They differ according as they relate to works councils properly so called (Section 66) or to councils of wage-earning and salaried employees. The economic functions of the councils relate to cooperation in the conduct of business, the submission of balance sheets and profit and loss accounts, and to the admission of members of works councils to control boards.

According to Section 66, works councils must:

(1) Assist the managing body by advice, with a view to the attainment of the best possible output;
(2) Co-operate in the introduction of new methods of work;
(3) Safeguard the undertaking against disturbances, and especially, without prejudice to the rights of industrial associations of wage-earning and salaried employees, appeal to the conciliation board or any other organ of conciliation or arbitration, in the event of disputes between the employer on the one hand and the works council itself or the staff on the other, in any case in which a settlement cannot be arrived at by negotiation;
(4) Supervise the execution of arbitral decisions accepted by both the parties concerned;
(5) Determine or amend, in agreement with the employer, and subject to the terms of existing collective agreements, the conditions of labour which are applicable to all the staff;
(6) Promote a good understanding among the workers themselves and also between the workers and the employer, and safeguard the workers' right of association;
(7) Receive complaints from councils of wage-earning and salaried employees, and endeavour to secure the removal of the causes thereof by negotiation with the employer;
(8) Take action for the prevention of accidents and supervise health conditions;
(9) Participate in the administration of pension funds and workers' dwellings, and in general deal with all questions concerning the welfare of the workers.

According to Section 78, councils of wage-earning and salaried employees must:

(1) See that the legal provisions for the protection of workers, for the
application of existing collective agreements and for the execution of arbitral decisions accepted by the parties concerned, are carried out in the business;

(2) In all cases where there is no collective labour agreement, cooperate in the fixing of wages and other conditions of employment, in particular as regards fixing of piece-work rates, the introduction of new methods of remuneration, the fixing of working hours and, if occasion arise, the extension and reduction of existing hours, regulation of holidays and the settlement of complaints regarding the training and treatment of apprentices;

(3) Come to an agreement with the employer concerning works regulations (Arbeitsordnung) or other service regulations (Dienstvorschriften);

(4) Investigate complaints and endeavour, by negotiations with the employer, to secure removal of the causes thereof;

(5) In case of dispute, appeal to the conciliation board if the works council refuses to appeal:

(6) Take action tending to prevent accidents as regards each particular group of workers, and supervise health conditions;

(7) Endeavour to secure suitable work for persons disabled in the war or by accidents;

(8) In the event of there being no collective agreement, draw up, in agreement with the employer, general principles (Richtlinien) for the engagement of staff;

(9) Intervene, if necessary, in cases of discharge.

The question of engagement and discharge is expressly dealt with in Sections 81-83 and 84-90. The original draft of the Act accorded works councils considerably wider powers in connection with the engagement of wage-earning and salaried employees. The final text leaves the employer free to choose his staff as he pleases. It merely provides that general principles (Richtlinien) should be drawn up in agreement with the workers' representatives, always provided that no previously existing labour agreement is involved. These general principles provide, among other things, that the engagement of a worker must be without reference to his convictions or to his political, military, religious or trade activities. The works council may only protest and ask for a

1 Except in the undertakings, referred to in Section 67, which serve political, denominational, and other similar purposes.
decision of the conciliation board if there has been an infringement of the general principles which govern engagements. In the event of an extension of the business making collective engagements necessary, the employer is bound to inform the works council some time in advance (Section 74).

The powers of intervention of the works council are of considerable effect in cases of individual discharge of a wage earner or salaried employee. A worker is entitled to complain to the council of wage-earning or salaried employees within five days of the notification of discharge. If the council considers that the protest against dismissal is justified, it first enters into negotiations with the employer. If these negotiations fall through, the council or the discharged worker may appeal to the conciliation board. When the board's decision is in favour of the worker, the employer must either re-engage him or pay him compensation, the amount of which is calculated according to the number of years during which he has been employed in the undertaking, and to his family circumstances (Section 87)¹.

There are, however, exceptions in the Act. No protests may be made if the discharge is based upon the clauses of a labour agreement or an arbitration award (Section 85). Moreover, it has been already pointed out that undertakings which serve political, trade union, military, denominational, scientific, artistic or other similar purposes are outside the Act. Finally, in case of collective discharge, the powers given to works councils under the Act are virtually non-existent. In such cases the authority of the employer is so complete as to have caused not unnatural alarm in working-class circles ². The employer is morally obliged to inform works councils as far as possible in advance of the nature and extent of the necessary discharges, and to avoid any unnecessary hardship (Section 74). In such case the works council has not the right to protest which it is allowed in cases of individual discharge (Section 85, paragraph 2).

¹ Section 87 has been modified by an Act of 1923 which provides that, in calculating the indemnity, currency depreciation and the wages being earned at the time of discharge must taken into account.

² With the object of meeting the claims of the workers to some extent, the Government issued, on 8 November 1920, a special Decree intended to prevent the stoppage and closing down of undertakings. This Decree was modified in the interests of the employers by a Decree of 13 October 1923 (See below p. 39).
and other documents required in connection with the carrying out of
labour agreements, in so far as business or trade secrets were not en­
dangered thereby and legal provisions did not forbid such access.

In undertakings employing at least 300 wage earners or 50 salaried
employees, the works council may require the employer to submit to it
every year a balance sheet and a profit and loss account (Section 72).
The obligation to secrecy is repeated almost as the Leitmotiv of the whole
economic chapter of the Act. Small and medium-scale undertakings in
which part of the personal fortune of the proprietor is involved are not
covered by Section 72.

The Government reserves to itself the right of exempting certain estab­
lishments from the obligations imposed under Sections 70 and 72, if
such exemption is necessitated by "important national interests" (Section 73). As a general rule, undertakings serving political, denominational, or other similar purposes (Section 67) are so exempted. Works stewards (Section 92) in small undertakings employing less than 20 persons are not authorised to claim the benefit of the sections in
question.

Parts IV, V, and VI of the Act are considerably less important.

Part IV grants certain powers of arbitration to the future district eco­
nomic councils provided for in the Constitution. All disputes concern­
ing the appointment or proceedings of works councils have to be sub­
mitted to them.

Part V accords special protection to members of works councils, and
provides that they shall not be discharged or transferred, except in the
case of grave misconduct, without the consent of the works council as a
whole. It further prescribes the penalties for employers who hinder
workers in the free exercise of their right to vote, or who refuse to com­
municate or falsify the balance sheets, profit and loss accounts, and
pay-books which they are compelled, under Sections 71 and 72, to sub­
mit to the works councils. It also deals with penalties to be imposed
upon members of works councils who disclose any of the confidential
information given to them by the employer.

Part VI repeals certain previous legislation, and in particular the
second part of the Decree of 23 December 1918 on the establishment
and powers of committees of wage-earning and salaried employees
The economic powers which, in the early days of the Revolution, it had been desired should be entrusted to works councils had been progressively diminished. There was no longer any question of making works councils the nucleus of a system of socialisation, nor of granting them a right of absolute control over the administration of business and over production. The Democratic and Centre Parties had succeeded in securing the adoption of Section 69, which formally forbade the works council "to interfere with the management of the works by issuing orders on its own initiative". It was true that Sections 70-73 gave the workers certain new powers, but they also defined the limits of the economic activity of works councils and prohibited them from acting prejudicially to the essential privileges of the employers.

One of the most important reforms was that which provided that, in undertakings where a control board existed, one or two members of the works council should represent the interests of the workers before the control board (Section 70). These workers' delegates had the right to attend and to vote at all meetings of the control board, but were to receive no remuneration other than repayment of out-of-pocket expenses. The bourgeois parties had succeeded in securing that the workers' delegates should be bound to preserve secrecy in respect of confidential matters communicated to them, and the Act of 1920 reserved for a future Act the work of regulating in detail relations between works councils and control boards.

According to Section 71, either the works committee of five members provided for in Section 27, or the works council itself was to be entitled, in any undertaking serving an economic purpose\(^1\) to ask the employer for information on all matters affecting labour agreements or the activities of the workers, and of demanding access to pay-books and to all documents required in connection with the carrying out of existing agreements. Further, the employer was to make a quarterly report on the position and progress of the undertaking, on the output of the works, and in particular on anticipated requirements in respect of labour. All these concessions were the more restricted in that the drafting of the Act was extremely vague. Under this Section also, the members of works councils were bound not to reveal any of the information communicated to them by the employer. They might only demand access to pay-books...

\(^1\) That is to say, any undertakings not covered by Section 67, i.e. which serve no political, religious, or other similar purpose.
The Works Councils Act was completed by a series of legislative measures which together constitute a whole:

(1) Decree of 12 February 1920 concerning the engagement and discharge of wage-earning and salaried employees during the period of economic demobilisation.

(2) Decree of 8 November 1920 to prevent the stoppage or closing down of factories.

(3) Act of 5 February 1921, in execution of Section 72 of the Act of 4 February 1920, concerning the obligation to submit balance sheets and profit and loss accounts.

(4) Act of 15 February 1922, foreshadowed in Section 70 of the Act of 4 February 1920, on the admission of the members of works councils to the control boards of companies.

(5) Decree of 13 October 1923, amending the Decree of 8 November 1920 mentioned above.

The Decree of 12 February 1920 does no more than bring up to date a decree of 3 December 1919 regulating the conditions under which ex-combatants, prisoners of war, or civil internees may be re-engaged or discharged by their employers. It also contains certain important provisions on the subject of collective discharges. The employer is not entitled to reduce his staff suddenly, nor until he has furnished proof that he is unable to keep them all, nor before he has proceeded, if necessary, to a reduction of hours of work. In the event of collective discharge, special privileges are granted to aged workers or to workers with a family dependent upon them. This class of worker may not be discharged except in the last resort. Any worker is authorised to appeal to the conciliation board for the purpose of securing the enforcement of the Decree, in the case either of re-engagement or of discharge.

The Decree of 8 November 1920 lays down the procedure to be followed by the employer and the time limits which he must observe (4 or 6 weeks) before being authorised to close down his undertaking partially or wholly. The works councils must enquire, in conjunction with the competent official authorities, into the management of the business and, in conjunction with properly qualified experts, into the reasons for the stoppage or closing down of the factory. The final decision is reserved for the official authority; in practice, for the demobilisation commissioner.

The Act of 5 February 1921 is not as definite as might have been hoped in working-class circles. It does not define exactly the meaning
and scope of the word "balance sheet"; hence there has been some con­fusion in the execution of the Act. The Act merely says that a balance
sheet must be drawn up "in such a way that when examined alone,
independently of other sources of information, it provides an abstract of
the financial position of the undertaking. Any property of the employer
not devoted to the purposes of the undertaking shall not be taken into
account for this purpose". This vague text does not specify whether
supervision should extend, as the workers claim, to all the details of the
financial administration of the business, and it is capable of giving rise
to disputes. Further, the Act is no more explicit on the question whether
or no the audit of the balance sheet involves a complete enquiry into the
current economic administration of the business, whether for example,
the works council should be periodically informed of the purchase, qua­

lity, and the use made of stocks of goods and raw materials. It seems
rather to leave a certain discretion to the employer, since it states that
he is not bound to supply the documents upon which the balance sheet
or the profit and loss account is based. He may confine himself to
giving certain general information which does not allow the actual cir­
cumstances of the undertaking to be precisely known. On their side,
the workers point out that Section 71 of the Act of 4 February 1920
authorised works councils to demand essential documents, such as
pay-books. As drafted, the Act of 5 February 1921 is a fruitful field for
discussion; it has contributed practically nothing to the elucidation of
certain obscure Sections of the Works Councils Act.

The Act of 15 February 1922 lays down the procedure for the elec­tion of those members of works councils who are sent as delegates to the
control boards. It enumerates the companies to which Section 70 of the
Works Councils Act applies, i.e. joint stock companies, limited partner­
ships with share capital, companies with limited capital, and co-operative
societies. The Act of 1920 contained enough exceptions (Sections 67,
73 and 92) for it to be thought needless to repeat them in the text of
the new Act.

These supplementary Acts are, like the Works Councils Act itself, in
the nature of a compromise between the claims of the workers and the
interests of the employers.

When, in 1923, the occupation of the Ruhr occasioned a serious
unemployment crisis throughout Germany, the trade unions took steps
to see that workers were not harshly dismissed by employers who
were anxious to close down their factories. In August, the General Feder-
ation of "free" trade unions urged the Federal Government to enforce the Decree of 8 November 1920, and demanded that works councils should receive exact information on contemplated stoppages in the factories. It was at this moment that the employers, strong in the influence which they exercised over the political and economic life of the country, hoped to secure the revision of much of the existing social legislation, among other measures, of those relating to the 8-hour day. The Decree of 8 November 1920 was amended, but not on the lines which the trade unions wished. On 13 October 1923 the Stresemann Government, exercising the emergency powers conferred upon it by the Reichstag, published a new Decree annulling certain provisions of preceding Decrees. The employer was allowed to proceed on his own initiative to such discharges as were rendered necessary by the economic circumstances of his business, provided that the number of workers discharged did not exceed a specified percentage. Otherwise he was obliged to give previous notification to the demobilisation commissioner; but the commissioner had himself the right of deciding that, during the 4 weeks' period of notice preceding the complete or partial closing down of the factory, certain workers might be discharged. Like that of 8 November 1920, the Decree only applied to undertakings employing more than 20 persons. It gave the employer a freedom of action which he had not hitherto enjoyed, which freedom correspondingly restricted the rights of the works council.
CHAPTER III

Evolution of Works Councils since 1920

After its adoption the Works Councils Act continued to be the subject of violent criticism. It satisfied no one. Difficulties, arising from the side both of the workers and of the employers, threatened to hinder its enforcement. The Socialists of the Left and the Communists denounced its inadequacy and demanded the integral redemption of the promises made to the proletariat in November 1918. Even the principle of an agreement between employers and the working classes seemed to them inadmissible, and they threw all their energies into a renewal of the campaign in favour of revolutionary councils.

At the same time a bitter struggle began in the Socialist camp; but the question at issue was no longer, as it had been before the adoption of the Act, a theoretical discussion on the duties and powers of works councils. This became a secondary question, the final settlement of which was reserved. At the moment the problem which bulked largest was the practical organisation of the new representative bodies and their relations with the trade unions. Were these representative bodies to be considered as a kind of offshoot of the trade unions, the orders and internal discipline of which they were bound to observe; or were they to be freed from any such tutelage and installed in the factories as the advance guards of the revolutionary proletariat?

The Communists attacked the trade unions, charging them with having endeavoured to deprive works councils of all real authority, in order the more easily to subject them to their own domination, and to turn them into docile instruments of conciliation between employers and workers. The trade unions replied energetically to this attack, seeing their rights and their authority directly threatened by it. Little by little, they succeeded in grouping the works councils under their own vigilant supervision. They endeavoured to instruct the councils and to give them a sound social education which would enable them to put the Act into practice and to obtain every possible advantage from it. This work of education is far from being finished at the present day. The everlasting criticisms of the extreme Left have made it a slow and difficult process.
The trade unions have had to expend much time and energy in breaking up the assaults of their opponents. Nevertheless, the progress achieved is beyond all doubt. Optimists go so far as to state that victory is even now with the moderates, but at any moment the struggle is liable to break out again. Internal troubles, economic difficulties, and the resultant strikes are industriously exploited by the Communists in order to imbue the work councils with the revolutionary spirit which the trade unions are accused of having attempted to extinguish.

The internal dissensions which had divided Socialist circles ever since the Revolution came to an abrupt end when the Kapp coup d'état of 13 March 1920 threatened the German Republic with the danger of a monarchist restoration. Communists and Socialists forgot their quarrels and fell into line behind the General Federation of Trade Unions and its energetic leader, Karl Legieu. When, after the failure of the conspiracy, the lawful Government regained power, the trade unions, strong in the influence which they had exercised during the Revolution, presented to it a programme of eight points, the execution of which they urgently demanded. For the first time in the history of Germany they became a great political power side by side with the Government. Among their principal claims was the extension of the rights of works councils.

Unity among the working classes did not last, however. The Communists were anxious to exploit the spirit of indignation which had roused the people against the monarchist adventurers. They thought that the moment for the social revolution had come and stimulated disorders in the Ruhr, which were severely repressed. Mortified by this failure, they turned against the trade unions, which they accused of having allowed the Government to jettison the March programme. They claimed for themselves the right of organising works councils, and in this claim found support from the more advanced Independent Socialists, Däumig and Richard Müller, who had in 1918-1919 advocated the system of revolutionary works councils.

There was established at Berlin a central committee of works councils (Betriebsrätezentrale) which aimed at withdrawing the works councils from the control of the trade unions and grouping them under its own aegis. The object was to circumvent the provisions of the 1920 Act and restore to the councils the political functions which the National Assembly had denied them. The central committee was to be the executive and
propaganda organisation formed by the union of these "revolutionary nuclei". Däumig and Richard Müller declared that in acting thus they were abiding by the principles adopted by the Independent Socialist Conference of Leipzig in December 1919. The central committee drew up a scheme, the preamble of which explained that much might be gained from a study of the technical provisions of the counter-revolutionary Act of 1920, and that it was desirable to group all works councils by branches of industry according to the system of revolutionary councils. The trade unions were to be mere accessories in this autonomous organisation, in which, for propaganda purposes, all works councils were to be united without distinction of politics.

The General Federation of Trade Unions had no intention of allowing the works councils to escape its control. A compromise proposed by the Berlin Trade Union Committee, of which the Independent Socialist Rusch was then chairman, was adjudged unsatisfactory. The Federation wished to adapt the works councils as nearly as possible to the main lines of trade union organisation. It therefore approached the Federation of Unions of Salaried Employees ("Afa"), at the head of which was the Independent Socialist Aufhäuser, and on 20 May 1920 concluded a "cartel" with it. This agreement affirmed the community of interests between wage earners and salaried employees whom, ever since the discussion of the Act of 4 February, the bourgeois parties had always tried to set one against the other. It was agreed that the trade unions and the "Afa" should join in setting up a central works councils committee, the headquarters of which should be in the building occupied by the Federation at Berlin. In the same way, the local trade union committees (Ortsausschüsse) and the local "cartels" of the "Afa" (Ortskarte) were to set up amongst themselves a common centre of local works councils.

Chief among the reproaches levelled at the trade unions by the Communists and by the disciples of Däumig was that they preserved the form of craft organisation which the Communists considered obsolete, and for which they wished to substitute classification of workers by industry. To escape this reproach, which was not without justification,

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1 The wording of the Leipzig programme was as follows: "The Independent Socialist Party takes its stand on the system of councils (Rätesystem). It supports all attempts to develop the organisation of the councils, to make them instruments of the class struggle even before political power is achieved, and to educate them for Socialism and the dictatorship of the proletariat."
the Federation resolved to group works councils not by craft, but by industry. This had the additional advantage of being the system on which the "Afa" was organised. In this way the Communists were deprived of an important argument.

On 5 July 1920 the trade unions and the "Afa" called a conference to deal with the practical application of the agreement of 20 May. A detailed programme was drawn up and published. It provided for the classification of works councils in fifteen industrial groups, and contained a whole series of practical details concerning this classification. It was completed by a "plan of action" in the following terms:

The first duty of the works councils is: (1) to acquire complete knowledge of all manufacturing processes and of the distribution of manufactured products; (2) to organise the conduct of business on a uniform plan; (3) to settle problems of social or occupational interest; (4) to promote the economic education of their members.

To attain these objects local works councils headquarters must:

(a) centralise all information concerning the various industries;

(b) supervise balance-sheets and financial reports;

(c) obtain an explanation or a general statement of the position in all the various branches of industry;

(d) communicate the information thus received to the works councils;

(e) by means of special lectures, carry on the education of the members of works councils;

(f) distribute newspapers and special periodicals published for the benefit of members of works councils;

(g) appoint special committees to deal with social and economic problems and with possible labour disputes;

(h) submit all questions to the general assembly; decide upon measures to be adopted, and carry them out;

(i) lay down the general principles of working-class policy in respect of wages and other labour conditions, taking account of the existing situation of industry and keeping in close touch with the trade union leaders.

Independent action on the part of works councils or trade unions cannot but be harmful. Nothing but the closest co-operation will assure ultimate success. The power of the working classes will be the more irresistible, the greater the number of workers who are able to understand the capitalist system; and the deeper the technical knowledge which workers possess, the better will they be able to discuss such questions with employers on an equal footing.
From now onwards the works councils again became part of the general trade union system. This was the final confirmation of the principles laid down a year earlier by the Nuremberg Congress.

The first general congress of German works councils affiliated to the "free" trade unions and the "Afa" was convened at Berlin on 5 October 1920; 1,500 delegates were present. The congress heard statements by Wissel and Hilferding on the economic situation of Germany and on socialisation, and then dealt with the special question of the duties of the councils and their relations with the trade unions. One of the chief incidents of the discussion was the opposition between Dissmann, the Independent Socialist leader of the Metal Workers' Union, and Brandler, the chairman of the Communist Party. The Metal Workers' Union had for long been known for its innovating tendencies. Following the example of the Communists, it had demanded the reorganisation of the trade unions on an industrial instead of a craft basis. It was therefore the more striking that its leader should have been put into the position of defending the authority of the trade unions, which was threatened by the Communists, and of maintaining the rights of the unions as against those of the works councils.

There was general agreement that the powers given to the councils by the Act of 4 February 1920 were insufficient and must be extended. It was recalled that the "Afa" had recently published a draft amendment which went over in turn the main clauses of the Act and modified them. In particular, the Congress urged that the rights of the councils should be extended in questions of engagement and discharge. "It is a fundamental principle", explained Dissmann, "that the councils must in both cases exercise an active and direct influence. If the Act does not state this explicitly, the same result must be obtained by means of the labour agreement". The congress adopted a resolution which required the trade unions to prepare a draft amendment giving the councils equal rights of decision with the employer in all questions concerning engagement of staff and the total or partial stoppage of undertakings.

The discussion became much more important when it came to deal with the relations between the trade unions and the works councils. Dissmann clearly defined the duties of the councils, the business of which was, in his view, not to issue revolutionary manifestoes, but to defend the interests of the workers in the details of their daily labour. "The activity of these councils is confined to reforming the economic system. Political works councils cannot be thought of until the prole-
tarìat has secured political power... The councils can only carry out their duties in close agreement with the trade unions, and it is essential to protect this alliance against the Communist attempts to dissolve it". Hilferding too showed that the internal discipline of the trade unions was the real bond which connected works councils with the general economic life of the country. "If the councils waste their energy in unprofitable selfishness, they will lose sight of the collective interests of the working classes, and will think only of satisfying their more immediate needs".

On the other hand, Brandler put forward the theory of the autonomy of works councils and directed against the ideas of his opponents the criticisms which Losovsky, the delegate of the Russian trade unions, had levelled at the "counter-revolutionary International of Amsterdam".

The congress supported Dissmann by a three-quarters majority, and adopted a motion stating that "Works councils must rely upon the trade unions, which look at the struggle between capital and labour from the economic point of view, and must take their place in the general trade union system... The local grouping of works councils and the establishment of a central committee of works councils for the whole country should be carried out on the lines already laid down by the General Federation of Trade Unions and by the 'Afa'".

The victory of the trade unions could not have been more complete. There was satisfaction even in the bourgeois liberal camp. Commenting on the decision, the Berliner Tageblatt said: "The labour movement is definitely turning towards practical political economy. The danger of anarchist Syndicalism which seemed, up to a point, inherent in the works council system, will certainly be overcome by the powerful alliance between the works councils and the trade unions".

In point of fact, the opposition of the Däumig group and the Communists was gradually waning. The Berlin Trade Union Committee, which had often shown a tendency to act irresponsibly, stated that it accepted the decisions of the Works Councils Congress. A council of Berlin workers which the Communists had set up in the summer of 1920, at a time when the Soviet armies were invading Poland and approaching Warsaw, disappeared without leaving a trace. Even the Rote Fahne, the organ of the Communist Party, admitted that revolutionary propaganda had received a check. The authors of the dissentient Central Committee of Works Councils, Däumig; Richard Müller; Marzahn,
and Wegmann, left the Independent Socialist Party in October 1920, after the Halle Congress, and joined the Communists.

But this re-grouping of the forces of the extreme Left was of no avail; for almost at once the very existence of the Communist Party was threatened by a serious crisis. All through the winter of 1920 Bolshevist agitators were at work, and organised for the spring revolutionary action on a large scale which was to break at once the trade unions and the Republican Government. Despite the warnings of the more moderate Communist leaders, Paul Levi amongst others, strikes followed by riots, arson, and pillage broke out in the industrial district of central Germany. The districts of Halle and Plauen were devastated by the bands of Max Hölz, of whom, after his arrest, the Bolshevists made a hero, in the fashion of Bela Kun. The regular works councils were pulled down and replaced by hurriedly improvised "committees of action", which seized control of the factories. The intervention of government troops prevented the movement from spreading, and order was re-established. Thus to the moral defeat sustained by the Communists in October 1920 at the Works Councils Congress there was now added defeat in the field. All those who deprecated the use of violence, among them Paul Levi, Däumig, and Malzahn, withdrew one after another from the Party and abandoned it to the most alarming anarchy.

The trade unions profited by the lull to secure the results of their victory in the works councils, and proceeded to apply the measures adopted the previous year. The Majority Socialist Party in its turn gave its sanction, in the Goerlitz Programme of September 1921, to the trade union principles relative to the economic development of the system of councils, and to the transformation of the councils into bodies representing the social and economic interests of wage earners, salaried employees, and officials. As Friedrich Stampfer, one of the party leaders, said: "Works councils should be analogous to the former workers' committees, but should be endowed with wider powers".¹

It was not until the beginning of the winter of 1921-1922 that the Communist Party was able to take up its campaign again with any success. Tactics of revolutionary disorder had not been approved by the mass of the people. The Communists therefore adopted a new method, which was certainly more effective than the former one, and gained them new followers. They carried the fight into the chosen territory of the

¹ *Das Goerlitzer Programm*, Berlin, 1921.
enemy, that is to say, into the economic field. They were experts in exploiting the difficulties of life and the general discontent caused by the rise in the cost of living, and they no longer conducted a campaign “for the Revolution and the enfranchisement of the proletariat” but for “cheap bread”. This watchword met with considerably greater success than those hitherto employed. Thanks to the high cost of living and to the economic crisis through which Germany passed in the winter of 1921-1922, and which became worse in 1923, Communist propaganda was able to take root afresh and to develop.

It was at this moment that a new era began in the history of the relations between the Communists and the trade unions and Socialist Parties. The object of the struggle was the same. Now, as before, it was the withdrawal of works councils from the influence of the trade unions, and their transformation into revolutionary instruments of the class war. But the tactics had changed. In favour of the Communists were their obstinacy and the easy success with the people of such magic catch-words as “bread and freedom” — “down with the speculators”. The trade unions, on the other hand, might justifiably count on the orderly spirit of the German working class, which is at bottom hostile to all rash experiments. This was certainly one of the factors which allowed the trade unions to contemplate the future with confidence, despite the formidable difficulties which they had sometimes to overcome.

The Communists had formerly flattered themselves that they could convert the works councils, without political distinction, to the idea of an autonomous organisation independent of the trade unions. But there was no response to their appeal, either from the Christian workers or from the Democrats. They therefore abandoned their former plan. From now on their activities were concentrated on Socialist working-class circles, which they endeavoured to gain over to the Communist cause. The beginning of the winter was a propitious period for a campaign based upon the distress of the population. As early as October 1921, signs of strikes and revolutionary troubles could be seen. Shops were pillaged in Berlin and in other large towns. The Rote Fahne endeavoured to mobilise the proletariat and incited it “to undertake isolated action”, the execution of which was entrusted to the works councils. At the same time, it issued its new scheme for convening a new general congress of German works councils. Since then the Communist Party has unceasingly supported this claim, which it considers necessary to the success of its propaganda.
The rapidity of the attack took the General Federation of Trade Unions and the "Afa" by surprise. By an unexpected stroke, the Berlin Communists succeeded in inducing the works councils of the capital to adopt a motion calling for the immediate convocation of a congress. Faced with the necessity of pronouncing for or against the proposal, the trade unions and the "Afa" declared the action of the Berlin Communists to be illegal, and refused to recognise a committee of six members nominated by them to prepare the ground for a works councils congress.

Throughout the winter strike succeeded strike. The works councils were invited to take up on their own initiative the campaign against the high cost of living and the general distress. "We must show the trade unions and the political parties", said Rote Fahne, on 20 December 1921, "that the working classes have the will to act". This "will to act" showed itself, among other ways, in a railway strike which for some time paralysed the country, in a strike of municipal wage-earning and salaried employees in Berlin, etc. A small group of railwaymen, led by the extremists, succeeded in completely holding up the movement of trains, despite the moderate counsels of the General Federation of Trade Unions and the "Afa", and encouraged the works councils to substitute their own authority for that of the trade unions.

At this point, with a view to giving the works councils an undisguisedly revolutionary character, the Communists had the idea of duplicating them by "committees of action" (Aktionsausschüsse), or "local control committees", specially created to conduct a campaign against speculation, to verify the price of foodstuffs and, in effect, to supervise consumption and prepare for the eventual control of production by the proletariat. The idea of these institutions was borrowed from the programme of the Communist Workers Party, the ultra-revolutionary party, now no longer under the control of Moscow, for whom works councils were merely a paltry bureaucratic organisation without any real social importance. Only the committee of action, which looked beyond the factory and was in close contact with the material problems of life, could break the chains of the working classes in a fury of revolt. The Communists were less radical, and were unwilling to neglect the works councils, since from

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1 The Communist Workers Party, which was on the Extreme Left of the movement, never had more than a few adherents. It was chiefly recruited in Berlin, Hamburg, and certain great industrial centres. It was for some time supported by the Third International, but it broke with it violently in July 1921.
them they expected favourable results for their propaganda. But they put the committees of action side by side with them, and the part played by these committees grew in proportion as the difficulties of economic life increased.

The serious political crisis which followed the murder of Rathenau (24 June 1922), the disturbances following on the collapse of the mark and the appalling rise in the cost of living at the beginning of the winter 1922-1923 all helped to encourage the development of Communist theories. The General Federation of Trade Unions had, as early as August, forwarded to the Government a detailed plan of action for the campaign against speculation. The leaders of the Communist Party thought this plan inadequate and published in the Rote Fahne of 26 August a counter-programme, the execution of which was to be entrusted to the works councils and their auxiliary bodies, the committees of action. The Communist programme demanded the seizure by the state of all food-stuffs, clothing, boots and shoes, etc. and their distribution through the medium of the controlling organisations of the working classes; the fixing of maximum prices and the control of prices by working-class organisations; state monopoly of imports and exports; state monopoly of exchange transactions; state seizure of gold-value securities; suppression of indirect taxation; abolition of the secrecy of banking; effective participation of works councils in all branches of a business; socialisation of industry, raw materials, and landed property. This policy was neither more nor less than the old dictatorship of works councils, stripped of its purely political character and submitted in the guise of an economic policy.

The centre of the Communist offensive was Berlin. A committee of fifteen members came into being and decided, on its own authority, to convene a plenary meeting of the Berlin works councils to consider what steps could be taken in the campaign against the high cost of living "more effective than those hitherto taken by the trade unions". This meeting took place on 30 August. At it were made speeches which were virtual declarations of war on the trade unions. "The trade unions", cried Rote Fahne, "are not doing their duty. They are not carrying on a truceless war with capitalism and speculation. The works councils must do their utmost to imbue the trade unions with the revolutionary spirit". The Communist leaders gave the following outline of the duties of works councils:

Form control committees everywhere to regulate prices, to control production and the economic activity of the nation in general. Break down the
barriers of business and banking secrets; interfere by force in municipal and state administrations; control the seizure and distribution of foodstuffs, clothing, boots and shoes, coal and dwellings. Get the railway works councils to keep a check on all goods transported to the towns. Paralyse the luxury trades and close their shops... There should not be a single undertaking in which the workers refuse to join in action of this nature, nor a single district where the working class does not itself appoint its own control authorities.

The committee of fifteen clothed itself with extraordinary powers, ignoring the trade unions, and forwarded a list of its claims to the Prussian Minister of the Interior, who replied politely but evasively. The Berlin works councils then met again in plenary session on 19 September, and decided that they must no longer confine themselves to inoperative protests, but must take action. They invited all the works councils of Germany to a general congress to be held in Berlin on 22 October, and they put the Federation of Trade Unions in the position of having to reply to the question whether it would itself convene the congress. This apparent subordination to discipline was merely a ruse. When the trade unions refused to support the Communist initiative, the Communists themselves hastened to take the necessary steps for summoning the congress and published special regulations for the election of delegates. Rote Fahne issued daily appeals to the workers pointing out their duties.

Form local control committees on the widest possible basis and summon frequent plenary meetings of works councils. You must have a direct influence on the fixing of prices, and you will only obtain this influence if you control production. This is the chief work of the control committees. You can only bring about a fall in the price of food if you supervise imports and exports and if you yourselves take in hand the distribution of the goods. You can only bring about a fall in the price of coal if you control its transport abroad, its selling price and distribution, and if you force the official authorities to abolish the coal tax and the sale tax. You can only buy clothing, boots and shoes, and all the products of German factories if you yourselves supervise their production.

In support of their views the Communists quoted what they thought striking examples. Thus, they gave the example of a control committee at Hamborn in Westphalia, which had succeeded by force in lowering the price of foodstuffs by 40 per cent and the price of textiles by 20 per cent. But they did not add that after a few days the committee had been obliged to suspend its activities because, as a result of this sudden local fall
in prices, the town of Hamborn was deprived of all food supplies from outside. At Ruhla in Thuringia the control committees had imposed only a slight reduction in prices, but this reduction was followed, though rather less rapidly, by phenomena similar to those at Hamborn. At Leipzig, where large-scale commerce had more resources than in the smaller districts, the control committees had failed utterly and at Hamburg they had been reduced to complete impotence.

Thus Rote Fahne thought it desirable to explain to the control committees the means by which they could carry out their work in the future.

Local action can only have partial results. To lower the price of foodstuffs in a town, it is essential to go beyond the limits of the town and to check goods arriving by railway. The control should be standardised and centralised, but at the same time it is essential to create local control organisations. These are the bodies which should begin the work. They may thereafter be grouped according to district and called together in congresses of district works councils and provincial or state works councils. They will be the foundations of the general Federal Works Councils Congress and its executive committee. The control committee may be formed in various ways; it may either be elected by the works councils, as at Berlin and Leipzig, or by the workers in certain large factories, by house-wives, etc. The essential point is that it should exist.

It was, therefore, to be the duty of works councils, by devious methods and through the medium of auxiliary bodies, to obtain that entire control of production and distribution which the Act of 1920 had refused them. "The works council should be the instrument of proletarian control, the supervisory body which goes into the secrets of businesses and banks, even if the Act does not authorise it to do so".

The Communists had endeavoured to safeguard their offensive by certain military precautions. On 25 September 1922 a proclamation was addressed by the Communist works councils "to our comrades of the Reichswehr and of the security police", inviting the soldiers to support and defend the workers.

Exposed to this fierce attack, the General Federation of Trade Unions was unwilling either to compromise or negotiate with opponents who were evidently decided to risk all to gain all. It had from the beginning protested against the convocation of a general works councils congress, the discussions of which might be compromised by current economic and political difficulties. It countered the manoeuvre of the Communists by itself appealing to the Berlin works councils, declaring that it was useless and even dangerous to convene a congress. It pointed out that the first
necessity was to await the result of the negotiations of the trade unions with the Government with a view to checking the rise in the cost of living. Moreover, to allow works councils to take part in the solution of great economic and political problems was to divert them from their proper functions. "No reasonable member of the works councils", said Vorwärts, "will join in the Communists' uproar".

The lead of the Federation was followed by one or two of the more important trade unions, for example, the textile workers and the metal-workers, who pronounced against the convocation of a works councils congress in the near future. "What the Communists propose", said the Textile Workers' Union, "is not to combat distress, but to carry out the political schemes of the Third International. We warn the works councils against such tactics, and we utterly refuse to collaborate in a congress of this nature. The works councils are dependent on the trade unions. All those who work to prepare for this congress, or who take part in it as delegates, will be excluded from the trade union". The communists were particularly irritated by the decisions of the Metal Workers' Union, which was supposed to be more radical than the other unions. "Being firmly resolved to follow the lines laid down by the General Federation of Trade Unions, we shall only invite works councils to consider the question of a congress when the conditions indispensable for the success of such a congress exist".

The union between the two Socialist Parties, Majority and Independent, sealed on 24 September 1922 at the Nuremberg Congress, further strengthened the authority of the trade unions, which put the Communists in the position of having to choose between submission to discipline and open rupture. The Korrespondenblatt of the Federation of Trade Unions published a note stating that, "in view of the avowed intention of the Communists to provoke illegal strikes, and to change the essential nature of such corporate struggles by transforming them into public demonstrations and disorders directed against the authority of the state, the trade unions have no option but to proceed to strong measures. Anyone who proves by his actions that he accepts the watchwords of the Communists should no longer be allowed in the trade unions. There must be no half measures. Whoever is not with us is against us". On 29 September the General Federation of Trade Unions defined its attitude as follows:

The Communists are trying to deceive the workers by persuading them that the works councils, and not the trade unions, should defend their interests.
The Central Committee of the General Federation of Trade Unions declares that the works councils congress demanded by the Communists is intended merely to favour the schemes of the Communist Party. The trade unions are bound to oppose it, both through self-respect and in the interests of the working class as a whole. They hope that the works councils will support them within the limits of their functions.

The Congress convened by the Communists, which was to have met at Berlin on 22 October 1922, was adjourned for a month and opened on 23 November. It was preceded by local congresses, in particular at Essen and Dresden, whence the Communists thought that they could spread their influence through the industrial districts of Westphalia and Saxony. At the Berlin Congress there were other things to talk about than works councils: the economic crisis, the weakness of the Government, the denunciation of the Treaty of Versailles, the abolition of reparations, the agreement between Stinnes and de Lubersac, and the proletarian revolution. The speeches made at the Congress sufficiently illustrate the purely political intentions of its organisers.

In any case the Congress was a defeat for the Communists, who succeeded in winning over a very small number only of works councils. The General Federation of Trade Unions and the "Afa" refused to take the least interest in the discussions or even to send delegates to the Congress. "You have not the least right", they said, in a letter to the Communist leaders, "to speak for the working masses, the works councils or the members of trade unions. You are speaking and acting on your own behalf alone. You are carrying out the mission which you have received from the Communist Party, and you are trying to exploit the difficult material circumstances of the workers by diverting works councils from their proper functions and making them serve party interests". Several Socialist works councillors who were decoyed into the Congress were disavowed. Thus, despite the efforts which they made to attract to themselves the Democratic and Christian works councils, the Communists found the most energetic resistance arrayed against them.

Thrown back on themselves, they applied themselves chiefly to developing and centralising the action of the control committees which had, up to now, worked separately and without success. It was realised that the experiments at Hamborn, Ruhla, and elsewhere had failed, and that it was impossible to regulate prices in a single town or district without
at the same time controlling general conditions of life throughout the country. The Congress adopted a plan on the following lines:

In the various localities, workers, tenants, small rentiers, ex-service men disabled housewives, soldiers of the Reichswehr, and the security police should form special assemblies to set forth their wishes and their complaints to the works councils and control committees. It will be the duty of these latter to intervene actively with the authorities and, without recourse to violence, to secure the triumph of the claims of the proletariat. In order to increase their influence, works councils and control committees will be grouped by district and will receive their instructions from a Federal Works Councils Congress, which will appoint an executive committee.

In order to set an example of immediate activity, the Congress set up an executive committee of 61 members. Such were the inconsiderable results of the offensive which the Communists had so noisily proclaimed.

There is little doubt that the trade unions would have succeeded from now on in strengthening their influence over works councils, if the occupation of the Ruhr on 11 January 1923 had not encouraged the Communists to a fresh attack. Once again their aims were political and they endeavoured to provoke a revolution. Alternately, they accused the occupying authorities of combining with the employers, and made a show of approaching those authorities. They recommended in turn a strike and the resumption of work. The reason for this was that their only object was to foment a spirit of revolt among the workers and to withdraw them from the authority of the trade unions. Before long their propaganda extended to the whole of Germany, and they enthusiastically resumed the campaign against the trade unions, which they accused of playing the game of Mr. Cuno's bourgeois Government by accepting the general order for passive resistance.

In April the Communists convened at Essen a congress of the works councils of the mines and metal works of the Rhenish-Westphalian basin, making no distinction of political parties. Only 300 undertakings were represented. Side by side with 94 Communist delegates were five Socialists, whom their Party hastened to disavow, and 45 Independents, who were in reality members of Syndicalist unions with anarchist views. The congress thought it its duty to show itself more nationalist than the Federal Government and to undertake the defence of the workers' interests which, they said, were threatened by French and Belgian militarists and sacrificed by the trade unions. It loudly proclaimed that the
workers of the Ruhr should oppose, if necessary by force, the seizure of stocks of coal, and it ordained that work should automatically cease in any undertaking in which a single Allied soldier appeared.

During this time the Communists were in full cry at Berlin, in Saxony, and in Thuringia. They demanded the convocation of a general Federal Works Councils Congress. The executive council which had been set up as the result of the Congress in November 1922 made itself heard again, and duplicated itself by a permanent Committee of fifteen members which was to prepare for a general strike. "Proletarian centuries" were created in the chief factories as an army of defence for the local control committees. With these "centuries", the control committees, and the works councils, the Communists thought themselves in a position to set on foot a powerful revolutionary movement.

The free trade unions, which the occupation of the Ruhr had surprised in the midst of a financial crisis, were at the outset disconcerted. It was not easy for them openly to support the Federal Government, from which the Socialists were excluded, or to support the employers under pretence of respecting national unity; but it was equally impossible for them to make no protest against the military occupation. They were in a most embarrassing position when they had to give practical instructions to the works councils in Rhenish-Westphalian territory. To these difficulties was added the fact that it was difficult for the trade unions in Berlin to understand the local situation and the very complicated conditions of life of the workers. The result was that the works councils were most often left to their own resources or that they were entirely unable to carry out the instructions conveyed to them. For several months there was indescribable confusion in occupied territory.

The Communists endeavoured to profit by these conditions, but the only advantage which they obtained was that of making confusion worse confounded. When, in August 1923, their propaganda became too intense and violent, the Prussian Government decided to intervene. On 16 August, Lavering, the Minister of the Interior, published a Decree dissolving the Committee of fifteen and the proletarian centuries. The Works Councils Congress of the Province of Brandenburg, which the Committee of fifteen had convened at Berlin for 9 September, was forbidden. The Committee, supplied with a million gold marks, a present from the Trade Union International of Moscow (Rote Fahne of 22 August), tried to transfer its headquarters to Jena in Thuringia, and then to reconstitute itself under the name of "Central Committee of the Works
Councils of Berlin and District". This new committee, which was the work of the Bolshevist agitator Maslow and of Ruth Fischer, was in its turn dissolved.

It was at this moment that the exhausted Reich realised the failure of its Ruhr policy, and was on the point of being compelled to abandon passive resistance. The Communists, who two months before were recommending strikes and active resistance to the occupying authorities, tried to enter into negotiations with the same authorities before the trade unions and the Government had yet decided to change their tactics. In all places where the works councils were too docile in their obedience to orders from Berlin and their central organisations, illegal works councils sprang up side by side with them and endeavoured to counteract their activities. The watchword of the Communists and anarchist Syndicalists was an agreement with the military authorities and an immediate resumption of work. They cared much less about the revival of production than that the discipline of the trade unions should be broken, and their own authority over the works councils secured.

This situation continued until passive resistance was officially abandoned. In proportion as economic activity increased in the Ruhr, the trade unions recovered their influence over the working masses. It became possible for them to combat revolutionary propaganda which had, above all things, exploited the distress of the workers who were suffering from unemployment. On 17 September, a few days before the Stresemann Ministry repealed its Decrees on passive resistance, the works councils affiliated to the free trade unions held a general meeting at Berlin. They pronounced in favour of the policy of the trade unions and accorded full powers to the General Federation to settle the serious problem of unemployment in agreement with the Government, and then to consider the social and economic measures which the winding up of the Ruhr affair had made essential. From that time to this, the trade unions, and not the works councils, have dealt with these important questions. It was the trade unions which signed the agreements of November and December 1923 concerning overtime in the mines and metal works.

The success of the Communists was no greater in Saxony and Thuringia, considerable as was their activity in these districts. As early as the end of 1922, as the result of the elections for the Saxon Landtag, which had strengthened the workers' parties, Communists and Socialists had endeavoured to approach one another. There was talk
of setting up a workers' Government. The Communists attached various conditions to their adherence to this scheme, among others the extension of the powers of works councils. They demanded that the future Government should submit all Bills affecting labour to the plenary assemblies of works councils, and to district works councils congresses which were to meet periodically. This was a new attempt to transform works councils into political bodies. The trade unions were so obstinately hostile to this scheme that negotiations were broken off.

They were resumed a few months later, in 1923, when the workers' parties in Saxony, alarmed by the preparations of the Bavarian reactionaries, endeavoured to combine for the defence of the Republic. Innumerable difficulties were still raised by the Communists, who were eager to make the works councils, together with the proletarian "centuries", the storm troops of the revolution. A Government was with difficulty constituted under the Socialist, Zeigner, but this coalition was of short duration. Neither the trade unions nor the Socialist Party showed any signs of wishing to renew the experiment, the disastrous consequences of which they fully realised.

Events in Thuringia took a similar turn. There also a coalition workers' Government was formed in 1923, but had to disappear after one or two months.

The trade unions, which had for the moment recoiled under the shock of these violent attacks, steadily regained their authority. After a crisis as terrible as that which has devastated Germany, order cannot at once be restored in the ranks of the workers. This will be a lengthy process requiring much patience; but the trade union leaders are confident in the discipline of their men and are positive that the spirit of moderation which has always been the strength of the German trade unions will re-assert itself.

The Communists have not abandoned the hope of one day detaching the works councils from the trade unions. They have even established, for propaganda to this end, a special paper called Der Kommunistische Gewerkschaftler; but for the moment, despite their violent quarrels, Communists and Socialists remain under the control of a Central Committee of works councils (Freigewerkschaftliche Betriebsräte-Zentrale), which itself is an offshoot of the free trade unions.
The general principles of this organisation were laid down as early as 1919 by the Trade Union Congress of Nuremberg. They were reiterated in the common programme which was approved in May 1920 by the Federation of Trade Unions and the “Afa” and, in October following, by the first General Works Councils Congress. The Leipzig Trade Union Congress in 1922 merely approved what had been done and repeated that the works councils should keep in close touch with the trade unions, avoid political discussions, and devote themselves exclusively to their economic and social duties. “Councils which are elected for their political opinions are incapable of performing their proper duties”, said a motion adopted by the Congress, “because they do not submit to the authority of the trade unions. The trade unions must henceforth concern themselves with the elections to works councils, see that the candidates belong either to the General Federation of Trade Unions or to the “Afa”, and that no agreement is concluded with any other economic groups”.

In adopting an obviously centralised form of organisation, the trade unions showed what importance they attached to guiding and controlling the development of works councils. In addition to the close relations between local and district works councils, there were other bonds linking the councils and the trade unions. There was good cause for housing the Central Works Councils Committee at Berlin in the same building with the General Federation. Moreover, the trade unions had been sufficiently well advised to abandon one or two of their principles when necessary. Thus the works councils were not, as were the trade unions, organised by craft, but by industry. Fifteen industrial groups have been set up. The works councils of these “groups” are compelled, in each district, to be affiliated to the “cartel” of the Federation of Trade Unions and the “Afa”. They form a plenary assembly of groups (Gruppenversammlung), which appoints a council of five members (Gruppenrat) to submit questions to it and to carry out its decisions. On this council there is a representative of the trade unions.

For general economic questions, the works councils of the various groups appoint delegates to a general assembly (General-Versammlung

1 See above, p. 16.
2 Banking and wholesale and retail commerce; building; textile and clothing; chemical industries; liberal professions; paper industries; wood industries; agriculture; foodstuffs; leather; metal working; state or municipal administration; transport; mines and salt works; social insurance.
der Betriebsräte). This general assembly, which is convened by the local "cartel" of the trade unions or of the "Afa", is an advisory body. The executive power rests with two committees: one, the central committee (Zentralrat), composed of two works councillors from each industrial group, and of the secretaries of the local trade unions; the other, a smaller committee of action (Vollzugsrat) composed of five persons chosen from among the members of the central committee, and of five members elected by the local "cartel" of the trade unions. The expenses of the organisation and upkeep of the works councils are borne by the "cartel" of the trade unions, or by the "Afa".

Despite the efforts of the trade unions to ban political discussion in works councils, it frequently happened that the Communists drew up separate lists of candidates. Even before they combined, the two Socialist Parties had been in the habit of choosing candidates in common. In the great industrial cities of the Ruhr, and in central Germany especially, the Communists thought themselves strong enough to attempt separate electoral action. In the elections of 1922 they gained a few noticeable successes in the mining and metal-working districts. Thus, in the Ruhr mines, the Communist union of Gelsenkirchen, which in 1921 obtained only 91,297 votes and 694 seats, obtained in 1922 109,197 votes and 799 seats. The number of votes secured by the free trade unions was 148,207, as against 144,807 in 1922, but the number of seats fell from 1,293 to 1,213. The elections for the metal workers' works councils were also relatively successful for the extremists: for example, at Remscheid the Independent Socialists lost almost all their votes to the Communists in 1922.

But the inference should not be drawn, as was done by the Communist press, that there had been "a progressive swing to the Left in the works councils". In the first place, the "swing to the Left" is not so marked as it has sometimes been represented to be. It is still confined to certain great industries, such as mining and metal working, and even in these industries, it does not touch the mass of the workers, who are still faithful to the Socialist trade unions. This is proved by the total of votes cast in 1921-1922 by the various workers' organisations in the mines of the Ruhr. The redistribution of seats on the principle of proportional representation is chiefly due to the increase in the number of

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1 The statistics of 1923 are useless for purposes of general deductions, since no elections were held in occupied territory.
voters to 385,383 in 1922 as against 341,552 in 1921. Further, the Communists have met with defeat in practically all other branches of economic activity. The elections for the railway works councils, three months after the strike in the winter of 1922, were a real disaster for them. Whereas in the various districts the Socialist union (Deutscher Eisenbahnerverband) obtained 313,656 votes (or 76.24 per cent. of the whole), the revolutionary works councils obtained only 16,847 votes (or 4.09 per cent.), of which number 8,000 came from Berlin, the centre of their activities. The elections of 1923 to the councils of wage-earning and salaried employees in the textile industry gave 20,313 seats (87.6 per cent.) to the General Federation of Trade Unions and 1,217 (56.8 per cent.) to the “Afa”.

Despite the new propaganda campaign of 1922-1923, which coincided with the economic crisis, it is difficult to believe that there has been any pronounced movement towards Communism among works councils. What has taken place is in most cases no more than the ephemeral fluctuation of working-class opinion.

One of the chief difficulties with which the trade unions had to contend was the inadequate intellectual equipment of the workers in matters social and economic. There was a risk that the workers, untrained for their new duties and lacking the time to study the legislative developments of the war and the revolution, would accept the most fantastic interpretations of the Works Councils Act. To avoid this danger and to enable the workers to take full advantage of the Act, the trade unions found it essential to set up at their own expense special works councils schools (Betriebsräteschulen) in all towns with more than 50,000 inhabitants. In these schools competent teachers explained the Act and commented on the intentions of its authors. The instruction given goes beyond the scope of the Works Councils Act itself, covering all the social reforms initiated by the Republic, and includes labour legislation, economics, health, etc. The trade union leaders wished to enlighten the workers and to arouse their initiative in order that they might take an active share in carrying out the Act, and thus make works councils something other than mere tools in the hands of the employers, or chan-

1 It is true that the partial elections in unoccupied Germany in 1923 showed an increase in the Communist vote (32,864), but these were local successes, gained in Upper Silesia and Berlin. The Socialist union alone polled 180,000 votes. In Saxony, in particular, it held all its seats.
nels of propaganda at the disposal of political agitators. The trade unions state that they are satisfied with the results obtained. The schools are well attended and the pupils are industrious and attentive, and this in spite of the fact that it is often tiring for a worker, after a day of manual work, to devote the evening to intellectual pursuits. In 1923 the Berlin unions conceived the idea of establishing two sets of courses, one for beginners, and the other more advanced.

The Central Works Councils Committee publishes a monthly paper, the Betriebsrätezeitung, which is specially devoted to workers' councils of all kinds. The various numbers of the paper contain, side by side with articles of a general nature on economic and social problems, a mine of information dealing with the practical working of the Act of 4 February 1920. The chief trade union federations (metal-working, textile, etc.) also have their own papers for the works councils attached to them.

By means of these persistent efforts the trade unions have succeeded in overcoming the prejudice or indifference of certain sections of the workers who evinced hostility to works councils because, for the most part, they were ignorant of the benefits to be obtained from them. In the smaller industrial centres in particular, works councillors have not always shown themselves equal to their task. Slaves to party quarrels and ignorant of the great problems of political or economic life, they early fell a prey to discouragement and did not seek re-election. In other cases, through ignorance of legal subtleties, they gave up trying to make use of the Act and left the employer to carry it out as he pleased. In other instances, on the contrary, there has been a belief that the spirit of revolution would settle disputes better than knowledge and reason. These beliefs were most fatally mistaken. It was to put an end to such disastrous experiences that the trade unions constituted themselves the educators of the working class. Success appears to have attended their efforts and is spurring them to bear the heavy expenses occasioned by the upkeep of the schools and the paper. For the last year, works councillors have been better informed of their duties than before, and the education which they have received is sounder and more practical.

1 Before the conclusion of its agreement with the General Federation of Trade Unions, the "Afa" published a special bulletin, Der Betriebsrat, for its works councillors, which bulletin was afterwards amalgamated with the Betriebsrätezeitung.
The Democratic (Hirsch-Duncker) and Christian trade unions have not had to face such formidable difficulties as the Socialist unions. They have been spared political troubles and their internal union has not been threatened. The Democratic and Christian works councils sought nothing in the 1920 Act but immediate economic advantages. With them there are not, as is the case with the Socialists and Communists, two absolutely different interpretations of the duties and proper working of works councils. On the contrary, there is general agreement that works councils should develop systematically within the very precise limits laid down for them, and should work in close collaboration with the trade union organisations.

At the first Congress of Christian Works Councils, which took place at Essen on 10 November 1920, Brauns, the Minister of Labour, defined as follows the duties of the new representative bodies:

Instead of demanding socialisation of the means of production, it is far better to deal with production itself and the possibility of increasing it. The works councils have not all realised this truth, for the simple reason that our economic life is in too great disorder at the moment. The Act of 4 February must not be made a pretext for impracticable demands, but should merely make it possible for the worker to improve his relations with the undertaking in which he is employed. Works councils must first imbue themselves with the spirit of the Act and then acquire knowledge of the main economic problems. Then, and not till then, will they be generally seen to be institutions as beneficial to the community at large as they are to the workers themselves.

A resolution adopted by the Congress urges the dangers of the “radical spirit”, and particularly of the idea of the class war, which is completely foreign to the spirit of the Christian works councils. “Employers must be required to respect absolutely and to carry out loyally all the clauses of the Act. It is the business of the works councils scrupulously to defend the interests of the workers...... Their chief duty is to keep all their actions in accord with the spirit of the Act”.

In April 1921 the Christian trade unions published a manifesto recommending works councils to remain faithful to the two great principles of unity with the trade unions and unity with the employers:

The Christian unions consider the works councils as an integral and essential part of trade union organisation. The trade unions group the workers by occupation and defend the interests of each craft as a whole. The works councils are the highest authority within the undertaking. They are the suc-
cessors of the workers' councils which were set up in the middle of last century. Their activities are confined to the undertaking, where they control the execution of labour agreements concluded by the trade unions for a craft as a whole. Christian trade unions have only one object, to confine the works councils to purely economic work in strict collaboration with the unions themselves. The essential point for works councils is to carry out the most important duties which have been assigned to them under the Act.

The Christian unions have taken the utmost pains to prevent works councils intervening in political discussions and particularly in discussions relating to religion or to religious instruction. In their view, the works council is before everything a means of social conciliation. As was stated in the manifesto of April 1921, it was to be "the concrete realisation of the principle of joint industrial association of employers and workers". It follows naturally that the Christian unions have endeavoured to get the works councils to champion one of their favourite ideas, namely, that of works co-operative societies (Werkgenossenschaften). The object of these co-operative societies is to transform the workers into small shareholders interested in the fortunes of the business. Their function is to supply workers with the necessary means to buy eventually a third or even half of the capital of the business, and thus become partners with the employer.

The total number of Christian works councils is equal to about a quarter or one-fifth of those affiliated to the free trade-unions. This proportion corresponds fairly closely, on the whole, to the relative membership of the Christian and Socialist trade union organisations. The elections of 1922 brought some successes to the Christian works councils, particularly in the Ruhr mines, where the number of votes and seats obtained rose respectively from 63,281 and 462 in 1921 to 80,959 and 589 in 1922. In the metal industry about 5,000 Christian candidates were elected. In the textile industry, on the other hand, the proportion is still comparatively small, e.g. in 1923, 1,846 works councillors, or 8 per cent. of the whole. The situation is the same on the railways, where in 1922 the Christian union only obtained 11 per cent. of the total votes cast; the number fell from 66,790 in 1921 to 45,292 in 1922.

1 The Christian railway works councils succeeded more or less in maintaining their numbers during the partial elections which took place in unoccupied Germany in 1923. They secured about 18,600 votes (10 per cent.).
The Democratic trade unions have more or less the same conception as the Christian unions of the duties of works councils. They conceive them as defending the economic interests of the workers and the principle of joint industrial association, but their leaders, who were under the influence of Walter Rathenau, like to think that works councils will not always be confined to the modest rôle which is theirs at the moment, but will eventually take part in building the social democracy of the future.

The Democratic Unions also consider it essential that works councils should be under the authority of the trade unions. At the Berlin Congress of 27 November 1920, one of their leaders, the Reichstag deputy Erkelenz, said:

The evolution of the trade unions should proceed on the principles of centralisation and occupational discipline. All attempts at autonomous organisation within the factory or at grouping works councils as independent organisations should be energetically countered. We demand the maintenance and the development of the joint industrial association.

Works councils enable the workers to co-operate with the employer in the conduct of business, to regulate and control production, and to transform the dictatorship of capital into a more liberal and more flexible system. For the system of the omnipotence of the employer there will be substituted that of "economic self-government" (wirtschaftliche Selbstverwaltung), the object of which, unlike that of Socialism, is not to substitute collective ownership for individual ownership, but to "democratise and organise" existing economic forces. Erkelenz explained this in his commentary on the 1920 Act:

The works council is the original nucleus of economic self-government, but its exact importance should be clearly understood. The Act of 1920 tends to see in works councils merely an institution for protecting the more immediate social interests of the working class. It is also wrong in drawing too definite a distinction between the interests of workers and the interests of employers. There is a much wider significance in the works council, which is the instrument at the disposal of the workers to enable them to take part in the general life of the business.

One of the most important methods of giving the worker an interest in the business consists in giving him his part of the profits in the form of small shares. The works council will be the representative body of
these new shareholders, and with its help the bonds linking the worker to the business will be tightened.

The internal organisation of the Christian and Democratic works councils is similar to that of the Socialist councils. The Christian unions have also grouped their councils under a central committee. They have set up special educational courses, and publish a periodical bulletin called the Betriebsrätepost. The democratic works councils are not sufficiently numerous and are too widely scattered to have been able as yet to form a centralised organisation, but the Hirsch Duncker trade unions keep in close touch with them. They are developing education and multiplying courses of instruction and lectures. They have a paper called wirtschaftliche Selbstverwaltung, which deals with all questions relating to works councils. Side by side with the organised works councils which are dependent on the Socialist, Christian, and Democratic trade unions, there are works councils not affiliated to any trade union organisation: i.e. the National works councils on the extreme Right, and the Syndicalist works councils on the extreme Left. The national occupational unions (Nationale Berufsverbände), which are merely an attempt to revive the old "yellow" unions, have not yet succeeded in obtaining legal recognition as trade unions. They are only considered as casual groups and are officially denied all power to conclude labour agreements. Nevertheless, they are extremely active. There is vigorous Nationalist propaganda in working-class circles and even in the works councils, where the attempt is being made to incite the workers against the trade unions, which are accused of bureaucratic tendencies. The secret agreements between the National trade organisations and the Syndicalist works councils have rightly alarmed the free and Christian trade unions. The National organisations claim that they have already 2,000 representatives in works councils. These figures should apparently be accepted with some reserve, if it be remem-

\[1\] See, for example, Erkelenz; Gegen die Versteinerung der deutschen Sozialpolitik Berlin, 1922.

\[2\] The Hirsch-Duncker unions have obtained the following election results: in the Ruhr mines, in 1921, 3,902 votes and 14 seats; in 1922 6,833 votes and 26 seats. In the textile industry in 1923 they only secured 126 seats, or .05 per cent. of the total number. On the railways, where they are most strongly represented, they even had to admit a defeat; instead of 52,973 votes in 1921, they only obtained 35,575 (9 per cent.) in 1922. The partial elections of 1923 showed a further slight falling off in their votes.
bered that in the Ruhr the "yellows" obtained only 1,254 votes and 6 seats in 1922, exactly the same number as in 1921.

The anarchist Syndicalists recruit most of their following in the Ruhr, where at the elections of 1922 they polled 18,000 votes and gained 130 seats, as against 16,700 votes and 124 seats in 1921.
CHAPTER IV


Relations between Employers and Workers

The attempts to distort the original purpose of the Act of 1920, and to turn works councils into instruments of the class war, ended in failure. Events showed the wisdom of the trade union policy of getting the utmost out of the Act, despite its imperfections. Progress was made possible only by voluntary co-operation between employers and workers.

Whenever the atmosphere of harmony failed, through the fault of either employers or workers, the works councils became ineffective.

It has been seen that the trade unions rapidly realised the importance and significance of the Act, and endeavoured to carry it out methodically and with foresight. On the other hand, the employers' organisations at first protested violently against the very idea of work councils, and threatened to boycott the Act or at least to do nothing to facilitate its operation. Little by little this opposition was allayed. Employers began to wonder whether works councils might not, after all, be a useful supplement to the system of the joint industrial association and improve their relations with the workers. General opinion today in large-scale industry and commerce is very different from what was in 1919 and 1920, before or immediately after the Bill became law. Associations as powerful as the Federation of German Industry (Reichsverband der deutschen Industrie), or the Federation of Employer's Associations (Vereinigung der deutschen Arbeitgeberverbände), which quite recently were conducting a campaign against works councils, have abandoned their manifestations of impotent hostility and have taken their share in the new institution.

It is true that employers have not abandoned their view that the creation of works councils did not really meet urgent economic necessities. For them, the works council is still the work of the Revolution, a moral and political sop thrown to the working classes at a time when the proletariat was hungry for reforms. But the principle of the reform is no longer called into question. It has been adopted; it is part of the Constitution and among the established customs of the country, and the employers have been wise enough to accept it as such.

It as easier for the employers to maintain this moderate attitude, in
that practical experience convinced them that they had grossly overrated the dangers of the 1920 Act. They had imagined that, at a period of excessive popular excitement, the Act would upset the normal tenor of economic life. They had been apprehensive that the councils would interfere in production. The mere word (socialisation) was enough to scare them. Doubtful of their own strength, they imagined themselves the slaves of the workers, who would control their businesses. Their confidence had been somewhat restored by the attenuating process to which the text of the Act was been subjected in Committee and in the Reichstag. Later, in the course of political and social development and the re-establishment of order, industry recovered the means of action which it seemed for the moment to have lost. The employers regained the power of talking to workers as equals, or even as the strong to the weak. They were reassured by the indifference of public opinion to the theoretical discussions of socialisation conducted in government or economic circles. When it became apparent that none of the essential mechanism of the state had been destroyed or even thrown out of gear by the Revolution, the employers resumed work on pre-war lines, i.e. they were anxious to live at peace with the workers, and to get the maximum output possible from them.

The employers put up with works councils and often managed to turn them to account. Some disputes were more easily settled than before. The council became a valuable and sometimes indispensable intermediary in the relations between the management and its workers. When the council was equal to its work, it could prevent upsets in production and induce employers and workers alike to make the one or two necessary concessions. In other cases, when it was insufficiently acquainted with its duties, the employer either used it as a docile instrument, or neglected its advice and ignored its complaints. In any event, the works council was not the stumbling-block which had been feared. It served rather as a link between the often divergent interests of capital and labour. Thanks to the works council, it became possible to settle amicably difficulties of detail connected with wages, dismissals, etc., which otherwise might have degenerated into disputes. On 5 October 1922, the Deutsche Tageszeitung, the organ of the agrarians, and certainly not a paper to welcome social innovations unreservedly, expressed itself as follows on the subject of works councils:

This may certainly be a useful institution, if only the councils can be trained in their duties, which today, unfortunately, is hardly ever the case. Despite
all dangers and difficulties, it may be hoped that these new organisations will
eventually make for industrial peace and for the prosperity of German
labour.

It is interesting to note the benevolence with which the Deutsche All­
gemeine Zeitung, one of Mr. Stinnes’ papers, regards works councils
(12 September 1923). It is evident that they are expected to be useful
on occasion:

The works council will be able, together with the employer, to explore
methods of lowering the cost of production and increasing sales. It will thus
help to solve the unemployment problem, and to keep all workers at their
posts. This right is conferred by Section 66, Subsection 1, of the Act of 1920,
which authorises the works council to assist the managing body by advice. In
the accomplishment of this duty the councils may perhaps come to realise that
piece work, or even a temporary reduction of wages, is among the means of
increasing the output of a business. It will be a delicate business for works
councillors to explain this truth to the workers; but they will succeed, if they
show that it is to the workers’ interest to retain their employment, even at the
cost of a reduction in wages.

These are suggestive conditions; they show that employers do not
despair of being one day able to use works councils as the means of
obtaining important social privileges. It will be seen later how they have
endeavoured to use the councils against the trade unions for the abolition
of the 8-hour day, or at least for the introduction of overtime.

But, taken as a whole, the real advantages of the Act admitted in
employers’ circles, after four years’ experience, are inconsiderable.
Employers are resolved that the works council shall be no more than a
“go-between” to express the workers’ wishes. They have never whole­
heartedly accepted effective supervision of production by the works
council. In their view, although it is necessary to improve the relations
between employers and employed, the absolute independence of the
manager of the business must be respected. This, they hold, is essential
if production is to be maintained. Now, as in times past, all interference
in their business seems to them an attack on their rights and a hindrance.
It is not to be wondered at, then, that they jealously defend their sove­
reign authority, and seek either indirectly or openly to foil the occasional
attempts of the works councils to penetrate the secrets of production.

It is a frequent complaint among employers that works councils do
not possess the theoretical or practical training to enable them to take
even a partial share in the conduct of business. Even the most liberal
among them, who do not refuse to supply the workers with detailed information on the position of the business, think none the less that works councils must be prevented from interfering in questions which they are not yet capable of understanding; still less of settling. The Zeit, one of the organs of large-scale industry, wrote on 4 February 1922:

It is undoubtedly legitimate to wish to make the worker a citizen instead of a subject in the factory. This is the trend of social progress and we should inevitably have reached ultimately, by a slow continuous process, the form of organisation which is already achieved in the Works Councils Act. But at the present moment the great mass of the working classes still lacks the technical knowledge which is essential if it is to understand even the simplest of the questions which most nearly affect it. It is somewhat surprising to find, for instance, that Prussian factory inspectors are unanimous in complaining, in their 1921 reports, of the inadequate support which they received from the works councils, which showed themselves incapable of effective action for the prevention of industrial accidents, and had to have the causes of danger pointed out to them by the inspectors themselves.

The trade unions were not slow to realise this failing on the part of works councils and, as has been seen, endeavoured to correct it by the institution of educational courses. These general criticisms do not, of course, apply to all the infinitely various individual cases. There are so many different ways of interpreting the Act, it brings into play so many different factors, economic, political, and even psychological, that its results cannot be appraised systematically. Experience, however, has shown that employers' associations and the great workers' organisations are endeavouring to use the Act in the interests of their mutual relations. This means that the employers are abandoning the habit of systematically thwarting the activities of works councils, and that the workers are not claiming privileges which the Act cannot, and for the present will not, grant them.

The Zeit gives a very full estimate of the achievements of works councils from the employers' point of view.

The Act of 1920 confers a twofold function on the councils. On the one hand, they represent the economic interests of the workers, in so far as such interests are not already represented by the trade unions. On the other hand, it is their duty to secure the co-operation of the workers in the mechanism of production. The first of these duties goes back a long way, to the period of the creation of committees of wage-earning and salaried employees. When, on the other
hand, it has to be determined how the councils will co-operate in the conduct of business, we are on absolutely unknown ground, since it is clearly unthinkable to adopt the experience of Russia as a precedent. Despite its defects, the results of the Act have been favourable. Relations between employers and works councils, which at the outset were strained, have noticeably improved since the agitators have been replaced by cooler heads. It should be admitted that many works councils are sincerely endeavouring to carry out their duties adequately, although some of them still seek rather to envenom disputes than to allay them.

In the smaller businesses the workers have not welcomed the Act with the enthusiasm expected. Prussian factory inspectors report that in many undertakings they had to use the very strongest insistence to persuade the workers to elect councils at all. Sometimes the workers even refused to elect them. Women, in particular, have shown themselves profoundly indifferent to the Act. Nevertheless, the idea of works councils is in a fair way to become world-wide. After Russia, Austria, Germany, and several other European states have shown the way, the Japanese Government is now considering a Bill on the question. All that is sound in the idea of works councils should be developed. Although in recent years the councils have been neither mentally nor morally equal to their work, it must be hoped that they will later on prove a blessing to the economic life of Germany.

Comparison of this general judgment with the criticisms put forward by the trade unions will show a remarkable similarity between the two. Both parties have drawn the same moral from experience. In Vorwärts of 12 February 1921, Clemens Nörpel, the head of the Central Committee of Socialist Works Councils, expressed the following views:

Employers' circles were wrong in thinking, at the outset, that the Works Councils Act would be the ruin of the economic system of Germany. This criticism was not well founded. It must in justice be admitted that, since the Act became law, employers have made no serious effort to repeal it or to restrict its scope. They have, however, entrenched themselves behind the text of the Act, which, like all Acts, assigns both rights and duties to the persons with whom it deals. Practice has shown the error of the view that works councils were or might become the representative bodies of a new economic order. Only the working class as a whole can create a new economic order. This fact in no way detracts from the value of works councils, which have to see that the workers' rights, as laid down by the Act, are respected. Even the clauses protecting the worker against dismissal and allowing control of the execution of labour agreements, have by themselves secured relatively important advantages for the proletariat, and have prevented many disputes.
In Der Deutsche, the organ of the Christian trade unions, will be found a similar estimate of the work accomplished (19 March 1922).

The Act is a good one, provided that the workers and employers know how to interpret it and to extract the proper advantages from it. It might be bad, or even dangerous, in any other event.... The experience of several years has shown the goodwill of the overwhelming majority of those whose duty it has been to administer the Act. Difficulties of all kinds must be expected, appearing daily in new forms, and the appropriate measures for overcoming them cannot at once be found. It is only natural that there should be gaps or errors in the interpretation of the Act.... The main thing is to make full use of the advantages which it affords and to prevent the good in it from becoming bad.

In many cases employers and workers have achieved co-operation and unity on common ground. But it goes without saying that neither party has abandoned its own particular claims. Although, even in the matter of its practical operation, the Act is in the nature of a compromise, this does not prevent the trade unions from being determined to extend it and, little by little, without violence, to acquire more extensive rights of supervision over production. The employers, on their side, try to moderate the ambitions of the workers and to restrict concessions to the absolute minimum. This is a perfectly legitimate struggle, such as is waged daily in industrial and political life, and, far from hindering progress, often makes it steadier and more regular. When employers, workers' delegates, and trade unions have been able to agree, excellent results have been achieved. When the opposite is the case results have been indifferent or even disastrous. The works councils have risen against the employers; or employers have waged something like a guerilla war against the workers. They have taken advantage of the drafting of certain Sections of the Act and, by comparing clauses which are sometimes contradictory in sense, they have juggled with the text and endeavoured to interpret it for their own exclusive benefit. Quibbles and disputes of all kinds have arisen as a result of the least divergence of views, and the works council, which the authors of the Act intended to be a means of uniting employers and workers, has become an obstinate opponent and a stumbling-block to the former.

The Act has proved successful or unsuccessful according to circumstances. It is not yet possible to form a co-ordinated estimate of its effects; all that can be done in most cases is to record scattered observations. This is due to the fact that in a period of political and economic
disturbance as intense as the present, the great workers' and employers organisations have not succeeded in combining their efforts. The shocks caused by defeat and revolution were too severe for rapid recovery and it may be a long time before individual activities and interests can be grouped and reconciled. The Works Councils Act does not represent a completed reform; it is being developed and extended by the addition of further Acts, which round it off. Until this process is complete, the system cannot be a homogeneous whole. No considered judgment, therefore, can be pronounced upon it. It is only possible to point out what it has in fact achieved and what may be expected of it in the future.

Whenever works councils or employers have allowed themselves to be influenced by political motives, the inevitable result has been the exacerbation of the irrelations, culminating in disputes. Numerous examples of this could be adduced, although it would not be easy to determine the respective responsibility of workers and employers. Obstinacy on the one side provokes obstinacy on the other and the root cause of the dispute often remains obscure. Sometimes the dispute is of a general nature; sometimes even an isolated fact of little or no importance, or of a personal nature, is sufficient to disturb the peace.

It is in the industrial district of central Germany, where Communist propaganda is peculiarly active, that day-to-day relations between works councils and employers are most strained. The great strikes of the spring of 1921, which were characterised by excesses of all kinds, are still an unpleasant memory. The works councils took possession of the factories and installed themselves there as masters after expelling the managers and the engineers. It did not occur to the workers to consider how production could be resumed when the strike had been brought to a close.

It has often happened that works councils have listened to those who recommend revolutionary methods and prefer direct action to negotiations. During a strike of municipal workers which broke out at Berlin in April 1922, the workers' representatives tried more than once to effect an entry by force into the municipal council chamber, and thus to obtain satisfaction for their demands. On this occasion the Betriebsrätezeitung of the General Federation of Trade Unions protested energetically against the lack of discipline in the municipal works councils. "It is not capitalism which has dealt a formidable blow at the proletariat, but the
responsible delegates of the workers, who have shown themselves utterly incapable of protecting the interests of the community at large”.

During the first months of the Revolution the workers’ and soldiers’ councils were admittedly addicted to noisy public demonstrations, and it was to escape such demonstrations that the National Assembly decided to sit at Weimar. But such procedure is now no longer admissible. When the Congress of Communist Works Councils, which met at Berlin in November 1922, wished to send a deputation to the Reichstag, the latter refused to receive them and have its deliberations disturbed.

Although political passions should not divert works councils from their duty the workers demand in return that their personal convictions should be respected. The employers have often protested, without good reason, against the appointment of a workers’ delegate who was personally unacceptable to them, and have profited by the incident to paralyse the works council. In May 1922 the four great miners’ associations of the Ruhr, Socialist, Christian, Democratic, and Polish, drew up a joint manifesto complaining of the hostility shown by proprietors and managers to works councillors. They appealed to the Minister of Labour and asked him to prohibit the dismissal of workers, and particularly of works councillors, for political reasons.

In the metal industry there were numerous violent conflicts of this nature. In this industry radical tendencies are stronger than anywhere else. Vorwärts, on 18 July 1922, instanced the case of a works councillor in a Berlin factory who had been dismissed “without notice, on the pretext that he had left his work to attend party and trade union meetings”. Enquiry showed that the worker in question was a member of various conciliation boards and that it was solely on this account that he had asked for temporary leave. The workers supported their colleague in a body. In point of fact, the management had shown itself too ready to jump to the inference of political motives.

Another typical example of arbitrary action on the part of the employer is mentioned in a protest by the Metal Workers’ Union, dated September 1922. The Union accuses the management of the Military Arsenals (Deutsche Waffen und Munitionsfabriken) of having, both during and after the war, made a practice of persecuting with the utmost rigour any workers who were accused of holding subversive opinions. “In former days those who refused to read or to approve the nationalist propaganda pamphlets were sent to the trenches. Nowadays the authorities
are revenging themselves on those members of works councils who are reputed to be too advanced. Their work is made impossible and they are expelled in favour of others who are more docile in accepting the orders of the management”. When the new works council was to be elected, the delegate of the central management, who only represented 16 higher officials, attempted to seize complete control of the election and to conduct it in his own fashion. The works councillors opposed this procedure and the delegate complained to the Ministry of Labour. After the election the management gradually eliminated undesirable works councillors on various trivial pretexts. So successful was it that, when the control board met, it had succeeded in ridding itself of all the duly elected members of the works council.

In October 1922 the dismissal of the chairman of a works council brought about a lock-out lasting a week in one of the shops of the great Siemens-Halske factory near Berlin, which employs 13,000 workers. The management and the workers submitted entirely different aspects of the case. According to the management there were good reasons for the dismissal of the works councillor in question, but the workers, who were in an irritable frame of mind, had invaded the offices of the management which, in order to avoid more serious trouble, had been obliged to close the workshop. The workers, on the other hand, claimed that the works councillor had been illegally dismissed for political reasons. According to them, he had been summoned to represent the Metal Workers’ Union in certain negotiations, and had asked for temporary leave. The management had refused to allow him to carry out his duties as union delegate and had chosen this pretext to dismiss him immediately. A week’s negotiations were needed to bring about a compromise and thus to put an end to a lock-out which, according to the calculations of Vorwärts, caused a loss to the factory of 150,000 hours’ work per day. On this occasion the workers accused the Siemens consortium of having, immediately the Works Councils Act became law, established a “social and political section” composed of ex-officers and lawyers, all violent reactionaries, who threw obstacles in the way of the execution of the Act. “By their general spirit, and still more by their actions”, stated a proclamation of the general works council of the Siemens factories, “the members of this section have shown themselves the enemies of the workers. They are accused of controlling all the activities and decisions of the works councils, and of stultifying them to the utmost possible extent. Thus they have recently succeeded in driving ten works coun-
cillors out of the business one after another, on the most trivial pre-texts’.

In December 1922 a serious dispute broke out in the Ludwigshaven and Oppau Chemical Factories (Badische Anilin-und Soda-Fabrik), arising out of a political demonstration on the part of the works councils. Three works councillors, belonging to the group of Syndicalist unions, went to Berlin, despite the refusal of the management to grant them leave, to attend the congress of Communist works councils, and on their return were dismissed. The Communist and Syndicalist workers pushed the matter to a strike, and the Oppau workshops were completely held up, those of Ludwigshaven partially so. Although the Socialist workers and the trade unions tried to oppose the strike and recommended negotiations, Vorwärts blamed the management for having struck at the political convictions of the works councillors who were punished. “It is not the business of the employers to decide to what congress workers, or a section of the workers, may send delegates. The penalties inflicted in this case are unjustifiable. From the workers’ point of view, they are clumsy also, for they must inevitably result in giving the Communist Works Councils Congress a prominence which it has not hitherto enjoyed”.

In point of fact, the Communists did not miss the opportunity of exploiting this incident in order to organise a political demonstration on a large scale. They made a show of demanding the execution of the programme of action voted by the Berlin Congress, and at once turned the discussion on to the question of the 8-hour day. In their view, the dismissal of the works councillors was merely a pretext used by the management of the Badische Anilin- und Soda-Fabrik to provoke a strike and to force the workers to work overtime. The 9-hour day had been introduced, with the consent of the workers, in the factories of Lewerkusen in the Palatinate, which factories belonged to the same consortium. There was nothing to show that the Badische Anilin- und Soda-Fabrik was attempting to extend this system or, in any case, to disperse with the advice of the workers’ organisations. But the causes of the dispute, insignificant as they were, were essentially political. Faithful to their usual tactics, the Communists exploited all its consequences.

The strike, which lasted more than three weeks, and which at one time affected more than 45,000 workers, ended in a crushing defeat for the Communist works councils. From the very first, the trade unions pronounced against the stoppage of work. Just as they had disclaimed
responsibility for the declaration of the strike, so they were unwilling to put their signature to the conditions which the Ludwigshaven workers had to accept. They persisted in making the Communists and the works councils morally responsible for their action. The agreement finally reached was very unfavourable to the workers and included marked restrictions of the rights of the works councils. It prescribed, amongst other things, that piece work might be introduced if the management so desired, within the scope of the existing collective agreement; that the clauses of the collective agreement concerning hours of work should be scrupulously observed, and that for the execution of provisional work of the first urgency, the management should retain the right to demand overtime without even preliminary notification to the works councils. Finally, the works councils were forbidden to hold meetings during working hours.

At about the same time certain Communist and Syndicalist circles took advantage of certain claims in respect of wages to declare a strike of a purely political nature in the Rhenish textile industry in the Crefeld district. The works councils were adjudged too moderate, and were supplanted by revolutionary committees of action which conducted the campaign in their stead. Like most strikes conducted in despite, or without the approval, of the trade unions, the strike failed. The works councils had been paralysed from the first and were in no position to intervene. They failed, said the Kölnische Volkszeitung, "effectively to oppose the intrigues of the committees of action, which they nevertheless condemned; they never once tried to prevent workers from leaving the factories. This regrettable fact does not imply any reproach to the works councils. It is merely a warning to the trade unions which should induce them to complete the social education of the councils".

Reference may be made, finally, to the strike which broke out in August 1923 among the staff of the Reichsbank, and for several days deprived the whole of Germany of all means of making payments. The chairman of the works council went so far as to demand the dismissal of Mr. Havenstein, President of the Reichsbank, whom the workers held responsible for the currency crisis and for the rise in the cost of living.

Examples could be multiplied indefinitely. Those given above, which are chosen from among the most characteristic, show to what an extent political questions tended to disturb the relations between works councils and employers and to prejudice the interests of both parties. The first
condition of profitable work is mutual confidence. If such confidence
is to exist, workers and employers must both refrain from bringing their
class hatred or political ambitions into the discussion of problems which
are purely economic and social.

**Economic Functions of Works Councils**

As has been said above, the Act of 1920 gave works councils two
kinds of duties: economic functions, connected with the supervision of
production; social functions, connected with labour questions.

Up to the present, works councils have not exercised any appreciable
influence in questions of production. The unanimous view is that
they have neither seriously hampered production, as the employers
feared they would, nor improved it to any great extent. The fact
that their activities have not been more effective from the economic
point of view is less due to the Act, which protects the interests of the
employers by all sorts of subtle restrictions, than to political circum­
stances which have, little by little, diverted attention from the remote
problems of socialisation and concentrated it upon the immediate
questions of the organisation of work.

Whenever the workers wished to penetrate too far into the secrets
of production, the employers have appealed to Section 69, which states
that “the management of the works shall carry out the resolutions
arrived at in agreement with it. Works councils shall not have the right
to interfere with the management of the works by issuing orders on their
own initiative”. They have also appealed to Subsections 3 and 6 of
Section 66, according to which the conduct of business must not be
disturbed, and good relations between workers and employers must be
maintained. On their side, the workers have observed that the Act
recognises their right to “assist the managing body by advice” (Section 66,
Subsection 1), and to “co-operate in the introduction of new methods
of work” (Section 66, Subsection 2). The Textile Workers’ Union
even went so far, in December 1922, as to demand that, in order to
increase production, works councils should be obliged to denounce
obsolete methods and flaws in organisation which they might find in
a business.

The awards of conciliation boards almost always refer to the Sections
mentioned above, which they interpret in the most widely different
fashion, so that it is impossible to draw any definite conclusions. When
employers and workers have been unable to make the essential mutual
cessions, permanent disputes have arisen which gravely prejudicial
to production. A most absurd policy of pin pricks has been pursued
on both sides. Sometimes the employers refused to put the necessary
premises, tables, chairs, or even writing materials at the disposal of
the works councils, to pay the cost of meetings or the wages of works
councillors; sometimes on the other hand, the workers, without any
reasonable excuse, decided to convene a meeting in working hours, or
the works council posted up its communications to the workers without
the previous assent of the employer, who protested. Conciliation
boards have had almost daily to settle disputes of this nature. These
are the small daily vexations, arising out of the working of the Act,
which a little mutual goodwill and a little forethought should without
difficulty dissipate.

Too much importance should not be paid to such trifles. It is only
necessary to remember the three principal charges which the employers
make against works councils, namely, that they cost money, that they
waste time, and that they are inexperienced. For these three reasons,
it is said, they are prejudicial to production.

It has been calculated, for instance, that the municipal workers of
Berlin were represented by 1,500 works councillors, who themselves
appointed a central works council of 30 members, freed from all obli-
gation to work and entrusted solely with the protection of the workers'
interests. If some reactionary newspapers may be believed, this organi-
sation was, as early as 1921, costing the city several millions of marks.

According to figures communicated by the Government to the Reichstag
on 23 January 1922, the Federal railway staff had 24,798 works
councillors and 26,000 officials' delegates. The number of working

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1 Official authorities themselves are not unanimous on this subject. According to
an instruction issued by the Prussian Minister of Commerce on 30 April 1923, works
councils are not compelled to demand the previous consent of the employer before
posting up their notices. On the other hand, the employer is compelled to notify
the works council before posting up his notices. On 23 August 1923 the Federal
Economic Council declared that the first part of this instruction was contrary to the
spirit of the Act, and that in such cases the works council could not dispense with
the consent of the employer.

2 These officials' delegates have nothing in common with the future representative
bodies or councils of officials, the establishment of which is under consideration. They
were appointed in pursuance of Section 61 of the Works Councils Act.
hours lost each month was estimated at 200,000, and the State was said to be distributing 850,000 marks per month in supplementary wages to workers replacing works councillors while they were carrying out their duties. Generally speaking, the institution of works councils cost the Federal Government 14 million marks per annum for the railways and 6 or 7 million marks per annum for the postal service. The Government had estimated at 11 1/2 million marks, and at 5 million marks respectively, the expenditure which it would incur when the Act became law in connection with the representative bodies of officials on the railways and in the postal service. The total expenditure provided for was 37 million marks.

The Socialist papers replied that these figures were not as large as they seemed at first sight to be. With care, the loss of time involved might be reduced to 8 hours per month per person, equivalent to 2 hours per week, or between 15 and 20 minutes per day. The cost could also be reduced to 34 marks per month per person, equivalent to 8 marks per week or 1.30 marks per day. "If people will only realise" said Vorwärts "that works councils are amicably settling hundreds of serious disputes and thus avoiding the loss of many millions, an annual sum of 25, or even 35 million marks, will appear very small indeed. If, further, some pains are taken to put into execution the many schemes prepared by workers' and employers' representative bodies to increase the efficiency and reduce the cost of the railways, there will be a saving considerably greater than the cost of these bodies".

However well founded the objections of the employers may be in principle, there is nothing to prevent the establishment of a system which reduces expenses and loss of time to such an extent as make them hardly felt. Section 35 of the Act states that the meetings of works councils shall take place outside working hours whenever possible. When works councillors are conscientious about their duties, they remember that the position which they hold is honorary, and do not fail to add several hours of overtime to their day's work. In this question everything depends on individual circumstances, on the relations between employers and workers and their mutual good will. The management of the Badische Anilin- und Soda-Fabrik at Ludwigshaven complained that the works councils, on which the Communists were strongly represented, held their

1 At that time the gold mark was worth 46 paper marks. The sum of 37 million paper marks, therefore, was equivalent to about 800,000 gold marks.
meetings regularly during working hours, without the least justification for so doing. One of the conditions which were imposed, when work was resumed after the strike of December 1922, was that the councils should thenceforth promise strictly to observe the provisions of the Act. Cases of this kind are more or less exceptional and, generally speaking, the working of the Act has not involved a loss of time so great as to justify the accusation that the councils have been prejudicial to production.

As regards the inexperience of works councils, no one would deny that it has sometimes been a serious inconvenience, but this is no reason for refusing the councils their legal rights, such as the right to "assist the managing body by advice" or to "co-operate in the introduction of new methods of work". On the contrary, it is an additional reason for completing their education in the interests of production as a whole. The results achieved by the special educational courses organised by the trade unions are in general satisfactory. It is true that the employers complain of the high cost of these schools, and state that it is impossible in so short a time to give an outline of the economic system (Zeit, 4 February 1921). Nevertheless, employers recognise that the efforts hitherto made should be encouraged, and that further attempts should be made to meet the most urgent requirements of the situation by extending economic and civic instruction in primary and technical schools.

Moreover, the works councils have on several occasions shown their capacity for giving valuable help "in the introduction of new methods of work". It is sufficient to recall the schemes which the railway works councils drew up, in agreement with the trade union leaders, concerning the reorganisation of the transport system (November 1921). At that time leaders of large-scale industry were conducting an energetic campaign in favour of the denationalisation of railways and their administration by private capital. This was, in their view, the only method of meeting the deficit on the Federal railways and making them pay. The works councils, the officials' delegates, and certain workers' representatives on the Federal Economic Council opposed this radical scheme by a moderate and reasonable scheme, which maintained the principle of state railways and prescribed a whole series of practical measures for the reorganisation of the transport system "on modern, commercial and technical lines".

The Government took this opinion into consideration and drafted a Bill for the re-organisation of the railways, which has not yet been submitted to the Reichstag.
It is chiefly in questions of detail that works councils can give valuable advice to the managements of businesses. In many cases the worker alone knows his machine and can estimate its output. In reporting his experience to the works council which transmits it to the employer, every worker has a chance of collaborating, in however small a degree, in the improvement of production. Many employers are very glad that they listened to the suggestions of experienced works councillors, and thus introduced small improvements of detail, the value of which they had previously overlooked.

But even in working-class circles the value of the achievements of works councils in this field is not exaggerated. It is recognised that, with the best will in the world, it is impossible suddenly to transform the whole capitalist system and to regulate the system of production on new lines. Production as a whole is neither greater nor less than before the creation of works councils, and the Communists are alone in thinking it possible to fix prices by force and by the abuse of authority. Neither Socialist, Democratic nor Christian workers have understood the supervision of production in this sense. The sad experiences of Russia have given them food for thought and have encouraged prudence. "Works councils", said Vorwärts, on 26 October 1922, "are not in a position to organise production either on the technical or the commercial side. This is not their proper business. They know themselves that they have neither the special knowledge nor the long experience necessary for such a task". In another article, the same paper raised the following questions: "How can the works councillor supervise production? Can he supervise what he does not understand, or can he at the moment consider himself capable of supervising production?" The answer it gave was as follows:

In the brief course of their existence, works councils have learned many things, and among others, how to protect the interest of their fellow workers. Many of them have obtained the most valuable new information concerning production... The works council is a big step forward, since it is in immediate contact with the realities of economic life. The mere recognition of this fact is equivalent to the renunciation of the desire to supervise production from day to day. It is only necessary to remember Russia to realise that the control of production is not easy of attainment.

The exercise of the right of supervision, as laid down in Sections 70, 71, and 72 of the Works Councils Act, has given rise to bitter contro-
versy. These Sections give workers the right to send representatives to control boards and to demand access to certain documents, including a balance sheet and an annual profit and loss account.

The Act of 15 February 1922, which in pursuance of Section 70 of the 1920 Act, prescribes that workers' representatives shall sit on control boards, has not yet had time to prove its value. There has been considerable delay in the election of workers' delegates, so that it is difficult to reach any definite conclusion on the point; but it would appear that, here too, the employers have somewhat modified their original criticisms and are willing to put up with the Act.

The most energetic opposition came in the first instance from the great Berlin banks. Financial circles appealed to Section 73 of the Act of 1920, which allows the Government to exempt certain undertakings from the obligations of Section 70, "if important national interests necessitate such exemption". Their view was that the interests of the state were closely bound up with the absolute maintenance of the secrecy of banking. The Government, on the other hand, thought it unnecessary to extend the benefits of Section 73 to banking establishments. In the Reichstag on 19 May 1922, Brauns, the Minister of Labour, stated that general meetings of shareholders were not entitled to contest the right of co-operation enjoyed by works councillors who were sent as delegates to control boards.

In his review, Plutus, of 15 March 1922, the well-known economist Georg Bernhard explained that there was not the slightest reason for the banks to evade the Act.

It is impossible to see what state interests could possibly be affected. In any case the employees know all about banking transactions, since such transactions pass through their hands. Why should members of works councils who are sent as delegates to control boards show themselves less discreet than other employees? Further, the functions and the general importance of the control boards of the great banks should not be exaggerated. The majority of their members are exercising purely titular functions. What bank employees can learn on control boards will certainly not unduly burden their conscience.

... Why, therefore, do the banks regard this legal institution as more dangerous than it is considered to be in industry? Perhaps the reason is that the great banks have shown themselves less satisfied than industry with works councils. The radical tendency of the conversation of certain employees has frequently been balanced by an equal clumsiness on the part of the management. What the banks fear more than anything is the divulgence, at meetings of their control boards, of their balance sheets and hidden reserves.
These hidden reserves are certainly not a luxury, but are indispensable for strengthening the business at critical moments. But why should bank directors doubt their ability to convince their employees of the necessity of such reserves? Are they not in the interests of employees as they are in the interests of the shareholders? To sum up, there does not appear to be any danger for the banks in accepting works councillors on their control boards; but there must be no hesitation in giving frank explanations. Often, indeed, it may be desirable that the control board should be given information on certain questions by the employees. The employees in their turn will feel that their responsibilities are greater. As regards the directors, experience will convince them that many of the dangers which now seem to threaten them are purely theoretical, and that provided they know how to handle it, this new administrative instrument can be used to advantage.

In industry the employers have attempted a different attack on the Act. On occasions they have resorted to the very simple device of modifying the statutes of the company and suppressing the control board in favour of a new body, or, again, the control board has been maintained, but has been deprived of all its rights, which have been entrusted to a special committee, from which the representatives of works councils were rigorously excluded. The workers have been compelled to struggle patiently against these abuses and to counteract the machinations of the employers for the evasion of the Act.

In other cases, employers have thrown open control boards to workers' delegates, but have endeavoured to exclude them from the general meeting of shareholders "unless they are themselves shareholders". This is the general sense of a resolution passed in April 1922 by the Federation of German Industry, but the legal validity of this decision has been contested by several of the big capitalist organs, such as the Frankfurter Zeitung (11 April 1922). "The Act of 15 February 1922 expressly provides, in Section 3, that workers' delegates on control boards are subject to the same legal obligations as the other members. They can only therefore be excluded from the general meeting if the other members of the control board are not entitled to attend". This interpretation of the Act is confirmed by an award issued on 4 February 1923 by the arbitral court of Flensburg, as the result of a dispute which broke out in the shipbuilding yards. "The members of works councils sent as delegates to control boards have the same rights as the other members of control boards as regards attendance at the general meeting".

Mining companies were not included in the list of companies men-
tioned in the Act of 15 February 1922. During the discussion on the Bill, the Independent Socialists demanded in vain that the miners should be allowed to benefit immediately by the reform on the same footing as other workers. Their spokesman Aufhäuser, chairman of the "Afa", recalled the promises previously made to the miners by the National Assembly. The objection was raised that the boards of directors of mining syndicates had considerably wider powers than the control boards of joint-stock companies, and that the two should not be confused. A later law would regulate the admission of mines works councillors to boards of directors. Since then, the employers have endeavoured by specious arguments to prove that there is no necessity to pass an Act for mines analogous to that of 15 February 1922. "Section 1 of the Act of 15 February 1922", they say, "enumerates the companies to which Section 70 of the Works Councils Act applies. The Section makes no mention of mines for the good reason that mines have no control boards. The question is therefore settled". There was a general feeling that this interpretation was incorrect. As early as 1922 the Reichstag adopted a private Bill which entrusted the Government with the duty of adapting the Act of 15 February to wage earners and officials in mines. In promising to consider a Bill for the creation of control boards in mines, the Prussian Government was merely respecting the wishes of the Reichstag.

The disputes aroused by the working of the Act are losing their original force. The employers have perceived that the innovation was not as dangerous as some of them had feared. Like industrial employers, the banks have taken their part in the system. It is unlikely that one or two workers' representatives would venture to talk much on a control board including forty employers' delegates, all experts in business; above all when the law is careful to impose an obligation of secrecy on them, and to forbid them to divulge the very smallest confidential communication. The workers are quite alive to the inadequacy of the Act. At a meeting held on 19 June 1923, the Central Committee of Berlin Works Councils, affiliated to the free trade unions, once again demanded its

1 The parties of the Right have succeeded in holding up this reform. On 18 September 1923 the Prussian Landtag passed an Act transforming state mines into joint stock companies. The statutes of the new company, like those of private companies, provide for the establishment of a board of directors, a supervisory council and a general meeting of shareholders, but not for a control board.
revision. In spite of its imperfections, however, the Act gives the workers a privilege for which, only a few years ago, they could not have dared to hope. It represents their first legalised participation in production and in the conduct of business, and is a moral victory of immense significance which should be developed methodically and without flinching. The Christian unions have already undertaken this work, and in various industrial centres have organised special courses for the study of the Act of 15 February 1922. On 15 May 1922, Vorwärts wrote as follows:

The workers are gradually effecting their entrance to control boards. The reform in question is much the same as all those carried out by the Republic. There is no significance in it if there is not the will to utilise it and the necessary knowledge for the purpose. The Act is not everything, but it is something, and it may become most valuable if the workers elect capable representatives.

In a pamphlet entitled Gegen die Versteinerung der deutschen Sozialpolitik (The Stagnation of German Social Policy), published in 1922, Erkelenz expressed the following opinions:

The delegation of works councillors to control boards marks the beginning of the collaboration of the working class in production. At the moment, I am not inclined to overrate the value of this method of collaboration. It cannot be profitably employed in individual undertakings, but only in the central organisations of great consortiums, syndicates, etc. Nevertheless, the right of economic supervision in an individual undertaking is the prelude to a wider system of economic collaboration. The forces which will later extend their scope must take their rise within the business itself. It is in the long run impossible to admit that the great syndicates, consortiums, and trusts should be absolute masters of the economic life of the nation. They must accustom themselves to the idea of supervision, either by the state and its representatives or by the workers.

The workers have accepted these principles. They have made a point of obtaining admission into the control boards of the great consortiums as well as into those of individual undertakings.

The resistance of the employers centres around Sections 71 and 72 of the Act of 1920, which authorise works councils to demand the communication to them of such documents as quarterly statements of the
position of the business, balance sheets, and profit and loss accounts. Emboldened by the restrictions which the Act itself imposes on the workers' right of supervision in this connection, employers have for the most part refused to communicate to the workers any information which seemed to them confidential.

They have generally begun by asking what documents the works council is authorised to demand. Section 71 of the Act says that the employer shall be obliged to communicate to works councils "wages books and information required in connection with the carrying out of existing agreements, in so far as business secrets are not endangered thereby". Is the employer, for instance, compelled to supply the workers at their request with wages books, salary sheets, account books, and order books? On what plan are the quarterly statements to be drawn up? Further, Section 71 deals only with undertakings which serve "an economic purpose", i.e. those which do not serve political, religious, artistic, or other similar purposes. Now the exact definition of the conception "serving an economic purpose" might be discussed ad infinitum.

The question of wages books was definitely settled in favour of the workers. An Order of the Minister of Labour dated 8 January 1921 compels the employer to hand them over to the works council on demand. Various conciliation boards (e.g. Hamburg, 29 March 1921, Rottweil, 1 April 1921, Altena in Westphalia, 19 December 1921) have given similar awards, all with the same reservation that business secrets must not thereby be compromised. Moreover, the majority of employers' associations accepted without great reluctance the principle of allowing the workers access to wages books. As early as 1 April 1920, the Württemberg Metal Trades Association wrote to the trade unions saying that none of the undertakings affiliated to it would refuse to communicate wages books to the workers, who would thus be able to observe and compare their relative efficiency, and to consider complaints as to the non-execution of the conditions of payment laid down in labour agreements.

It is interesting to note that the same conditions do not apply to the

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1 The right even of works councils of municipal undertakings (tramways, gas factories, etc.) to benefit by the provisions of Sections 71 and 72 has sometimes been contested, on the ground that municipal undertakings are not subject to all the provisions of the Commercial Code, and do not, strictly speaking, come under the heading of undertakings "serving an economic purpose".
salary sheets of salaried employees. The Minister of Labour and, subse-
sequently, the conciliation boards have stated that the text of the Act
refers in so many words to wages books, but that salary sheets come
under the general heading of “information required in connection with
the carrying out of existing agreements”. The employer is only com-
pelled, therefore, to submit salary sheets to works councils if it is shown
that they are indispensable in connection with the execution of the labour
agreement. The communication of wages books to the workers is not
subject to this condition.

Similarly, on 19 August 1921, the Federal Economic Council decided
that works councils could not demand the communication to themselves
of the complete personal files of wage-earning and salaried employees.
It is enough, under the Act, if the employer gives the council the informa-
tion necessary in connection with the execution of the labour agree-
ment, that is to say, name and Christian name or names, date of birth,
previous employment, etc., to the exclusion of all private or confidential
information.

Whenever works councils have demanded access to all the books of an
undertaking, order books and others, the adjustment authorities have
nearly always opposed them. On 20 January 1922 the higher court of
the Dortmund mines confirmed an award which stated that works coun-
cils were not legally authorised to enjoy free access to all the order books
of an undertaking. In this case also the employer is still free to decide
what information he thinks it desirable to transmit to the workers.

All sorts of difficulties have been caused by the quarterly statement.
In many cases, employers have confined themselves to supplying written
summaries, which have not satisfied the workers. The works councils
have appealed to the text of the Act, which states that the employer
shall make a “report on the position and progress of the undertaking
and of the industry generally and, in particular, on the output of the
works and on anticipated requirements in respect of labour”. This
clause of the Act has been interpreted in most varying ways. As a
general rule, conciliation boards have endeavoured to introduce some
general standard for the quarterly statements, and have specified, accor-
ding to the case before them at the moment, the questions which em-
ployers should, or should not, answer in them. Contradictory awards
have frequently been made, and this has given certain works councils an
excuse to claim concessions already made to other councils.

This state of affairs has enormously complicated the situation. In
1921, for instance, the Hamburg conciliation board decided that a shipping company could, in its quarterly statement, refuse to reply to questions on the relation between wages and selling prices, percentage of overhead charges, etc. On the other hand, the company must inform the works council of its stocks of coal, the number of vessels it intends to build and the labour necessary therefor, the raw materials ordered, etc. Similarly, an award of the Nuremberg Senate of 24 May 1921, accompanied by a long explanatory note, lays it down that the statement should supply information "on the number of wage-earning and salaried employees in the undertaking, the development of production, the tariff of selling prices, orders, markets, overhead charges, and the cost of raw materials". But the employer may confine himself to generalities in respect of the statistics of production, and may avoid concrete facts. Similarly, the Stuttgart conciliation board explains (17 December 1920) that the employer is bound to inform the works council generally about work in prospect, but should not be asked for details of individual orders, nor for information concerning the identity of suppliers or customers.

In 1922 the "free" Metal Workers' Union sent a questionnaire to its works councils, for the purpose of preparing a general conspectus of the economic situation. The questionnaire was as follows: what does the factory produce, and in what quantities? Which are the chief and which accessory products? To what consortium does the undertaking belong? Does it suffer from any lack of fuel, raw materials or labour? What is the quantity of raw materials in stock? How do sales compare with total output? Give amount of (a) sales within the country; (b) sales abroad; what products are primarily for export? and so on. Some employers pointed out that several of these questions went considerably beyond the proper functions of works councils, and tended to endanger business secrets; also, that it was the duty of works councillors not to divulge any information given them by the employers in their quarterly statements, and that any revelation of this nature, of whatever kind, was an infringement of the Act.

Some employers submit written statements; others make oral statements and afterwards discuss the questions raised with the workers. There is no settled rule as to the procedure to be adopted, though the Minister of Labour has expressed the view that the information should be conveyed by word of mouth, but that the works council may, if it wishes, content itself with a written statement.

A large number of undertakings which "serve no economic purpose"
have escaped the obligations of Section 71. It has been decided, for instance, under Section 73, that newspapers are “political” undertakings and that, in their case, the management need furnish neither a quarterly statement nor an annual balance sheet (Essen, 11 August 1921).

Section 72 of the Act, and the special Act of 5 February 1921 on annual balance sheets and profit and loss accounts, have not had the practical results expected from them by the workers. There is a certain scepticism in trade union circles as to the practical effect of the latter Act, the text of which is full of ambiguities. The employer is requested to give the works council information “in explanation of the balance sheet”, i.e. the inventory, the trial balance, the current account, overhead charges, etc.; but he is not compelled to communicate to it the vouchers upon which the balance sheet is based. The result is that, with the annual balance sheets, as with the quarterly statements, employers have confined themselves to generalities. Conciliation boards have shown an even more remarkable reserve in the matter of the application of Section 70, and have scrupulously respected the independence of the employers. Nörpel, one of the leaders of the Central Committee of Socialist Works Councils, has summed up as follows the various difficulties of theory and practice to which the enforcement of the Act has given rise.

For the worker, communication of a balance sheet and a profit and loss account is a privilege of no mean order. But this is the sole importance of the reform. From the practical point of view, it should be clearly understood, the balance sheets of private undertakings bear all the marks of capitalist organisation. They hide many points which can only be understood in reference to the general methods and statistics of the business. It is impossible, for instance, to use a balance sheet for the purpose of ascertaining the necessity for the manufacture of a given product, or its selling prospects on the market. All that can possibly concern the workers at the present is the amount of the real profits of the business, and not only the disclosed profits, in comparison with the capital. Anything else is a matter for specialists.

Nörpel goes on to say that there are infinite resources at the disposal of the employers for “cooking” a balance sheet, and that, because of their inexperience, works councils are often incapable of seeing through them. It is a common trick to hide reserves, the real value of premises, sites, machinery, stocks of goods, etc., so that it can justifiably be assumed that the real profits are greater than the disclosed profits. “It is not unusual to find”, says Nörpel “that an undertaking which
pays dividends of 3\% or 4\% per cent has really made profits of 100 per cent”.

In this connection, the duties of works councils are so novel and so complicated that supervision has not succeeded in suppressing, or even in regularising, the enormous profits of large-scale industry. Control over production has given the workers certain detailed benefits which can with advantage be further developed. But control is neither sufficiently wide-spread nor sufficiently thorough to modify the general structure of existing economic organisation, and in any case this was not the object of the Act.

**Social Functions of Works Councils.**

The social functions ascribed by the Act of 1920 to works councils are the most important from the point of view of practical results. A distinction, however, should be made. Some of these functions, and the most important of them, are also exercised by the trade unions, since they relate to questions already regulated under collective agreements, e.g. wages, hours of work. Others, on the contrary, appertain more directly to works councils and relate to engagement and dismissal, questions of social welfare and health, etc. In this field, where there is no fear of their infringing the rights of trade unions and the collective agreement, works councils have achieved their chief successes. Far from wishing to embarrass them or to restrict their activity, the trade unions have treated them as invaluable allies and have handed over to them for settlement a large number of problems of detail. Little by little, a most beneficial decentralisation has taken place. The trade unions, which were almost breaking under the burden of their ever-increasing responsibilities, have been glad enough to find in the works councils obedient coadjutors fully capable of helping them in their work. But they have subjected them to vigilant supervision. As the primary defenders throughout of the rights given by the collective agreement, they have made a point of keeping in their own hands the determination of the most important labour conditions, such as wages and hours of work.

In accordance with Sections 66–78 of the Act, two kinds of cases have been in practice distinguished, that in which a collective agreement already exists, and that in which there is no such agreement.
In the first case works councils have been allowed the right (1) of watching over the execution of existing agreements, as well as over the execution of the awards of conciliation boards which were accepted by both parties (Section 66, paragraph 4 and Section 78, paragraph 1); (2) of drawing up, in agreement with the employer and subject to the terms of existing collective agreements, new works regulations (Arbeitsordnungen) or other service regulations (Dienstvorschriften), or of modifying existing regulations (Section 66, paragraph 5 and Section 78, paragraph 3).

The right of supervision exercised by works councils has been very carefully defined and no difficulty arises in this connection. Their right of initiative, on the other hand, is very vague, and liable at any moment to meet with opposition from the authorities. The works regulations (Arbeitsordnungen), which works councils are entitled to draw up or to amend, are an old institution. The Industrial Code of 1891 states in Section 134 that the regulations should lay down rules on the beginning and ending of the day’s work, rest periods, and the date and method of payment of wages. The 1920 Act in no way enlarges the scope of works regulations, but changes their character in making them the result of collaboration between the employer and the worker, and no longer the work of the employer alone. This is an innovation. Nevertheless, the field of activity of works councils in this connection is extremely limited. If they try to go too far and to regulate at their own discretion questions of wages or hours of work, the Act reminds them that they must respect “existing labour agreements”. The collective labour agreement, which is the work of the trade union and of the employer, always has priority over works regulations, which are more restricted in scope and are the work of the works councils and of the employer.

Service regulations (Dienstvorschriften), in the drawing up of which works councils are entitled to take part, are mentioned for the first time in the Act of 1920. In view of the fact that their legal nature has never been exactly defined, it has been difficult for works councils to make profitable use of them. What is the importance of these regulations? Have they the force of law, and is a works council bound by the engagements entered into by its predecessor? There are several questions of this nature to which there is as yet no answer and for which no solution is indicated in any Act. Conciliation boards have confined themselves to intervening as instruments of adjustment, and have
avoided decisions which favoured one party at the expense of the other.

When there is no labour agreement, works councils, or more exactly, the councils of wage-earning and salaried employees, are entitled to take part \( \text{(mitwirken)} \), in agreement with the employers "in the fixing of wages and other conditions of employment... in particular as regards the fixing of contract and piece rates of wages or the principles for the calculation of the same; the introduction of new methods of remuneration; the fixing of working hours, with special regard to extensions and reductions of normal hours; and the regulation of employees' leave" (Section 78, paragraph 2). Works councils have for the most part, however, been in a somewhat embarrassing position when they have come to carry out the Act. It is stated that they shall take part in these questions "in agreement with the economic associations of employees concerned". Thus, the principle of their subordination to the trade unions and to collective agreements is once more admitted, in fact at least, if not explicitly. On the other hand, German legislation, which recognises the validity of the collective agreement, is not in the least explicit as to the legal nature of agreements between employers and works councils under paragraph 2 of Section 78. There is probably some analogy, in this instance, to the new service regulations which may be issued when a collective agreement already exists and which are themselves of a very ambiguous character.

Unlike the Austrian Act on the same subject\(^1\), the German Act does not give works councils any right to amend or prepare, still less to conclude, collective agreements. Their duties are confined to drawing up from time to time, subject to the terms of existing agreements, those new works regulations or new service regulations of which the Act provides no further definition. It may be that this ambiguity is purposely observed in the Act in order to safeguard the authority of the collective agreement, which alone gives solid and lasting guarantees to the parties concerned.

Since the Revolution there has been some opposition from the employers' side to the development of collective agreements. Vigorous complaints have been made against a system which allows only for the will of the trade unions and does not always take account of the special conditions of labour in the different undertakings. It is, therefore, hardly

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\(^1\) Adopted 17 May 1919.
to be wondered at that, in order to counterbalance the power of the trade unions and to achieve greater elasticity in the organisation of work, the employers have sometimes tended to develop the social functions of works councils. This policy was clearly shown in connection with the question of increasing hours of work. Employers thought that it would be easier for them to extend or abolish the 8-hour day, if they replaced the authority of the trade union by that of the works councils and concluded individual agreements with their workers, so as to replace by degrees the collective agreements which they thought inconvenient and on too large a scale. Their view was that works councils would not feel compelled to observe the principle of the 8-hour day as strictly as had the trade unions, and that they would be more manageable since their chief interest was to obtain immediate material advantages. The Act of 1920 has been most carefully exploited by the employers in all cases in which they have had any special interests to serve, and particularly in their struggle against the development of the system of collective agreements.

But up to the present the employers have not been able to develop their offensive in this connection to any great extent. The text of the Act protects the rights of the collective agreement and the authority of the trade unions so carefully that works councils have continued to play a subordinate part. According to a decision of the Minister of Labour, dated 24 December 1921, "the Act does not entitle the works council to conclude individual arrangements with the management of an undertaking under pretence of extending a collective agreement. Further, it does not authorise appeal to a conciliation board for the purpose of obtaining an arrangement of this nature. Even if an agreement is concluded, its provisions would in no way affect existing collective agreements".

It is in accordance with this principle that the trade unions have always insisted on retaining their share in the settlement of wage questions. Whenever the works councils have tried to act alone they have failed, and the strikes have ended in defeat for the workers. There have been many cases of this, for example, the strike of the Berlin municipal workers in February 1922, and the great strike at the Badische Anilin-

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1 Cf. Der Sozialist, 17 June 1922, and L. Breunig, Betriebsräte und Gewerkschaften.
und Soda-Fabrik at Ludwigshafen in December 1922. In both cases the wages fixed by the collective agreement were maintained unchanged.

The trade union leaders wish to make the collective agreement the only method of settling wage questions and have, therefore, tried to keep these questions out of the works regulations (Arbeitsordnungen), in the preparation of which the works councils may take part. In the first number of the Works Councils Journal for the metal industry, Dissmann explains that "works regulations should not go beyond the sphere marked out for them by the Industrial Code of 1891. All other matters should be regulated by collective agreements between the workers' and employers' organisations. The individual undertaking cannot be left to determine its own wages and conditions of work, which are the business of the industrial organisations. Under the system of collective agreements the workers are much less likely to suffer from the arbitrary action of the employers".

In October 1922 the General Federation of Trade Unions drew up a note which once more affirmed the supreme authority of the trade organisations in matters of wages. The note states that the final preparation and the transmission of workers' claims is subject to the consent of the responsible trade union, which must assume general direction of the negotiations. Work may not stop except by order of the trade union concerned. Any strike declared by a works council without the assent or formal authorisation of the trade unions is considered illegal.

Nevertheless, the trade unions do not attempt to deny works councils the right of dealing with questions of wages. It is understood, however, that the works council remains an advisory body and that the final decision rests with the trade unions. This interpretation has been confirmed by the awards of conciliation boards and the Orders of the Government. Thus, on 11 May 1920, the Minister of Labour stated that "the desire expressed by works councils to regulate wage conditions in agreement with the trade unions is in accordance with the spirit of the Act. The Act is not intended to introduce any change in the new methods (i.e. collective agreements) by which workers' and employers' organisations determine labour conditions in the first instance. The contrary opinion, that the regulation of wages and labour conditions should be the subject of special arrangements between the employer and the works

1 Vorwärts, 22 Dec. 1922.
council, is one which cannot but be prejudicial to the essential principle of the standardisation of labour conditions”.

The works councils in the wood industry have been clever enough to take full advantage of the rights given them by the Act. They have been careful not to overlap with the functions of the trade unions; but they put their claims to the trade unions and, on 20 July 1920, they succeeded in securing a new collective agreement which gave them better wages. Their example has been followed by other bodies, and is typical of the method by which works councils can with advantage take part in the regulation of wages questions.

Problems of a very complicated nature have been raised by the intervention of works councils in the regulation of hours of work. According to the Industrial Code, works regulations (Arbeitsordnungen), which leave wages questions out of account, must state the hour when work begins and ends, the duration of rest periods, etc. Where there is no collective agreement, it would appear that the works council may take advantage of paragraph 2 of Section 78, that is to say, “take part, in agreement with the economic associations of employees concerned, in the fixing of... conditions of employment” (hours of work, with special regard to extensions and reductions of normal hours, question of leave, etc.). But here too the trade unions have been careful not to allow works councils to conclude individual arrangements which might stultify the general provisions of the collective agreement. They have not forbidden the councils to interfere in a number of questions where the Act recognises their right to take the initiative and to intervene. They have merely defined the limits of the councils’ powers, and have reserved for themselves the right to settle the large issues and to take decisions on questions of principle.

Works councils have been much involved in the campaign conducted for the last four years by the employers against the 8-hour day, which was one of the chief triumphs of the Revolution. This campaign only reached its full development in 1923. It is not proposed here to deal with its origin or various phases. The most important point for present

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1 Similarly, the Minister of Labour authorised trade union organisations to fix the wage conditions of apprentices by means of collective agreements (30 November 1920). This right was contested by the chambers of commerce and the chambers of crafts.
purposes is the effect which it may have on the future of works councils.

The discussion on the original Bill on hours of labour in industry¹, which took place in the Federal Economic Council during the last weeks of 1922, shows clearly enough the attitude of employers and workers. Little by little, the economic crisis through which Germany is passing has induced the two parties to make concessions. The Stinnes formula: “two hours’ more work per day and no increase in wages”, is considered too violent. Employers do not insist obstinately on a new Act abolishing the principle of the 8-hour day. Their efforts are rather directed to obtaining an Act which, while it respects the principle of the 8-hour day, facilitates exceptions and leaves employers and workers free to conclude individual agreements according to circumstances. On their side, the workers have abandoned “the systematic enforcement” of the 8-hour day, and have not shown any great hostility to a more elastic interpretation of the general principle.

Theoretically, agreement on the question has almost been reached, as is admitted by the leaders of industry and of the trade unions. Grassmann, the vice-president of the General Federation of Trade Unions, explained in Vorwärts on 6 December 1922 that the trade unions were still faithful to the principle of the 8-hour day, but that they were ready at any time to discuss the question of overtime if it could be proved that a temporary extension of working hours was necessary. On the same day, Stinnes’ paper, the Deutsche Allgemeine Zeitung, expressed its satisfaction that the necessity of increased production was understood in all industrial circles, but, it added, “there still remain differences of opinion as to the method of effecting such an increase”.

Another leader of the “free” trade Unions, Umbreit, said almost exactly the same thing a little later in the Federal Economic Council. “In the joint industrial association employers and workers did not even raise the question of abolishing the 8-hour day. Both parties stated their readiness to accept the 8-hour day and not to apply it in a systematic fashion. In principle there was agreement, but opinions differed

¹ The principle of the 8-hour day, which was recognised in the Decree of 23 November 1918, and in the Constitution, has not yet been sanctioned by an Act. The Government prepared a Bill in 1921 which, after undergoing extensive re-drafting in the Federal Economic Council (1922), was abandoned. Under the pressure of the capitalist campaign, the Stresemann Government, in October 1923, tabled a second Bill which was more favourable to the employers. This Bill has not been discussed in Parliament. The Government has used the emergency powers conferred upon it by the Reichstag to regulate hours of work provisionally by Order.
as soon as it became a question of defining the exact meaning of the systematic application of the 8-hour day."

In connection with a possible increase in hours of work, employers and trade unions have not succeeded in reaching agreement as to the respective importance of the functions to be ascribed to an Act on the question, to collective agreements, and to works councils. What authority, for instance, was in the future to determine cases of exception? The supreme object of the employers was to mitigate the rigidity of collective agreements. They sought to extend the scope of the Act and to develop the functions of works councils at the expense of collective agreements. They urged that the Act should in the first place enumerate a whole series of exceptional cases; that the official authorities should also be entitled to prolong hours of work according to circumstances; and finally, that works councils should be allowed to settle the question of overtime in agreement with the employers. Only in the last resort did they consent to make use of the collective agreement in order to solve the problem of the extension of working hours. Further, they were insistent that in such matters the collective agreement should have the force of law, and that it should not be possible for the trade unions to denounce it at will.

The employers could not have shown more clearly their distrust of the trade unions. They appear to have founded the greatest hopes on the docility of works councils and to have imagined that in them they had at their disposal a simple means of evading the principle of the 8-hour day. In a speech at Elberfeld on 12 February 1922, Mr. Stresemann, who was then only the leader of the Popular Party, stated that in his view it mattered little whether or no the Act modified the principle of the 8-hour day. The essential point was to settle the question of hours of labour by individual agreements between the management of a business and the council of wage earners or salaried employees. The view taken in industrial circles has of course influenced the German Government. When Mr. Cuno, the Chancellor, read the programme of his Government to the Reichstag, he showed a disposition to take account of the wishes of employers. "The Hours of Labour Act", he said, "should preserve the principle of the 8 hour-day, but should at the same time provide for certain exceptional cases, which should be settled by collective agreement or by the official authorities".

Trade unions of all shades of opinion, Socialist, Christian, and Democratic, came out once again in defence of the threatened labour agreement.
In their view, extraordinary powers of regulating hours of work should be conferred neither upon the Act, official authorities, nor works Councils, but solely upon collective agreements. They observed that collective agreements were sufficiently elastic to lend themselves to all kinds of individual interpretations. In the article in Vorwärts already quoted, Grassmann expressed the following opinion:

All collective agreements contain clauses relative to overtime. It is not for the employers to prolong hours of work on their own initiative; they must work in agreement with the trade unions. On the other hand, it should be recalled that the Act only authorises overtime as a provisional measure and in really urgent cases. It would seem desirable to settle the question of overtime not by law but outside the law (i.e. by the extension of collective agreements which would still in principle be private agreements denounceable at will).

During the discussions in the Federal Economic Council, Umbreit accused the employers’ representatives of having only a general acquaintance with collective agreements and their importance. In point of fact, he said, agreements always provided for exceptional cases in which it might be necessary to prolong working hours. Some of them even contained special provisions concerning piece work. For the amendment, therefore, of existing agreements, it would be sufficient to make arrangements with the trade organisations concerned and keep the works councils informed of the negotiations. Umbreit showed that, when trade union discipline had been thus observed and works councils had understood their duties, there had never been any serious difficulties between employers and workers. “We have asked for specific proof”, he said, “of the allegation that the trade unions have opposed the conclusion of special agreements. In answer, only one case has been given us in which a works councillor raised any obstacles to the prolongation of working hours”.

In October 1923 the Stresemann Government published a second Bill on hours of labour. The campaign inaugurated by the employers for the increase of production was, above all, a means of obtaining a prolongation of working hours. But it had borne fruit. It was difficult for the workers to refuse to work overtime when, according to the manufacturers, such overtime would be the means of allaying the economic crisis into which the defeat of the Ruhr policy had plunged Germany. In this Bill the principle of the 8-hour day was maintained, only the exceptions contemplated were so numerous that they became to some extent
the rule. Two Sections of the Act gave works councils certain special rights; one of them, Section 3, authorised employers, after informing the works council, to require 2 hours' overtime from their staff during 30 days in the year, though the works council's consent was not necessary. The other, Section 6, allowed factory inspectors to increase hours of work after consulting the works council, where there was no collective agreement.

The Bill has not yet been discussed, since the Government has preferred to regulate hours of labour provisionally by means of an Order (21 December 1923). The chief clauses of the Bill, and in particular those relating to works councils (Sections 3 and 6), have been maintained in it. The management of an undertaking has also to consult the works council in the following cases: (1) when it is desired to carry over to other days of the same or following week certain hours which have not been worked, i.e. to adopt the basis of the 48-hour week in place of that of the 8-hour day (Section 1); (2) when it is desired to prolong the working day of women workers or young persons by one hour, or that of male workers over 16 years of age by two hours, in the case of certain special work, e.g. cleaning, watching, preparatory work, loading and unloading (Section 4).

On whatever method a final Act may later determine the duration of hours of work, it is interesting to note that up to now the works councils, acting in close touch with the trade unions, have never refused to adhere to special agreements extending hours of work. According to the reports of Prussian factory inspectors, the number of special authorisations for prolongation of hours of work has more than doubled in one year; in 1920 there were 2,080, in 1921, 4,613. The number of workers covered by these agreements rose from 198,997 in 1920 to 536,155 in 1921. These figures show that works councils, so far from opposing the introduction of overtime, have rather favoured the action of the trade unions and seconded their efforts.

This became apparent during the conclusion of the successive agreements which in 1922 and 1923 regulated overtime in the Ruhr mines and unoccupied Germany. The councils did not attempt to take the direction of negotiations into their own hands, but left it to the trade unions.

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1 Cf. Industrie und Handels-Zeitung, 10 Nov. 1922.
2 For the Ruhr mines, agreement of 29 Nov. 1923; for the mines and metal industries of unoccupied Germany, agreement of 14 Dec. 1923.
to come to an agreement with the mine owners. This attitude was the more far-seeing in that the question of overtime was closely bound up with that of wage increases, and that, consequently, it was for the trade unions to treat the two questions jointly. On all occasions on which the trade unions have noticed that agreements have been concluded apart from them and without their general consent, they have recalled works councils to a proper observance of collective agreements.

The great metal workers' strike in South Germany, which lasted nearly three months (March-May 1922), is also very instructive. It shows, for instance, that works councils can with advantage intervene in the fixing of hours of work, when they conform to the instructions of the trade unions. Up to 1922, the working week of the metal workers of Bavaria, Wurtemberg and Baden had been 46 hours. At the beginning of 1922, the employers made an increase in wages conditional on the adoption of the 48-hour week. There was no question of their making the 48-hour week a matter of principle. They wished merely, they said, to obtain 8 hours' actual work per day and, in outward show at least, they respected the claims of the workers. But the metal workers' union understood the threat and declared a strike. The struggle, which was complicated by a lock-out, lasted until 25 May.

During this period the discipline of the works councils was perfect. The agreement finally reached gave them certain particular rights, but did not in any way dispossess the trade unions who had succeeded in saving the existing collective agreement. The settlement stated that the hours of weekly work duly fixed by previous agreements were maintained. Nevertheless, if the management thought it essential, and on condition that the workers' council was informed in advance, the working week might be increased to 48 hours' effective work. Further, if the management desired, the hours of work thus fixed might be inserted in the works regulations. As in the case of wages, works councils have the right to a say in the question of overtime, provided that they recognise the superior authority of the trade unions and do not act in such a way as to prejudice collective agreements. In view of the fact that the Act makes the employer and the workers' representative bodies jointly responsible for works regulations, the works council is free to grant or refuse the sanction of these regulations for overtime. The limits of its action are thus laid down for it, and its relations with the trade unions defined.

On the railways also, the trade union organisations have, without protest from the works councils, assumed the direction of negotiations
relative to hours of labour. These negotiations resulted in an agreement between the Government and the trade unions, which was put on record in the Ministerial Order of 5 August 1922. The trade unions obtained the recognition in principle of the 8-hour day, but agreed to prolong daily hours of work, if necessary, and according to circumstances. At their request, the rights of works councils have been considerably extended. Despite the opposition of the management, it was decided that works councils and delegates of officials should co-operate in drawing up the working list (Dienstplan), which fixes the duration and distribution of the working hours of the staff. This clause virtually gives works councils the right of intervening at any moment in the regulation of overtime. It is for the trade unions to take decisions in principle and for the works councils actively to control the execution of the agreements and, if necessary, take the initiative in approaching the trade unions with a view to further negotiations.

Whenever there has been a lack of cohesion between the works councils and the trade unions, the employers have succeeded in imposing conditions on the workers which are not balanced by any corresponding concession on their part. It was misunderstandings of this nature which doomed to failure the strike in the Badische Anilin- und Soda-Fabrik, where the workers were forced to resume work at the old rates and to accept without question the introduction of piece work, if the management required it. Instead of obtaining new rights, the works councils had their functions restricted even more than required by the Act.

The works councils are, in fact, the vigilant eyes through which the trade unions can observe whether agreements relative to hours of labour are strictly carried out. Conciliation boards have been practically unanimous in recognising that the Act gives the councils the right to be consulted on all questions connected with the reduction of hours of work, leave, etc. Nevertheless, the exercise of this right has only had practical results when the councils have acted merely as sources of information for the trade unions and have left it to the latter to take decisions on questions of principle. The action of the councils has been effective in proportion as their connection with the trade unions has been close. In cases where there was no collective agreement, and works councils were face to face with the employer, it speedily became apparent that the agreements entered into were worth nothing unless they were sanctioned by the trade unions and incorporated in the general body of collective agreements. Otherwise, the works council tended, sooner or later,
to find itself at the mercy of the employer. It is this danger which the trade unions have endeavoured to avoid by defending the collective agreement, in the interests both of the workers and of the 8-hour day.

The success of works councils has been the greater in proportion as the questions which they had to settle were more concrete and more directly connected with the well-being and general material circumstances of the workers, e.g. engagement and dismissal, social welfare, health, etc. Naturally the trade unions have not abandoned any of their original rights; but they have left the works councils enough independence to settle a number of individual disputes, the scope of which did not go beyond the limits of the factory or business in question. It may be said that works councils have not disappointed the hopes formed of them. They have secured most valuable guarantees for the workers and have, in particular, afforded them complete protection against arbitrary dismissal.

The Act of 1920 grants works councils the right to intervene in questions of engagement and dismissal. This right was first granted to certain workers' representative bodies by the arbitral award of 10 April 1919 (see page 15). It has been seen how the bourgeois parties succeeded in gradually watering down the successive drafts of the Bill in discussion. Nevertheless, it has been profitably used by works councils in its existing form.

The powers of works councils are considerably wider in respect of dismissals than in respect of engagements. The employers have succeeded in retaining the right to choose their staff at their own discretion, and their right of decision in this matter has not really been touched. Conciliation boards have done no more than uphold the very precise text of the Act. As for the trade unions, they have succeeded in getting it explicitly recognised that engagements effected in pursuance of a collective agreement enjoy priority over all others. In these circumstances the only means of action at the disposal of the works councils are the "general principles" (Richtlinien) which, in the absence of a collective agreement, they have to draw up jointly with the employer.

There are both advantages and disadvantages in these "general principles". They give workers the assurance that the employer will no longer enquire into their political or religious convictions before engaging
them. They also guarantee that workers of one sex will not be favoured at the expense of workers of the other sex, and that women shall not be engaged in preference to men for the purpose of depressing wages (Section 81, paragraph 1). In certain instances works councils have succeeded in obtaining a limitation of the number of apprentices, the engagement of unemployed workers from certain employment exchanges, and the re-engagement of workers dismissed on account of a partial closing down of the undertaking, etc. But these latter guarantees are contingent on the goodwill of the management. If, as has been known to be the case, the management refuses to negotiate with the works council, the latter can only appeal to the conciliation board, the decisions of which are by no means final in such cases (Section 66, paragraph 3; Section 75, paragraph 5).

Moreover, the "general principles" are of no value except for the staff of the undertaking in question. They are drawn up by the employer and by the works council, and the employer is often able to bring pressure to bear on the workers' representatives. All that the trade unions have been able to do is to advise the works councils and to recommend, for instance, "general principles" which would naturally apply to the particular branch of industry as a whole. Thus, the Metal Workers' Union has published a model Order of this nature, to serve as a guide to works councils. The Factory Workers' Union has even succeeded, acting on behalf of works councillors, in coming to an agreement with the Chemical Trades Employers' Association, and in securing the adoption, on 15 September 1920, of "general principles" in completion of the existing collective agreement. But these are voluntary arrangements, and the employer can always refuse to agree to them.

When the employer decides to engage a worker, the works council is entitled to protest to the conciliation board. The protest is only admitted if it can be shown that the employer has not observed the "general principles". In this case the decision of the board is final.

The inadequacy of the Sections dealing with engagement was early criticised by the trade unions, who tried to introduce improvements into a Bill on employment exchanges, tabled in the Reichstag in 1921. They demanded the extension of the system of municipal employment exchanges

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1 Except in undertakings serving political, religious, and other similar purposes, referred to in Section 67.

exchanges. Employers were to be compelled to apply to the exchanges for the engagement of their staff, and works councils were to be authorised to determine, in agreement with the employers, the number and grade of the workers it would be desirable to engage. The Employment Exchanges Act, which became law on 13 July 1922, has been somewhat of a disappointment to the workers. It has not effected the centralisation which the trade unions desired, and it has allowed private exchanges to remain side by side with the public exchanges. Thus the employer retains the power of engaging his staff where and how he pleases.

In the case of collective engagements necessitated by an increase in production, the extension of the undertaking, etc., the employer is only bound to inform the works council as long as possible in advance (Section 74). The text of the Act is ambiguous on this point ("the employer shall communicate with the works council") and has given arise to disputes. Nothing in the text allows it to be inferred that the works council is entitled to demand anything more from the employer than notice in advance; and indeed, the Act has generally been interpreted in this sense.

The powers of works councils in questions of dismissal are not fettered by the same restrictions. Whether or no there is a collective agreement, the council is entitled to intervene, and its action is not hampered by "general principles" which it is forbidden to transgress. In this case it is fully authorised to protest against the dismissal of any wage-earning or salaried employees and to consider the reasons put forward for such dismissal by the employer. Whether due notice was given of dismissal, or whether dismissal was summary and for reasons admitted by the Act, the works council may demand the reconsideration of the decision and the re-engagement of the worker concerned. It can easily be understood that, in such circumstances, the Act of 1920 has given the workers valuable guarantees against arbitrary dismissal. There is a mass of information on this subject collected by the trade unions. It will be enough to quote one or two examples to show that works councils have in this field obtained successes which have a great moral and practical value.

Conciliation boards have supervised the strict enforcement of the first paragraph of Section 84, which forbids any dismissal for political, religious or other reasons.

Workers dismissed without notice for taking part in May Day celebrations had to be re-engaged (Berlin, 9 June 1920).

The Berlin conciliation board declared illegal the dismissal of em-
ployees who had been invited by their trade unions to ask the management for an increase in wages for the staff.

Workers in the building trade having been dismissed merely because they belonged to a workers' productive co-operative society, the Stuttgart conciliation board decided, on 11 June 1920, that it was impossible to forbid workers to establish producers' co-operative societies, "even if employers considered such societies prejudicial to their interest".

A worker who was dismissed because he ceased to belong to a certain trade organisation complained to the Berlin conciliation board and won his case.

Although the great Ludwigshaven strikes of December 1922, which have already been mentioned, were mainly political in character, all the dismissed workers were re-engaged, with the exception of one or two of the leaders. It is a more or less established principle that political or religious opinions cannot of themselves constitute grounds for disciplinary measures, whether individual or collective.

Paragraph 2 of Section 84 states that every dismissal must be accompanied by a statement of "the reasons for the same". Conciliation boards have hardly ever had occasion to demand the application of this paragraph, since the employer always complies with it. But it is the business of works councils or conciliation boards to consider the validity of the reasons given.

Under paragraph 3 of the same Section, a worker may not be dismissed if he refuses to undertake regularly some other work than that for which he was engaged. In the building industry, certain workers had been dismissed for refusing to do piece work, although the collective agreement in force gave the employer some freedom in this matter. The Berlin conciliation board took the view that workers should not be dismissed so long as it was possible to give them work on the conditions originally laid down. Moreover, a worker cannot be dismissed for having refused to do overtime piece work, if it is insufficiently paid (Berlin, 6 July 1920).

Works councils have made considerable use of paragraph 4 of Section 84, which allows them to protest against dismissals which appear to involve "hardship not caused by the behaviour of the employee or the condition of the undertaking". This idea of "hardship" is a flexible one, and supplies works councils with a good weapon. It may be worth while to quote several awards given by conciliation boards in this connection:

Is a dismissal owing to shortage of work legal if the employer infringes the Decree of 12 February 1920, and if he does not give due notice
to the works council of the reduction of staff? (Berlin, 30 July 1920).

Any dismissal for the purpose of reducing the output of an undertaking must be preceded by a reduction of hours of work, in accordance with the Decree of 12 February 1920.

No worker may be dismissed if it is shown that the employer can usefully employ him.

The employer is not entitled to dismiss a married worker with a family, in the place of a younger worker who is a bachelor.

Continued incapacity for work is not always a justifiable reason for dismissal. Account must be taken of the family circumstances of the worker, and the possibility of re-engaging him after his illness must be considered.

An employee in the Department of Finance, who was dismissed for an insufficient reason after 13 years' service, had to be reinstated (Karlsruhe, December 1920). The same thing happened in the case of two workers who were dismissed after 26 and 28 years' service respectively. The conciliation board (Berlin) said that it should be possible to give them work suited to their age and strength.

A worker may be reprimanded for a breach of discipline, quarrelling, etc. Dismissal would, in some cases, be disproportionate to the gravity of the offence.

An employer is not entitled to dismiss a worker who refuses to work during a strike (Munich), or who takes part in a general strike (Stuttgart).

A worker who was dismissed because he had formerly served 15 days imprisonment won his case before the Frankfort conciliation board.

A worker cannot be dismissed when he is presumed, without proof, to have been guilty of pilfering (Bamberg).

An engineer who was dismissed for having left his machine unattended for a few moments was held not to have committed an offence justifying dismissal (Berlin).

When, in October 1923, the Federal Government announced that it was about to issue an Emergency Order reducing the number of its officials and salaried employees by 25 per cent, the trade organisations thought the measure contrary to paragraph 4 of Section 84 of the Works Councils Act, and that the action of the Government was, in fact, "unjust" and involved "hardship not caused by the behaviour of the employees or by the condition of the undertaking", and that, therefore, the councils of wage-earning and salaried employees were entitled to protest against it.

The execution of the Act has given rise to somewhat intricate disputes on questions of procedure. It has been asked, for instance, whether a dismissed worker may himself appeal to the conciliation board, or
whether the works council alone can intervene on his behalf. The text of the Act and the awards of conciliation boards show clearly that it is essential that a works council should exist, if the protest of a dismissed worker is to be justified in the first instance. The protest must be addressed to the works council; it is the business of the works council to consider whether or no it is well founded and, in the former case, to negotiate with the employer or to bring the dispute before the conciliation board. The dismissed worker is only entitled to appeal to the conciliation board when the works council has admitted the legitimacy of his protest, but has been unsuccessful in its negotiations with the employer on his behalf.

Thus, when the wage-earning and salaried employees of an undertaking refuse for any reason to appoint a works council, they cannot claim the benefit of the Act of 1920. The following sentences from the awards of conciliation boards in Berlin, Hamburg, Bremen, etc., may be cited as examples: "If there is no works council, the indispensable preliminary condition for the enforcement of the Act is lacking. In refusing to elect a legal representative body, the workers ipso facto renounce the rights conferred upon them by the Works Councils Act.... The conciliation board can only act if the works council has previously approved the protest of the dismissed worker". On 4 December 1920 the Minister of Labour confirmed this interpretation of the Act. "The council of wage-earning or salaried employees must, in the first instance, ascertain whether the protest is justified. If it considers the protest inadmissible, the matter must be considered as settled, and in such case the dismissed worker is not entitled to appeal to the conciliation board". Works councils constitute, therefore, a kind of court of first instance, the jurisdiction of which cannot be escaped. The question has been under dispute for a long time, but appears today to be settled on the above lines. A decision of the Cassel Court of 13 August 1921 states that "only when the works council has failed to reach an agreement with the employer is the worker entitled to appeal directly to the conciliation board".

Although the works council is always entitled to intervene after the dismissal of an employee, no Section of the Act gives it the right to express an opinion before such dismissal. Certain employers have thought it wise to secure the approval of the works council before dismissing a worker; and these tactics, which are neither forbidden nor prescribed by the Act, have often been successful. For when the dis-
missed worker protested to the works council, the latter invariably rejected his protest, and he was thus deprived of all means of further action. But the tactics sometimes proved dangerous, and have even turned to the disadvantage of the employer. The partiality of the works council has irritated the workers, who have themselves supported the claim of their dismissed comrade and demanded the summoning of a works meeting (Section 46). The works meeting has demanded that the decision, and the procedure by which it was carried into effect, should be revised. Such incidents have naturally given rise to disturbances and have threatened the peace of the undertaking.

The decisions of conciliation boards in cases of dismissal are final (Section 87). The Minister of Labour merely confirmed the text of the Act in this respect (16 September 1920). Nevertheless, the courts may suspend the execution of a decision on a question of procedure. Conciliation boards are therefore careful, before pronouncing a judgment, to make sure that the time limits prescribed by the Act have been duly observed. The worker must hand in his protest to the works council not later than five days after his dismissal. If the council considers the protest justified, its attempts to reach an agreement with the employer must last at least a week. Only then, and at most five days after the expiration of this period, can appeal be made to the conciliation board. If the award of the conciliation board is unfavourable to the dismissed worker, there is no higher authority which can intervene. Similarly, if the board decides that the worker must be re-engaged or that an indemnity should be paid to him, the employer is obliged to submit, and has no appeal. In the event of the employer failing, wholly or partially, to carry out the award, it is the business of the ordinary courts to enforce the Act, but they can in no way modify the decision of the conciliation board.

Special rights of protection are granted by the Act to members of works councils; their dismissal is in principle subject to the previous consent of the whole council (Section 96). Nevertheless, there are certain exceptions to this rule which have given rise to disputes. The employer may dispense with the consent of the works council when the dismissal in question is based on an Act, an arbitral award, or a labour agreement; when it is rendered necessary by a partial stoppage or closing down of the works; or in the case of dismissal without notice for any reason admitted by the law on the denunciation of labour agreements. Finally, if the works council refuses to agree to the dismissal, the employer may
appeal to the conciliation board, the consent of which may take the place of that of the council.

The Act is thus, as may be seen, a very complicated structure. But the structure, if complicated, is solid. Provided that he understands how to make his way through this delicate network of procedure, the worker will find therein means of action which were not previously at his disposal and which will enable him to defend his own interests. If his cause is just, he is almost certain of being able to make his protests heard and to win his case. This is one of the most considerable results of the Works Councils Act, and would alone be sufficient to justify the reform.

Nevertheless, the workers complain that the security afforded by the Act is still inadequate. They observe, in particular, that in small undertakings employing less than 20 persons the rights of workers are often sacrificed. The works steward (Betriebsobmann) does not possess all the powers of works councils (Section 92), and is not entitled to intervene in cases of dismissal. He can only protect the workers indirectly by appealing, for instance, to certain Sections of the Act (e.g. Section 66, paragraph 3, and Section 78, paragraphs 4 and 5), which empower him to negotiate with the employer in order to avoid a dispute which might be prejudicial to the interests of the business. But in this case he must, in the first instance, obtain the views of the majority of the workers, and find out whether they are opposed to the dismissal of their comrade and are prepared to support him.

It is above all in the case of collective dismissals that the Act would appear to be ill-drafted and inoperative. According to Section 74, the employer may dismiss a large part of his staff en bloc without being compelled to do more than "communicate in advance with the works council". It is true that this communication must be made as long as possible in advance, and that the employer is bound to furnish explanations as to the scope of the projected dismissals and to avoid any unnecessary hardship; but the same difficulties arise here as in the case of collective engagements (see p. 103). The meaning of the expression: "communicate with the works council" is open to question. Does it involve any right of decision for the works council? Or is it a matter of mere notification by the employer to his staff? The latter appears more likely, because Section 85, paragraph 2, deprives works councils of the right to protest "in cases of dismissals necessitated by total or partial suspension of the work of the undertaking". Employers have plenty of opportunity to defend their point of view and to win the majority of their
cases before conciliation boards. There are only two kinds of procedure open to works councils: either to ascertain whether the total or partial stoppage of the undertaking is really justified, and therefore, whether paragraph 2 of Section 85 applies, or to protest against the "undue hardship" which is forbidden under Section 74. In both cases intervention can only be indirect.

The most effective means of protecting the workers against collective dismissals are still the two Orders of 12 February and 8 November 1920 (see p. 37). Works councils are not specifically mentioned in these Orders, but are nevertheless entitled to demand their full enforcement and to protest against any infraction of them. By means of these supplementary measures, the omissions in the Act of 1920 have been partially overcome, although since then the Order of 13 October 1923 has given back the employer his freedom of action in connection with dismissals (see p. 39).

Section 66, paragraphs 8 and 9, and Section 78, paragraphs 1, 6, and 7, give works councils certain powers in questions of health and social welfare. Their right is admitted, for instance, to take action tending to prevent accidents and injury to health in the undertaking; to participate in the administration of welfare institutions; to co-operate in the carrying out of provisions respecting the regulation of industrial conditions; and to intervene on behalf of persons disabled in the war or by accidents.

This is a vast field where works councils can only act to advantage if they are fully acquainted with existing social legislation. Workers' councils in general have been accused, not without reason, of being imperfectly educated on the theoretical side. It is true that the trade unions have done their utmost to complete the education of the councils; but it is not easy for the workers to know which way to turn in the labyrinth of Acts, Orders, and Decrees, going back sometimes more than twenty or thirty years, which are often contradictory and have not yet been collated in a homogeneous labour code. Republican legislation is superimposing itself on Imperial legislation, and is so voluminous that it is practically impossible for works councils to follow its development. If the action of works councils is to be facilitated, the preparation of a new labour code is one of the most urgent duties before the government.

The Act, which with its restrictions and prohibitions is so precise on some points, leaves certain of the powers of workers' councils somewhat
in the air. Thus, it does not say how workers' councils can "take action tending to prevent accidents or injury to health," nor does it explain what should be understood by the phrases "participate in the administration of pension funds and other welfare arrangements", or "the carrying out of provisions respecting the regulation of industrial conditions". In no case does it indicate what practical means of action works councils possess. It would appear to confine itself to securing them a moral influence in these questions, leaving it to them to use such influence as they wish or consider desirable.

The Minister of Labour has been compelled to interpret these obscure Sections of the Act. According to an Order of 12 June 1920, the expression "participate in the administration of pension funds and other welfare arrangements" means "the participation of works councils in the general management of such institutions". In the event of disputes, either party may appeal to the conciliation board (Decree of 9 April 1920).

It has also been necessary to define what the Act meant by the phrase "pension funds and other welfare arrangements". This is one of the most controversial questions raised by the new legislation. In many instances employers have denied the competence of works councils to deal with welfare institutions concerning one group of workers only, whether wage earners or salaried employees. On other occasions the employer has refused to allow the works council to examine the accounts of welfare institutions which he created on his own initiative and wished to keep in his own hands. On the other hand, works councils have done their utmost to give such welfare institutions the character of compulsory official institutions, and thus to escape from the somewhat humiliating situation of accepting "the employers' charity".

Conciliation boards have had to solve many very difficult questions of detail. Their decisions vary according to the complexity of the cases before them. It is generally admitted that works councils can only intervene when welfare institutions cover all the workers in an undertaking, whether wage earners or salaried employees. Once this condition is fulfilled, works councils are practically unanimously conceded the right of dealing with the following institutions: benefit funds, pension funds, savings funds, workers' housing, holiday homes, rest homes, almshouses, children's homes, messrooms, baths, libraries, etc. In many cases the workers have undoubtedly obtained great advantages; nevertheless, there is no regular and established
control of these various institutions by works councils, since the
drafting of the Act is too obscure to furnish them with irrefutable
arguments on the question. Whenever, for example, they claim their
rights in the matter, the employers may assert that the institutions
under discussion are not pension funds, benefit funds, etc., but are of
another kind which do not come under the Act and are therefore not
"welfare arrangements" properly so called. Conciliation boards have to
unravel the complicated tangle of these disputes on legal terminology,
which are one of the chief obstacles to the working of the Act.

As regards social insurance, the protection of disabled ex-service men
and of victims of accidents, works councils have no other duty than to
control the execution of existing Acts and Orders, and to demand the
penalties provided by legislation.

An important innovation in financial questions is that which allows
works councils to verify the assessment of income tax. Every worker
may require the financial authorities to consult the works council before
assessing the compulsory deduction to be made from his wages. The
final decision in such questions is reserved for the finance department.

On 12 October 1922 Soziale Praxis summarised in the following
terms the activities of works councils in the field of social welfare and
health:

Sickness insurance and pensions funds have been more energetically ad-
ministered since the entry into force of the Works Councils Act. Before the
Act became law workers were not in a position to make full use of their legally
recognised rights of co-operation. Not only did they lack the necessary ex-
perience, but they showed insufficient interest in social insurance and its develop-
ment. As a general rule, committee meetings, especially of sickness insurance
funds, were badly attended. Only on the entry into force of the Works
Councils Act was there a revival of interest, and sickness insurance funds were
further developed on the initiative of the workers. Thanks to the energy and
perseverance of works councils, health conditions in general have entirely
changed in the last few years. It would be an exaggeration to ascribe to works
councils the whole credit for the improvement effected, but they have con-
tinually called the attention of the management to the insufficient accom-
modation provided in workshops and offices, the inadequacy of ventilation,
lighting, and heating, the necessity of installing lavatories with running water.

1 It is generally known that there is a "compulsory deduction" from workers' wages
on account of income tax. This deduction constitutes a very considerable proportion
of the total revenue derived from income tax.
and hot water, and also dining rooms. the lack of disinfectants, and similar matters. Finally, they have brought decisive pressure to bear upon the management, and have often themselves drawn up practical proposals for improvements. At the same time it must be admitted that, in matters of health and of the prevention of industrial accidents the majority of works councils are not yet sufficiently well informed, and much escapes their notice.

By the important functions which it assigns to conciliation boards in the settlement of the chief labour disputes, the Works Councils Act has in practice supplemented previous legislation. Arbitration legislation was for a long time regulated under the Order of 28 December 1918. Disputes concerning the collective interests of wage-earning and salaried employees were in principle settled by the conciliation boards, whereas individual or personal disputes had to be brought before the ordinary courts, or before commercial or industrial courts, etc.

The Act of 4 February 1920 extended the competence of conciliation boards to new and clearly defined cases of collective dispute. It empowered them to settle disputes which might disturb the conduct of the business (Section 66, paragraph 3), or disputes between the employer and either the council of wage earners or salaried employees, or the works steward (Section 78, paragraph 5); questions of collective engagement or dismissal; disputes over works regulations or general labour conditions, etc. The Works Councils Act also provides for the intervention of the conciliation board in individual disputes; and especially in cases of engagement and dismissal (Sections 81-90). In such cases the boards are even empowered to pronounce a final decision, whereas in the case of collective disputes their award has no more than a moral value and is a proposal for conciliation addressed to both parties.

The legislation on the adjustment of disputes has recently been remodelled. In 1922 the Reichstag had before it the text of a Bill which regulated both arbitration and conciliation on new lines. The Socialists protested against the Bill, which they accused of giving too great importance to compulsory arbitration and to official conciliation boards. They saw in it an overt blow at the workers' right to strike.

The Stresemann Government did not attempt to have the Bill discussed in the Reichstag. It used the emergency powers conferred on it to settle the matter provisionally by the Order of 30 October 1923. Under this Order, conciliation boards have only to deal with the amicable adjustment of disputes arising out of collective agreements (labour agree-
ments, etc.). All other disputes, that is to say, most of those arising out of the interpretation of the Works Councils Act in connection with engagement or dismissal, must be settled by the industrial, commercial and other courts, pending the establishment of special labour courts (Arbeitsgerichte) for the purpose of simplifying and standardising the procedure. In such cases the conciliation board may only intervene in exceptional cases and in the absence of the aforementioned courts. If it does intervene, it must be composed of a chairman and of one workers’ delegate and one employers’ delegate, instead of three delegates from each group, as heretofore.

It is to be expected that, when the district economic councils referred to in Section 165 of the Constitution are set up, they will be given some of the powers hitherto conferred on conciliation boards. The Works Councils Act already prescribes several cases in which district economic councils are entitled to intervene; for example, dissolution of works councils (Section 41) and disputes over elections (Sections 93 and 94). For the moment, there is still considerable confusion in the procedure of conciliation boards. In various States, all kinds of authorities are dividing between them the functions which will later fall to the district economic councils. On this point, as on others, the standardisation of existing legislation is imperative.

WORKS COUNCILS IN THE CHIEF INDUSTRIES AND ECONOMIC UNDERTAKINGS

In the course of this survey, mention has been made, in connection with labour problems in general, of the part played on certain occasions by works councils in mines, in the metal industry, and in other important industries. It may be well, however, to describe the characteristic activities of some of these councils in rather more detail.

In the mines great difficulties have arisen. General mining legislation rests fundamentally upon the now antiquated Prussian Act of 1865, as amended on 14 July 1905. It has been necessary to adapt the Works Councils Act to this earlier legislation and, in view of its complicated nature, the task has not been easy. The work of adaptation is by no means completed, and experience often shows that the Acts of 1865 and

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1 In June 1923 the Government tabled a Bill on labour courts which it withdrew "provisionally" in October.
1920 are in more or less open contradiction. Up to the present the
Prussian Government has taken only the first steps towards reconciling
the old and the new legislation.

In 1920, on the initiative of the Social-Democratic party, the Prussian
Landtag adopted an Act handing over to works councils the rights of
inspection and the general powers conferred by the amendment of
14 July 1905 (see p. 4) on the miners' delegates (Sicherheitsmänner).
On 22 April 1922 the Prussian Ministry of Commerce published a
Decree defining the competence of works councils in connection with
industrial accidents. Works councillors were to accompany the mine
inspectors and officials on each tour of inspection, and give their views on
preventive measures in general and on all enquiries concerning accidents.
Once a year at least, there is to be a special conference, which the works
councillors will attend, to consider and discuss the general questions
connected with workers' protection. Finally, it is known that the Prussian
Government has promised to consider the possibility of applying to the
mining industry the Act of 15 February 1922 on the representation of
works councils on control boards (see p. 85).

Works councils in mines, like many others, had in the first instance
to overcome the hostility of the employers. For two years there was an
obstinate struggle, and even now workers complain that all sorts of
obstacles are thrown by employers in the way of the normal operation
of works councils.

At the first congress of the mines works councils affiliated to the
"free" trade unions, held at Magdeburg on 10 November 1921, Otto
Hue pointed out that the mine owners were showing signs of ill-will and
were subjecting the workers to a policy of futile pin-pricks.

We are always being appealed to in the name of economic solidarity. But
at the same time every conceivable difficulty is put in our way, and the Works
Councils Act is interpreted in the narrowest possible sense. Works councils
are compelled to wage a continual struggle in defence of their rights. In many
undertakings, where the Act has not been taken seriously, they are refused
all information on the progress of business on the pretext that they are as yet
inexperienced.

Hue also complained that the Federal Act of 23 March 1919 regulat­ing
the production and distribution of coal\footnote{Gesetz ülber die Regelung der Kohlenwirtschaft, amended on 21 August 1919. This Act set up the Federal Coal Council and defined its functions.} did not give sufficient
influence to the representatives of wage-earning and salaried employees.

The employers' representatives know all the details of production and of sales at home and abroad; they know all the mysteries of price-fixing and of profits on exchange. It is only by chance that the workers' delegates come to know any important facts. Which of us, for instance, is in a position to know whether the volume of exports is in normal proportion to home consumption.

The statements handed by the managements of undertakings to works councils have generally been considered unsatisfactory.

They contain nothing but general statements, with no positive information which might be of use. The managements even refuse works councils the essential documents necessary for controlling the execution of labour agreements. They prevent them from examining the shift lists (Schichtenzettel) and the foremen's records, and resort to subterfuges, pretending, if a complaint is made, that they are ready to submit extracts from these documents to the councils. It is impossible for works councils to be satisfied with such procedure. They ought to demand the communication of the shift lists in their entirety. Thus alone will they be able to check the working and output of the various sectors, accessory works, alterations, etc.

The partiality of conciliation boards has also been the subject of bitter criticism. Pending the creation of district economic councils, conciliation boards in Prussia are presided over by the district mining officials (Bergrevierbeamten). These officials are for the most part steeped in the spirit of the old régime and, in the event of disputes, openly take the side of the employer.

A resolution of the Magdeburg Congress demands that works councils shall be entitled to know all the details of the business, that their powers shall be enlarged and their right of co-operation fully recognised, as prescribed in the Constitution of 11 August 1919. It also demands absolute equality of powers for works councillor and the delegates of small undertakings (Betriebsobleute) and the creation of district economic councils. Finally, it demands the standardisation of mining legislation under a Federal law applicable in all the Federal States.

The Socialist trade unions have not been alone in their protests. The conference of Christian works councils in the Ruhr mines, which took place at Essen on 9 January 1922, adopted a resolution expressing regret that the mine owners were always endeavouring to restrict the rights of works councils and to quibble with them. The least offence
was enough for the management to urge conciliation boards to countenance dismissals. "It is above all regrettable", continues the motion, "that in most cases the district mining officials, who are doing the work of the district economic councils yet to be established, make common cause with the mine-owners".

Throughout the first half of 1922 the situation between employers and workers remained in a state of tension. The disputes which broke out in connection with every renewal of agreements concerning overtime and wage increases had so complicated matters that towards the beginning of the summer a deadlock was reached. On 2 July 1922 the Frankfurter Zeitung wrote as follows:

The employers claim that they are scrupulously respecting the provisions of the Works Councils Act. On the other hand, a large number of trade union leaders, and those among the most moderate and reasonable, consider this unsympathetic observance of the Act as a provocation to the workers. There is no doubting the success of these tactics, since the employer is always at an advantage when it is a question of making immediate capital out of the legal subtleties of the Act. In many industries employers have interpreted the Works Councils Act in a positive sense, and it has then become an instrument of industrial peace. The methods adopted by the mine-owners, however, have merely accentuated the tension, and the spectacle of the industrial conflicts in the Ruhr is far from edifying.

Since the summer of 1922, there has been a slight improvement in relations between employers and workers. Employers' associations and trade unions have come together and drawn up new "general principles" dealing with the working of the Works Councils Act. It was in these circumstances that the occupation of the Ruhr by France and Belgium took place, and the trade unions were not slow to impress their own spirit of discipline on the works councils. The Communist works councils, it is true, distinguished themselves by their independence, and often refused to obey the instructions of the trade unions. About September 1922, when the tension between employers' and workers' organisations was so great that there was danger of a rupture at any moment, the revolutionary trade unions sent an appeal to the Socialist miners' unions proposing an agreement. The miners' unions only replied at the end of October, and then ambiguously; since when the works councils of the two groups have gone their several ways.

In spite of the difficulties encountered up to the present, works council-
lors have done valuable and important service. At the Magdeburg Congress allusion was made to the valuable help they had given in the prevention of industrial accidents. "The miner's life is more dangerous than that of other workers; but the greatest losses are not caused, as might be supposed, by the big disasters, but by single accidents. Thus, in 1919, there were 14,089 cases of accident of which only 168, or 1 per cent., were due to disasters". This is a most important fact. It shows that the detailed measures which it is the duty of works councils to take to preserve the workers' lives are just as essential as technical improvements on a large scale. The worker or the works council is in the best position to know what improvements should be introduced in the organisation of a given sector. Ignoring the war period, when labour conditions were abnormal, in 1913 there were in the Ruhr mines 5,079 accidents in respect of which the management had to pay indemnities or pensions. In 1920 there were only 4,884 accidents of this nature, and this result is the more striking in that the total number of workers had risen in the interval from 396,700 to 465,400. "Though this improvement should not be attributed solely to works councils, they cannot be denied the credit of having to a large extent facilitated it".

Mines works councils have taken an active interest in the housing of the workers and in welfare arrangements, but they have met with opposition from the employers, and have not achieved the success which they could have wished. "The mine-owners have raised many difficulties", explained a speaker at the Magdeburg Congress. "This is a proof that they do not always view our collaboration in the friendliest light. Nevertheless, the importance of the powers conferred in this respect on works councils should not be disparaged".

The crisis in the relations between works councils and trade unions caused by the occupation of the Ruhr has already been noted (Chapter III). Since the resumption of work, however, normal relations are being re-established. The mines works councils have come to realise that only with the help of the trade unions can they succeed in securing the rights which are theirs under the Act.

The works councils in the metal industry, which are affiliated to the General Federation of Trade Unions, have distinguished themselves by their radical tendencies. It is above all in the metal industry that the
workers have had to fight in defence of their chief social victory, the 8-hour day. The reactions of the economic depression occasioned by the war have been felt more violently and rapidly in this industry than in any other. Even before finding a method of obtaining a steady supply of ore and coal on advantageous terms, the employers wished to increase output and thought that the best method of doing this was to increase hours of work. They fully realised that the Metal Workers' Union, with its 1,600,000 members, was the centre of the workers' resistance and that, if the Union gave way or lent itself to concessions, the opposition of the other unions would soon be broken.

The principle of the 8-hour day soon became the dominant factor in the activities of works councils in the metal industry; but it was necessary to prevent their escaping from trade union control and arrogating to themselves the right of settling this important problem. The metal industry was fruitful ground for the Communist campaign, and the Communists did not fail to profit by the fact. The trade union leaders therefore thought it essential to define, more exactly than in other branches of industry, the respective functions of works councils and trade unions in the metal industry.

At the first meeting of Socialist works councils in the metal industry, held at Leipzig on 5 December 1921, Dissmann stated that the settlement of questions relating to wages and hours of work must be left to the trade unions. Not that works councils were not to have their say in the matter, but it was essential that they should always act in agreement with the trade unions. One of the methods proposed was that a large number of works councillors should be included among the "works stewards" of the unions, for the purpose of maintaining permanent contact between the trade unions and the employers.

Dissmann also requested the councils not to deal with the supply of foodstuffs and similar questions. "The offices of our works councils often look like a food warehouse, but this is a matter for the co-operative societies alone. The essential duty of the works council is to supervise the observance of labour agreements concluded by the trade unions. They should not allow themselves to be imposed upon like maids-of-all-work".

Generally speaking, the works councils in the metal industry have assisted the trade unions and supported them loyally and energetically
in their struggle for the 8-hour day (see pp. 69-98). Their relations with the employers have often been difficult, and they have had to put up with the same quibbles as have the miners. "If workers wish to appeal to the courts," said Dissmann, "they are exposed to all kinds of dangers. The employers drag out the proceedings and carry the dispute from court to court until they win their case. In the industrial basin of the West, an office has recently been established to give employers and their representatives on conciliation boards all the information necessary for entering appeals."

The Socialist works councils in the metal industry have for long demanded the extension of the economic rights which are theirs under the Act of 1920, in particular, that they should be allowed to exercise a real supervision of prices of raw materials, both ore and coal. They hope by these means to be in a position to regulate production and selling prices. One of their principal claims is still for the modification of Section 50 of the Act of 1920, which authorises the creation of a general works council, in addition to councils for individual works, when several works of a similar nature belonging to the same proprietor are situated in the same locality or in neighbouring localities. The metal workers, who have always attached great importance to the systematic organisation of production, claim that this local grouping of works councils is too narrow and does not correspond with actual economic conditions. It should be replaced by a wider grouping, including the works councils of a whole consortium, whether or not they are in the same locality. There are already examples of this modification of the Act in the case of certain great metal works, for example, those of Orenstein and Koppel.

The chief claims of the works councils were embodied in a motion adopted by the Leipzig Congress.

(1) Right to examine all account books and correspondence, purchase and sale contracts, and other documents of the business.

(2) Suppression of the clause in the Act which forbids works councils to enter into business secrets.

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1 In a book by Paul Hertz and Richard Seidel, *Arbeitszeit, Arbeitslohn, und Arbeitsleistung* (1923), may be found some important statistics, published by the works councils in the metal industry, dealing with the effects of the 8-hour day on production. The works councils point out that in certain metal works, in the Mannheim region for instance, production has, since the adoption of the 8-hour day in 1918, increased 13% per cent. in comparison with pre-war years.
(3) Right to supervise and check balance sheets with the aid of all the necessary documents and information.

(4) Right to request all the officials of the business to furnish any information thought necessary, and compulsion upon such officials to answer the questions put.

(5) Right to supervise credits obtained, whether in marks or foreign currencies.

(6) Right to supervise tax returns and the output of the undertaking.

(7) Right to alter and improve the equipment and technical organisation of the undertaking.

(8) Transformation of the advisory powers given to works councils under Section 66 of the Act into effective powers of co-operation.

These radical proposals have not met with the approval of the other trade unions. They were formally condemned by the Christian works councils in the metal industry at their first congress, which met at Duisburg on 18 December 1921. The Christian councils made no secret of their anxiety to maintain the status quo. They even went so far as to demand that elections to works councils should only take place every two years¹. Their object in this was to preserve workers' representative bodies from the dangers of economic and political disputes, and to give them at the same time more independence and more stability.

Works councils in the textile industry have sometimes shown a tendency to lose themselves in general social and political discussions. Thus, during a congress convened on 26 March 1922 at Dresden by the free German Textile Workers' Union, there was much talk of the seizure of gold-value securities, of the remodelling of social legislation, in particular, the Billon the adjustment of disputes (see p. 114), of the creation of chambers of workers, the stabilisation of the mark, the Treaty of Versailles, etc., but very little about works councils and their work.

More to the point were the criticism and claims advanced by the works councils affiliated to the free Transport Workers' Union. At their meeting at Berlin on 21 June 1921, they first distinguished their work

¹ This idea was subsequently developed by several Christian unionists (Cf. Der Deutsche, 25 Jan. 1922, and Kölnische Volkszeitung, 17 Feb. 1922).
from that of the trade unions and admitted the principle that disputes concerning wages or hours of work should be handled by the latter. They then pointed out that the most imperative duty of works councils was to demand the extension of the Act of 4 February 1920 to all workers.

At the present moment ten million German workers, or more than 50 per cent. of the total number, are not entitled to the benefits of the Act, and cannot even appeal to conciliation boards against unfair dismissal. In the small undertakings employing less than twenty persons (which alone account for three million workers), the powers of the works steward in cases of dismissal are inadequate... Legislation on the adjustment of disputes is defective. Conciliation boards grope their way through cases and give contradictory awards. The regulations in force should be standardised. In one case the Senate or the industrial court arbitrates, in another the Federal authorities. Sometimes, to complicate matters yet further, the demobilisation commissioner takes a hand in the game. Federal undertakings and the Ministries have each their own conciliation board, and the general result is a hopeless welter of irreconcilable awards.

The conference also demanded the abolition of the compulsion upon works councillors to maintain secrecy, a more lucid drafting of Section 66 on the subject of the powers of works councils, and the extension of the Act on the communication of balance sheets to undertakings employing less than 300 wage-earning or salaried employees.

On the railways, questions of organisation have always bulked large. Since the railways ceased to be worked by the States and were handed over to the Federal Government, there has been an enormous and highly centralised administration employing more than a million officials, wage earners, and salaried employees. Face to face with the Federal Government and the Minister of Transport, who is the sole head of this vast army, the workers have found it necessary to organise more closely than in other fields of economic activity, and to meet centralisation with centralisation.

When the Works Councils Act became law, the railways still belonged to the States, which published their own Orders, varying in detail, on the administration of the Act. Generally speaking, however, the Orders provided for three kinds of works council: (1) at the bottom of the scale, the works councils elected in the workshops and in the different
operating departments; (2) district works councils for each railway system in the State concerned, themselves divided into district councils for the workshops and district councils for operating staff; (3) central works councils attached to the Ministry of Transport in each State, these being sub-divided into a central council for workshops and a central works council for operating staff.

The transference of the railways to the Federal Government, which took place under the Constitution of 11 August 1919, resulted in the abolition of the central works councils of the various States, and the substitution of a central works council attached to the Federal Ministry of Transport. The district works councils and the workshop and departmental works councils remained, but the trade unions succeeded in obtaining an important change in the old organisation. The distinction drawn in the two higher grades of the scale between workshop and operating staff disappeared. The district and central works councils were united and included representatives of both workshop and operating staff. The Ministerial Order of 3 March 1921 finally established the new form of organisation of works councils and created a central works council of 25 members attached to the Federal Ministry of Transport at Berlin.

The functions of this council are important. It is in permanent and direct contact with the Minister of Transport and represents before him the interests of nearly 25,000 works councillors. At the end of 1922 it published a detailed statement of its work for the past two years. From this it can be seen that relations with the Ministry of Transport have not always been of the easiest. The guerilla warfare which workers and employers in private industry were often accustomed to wage against each other reappeared here between the central works council and the Government. Soziale Praxis of 19 October 1922 even accused the works council of not having been equal to its everyday work and of having compromised the possible results of its activity by an ignoble obstinacy. To these criticisms the works council replied that it had never ceased carefully to consider the large theoretical problems of railway administration in general, of questions relating to the well-being and material circumstances of the workers. It recalled the fact that, in November 1921, it had opposed the acquisition of the railways by private capital and that it had drawn up a complete scheme for improving the general efficiency of the railways. Further, it was the author of the general works regulations of 17 March 1922 (paragraph 5 of Section 66 of the Act of 4 February 1920) and succeeded in getting these regulations inserted in
the existing collective agreement, thus giving them a compulsory character. It had never, it urged, ceased to struggle for the maintenance of the 8-hour day and had consistently backed the trade unions during the negotiations which ended in the publication of the Ministerial Order of 5 August 1922 (see p. 102). Many other reforms of detail, for example, those concerning the change of shifts in workshops, and rest periods, are due to the initiative of the central works council.

The Socialist Railwaymen's Union (Deutscher Eisenbahner-Verband), which numbers among its members more than 76 per cent of the total number of works councillors, has kept in the closest possible touch with the councils and urged the necessity of a strong centralised organisation. On 23 April 1923 the works councils affiliated to this Union met in congress at Berlin. They complained that the Government had delayed discussion of the Bill on officials' councils (see p. 28) and that it had not taken the necessary steps to cope with the high cost of living or to raise the wages of state employees. A motion adopted by the congress congratulates the railway workers in the Ruhr on their discipline, and explains in the following terms the aims and objects of the works councils:

They oppose all attempts to foment disunion, and demand a centralised organisation, close co-operation with the officials' councils, and the reform of the administration on really modern social and economic lines. They condemn the transference of the railways to private enterprise, the measures of systematic collective dismissals contemplated by the Minister of Transport, the legal quibbles by which attempts are made to restrict the rights of works councils, and the attacks made on the labour agreement.

The railway works councils have declared their solidarity with the trade unions. They are continuing their campaign for the adoption in the near future of the officials' councils Act, which was promised in Section 130 of the Constitution and has been continually postponed by the Federal Government. These officials' councils, which will be the permanent legal representative bodies of state officials, are to replace the provisional officials' councils, the establishment of which on the railways and in the postal service was authorised by the Federal Government under Section 61 of the Works Councils Act.

Disputes concerning their respective powers have frequently arisen between the Ministry of Labour and the Ministry of Transport in connection with the administration of the Act of 4 February 1920 in state
undertakings. The Minister of Transport, who for these purposes is in the position of an employer, claims power to avail himself to a considerable extent of Sections 62, 67, etc. of the Act, which restrict the rights of works councils in cases where the nature of the undertaking presents difficulties in respect of its constitution or activities. He succeeded in inducing the Government to issue an Order on 14 April 1920 creating special conciliation boards for the railways, which boards are under his direct control. The wage earners, salaried employees, and officials protest against this institution, which seems to them to re-embody the old maxim of the employer about being "master in his own house"; they have on various occasions begged the Minister of Labour to intervene in defence of their interests.

Agricultural workers only obtained the same social rights as industrial workers at the time of the Revolution, in 1918. Up till then they had been subject to special legislation and had always been excluded from the operation of any reforms adopted by Parliament. It was in vain that the Agricultural Workers' Union, which was founded in 1909, demanded, both before and during the war, the establishment of workers' representative bodies in the various undertakings. Although the National Auxiliary Service Act of 5 December 1916 set up compulsory workers' committees in industrial undertakings (see p. 6), agricultural workers had not, even at the time of the Revolution, any regular method of representation. In extending to them the benefits of existing social legislation the Republican Government was introducing a complete innovation (see p. 11). For the first time the Order of 23 December 1918 abandoned distinctions between different classes of workers, and organised committees of wage earners and salaried employees in all undertakings employing at least 20 persons.

It can readily be understood that the landowners, who were accustomed to unfettered control, yielded to Republican legislation with a poor grace. The agricultural provinces of Germany, Mecklenburg, Pomerania and East Prussia, are the home of the squirearchy, and it is in these districts that the representatives of the old régime are still recruiting their soldiers for the secret organisations. Even to speak of social innovations in districts such as these is often considered the sign of a dangerous revolutionary spirit; and the introduction of committees of wage-earning and salaried employees in 1918, followed by that of works
councils in 1920, provoked conflicts which were the more violent because the proprietors were anxious to profit by the inexperience of the workers, whose trade union discipline was of too recent origin to be really strong. Naturally, the chief sufferers by this were the Socialist trade unions and works councils, which complained of having to put up with all kinds of evasions and quibbles\(^1\), and of finding their activities almost permanently paralysed. On the other hand, the difficulties were considerably less serious for the Christian trade unions and works councils, which found quite favourable ground for their activities, particularly in Silesia. In November 1920, at the congress at Essen, Adam Stegerwald, the leader of the Christian unions, pointed with pleasure to the fact that the idea of works councils had gained ground rapidly in the Eastern provinces. He expressed the hope that the development of works councils and the prospect of the workers participating in agricultural profits (which prospect was already a reality in certain undertakings in Brandenburg and East Prussia) would make for social peace and an increase in production.

Since 1921 there has been some improvement. Works councils have found more openings for their activities than formerly. Apart from purely social matters such as engagement and dismissal, they have chiefly concerned themselves with questions of technical improvement and the organisation of production. They have endeavoured to set the smaller undertakings on the path of progress and to induce them to adopt modern methods. For the proper concentration of their efforts, the works councils of some of the smaller undertakings have demanded the right, under Sections 50 and 51 of the Act, to form a common works council to supervise such undertakings as a group.

The application of the Act of 4 February 1920 to consumers' cooperative societies has raised a new problem in industrial relations in Germany. In view of the fact that consumers' co-operative societies are collectively administered and that, in theory, there is no distinction between the employer and the customer, whether wage earner or salaried employee, the works council might seem at first sight a superfluous or at least an accessory body in co-operative societies. On the other hand, it can also be shown, from the very nature of such societies, that wage

\(^1\) Cf. *Betriebsrätezeitung*, Dec. 1920, p. 100.
earners and salaried employees, and consequently the works council which is their legal representative body, can play a more important part in co-operative societies than in any other form of industry. There are therefore, at the outset, two absolutely opposite theories which have had to be reconciled as far as possible.

It must be confessed that works councils have often confused this question by attributing to themselves functions which normally fall to consumers' co-operative societies. They held the view that it was simpler, or more agreeable, to set up food shops and sell goods than to supervise the execution of social legislation.

It frequently happened that they set up shops and competed with the co-operatives. The trade union leaders thought this undesirable and contrary both to the Act and to the fundamental idea of works councils. Dissmann criticised it severely at the metal workers' congress at Leipzig (see p. 120). The Betriebsrätezeitung of January 1921 wrote: "In going into trade and amassing stocks of goods without sufficient consideration of prices, there is a danger that works councils may injure the workers and raise prices. Their proper business is to carry out the Act and protect the rights of workers".

But apart from the exaggerations which have complicated the situation from time to time, it has been necessary to regulate the operation of works councils within consumers' co-operative societies. The two views referred to above have both found ardent supporters. Even before the Act of February 1920 became law, works councils had been set up in certain co-operative societies and had endeavoured to co-ordinate their efforts by the creation of "a common executive organisation of wage-earning and salaried employees in German producers' and consumers' co-operative societies".

After the Act became law, a conference of delegates of 47 works councils in co-operative societies was held at Leipzig in November 1920. The resolution there adopted demanding the extension of the rights of works councils is a real manifesto, and all subsequent discussion of the functions of works councils in co-operative societies is based upon it. It demands that:

The general claims concerning the powers of works councils should at once, and despite the Act of 1920, be given full satisfaction in consumers' co-operative
societies; in the first place, in order to make them into weapons for the proletariat, in the second place, in order to serve as a model for works councils in private undertakings, and finally, in order to enable consumers' co-operative societies to become efficient organisations for distribution. The privileged position of works councils in co-operative societies, in comparison with that of councils in private undertakings, should make them act as the advance guard of works councils and seize every opportunity of exercising their powers in the interests of the proletariat. The co-operative movement and the trade union movement can only achieve the success which is expected of them if they pursue a consciously revolutionary policy. The works councils of co-operative societies must be particularly careful, in their relations with central works councils, trade unions, and co-operative societies, to keep fully in view the principle of the class war. The works councils of co-operative societies are at once executive bodies and revolutionary nuclei.

The Leipzig resolution summarised the claims of wage-earning and salaried employees in six points:

1. The works council should be represented on all administrative bodies (control board, committee of management). Its members should attend as delegates all district or national congresses and meetings of wholesale societies.

2. In principle the works council supervises the whole of production and purchases, their origin and their destination.

3. The consent of the works council should be necessary for all engagements and dismissals of workers, including management staff.

4. In highly developed co-operative societies, the works council will be able in the future, by agreement with the trade unions, to settle with the management all questions concerning wages and labour conditions, thus relieving the trade unions.

5. These general principles may be modified in practice according to the particular circumstances of each co-operative society concerned.

6. The works council should constantly supervise the technical and hygienic equipment of co-operative undertakings, in order that the undertaking may be carried on under the best possible conditions for efficiency.

These principles are considered too revolutionary, and have been the subject of numerous objections in the co-operative camp, which fears, or would like to restrict, the influence of works councils. The *Konsumgenossenschaftliche Rundschau*, the organ of the Central Federation of Consumers' Co-operative Societies, has often echoed these criticisms, which were expressed with great vigour, several months before the adoption of the Leipzig resolution, at the seventeenth congress of the Central Federa-
tion, held at Harzburg in June 1920. The congress ended by voting the following resolution:

There is no need for the moment to lay down special principles for the application of the Works Councils Act to co-operative undertakings. The co-operatives must, in agreement with both the trade unions and the works councils, carry out the provisions of the Works Councils Act in its present form.

Thus, the Central Federation, which is the most powerful co-operative group\(^1\), had definitely enunciated the principle of collaboration between works councils and trade unions even before the principle was threatened by the Leipzig resolution. In accordance with the general theories of the trade unions, the Federation too recognises the principle that it is for the trade unions and not the works councils to conclude collective agreements and to settle questions of wages and hours of work. Although it admits the justice of the demand for the extension of workers' rights in matters of engagement and dismissal, it nevertheless considers that too hurried amendment of existing legislation may involve social disturbances and that the problem must be carefully studied before a solution can be proposed. Finally, the Central Federation is not without apprehension when it contemplates the full participation of works councils in the conduct of business. It goes without saying that the co-operatives will not put any obstacle in the way of the Act and that they will observe it loyally on this point as on others; but the Leipzig principles seem to them too radical. Intervention of works councils in the fixing of purchase and selling prices seems to them, among other things, likely to hamper the working of the co-operative society\(^2\).

Faithful to the lead given by the Federation, the majority of consumers' co-operative societies have carried out the Works Councils Act in a spirit of loyalty and far-sightedness which does them credit and which has contributed to the development of the democratic idea.

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\(^1\) In 1930 it included 1320 societies and 2,724,000 members.

\(^2\) The eighteenth congress of the Federation, held at Baden-Baden in June 1921, also resulted in a heavy majority for the moderates and confirmed the Harzburg principles.
CONCLUSION

In the majority of undertakings the Act of 4 February 1920 is now working normally. The employers have accepted it as a sign of the times, and as one of the least of the evils which the Revolution might have brought them. It does not appear to be threatened by the offensive declared in industrial circles in 1923 against the social legislation of the Republic, and in particular against the 8-hour day. There has been no talk of suppressing works councils. On the contrary, there is a general desire to utilise them, both employers and workers wishing to turn them to their own account. The workers are abandoning the idea of making political capital out of the Act, and are obeying the instructions of the trade unions, which are the defenders of their trade interests. Works councils are now only a shadow of the workers' councils of the Revolution, which were modelled on the soviets. They have taken their proper place in German economic organisation, and they are widening their sphere of activity in proportion to the development of social legislation. They should be considered as part of a whole and should not be judged solely on the practical results which they have so far achieved, but rather in relation to the reforms which the Republican Government has already carried out, or which it proposes to effect.

From this point of view works councils are one of the most important triumphs of the German proletariat. They have sometimes been accused of being a mere piece of bureaucratic machinery and a drag on economic progress. It has also been said that the progress achieved is next to nothing in comparison with the heavy expense and complications of all kinds occasioned by the creation of such new bodies representative of the workers. On the workers' side, the inadequacy of the Act has been denounced, and radical amendment demanded. These criticisms are due to an overstrict interpretation of the Act. One should look beyond the present to the future and consider how works councils may develop. The work which they have accomplished, though its importance cannot be overrated, is no more than a first attempt. The normal process of
evolution is going on, slowly perhaps, but methodically and surely.

The trade unions have for long demanded an extension of the rights of works councils. Although the Christian and Democratic trade unions concentrate rather on protecting existing rights than on obtaining new ones, in principle they are nevertheless in favour of the progressive enlargement of the powers of works councils. The Socialist unions have drawn up a whole list of claims, among which may be mentioned the extension of the powers of delegates from small undertakings, the right of works councils to settle questions of engagement with the employer on the same lines as questions of dismissal; the abolition of all restrictions on the control given works councils over balance sheets and the conduct of business. Although it must be assumed that some considerable time will elapse before some of these demands are satisfied, others, such as participation of works councils in the settlement of questions of engagement, may become practical politics in the near future.

Apart from the changes directly attributable to the Act of 4 February 1920, there are other more general reforms to which works councils cannot be indifferent. On 10 November 1920, at the Christian Congress at Essen, Adam Stegerwald said:

The Works Councils Act is a big step in advance and encourages us to hope for a complete transformation of the rights of the worker. The worker is freed from the humiliating feeling of being a mere instrument, without free will, at the disposal of a capitalist undertaking. But this satisfaction was not of itself sufficient. The worker must be allowed to share in the profits of the undertaking, and by means of a complete system of legislation must be given his legitimate share in the ownership of the undertaking.

At the congress of free trade unions held at Leipzig on 21 June 1922, Nörpel also stated that the Works Councils Act was intimately bound up with other social measures which would very shortly become law.

Works councils must not forget that they are the representatives of the social interests of the workers and that in this capacity each new legislative measure directly concerns them. Although, for example, they demand wider rights in connection with the regulation of hours of labour, they must not demand the introduction of this reform into the Works Councils Act, but must do their utmost to obtain it when the hours of work Bill is under discussion. In the same way, the settlement of labour disputes will depend very largely upon the final form of the Acts on the adjustment of disputes and on labour courts. The extension of the rights of works councils in questions of engagement and dismissal is bound up with the fate of the Employment Exchanges Act and the
Unemployment Insurance Act. In effect, the Works Councils Act is an Act of a general character and its practical consequences are inseparably bound up with the evolution of labour law and of collective agreements.

It will only be possible fairly to judge of the results of the Act of 1920 when the social organisation of Republican Germany, as provided for in the Constitution (see pp. 12 et seq.), is completed. Many reforms are not yet achieved. Apart from the Works Councils Act, the only Act adopted is the great Employment Exchanges Act of 13 July 1922. The Bills on the adjustment of disputes (1921-1923), labour courts (June 1923), unemployment insurance (January 1923), and hours of work (1921, October 1923) are still in suspense. The Government regulated the arbitration question provisionally by means of an Order (October 1923) and also the question of hours of work (January 1924).

At the base of the social edifice there is still only the works council, and at the top the Federal Economic Council, the final constitution of which has not yet been drawn up. But it would be a mistake to believe that the growth of labour legislation has come an end, or that it could be roughly set back by a Government which was anxious to protect the interests of big capital. The trade unions are in a position to watch over its development, and German employers are certainly too well advised to prefer violent methods to conciliatory settlements. There is every reason to suppose that the Works Councils Act will stand the test of time and that the future will continue to reveal its advantages.

To works councils there will probably eventually be added officials' councils. The Federal Economic Council has announced its intention of amending the organisation of industrial, commercial, and agricultural chambers, which it proposes to make the basis of the future district economic councils. Some people would like to see the industrial, commercial, and agricultural chambers open to the workers, thus transforming them into joint representative bodies. Others would like to see them preserve their character of employers' bodies, and create special workers' chambers side by side with them. The Governments of Saxony and Oldenburg have already tabled Bills on the establishment of workers' chambers.

This vast edifice of economic representative bodies seems very cumbersome, and it is difficult at the moment to see how it will work. In any other country it would perhaps swiftly fall to pieces, and the work of superimposing an economic state upon the political state would not be carried through without danger. It must not be forgotten,
however, that Germany is and always has been a country of organisation. Industrial relations in Germany are never thought of, and probably could not exist, unless protected by a solid structure of regulations, Orders, Acts, and councils. Supported by the trade unions, which are the mainstay of order and discipline among the workers, and in close contact with employers' associations and the various representative economic bodies yet to be created, works councils will doubtless show themselves in the future an institution equally favourable to the interests of the proletariat and to the maintenance of industrial peace.
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