The Works Councils Act in Austria

by

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A WORKS council is a committee elected by employed persons, i. e. the workers and salaried employees in a works ; it has definite duties, chiefly in the nature of protecting the interests of those employed in the works. The legal position of works councils in Austria is regulated by the Act of 15 May 1919 respecting the Establishment of Works Councils. There are also two Orders issued by the Ministry of Social Administration, one dated 27 June 1919 on elections to works councils, the other dated 11 July of the same year on the procedure and organisation to be adopted by councils.

SCOPE OF THE ACT

"Works councils shall be set up in all factories as well as in all other undertakings where not less than twenty paid workers and employees are regularly employed" (Section 1): In other words, works councils are to be set up in all manufacturing plants, or "factories", regardless of the number of persons employed in the particular plant ; as a matter of fact, most factories do employ more than twenty persons. Works other than factories are not obliged to set up a council unless they employ at least twenty regularly paid persons (reckoning salaried employees and workers together). The Act cites in detail the undertakings which come within its operation. Among these are all undertakings carried on for profit ; industrial undertakings connected with agriculture and forestry ; mining and allied undertakings ; construction works; financial and insurance houses ; undertakings connected with transport services ; co-operative organisations of every character ; the State monopolies ; professional firms, such as solicitors, architects, etc.; and institutions of various kinds.

The Act does not categorically define a "works", but the provisions of the law leave no doubt on the subject. Thus a "works" need not always be a business undertaking nor run for profit ; the Act expressly applies to insurance institutions of every kind and to employment bureaux and health establishments, obviously even where carried on by public or philanthropic bodies. A "works" need not even be an undertaking, in the ordinary sense of that word. Section 2, for instance, definitely exempts public offices from the operation of the Act, which is strong

evidence that public offices are ordinarily defined as "works". A "works", in short, is any and every organised form of the permanent employment of labour for production or the furnishing of services. Domestic work is an exception, even when there are a number of domestic workers, always provided that the household is a private one. Private households are not commonly defined as "works", nor do the terms of the Act at any point imply a claim to cover private domestic service. But as soon as such domestic service is extended to serve persons outside the family, as is the case, for instance, in a boarding house or restaurant, it obviously comes within the meaning of the Act.

Owing to the very wide application given to the term "works", even the list detailed in Section 1 of the Act will have to be greatly extended in practice, especially in view of the fact that a "works" need not be carried on either for business purposes or for profit. For instance, all associations, endowments, religious organisations and museums, even when established and maintained by public authorities, fall under the Act, also all municipal or publicly owned undertakings.

The Act is not concerned with the form in which a business is organised, that is, whether the owner is a person or a corporate body, the central Government, a Federal State, a municipality, or any other public body. It is equally indifferent whether the owner be a national or an alien. Certain classes of works are expressly exempted from the operation of the Act. Among these are agricultural works, except "all industrial undertakings connected with agriculture", public Departments and Offices, and state transport, postal, telegraph, telephone and other services.

While public offices are excepted, bodies corresponding to works councils are to be formed under Administrative Instructions, by special agreements between the competent authorities and the staff concerned (Section 2). The offices referred to are not only those of the central Government, but also those of the Federal States and municipalities; nor are they only those having the power to discharge their employees, but the courts, the Ministries, the civil service, and others. The intention was apparently to make special arrangements for public officials, who otherwise could scarcely be said to benefit materially by the Act; but the text of the Act fails to say so clearly, nor have the Administrative Instructions yet been issued. But officials of the central Government are to be fully provided for in a Bill now before the legislature (1); and those persons employed in public offices excluded from the operation of the Works Councils Act will fall under the operation of this other Act. On the other hand, persons employed in "works" attached to public offices, who up till now came under the operation of the Works Councils Act, will in future be excepted from that Act and come under the operation of the new Bill.

In the other excepted undertakings, those directed by the State Transport Department or under its superintendence, namely,

(1) *Drucksachen des Nationalrats, Beilage 280.*

railways, shipping undertakings, the postal, telegraph, and telephone services, bodies corresponding to works councils are likewise to be established by Administrative Instructions. Arrangements for works councils have not yet been made to apply to private railways or shipping, and are not likely to be made. But representative bodies were established for the staff of the Federal railways before the Act became law by a Decree dated 19 April 1919. The opening words of this Decree run :

> With a view to protecting the interests of the personnel, as of pensioned workers, whether salaried or manual, it is herewith laid down that staff questions, whether affecting the whole staff or single members of the staff, further, all questions relating to conditions of employment or service, which, while affecting single workers only, yet involve general principles, shall be solely regulated by mutual agreement between the responsible authorities and the representatives chosen by the workers in virtue of this regulation. The workers' representatives may also represent, out of the whole body of workers for whose interests they stand, a single worker, at his own request, where the question in dispute between him and his superiors touches service or employment conditions (2).

The regulation lays down that three representative bodies shall be chosen according to service grades, one for the superior officials, one for the lower-grade officials, and one for manual workers. No workers' representative may be held to account for utterances made or actions done in the course of his duties as representative, provided always that he commit no breach of any law or Administrative Instruction. There are parallel regulations for officials in the postal service (3).

In connection with these exceptions, it should be noted that works allied or connected with such excepted undertakings are themselves excepted where such allied works are merely dependent parts of a central undertaking. This, for instance, would be the case with the clerical office, or even with the printing office, attached to a public Department, supposing that such clerical or printing office were serving such Department alone. The Vienna Government Printing Office, on the other hand, is an independent works, in spite of the fact that it serves all the Ministries, because it accepts contracts for private persons. In fact, the question whether any particular works is to be treated as an independent undertaking or not will depend on the nature and importance of the auxiliary works, the purpose it fulfils, and the degree of independent authority enjoyed by its management.

While the Act lays down that works councils must be established in factories whatever the number of those employed, it does not make their establishment obligatory in works not defined as factories unless the number of paid persons regularly employed is at least twenty (workers and salaried employees being reckoned together). But only permanent and paid persons are taken into consideration ; those on a temporary job are not

(2) *Amtsblatt des Staatsamtes für Verkehrswesen*, 25 April 1919.

(3) Cf. Regulations establishing Representative Bodies for Federal Officials in the Austrian Postal Services (*Postverordnungsblatt*, Nos. 7 and 24, 1921).

counted. Wherever, therefore, the persons employed in a works other than a factory fail to number twenty, the interests of the employed are put into the hands of "representatives" (Section 1, Subsection 2), on the condition that at least five permanent paid persons are employed in the works. In works where there are from 5 to 9 persons employed, one representative is to be appointed; in those with from 10 to 19, two representatives. Again, employed persons under eighteen years of age, though permanently employed and in receipt of pay, are not counted. In fact, in works which cannot muster at least five permanent paid manual or salaried employees there can be no workers' representation of any kind; this means that retail trade and commerce escape the operation of the Act. Here employed persons are thrown back upon their own resources, especially as the power of the trade unions does not, as a rule, extend to workers in the very small establishments. Representation by chosen delegates instead of by a works council means not only representation by a smaller number, but also by persons whose power has been considerably restricted (4). Apart from this, exactly the same observations apply to representatives as to works councils as a whole.

Number of Councils and Representatives

Each works must have at least one works council. It is therefore obvious, as stated in Section 5, that, where an undertaking includes several works, each of these works should appoint its own council. But under certain circumstances more than one council is to be appointed, even in a single works.

First, when in the same works more than ten workers and more than ten salaried employees are regularly employed and paid, either group elects a special council to deal with matters affecting it; a joint group, representing both workers and salaried employees together, deals with matters of common interest (Section 10). Thus a works employing only twenty persons can in no case have more than one works council, whereas a works employing twenty-two persons may have two, assuming that eleven of these are workers and eleven salaried employees. On the other hand, a works employing thirty workers and ten salaried employees would only have one council. The fixing of ten as the determining number in Section 10 is probably due merely to an error in the drafting of the Act; the original text gave ten as the number of persons who must be employed to justify the setting up of a works council; this number was later raised to twenty, but the corresponding change was not made in Section 10.

The Act gives no definition of the terms 'salaried employee' and 'worker'. But practical experience has indicated the path to be followed; on the analogy of the old Act on commercial employees, and the new one on salaried employees in general, 'salaried employees' are those who do work of a commercial or of

(4) See below, p. 426.

a higher non-commercial type or other clerical work ; all other workers are considered simply as 'workers'. This best seems to represent the distinction between workers of the brain and of the hand, which lies at the basis of the classification adopted by the law.

Second, more than one works council is to be elected where a works is divided into several branches ; each branch is to have its own council (Section 5, Subsection 2). It is often difficult to distinguish between 'several works belonging to one undertaking' and 'independent' and 'dependent branches' ; clear lines cannot be drawn. On the other hand, there is comparatively little difficulty in distinguishing, often on formal grounds alone, between several undertakings belonging to the same owner and several works belonging to the same undertaking. Works are said to 'belong to an undertaking' when they have a wide independence in technical management and in regulating their employment conditions ; the fact that they are not commercially or financially independent is not necessarily decisive. Where there is less independence, 'branches' are spoken of. Even so there must be a modicum of independence, if such branch is to be defined as 'independent'. Actual geographical separation will ordinarily and necessarily imply independence. A mine and the smelting works which smelts its products will, therefore, sometimes be several works belonging to one undertaking, sometimes independent branches of the same works, according to the degree of independence obtaining between them. Again, if a building firm has undertaken several large contracts, especially if they are in different localities, each contract will usually constitute as it were a separate works : but if repairs of only slight importance or temporary in character are in question, they cannot even be spoken of as independent branches. Separate agencies of one commercial undertaking are considered independent branches, or else, if situated in different localities, separate works belonging to one undertaking. The distinction is an important one, as is shown in the next few paragraphs.

Works councils are corporate bodies constituted of at least three members. The number of members increases in proportion to any increase in the number of workers in the works. According to Section 9 of the Act and Section 2 of the Administrative Order of 27 June 1919, the number of members on a council is three in works employing 50 persons, and increases by one additional member for each 100 persons or fraction thereof in works employing from 50 to 1,000 persons, and thereafter by one additional member for each 500 workers ; the purpose being to prevent the council in a large works from becoming unduly large. For example, a works employing up to 50 persons would have a council of three members, and a plant with from 51 to 150 persons employed one of four members ; the council would consist of 12 members when the number of persons employed is from 851 to 950, of 13 when it is from 951 to 1,000, increasing by one member for every 500 additional persons employed. But this principle

only applies without modification when a single council is to be elected in a single works and, subject to the same proviso, to separate works belonging to one undertaking. But if more than one council is to be elected within a works, the following principles hold good.

First, as already stated, where a works is made up of different branches, a separate council is to be elected for each branch. But Section 5, Subsection 2, of the Act lays down that such works are to be reckoned as a single unit in calculating the whole number of members of all the councils together ; in other words, the total number of council members is to be reckoned on the total number of persons at work. The number of members allotted to each branch separately will depend on the proportion of persons at work in that branch to the whole number of persons at work. For instance, a works might fall into two independent branches, the first of which employed 1,000 men, and the second 400. Were the number of council members to be calculated for each branch independently, the first would have a council of 13 members, the second one of 7 members. But, under the terms of the Act, the first step is to calculate a total number of council members on the total number of persons at work in the whole works ; this gives us a body of 14 members, on a basis of 1,400 persons at work. These 14 members must then be divided into two groups of 10 and 4 ; the group of 10 will be allotted to the first council, the group of 4 to the second. This considerably reduces the total number of members elected. The disadvantage to the workers is that, under certain circumstances, the council may find its small numbers an obstacle to the proper discharge of its functions ; on the other hand, it is an advantage for the employer to have only a few of his workers enjoying the special immunities conferred on council members [5].

The Act does not expressly state that Subsection 2 of Section 5 also applies to the separate councils to be elected within the same works by workers and salaried employees respectively. But the Ministry of Social Administration and almost all the conciliation authorities [6] have held that this principle applies equally to these separate works councils, on the ground that the relations between the workers and the salaried employees in one and the same works or in one and the same branch of a works must be closer than those between independent branches. The Administrative Instructions on the election of works councils consequently interpreted the principle described in the preceding paragraph as applying to the separate councils of workers and salaried employees, and obviously also to such separate councils existing within a separate branch of a works.

But the literal application of this principle might result in giving a council a membership of one person or less. For instance, if the two councils in a works rested on an electorate of 75 and

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[5] See below, pp. 428-430.

[6] See below, p. 426.

15 persons respectively, the total membership of 4 would have to be divided up in the ratio of 5 to 1 ; one council could claim $3\frac{1}{3}$ members, the other $\frac{2}{3}$ of a member. But a council obviously implies a plurality of members, and the text of the Act lays down such an increase in the number of representatives—in proportion to an increasing number of workers—as to give one representative to a body of 5 to 9 workers, two to a body of 10 to 19, but a works council to a body of 20 or over, thereby implying that a council is always composed of at least three persons (7) ; consequently an Administrative Instruction, dated 10 July 1920, rules that where a works council, calculated according to Subsection 2 of Section 5, should turn out to have a membership of less than three persons, the membership shall be raised to three, though not by taking away any members from the other council. In the example which we cited above, one council would have three members, the other also three members. To take another example, supposing a works had 35 salaried employees and 12 workers, so that there would be a total of 3 mandates to be divided up between the two councils, each council would nevertheless have a membership of three.

Election and Qualifications of Members

Members of works councils are to be elected by the workers and salaried employees of a works or of the independent branches of a works by direct secret ballot, and, in the case of councils having a membership of not less than four, on the principles of proportional representation (Section 6). All persons irrespective of sex are entitled to vote who, on the day of the election, have been employed for not less than one month in the works, provided that on the day of the election they have completed their eighteenth year and are in full possession of their civic rights, i. e. have not been excluded by any legislation in force at the time from the exercise of their suffrage to the National Assembly (8).

All persons entitled to vote shall themselves be eligible for election, provided that they have been employed in the works for not less than six months and have completed their twenty-fourth year of age. Where a council has not less than four members, members of the executive committees or officials of workers' and employees' organisations are also eligible, but they are not to make up more than one-fourth of the council. Further, such persons are not to belong at the same time to more than one works council, or, if an undertaking includes several works or is divided into independent branches, to the works councils of more than one such undertaking or works. Nationality in no way affects the right to vote.

(7) Decree of the Minister for Social Administration of 13 July 1920 ; text in *Amtliche Nachrichten des Ministeriums für soziale Verwaltung*, 1920, p. 627. Vienna.

(8) *Nationalversammlung*, now the *Nationalrat* (National Council). [Editor, *International Labour Review*.]

Election of a works council in a temporary undertaking, especially on building or seasonal work, and in new undertakings could either not be carried out at all or only after an unreasonable delay, were the length of service qualifications either for the right to vote or for eligibility enforced. No conditions whatever are therefore laid down as to length of service in these cases. Further, where not less than one-fourth of the whole number of electors have been in the employ of the firm for less than six months, a service of three months only is reckoned to qualify for the right to vote.

The Administrative Instruction of 27 June 1919 on the election of works councils lays down detailed regulations for procedure in such elections. Making allowance for the required simplifications, these follow essentially the principles adopted in elections for the Austrian National Assembly. They regulate the formation and duties of the election committee, the drawing up of the lists of candidates, the right of appeal against these lists, the receipt and examination of candidates' credentials, procedure during the process of election, announcement of results, and appeal against the issue. In order to protect the freedom of the vote, the Act forbids the owner of a works to interfere with his workers or employees in their exercise of the vote or in their activities as members of an election committee, or to permit such exercise or activities to result to their disadvantage. He may not deduct wages for time lost by a worker through sharing in the conduct of an election or through recording his vote. The foregoing regulations for the election of works councils also apply, in a slightly simplified form, to the election of workers' representatives.

Works councillors (and workers' representatives) hold office for one year, but the right of recalling an elected council at any time is in the hands of the electors. Membership of a works council (or as workers' representative) expires either by resignation or if circumstances arise or become known which make a member ineligible, more especially should he leave the works or should he, having been chosen in his capacity as officer of a labour organisation, cease to hold that office. When a member resigns, the works council appoints his substitute, who is the unsuccessful candidate next in order on the election list—these are mostly official lists issued by the various parties—on which the name of the resigning member appears. Should the whole council resign, a new election must be held.

Functions of Works Councils

"It shall be the duty of works councils to watch over and promote the industrial, social, and intellectual interests of the workers and employees in the undertaking". In these words the Act (Section 3, Subsection 1) describes the functions and sphere

of a works council, without mentioning among these functions the duty of assisting the management in carrying out the purpose for which the works is established. Nevertheless some of the duties detailed in Section 3 of the Act cannot be understood, or at least not properly understood, except on such an assumption. The purely economic interests of an employed person are those affecting the amount of his remuneration, provision of housing, and the cheapening of foodstuffs or other necessaries ; his social interests are those arising out of the other conditions of his employment, such as hours of work, rest time, night work, employment of young persons and of women, questions of workers' organisation or their representation in the works, and so forth. Intellectual interests mean interests of a non-material kind, such as education and amusement. Certain functions of a works council specially mentioned are those connected with collective agreements, determination of piece rates, enforcement of protective legislation, workshop regulations, maintenance of discipline, payment of wages, welfare work, engagement and discharge, representation on the board of directors, examination of balance sheets and improvement in works installations.

Collective Agreements. The Act expressly reserves the function of concluding collective agreements (9) to the trade unions. Works councils are not in law competent to conclude such agreements, even in cases where an association of works councils might be capable of making agreements, not only for a particular works but even for whole branches of industry. To this there is only one exception, which is discussed below, and even this is hardly an exception strictly so called. The works council is only entitled to initiate negotiations for an agreement in cases where no agreement exists, but even then only with the consent of the trade association concerned. Only in cases where a general collective agreement embodies a clause for making separate arrangements in every works is a council entitled—again only with the consent of the trade union—to conclude an agreement which the Act expressly characterises as a collective agreement. The Mining Act of 29 July 1919 extends the rights of works councils by empowering them to agree to a working day of more than eight hours (though this is not to entail a working week of more than 48), always provided that no collective bargain about hours exists. The works council should also supervise the execution and observance of agreements. It is the proper body to restrain the owner of the works from any breach of an agreement, to insist that it be observed, and, if

(9) A collective agreement in Austrian law means a bargain concluded between trade associations of workers or salaried employees and one or more employers or trade associations of employers, which regulates the respective rights and duties of either side, arising out of conditions of employment or otherwise, such rights and duties being of importance in regulating the industrial conditions of the employment contract (Section 11 of the Act of 18 December 1919 concerning the Establishment of Conciliation Boards and Collective Agreements).

necessary, to notify any contraventions to the trade union which was a party to it.

Determination of Piece Rates. No technical difficulties are involved in the determination of time rates, and such rates can always be regulated by collective agreements. But this is not so in the case of piece, job, or contract (10) rates. Of course, when it is a question of a process customary in the trade, such rates can also be determined without any special difficulty. It is therefore the intention that these, as well as certain average or guaranteed minimum rates, should primarily be determined by collective agreements. Where this has not been done, such rates can only be determined, with the consent of the works council, by co-operation between the trade union and the employers' association. When it is a question of rates to be paid for piece, job, or contract work to an individual worker for a single piece of work, which from the nature of the case cannot be settled by general agreement, such rates are to be settled between the employer and the worker himself. If the employer and worker, however, are unable to strike a bargain, the rate is to be settled with the help of two members of the works council, and failing this the matter is to be referred to the conciliation board. The contest thus becomes one, not between employer and worker, but between employer and works council. The works council is empowered to demand that two expert witnesses be heard; these expert witnesses are entitled, for the purpose of making themselves acquainted with the circumstances determining the award, to inspect those records or books of the employer which contain information about manufacturing processes or wages. The findings of the experts provide the conciliation board with reliable data on which to base their award.

Enforcement of Protective Legislation. Another function of the works council is to supervise the execution and observance of legislation and regulations protecting the worker, enforcing good sanitary conditions on his behalf, and securing him against accidents as well as insuring him in other ways. The council may delegate these functions to one or more of its own members. If instances of contravention come to their knowledge such as involve a risk to the health or personal safety of the workers, they must inform the employer, and, in the event of his failing to remedy the matter, they may appeal to the inspection authorities. They must assist in any official enquiry which takes place, and in all official inspections made in connection with it. The new Act on factory inspection of 14 July 1921 requires the factory inspector to co-operate with the works council, where feasible, and to communicate to such council his orders on protective measures.

An Administrative Instruction, dated 11 July 1919, contains special regulations on the functions of works councils, viewed in

(10) Contract-wages (*Gedinglohne*) is the name given to wages which are not time rates, especially in the mining industry.

relation to this protection of the worker, in mining undertakings. Two expert members are to be named, together with a sufficient number of substitutes, to supervise the execution and observance of the necessary mining regulations. These persons are bound to inspect the whole of the mining plant, both underground and surface, twice a month, and to take all necessary steps in answer to any complaints. In the case of an accident or of the occurrence of any other dangerous circumstances, they must immediately make an inspection of the dangerous locality and report to the mining authorities. The observations and recommendations which they make must be recorded, and communicated to the works council. In case of urgent danger to life or health, they must immediately apply to the manager.

Workshop Regulations. Regulations governing conditions of work, unless the result of collective agreement, cannot be issued or altered except with the consent of the works council. Here the change in the employer's position becomes very clear. Hitherto such workshop regulations were issued by the employer on his own sole authority (within the limits allowed by the law), so much so that juridical theory could define such regulations as legislation by the employer.

Maintenance of Discipline. Here the changes to be noted are even greater. Hitherto the customary penalties, namely, deductions from wages for such things as disobedience to rules, bad time-keeping, carelessness, damage to machinery, creating risks for other workers, were fixed on the sole authority of the owner or his representatives. Appeal could, of course, be made to the industrial authorities, or cases could even be brought up in the courts, but in practice the employer had very wide penal powers, which he could exercise without interference. This state of affairs has now come to an end. Disciplinary penalties, under the terms of the new Act, can only be administered in accordance with workshop regulations, and where there are no such regulations no penalties are enforceable. Penalties can only be inflicted through a committee, on which the employer and the works council have each one representative. A penalty may therefore only be inflicted by unanimous agreement, for none can be administered unless the two representatives are in accord. The Instructions on the procedure and organisation of works councils adds that joint committees, which have already been set up by collective agreement to administer factory discipline, are to continue to function. The works council is further enjoined to assist in the general maintenance of discipline within the works. Means of enforcing its wishes are not given to it; it can only act by example, by means of its personal authority, or by decision of the whole body of workers. The intention is that it should manage to warn offenders and so avoid the necessity for proceeding to penalties.

Payment of Wages. The works council is entitled to examine wages-lists and to supervise wages-payments. The object of the

examination is to find out whether the terms of the law and of agreements have been observed, and whether any illegal deductions from wages have been made. A dispute has arisen as to whether the council is also entitled to inspect the salaries of the salaried staff ; the Act mentions wages-lists only. The conciliation boards have decided in the affirmative in the case of salaried staffs as a body ; but in the case of managers and such higher-grade officials they are giving individual awards in each case.

Welfare Work. The works council, acting through certain members whom it appoints, co-operates in administering welfare institutions in the works, such as factory housing, factory retail stores, pension and relief funds, and arrangements for the distribution of foodstuffs and other necessaries. The employer is obliged to accept this co-operation even if he be the actual founder of such welfare funds and be supporting them out of his own pocket. An arrangement is entered into with him as to how such co-operation shall be carried out, or, if it is found impossible to come to such an arrangement, then the conciliation board decides.

The works council may further create, or co-operate in creating, welfare arrangements on behalf of those employed in the works. But this cannot be done before the probable expense involved and the possible means of meeting it have been exactly determined. No action may be taken until such means are available. In this connection it may be noted that certain special regulations in the Act on Public Ownership Undertakings of 29 July 1919 provide that the portion of the net profits allotted to the workers is to be spent on welfare work on their behalf as may be decided by the works council.

Engagement and Discharge. The works council has not acquired the right to influence the engagement of workers or salaried employees by the employer. Most insistent demands were put forward by them to be allowed to have a voice in choosing those with whom they should work ; this demand is largely directed against the employment of persons who either are not organised at all or else organised otherwise than in the controlling unions. As the law stands, the only way in which the workers can acquire an influence over the employers' choice as to whom he shall take into his works is through a collective agreement; as the works council supervises the carrying out of collective agreements, it is in their hands that any such influence eventually lies. In the same way, the employer alone decides whom he will discharge. The only cases in which the council can appeal against discharge and apply to the conciliation board are where such discharge has been made (1) on political grounds ; (2) in connection with a worker's activity on a works council (11) ; (3) on account of his having joined or participated in the organisation of a trade union or other association, or (4) because of his standing as candidate for the works council. Appeal must be made to the conciliation authorities within a week. If the appeal is upheld,

(11) See below under *Position of Council Members.*

the discharge becomes of no effect ; this means that the employment contract is still in existence and that the employed person can still claim the same rights, and is bound by the same duties as before ; in particular, his claim to wages is still valid, both retrospectively from the moment when his discharge was ordered and for the time being, so that he is entitled to continue to demand that he be paid even if the employer fails to give him any work. The works council is not entitled to question a discharge on any other grounds than those mentioned.

The question whether the discharged workers may appeal individually, especially in cases where the works council has not already done so, has in practice been decided in the negative by the conciliation boards. Some writers also take that view (12). This is the correct view according to the text of the Act, which reserves the right of appeal to the works council, and probably also expresses the intention of the Act, which was to restrict the employers' right of discharge in favour of the works council and to provide a body of expert and impartial representatives of employed persons for the purpose of protecting the worker from any interference with his political rights, without any idea of affecting the employers' rights under other circumstances.

As one of the duties of the works council is to prevent the breaking of a contract by an employer on political grounds, it is obvious that it has no power itself to urge the discharge of a worker for such reasons. It can, of course, make itself the mouthpiece of those employed in the works and, acting in protection of their interests, as it is bound to, it can ask for the discharge of workers when it is impossible, or at least unreasonable, to ask the remainder of the staff to work harmoniously with them on account of other causes, such as the quarrelsomeness or violence of such persons, or their dishonourable behaviour. But it is a very different case when, as has recently happened, the workers demand the removal of one of their own body on the ground that he belongs to an organisation other than their own. That would be a case of discharge on account of an exercise of the right of association, and any such demand on the part of a works council would be a contravention of its functions, against which the worker affected would have the right to appeal.

Representation on Board of Directors or Board of Control (13). In limited liability companies the works council sends two delegates from its own membership who are employed in the works to sit on the board of directors or council of directors. As

(12) HECHT : *Die Prinzipien des Arbeitsrechtes der Gegenwart*, pp. 62 et seq. 1921.

(13) The Board of Control (*Aufsichtsrat*) is a body, elected by the shareholders in general meeting, exercising large functions of control, including those exercised by the auditors of an English company and others of a much wider character. It appears to have much greater power than the *Commission de contrôle* of a French company, but is not identical with the board of directors of an English company ; the latter is rather analogous to the *Verwaltungsrat* or *Vorstand*, except that the powers of the *Vorstand* are limited by the controlling power of the *Aufsichtsrat*. [Editor, *International Labour Review*.]

only a few companies have directors' councils as well as boards of directors separate mention will not be made here of councils of directors. The works council's representatives on the board of directors have the same powers and duties as the other members of the board. Their functions are not in any way restricted to business directly or indirectly touching the workers' interests ; they are entitled to take their part in all the business before the board. On the other hand, they have no right to represent the firm or to sign for it. This means that they cannot deal with the funds of the firm or make binding contracts for it, nor can they claim any remuneration for their services other than the repayment of their expenses, such as travelling and maintenance expenses for any journey they may have had to undertake ; they can put in no claim to directors' profits (14) or other fees. In this way all risk of corruption, and even more, all risk of the suspicion of corruption, is eliminated.

In joint stock companies and in limited liability companies with a capital of over a million kronen which have a board of control, the works council has the right to send two representatives to sit on this board, i. e. on the body which supervises the operations of the managing authorities of the firm. Where two works councils exist in one undertaking each nominates one representative. Where there are more than two councils, the two mandates are distributed on the basis of an agreement made between such councils. In public ownership undertakings, which are looked upon as instruments for the socialisation of industry, the councils as a rule contribute one-fourth of the members to the general assembly of the undertaking ; these are in every respect on an absolute equality with all the other members.

Examination of Balance Sheets. In commercial undertakings employing at least thirty persons and in all manufacturing and mining undertakings the works council has the right to call annually for a showing of the balance sheet and the profit and loss account, and for a statistical analysis of wages paid. If the purpose of this provision were " to allow them to examine whether the wages paid are in agreement with the rate of profit being made by the establishment " (15), the works to which this clause is made to apply would have had to be classified on a different principle. At the same time, this is probably, from the point of view of the works council, the main object. But the intention was, in all likelihood, in the first instance to afford the council some insight into the economic standing of an undertaking and in this way to give the members a better understanding of its position and needs. Thus their interest in their own firm would be heightened, while they would be initiated into the business of running an undertaking on a big scale. It must be admitted

(14) *Tantième :* directors take, not only a fixed fee for their work on the board of directors, but also a certain share of profits of the firm, *tantième.* [Editor, *International Labour Review.*]

(15) Quoted from the commentary on the Works Councils Act in *Oesterreichischer Arbeiterschutz*, Parts XI-XIV. Vienna, Wiener Volksbuchhandlung.

that balance sheets and profit and loss accounts tell little even to those accustomed to analyse them, and nothing at all to those who are not accustomed to criticise such documents. Even an expert would make little of these figures unless he were able to refer back to the books from which the balance sheet had been drawn and which supply the real meaning. But the employers' dislike of having their books examined increases in proportion to the prosperity of the firm, for increased prosperity means increased risk of new wage demands based on this very fact. The text of the Act undoubtedly limits the right of the council to information about the balance sheet and profit and loss account; the Administrative Instructions on organisation and procedure of the councils could not overstep the wording of the Act or give the councils any further rights of examination. These Instructions were therefore restricted to making it obligatory for the employer to furnish the council, on its request, with the necessary explanations as to the technical drafting of the balance sheet and profit and loss account, i. e. the principles which governed their construction, and as to the technical terms used in them ; this amounts to an explanation of the balance sheet, but not to an explanation of each separate item. The works council of salaried employees will consist of persons who have themselves helped to draw up the balance sheet, so that, as a matter of fact, it will scarcely be possible to keep these persons in the dark as to the true state of the firm's business and assets.

The Instructions make it obligatory for members of works councils to treat as strictly confidential all information coming to them in consequence of these arrangements. Even towards those in the employ of the firm they may only make use of it when it is absolutely essential for the proper carrying out of their duties.

Improvement of Works Installations. The last of the functions of works councils listed in the Act is conceived in the sole light of assistance to the owner in the management of his business. It is laid down that the employer is privileged, and on request of the works council, compelled, to hold monthly joint consultations on suggested improvements in the equipment, arrangements, and general management of his plant. But the employer is not compelled to go beyond consultation. He is bound to listen to any proposals made by his councils and to discuss them ; he is not bound to accept or carry out the suggested improvements, even though they should be positively justified.

However, the council always has the right to bring its own suggestions to the notice of the employer or the authorities.

This concludes the list of functions assigned to works councils. The list is not complete, as is proved by the mere fact that the text of the Act here begins with the words "in particular". Works councils may assume other duties, if they are part of the workers' and employees' "economic, social, and intellectual interests".

They may, for instance, make suggestions for the improved technical or general education of those employed, for the training of apprentices or for the recreation of the workers. But the employer's duties cannot be held to exceed what is laid down in the Act. He is bound to listen to such proposals and to discuss them with his works council ; he is not bound to carry them out or to assist the council in any way whatever. As a matter of fact, the councils at the time when the economic crisis was at its height showed considerable activity, mostly with the consent of the employer, in securing that works should continue operations and in protecting them from interruptions in their running. For instance, they approached the authorities or the works councils of other firms with a view to getting supplies of coal or necessary raw material for their own firm or in order to protect themselves from disadvantageous arrangements, or even to get orders. The purpose was to further the interests of those employed ; but the person who chiefly profited was frequently the employer.

As would be inferred from the fact that they function in smaller works only, the duties of workers' "representatives" are not so extensive as those of works councils. They are confined to the functions assigned to works councils under the headings of collective agreements, piece rates, enforcement of protective legislation, discipline, payment of wages, welfare work, engagement and discharge, and finally, the right of bringing suggestions as to equipment and improvement in management to the notice of the employer or the authorities. They are not competent to exercise the other functions of a works council.

Procedure on Works Councils

The Works Councils Act and the Order on the procedure of works councils include only a limited number of specific regulations on procedure. The granting of powers to works councils under the Act in the interests of the workers represented implies an obligation to make practical and proper use of these powers. Hence in Section 3 of the Act the functions described above are quite properly characterised as "coming within the sphere of their rights and duties". Supposing that councils fail to carry out such duties or do so inadequately, they may injure the employer, or still more probably the workers, for instance, if they neglect to file an objection to the discharge of a worker or ignore possible dangers to the life or health of the workers. The Act makes no special provision for compelling a council to fulfil its obligations. The sole relief open to the worker against the action or inaction of his council is to apply to the competent conciliation authorities (16). These authorities decide all disputes arising between works council and workers or employer, or between workers and employer, on the subject of the setting up and management of a council, especially where the competence or

(16) For the conciliation authorities see the Act of 18 December 1919.

powers of a council are in dispute, and they do so on the application of any of the parties. Apart from this the works councils enjoy complete autonomy, which, however, in no way implies irresponsibility. As there are no special regulations, the ordinary law of the country applies, in particular, the Criminal Code and the law of damages in the Civil Code. A works council is not actionable as a body, but the members are severally liable for their actions (17).

Definite clauses enforce on works councils the duty of obtaining the co-operation of the trade unions formed by workers or employees, or at least of working in harmony with them. Even where no specific regulations are laid down, they are to work hand in hand with the unions, as far as is at all possible, when any question of importance arises which closely affects employment conditions. The work of a council, as far as possible, is to be carried on without interfering with the running of the undertaking, and outside work hours (Section 3). The Orders repeat this condition for definite cases, such as elections, announcements to the workers, and suggestions from the workers to their council.

The Order of 11 July 1919 lays down detailed regulations about procedure on a works council, and also draws up a model set of standing orders. These detailed regulations cover various points, including the election and powers of the chairman, secretary, treasurer, and—where the council consists of more than six members—of the elected executive, methods of dealing with current business, auditing and statement of accounts, the commissioning of special members of the council for definite functions, the calling of meetings and the order of voting, and so on.

The work of a council involves financial outlay. The Act does not oblige the employer to bear all or even part of these costs. It empowers the council to cover its running expenses and the cost of welfare institutions for the workers or their families by an assessment on wages of not more than one-half of one per cent., provided that, on a referendum, a majority of those liable to assessment agree. The workers and the salaried employees are only liable to pay assessments ordered by the council of workers and the council of salaried employees respectively. Detailed regulations are laid down as to the procedure for a vote on an assessment, and also on the keeping and auditing of the accounts.

Position of Council Members

The individual member, like the council as a whole, is bound to carry out the duties of the council, and also any special duties which fall to him as a member of it. But while the council as a body is not actionable for neglect of duty, the individual member is responsible for any such neglect. What the Act defines as the duties of the council are, in fact, the duties of each individual member, except in so far as standing orders or other resolutions

(17) See below, under *Position of Council Members.*

of the council have assigned particular functions to definite persons. Consequently, the Order on procedure and organisation makes it binding on the members to attend the council meetings. In addition, members must treat as confidential the business secrets learnt by them in the course of their work on the council. Contravention of any of these obligations renders a member liable for damages under the Civil Code, and may expose him to dismissal from the council.

Membership of a council is an honorary office ; only loss of earnings due to unavoidable interruption of work and actual cash expenditure are reimbursed. In law, the consequence is to deprive the member of any claim for payment for services rendered and to leave his position as employee unaffected. The object of this is to prevent too much red tape, and to ensure that members shall remain in contact with the rank and file. The larger the amount of unavoidable work undertaken by a works council, the greater will be the interruption to a member's work ; but an employer is not entitled to interpret these interruptions as neglect of duty, if circumstances justify them. As a matter of fact, it has become the custom, especially in large works, to have some kind of an agreement between the works council and the employer to free all or some of the members wholly or partly from their work, without prejudice to their claim for the payment of wages.

The Act nowhere states that the employer is liable for the expenses incurred by the council as a body or by any of its members, or that he is bound to make good any loss of wages arising on this account. On the contrary, the Act states that an assessment can be made to cover these and other expenses of the council. In law, therefore, it is the workers who pay these costs, but in practice the employer very often voluntarily shoulders them, especially when it is primarily the firm that benefits. In view of this, little importance is to be given to the added words in the text of Section 12, directing that the conciliation authorities shall decide, in case of dispute, up to what point the employer is liable for loss of wages. The only provision of law on this point is Paragraph 1154 b of the Civil Code, which says that any worker who is, through no fault of his own, prevented from doing his work by important causes of a personal nature retains his claim to his wage for the period of one week. But this rule cannot in general be applied to the case of members of works councils, least of all when repeated and prolonged interruptions in a man's work are involved.

An individual member often comes into conflict with his employer over his work on the council. The employer is easily tempted to rid himself of a troublesome member by discharging him, and thereby automatically removing him from the council. Members must be protected against this danger, unless the whole institution is to be open to the charge of exposing conscientious members to serious financial loss. The Works Councils Act takes

care to secure a very wide immunity for the member. The employer is forbidden to obstruct his employees in carrying out their functions as members of the council or to discharge them on these grounds. In fact, no member of a council may be dismissed at all unless he has done some act which makes him liable to dismissal under current legal regulations ; discharge for other reasons is subject to the consent of the conciliation authorities. Finally, the discharge of a worker or employee may be contested on the ground that it is connected merely with his work as member of the council.

These restrictions on the right of discharge, whether with or without notice, are of great importance. In Austrian law important reasons are required to justify discharge without notice ; some Acts give these causes in detail, others only describe them in general terms, such as "reasons of importance". The wording of the Works Councils Act on the point is not quite clear; it apparently lays down that dismissal of a member without notice is only possible for an important reason arising out of some misconduct on his part, for instance, if he has been guilty of theft or breach of confidence, or assault upon his employer. In such cases the member, if he thinks himself unjustly treated, may appeal to the conciliation authorities. Dismissal without notice under any other circumstances and discharge after notice under any circumstances whatever require the consent, previously obtained, of the conciliation authorities. The latter must examine the grounds of discharge in either case and can give their consent only if these grounds justify the employer's action, and if it is certain that it is not a case where the emplover merely wishes to get rid of a troublesome member of his works council. It is not maintained that the cause of discharge must be entirely dissociated from the worker's membership of the council ; on the contrary, a very good cause of discharge without notice might be conduct in contravention of his functions as a council member ; for instance, betrayal of business secrets which have come to his knowledge in the course of his work on the council. Any discharge in contravention of this regulation is held to be null and void in law. A worker or employee so discharged is still an employed person and above all can at any time claim his wage. Should he wish to continue to act as council member or as workers' representative, he must undoubtedly first apply to the conciliation authorities. If they support him, he can then apply to a court of law to assist him in carrying out his duties, and the law will put at his disposal all the usual legal means of enforcing a decision (18).

Even after having ceased to be a council member a worker is protected from any attempt on the part of the emplover to terminate his employment contract, either by way of reprisal or to prevent his re-election ; any such proceeding would be an

(18) Decree of the Ministry of Social Administration (*Amtliche Nachrichten des Ministeriums für soziale Verwaltung*, 1921, p. 450).

effective threat to the new members of what would happen to them also if they took their duties too seriously. The rule is that, if a worker who has just left the works council is discharged, the new council may contest such discharge if it is in any way connected with any of his former activities on the council.

Co-ordination among Works Councils

In the Act the works council is treated as an isolated institution with no thought of uniting councils to form a larger system. The Act goes no further than suggesting a loose combination among the councils of the same works or the same undertaking. For instance, if there exist in the same works a workers' and also an employees' council, each of these conduct their business separately except what is strictly joint business. When separate councils are elected for the separate branches of the same works, these councils can send special delegates to attend joint meetings to consider joint business. This applies also when there are several councils for the separate works of a single undertaking. The Order on the procedure and organisation of works councils lays down the same principle to govern all these cases ; merely joint consultation on certain joint business is contemplated. Each council chooses delegates for these joint meetings ; but resolutions are passed separately by each council, so that a joint resolution of all the councils only becomes such upon the assent of each council ; this excludes any possibility of voting down a minority. The councils may, however, agree that in the case of all affairs of common interest, or certain specified matters, issues shall be decided by a majority of votes in a joint session of all the councils or of their delegates, or else they may agree that separate resolutions shall be voted separately by each council, but that a majority on such resolutions shall be binding.

The amount and importance of the business declared to be joint business is small : questions of the maintenance and execution of the regulations for the enforcement of protective legislation, sanitation, and accident prevention, when they touch all the workers in a works ; administration of the works welfare institutions so far as they touch all workers ; election of delegates to attend the meetings of managers, directors, or the board of control, in cases where there are more than two works councils ; the decision to levy assessments on the workers ; consultation about improvements in equipment, works organisation and management, where they concern those represented by more than one council. It may also be agreed that other items shall be subject to joint consultation.

The principle of isolation of works councils—apart from such loose combination as that just described—is undoubtedly based on the wish to avoid rivalry with the trade unions. The relations of works councils to trade unions are very important from the practical point of view of labour and also from the general

economic point of view. It is characteristic of the Austrian trade union movement that the unions should set out to raise the position of all the workers in their trade throughout the country or at least over the largest possible area. They do not try to win special advantages for the workers in any particular works ; their aim is to improve the average situation in their trade. Their method is the conclusion of collective agreements with the employers' organisations. The works council, on the other hand, must obviously restrict its efforts to protect the workers' interests to its own works. It is not acquainted with conditions outside these works, and is therefore greatly tempted to take full advantage of some special economic conditions or other circumstances affecting its own works, regardless whether equally favourable terms can be obtained or are economically reasonable in other works, and also regardless of the fact that success in its own works is bound to evoke efforts elsewhere to get the same terms, leading to a constant cycle of wage demands with their accompanying excitement and unrest in the labour world.

These considerations explain the kind of rivalry between works councils and trade unionism, a rivalry which becomes particularly apparent when a works council supports a claim for higher wages which the trade union repudiates. In addition, works councils which are independent in spirit will not act at the bidding of the trade union. They attack the overwhelming influence of the so-called bureaucracy of trade unionism. They assert that trade unionism leaves untouched the masses of the rank and file which are essential to any labour organisation ; they maintain that the works council is the one instrument which allows of a full carrying out of the democratic principle. In practice this rivalry undoubtedly often leads to disagreement ; the considered policy of trade unionism is often wrecked by the hasty action of works councils. The solution of this difficulty cannot be definitely forecast. The works council cannot be abolished ; the trade union cannot be pushed to one side ; the final result will in all probability be that the two institutions will be co-ordinated by giving the works councils greater influence and a definite position within the framework of the trade unions.

In spite of the silence of the Act on the point, closer co-ordination between works councils has already been tried on several occasions, which leads to the hope of further developments in this direction. One of the first of these experiments was probably the central works council for the government tobacco depots. This council was set up by the management of the state tobacco monopoly Department in agreement with those employed in the Department (19), in order to conduct joint business affecting the works councils in all the government depots. There are twenty

(19) Decree of the General Management of the State Tobacco Monopoly of 10 Nov. 1919. For a similar development under the German Works Councils Act, see *Reichsarbeitsblatt*, 1921, No. 19, p. 766. Berlin.

members, of whom nine are workers' representatives from each of the nine tobacco factories, three are foremen, three government civil servants—each elected under special regulations made by the works councils—and five represent the employees' organisations. The central council exercises a large number of functions which are assigned to the works councils by the Act, but which, in view of the fact that "they must be carried out in a uniform way in all government depots", are handed over to the central council. Such are the conclusion of collective agreements, co-operation in fixing piece rates and in drawing up workshop regulations, discussion of the balance sheet, establishment and management of welfare institutions, and levying assessments. Similarly the central works council draws up agreements regulating the mutual relations of several councils in the Department; all these councils must handle business of common interest in the same way, and such agreements cannot be drawn up by a majority of the councils themselves. An executive committee of the central council to deal with urgent business is composed of five representatives of the employees' organisations and two workers' representatives from the Vienna departments. The predominating influence of the salaried employees, especially on the executive committee, is noticeable, but has the advantage of ensuring the necessary uniformity in the conduct of important business.

In view of the probable effect on other branches of industry, great importance must be attached to the organisation of works councils in the metal industry for the whole of Austria. This organisation is of importance because it includes both workers' and employees' councils. A congress of workers and employees in the metal industry was held in February 1921 and drew up a complete set of principles for the council system. In the hierarchy of councils there is first the local works councils congress, together with its executive committee; next the district congress and its committee; and finally the national congress of works councils, which will elect a chief committee. One-third of the members of this chief committee must be salaried employees. The president and secretary of the trade union general committee are *ex officio* members of this chief committee; similarly the workers' delegates on the chief committee are members of the general committee of the Union of Metal Workers ([20]), and the employees' delegates are members of the managing council of the Federation of Salaried Employees in Industry ([21]).

Significance of Works Councils

There is no doubt that the Austrian Works Councils Act is defective on the technical side, but general conclusions ought not to be influenced by the idea that a particular clause might have been better drafted or that the functions of the councils might

([20]) *Metallarbeiterverband.*

([21]) *Bund der Industrieangestellten.*

have been restricted or extended in some respect. Conclusions ought to be based on the experience of employer and employed in the working of this new institution. As it is not easy to collect the results of this experience from scattered individuals, the opinions of their organisations and of public authorities may be cited. It is obvious, however, that political considerations must be discounted. The workers support the councils with great enthusiasm simply because they increase the power of labour. The employers, on the other hand, adopt an unfavourable attitude because the councils mean a loss of power to them, though of course individual verdicts are signally influenced by the unfortunate or successful experience of some particular employer or his sympathetic attitude to labour. Generally speaking, expressions of opinion on the Act have been extraordinarily few. Complaints from employers have almost ceased—not merely owing to indifference or resignation to the inevitable, but partly because there is little cause for serious complaint.

The verdict of the factory inspectors is on the whole favourable to the new institution, which they believe will encourage good relations between employers and employed. They complain, however, that the councils give too much attention to wages and neglect other business.

An article entitled *A Year's Experience of the Works Councils Act* [22] in *Die Industrie*, the official organ of the Central Association of Austrian Industry [23], mentions solely the disadvantages of the new institution. According to this author, the councils have made few changes either because the relations between employers and workers have remained friendly or because the workers had previously been successful in obtaining recognition of their chosen representatives. In too many works, however, the consequences of the Act had been unpleasant for all parties. Trade union influence, the author thinks, has been impaired, especially in the large establishments, where rebellious and demagogic spirits find it easy to gain a hearing. The councils have been too anxious to assert their rights and not anxious enough to carry out their duties, especially those of helping to maintain discipline and keeping the workers to the observance of their side of collective agreements. The author adds that almost all the strikes in industrial establishments broke out against the wishes of the trade unions, either because the councils were too weak to prevent unnecessary strikes or because their policy was opposed to that of the unions. The moderate worker and the old disciplined trade union leader have been pushed into the background by the councils, and unstable characters, hopeless doctrinaires, and bad workers have almost always been elected. "As long as men of character and experience"—so runs the conclusion of the article—"fail to get elected to the councils, men who are conscious of their responsibility and capable of resisting, if necessary, the workers

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[22] *Ein Jahr Betriebsrätegesetz.*

[23] *Hauptverband der Industrie Oesterreichs.*

as well as the employer, the effect of the Act is bound to be disturbing and destructive to production, and in the end certain to involve the decay of trade unionism . . ." Another opinion published by the Central Association of Austrian Industry, in a book entitled *Employer and Employed* (24), is a good deal more moderate, but also deplores the injury to trade unionism.

The value which the workers attach to the institution of the councils is well known, even if in a few localities or works they are indifferent. In industrial centres, and especially in large-scale industry, interest is very marked. This was shown at the 1921 congress of works councils in the metal industry, and the lead given by this congress was followed by those in other industries. An article entitled *Two Years* in *Der Betriebsrat*, published by the Austrian Trade Union Committee (25), also puts a very high value on the councils.

An impartial verdict is given in an article called *Works Council Practice* (26), published in the *Oesterreichischer Volkswirt* of 26 March 1921. The writer states that the fears of the employers and the hopes of the workers have alike proved deceptive. At present the works councils are directing most of their attention to wages and salaries. The ordinary worker still seems indifferent to such matters as technical equipment, markets, and the supply of material, but it must be acknowledged, says the author, that the present economic situation forces the workers into a continual and exhausting struggle to secure a minimum standard of existence. The good will shown by the workers has obviously increased, though no one can say whether this improvement is due to the councils. Again, the councils have helped to put a stop to grave breaches of discipline. A certain tradition, the author continues, will first have to be built up, as in the case of every new social institution, before the councils can be entirely independent of narrow and personal considerations. The fears of the employers chiefly touched the right to examine the balance sheet and the representation of the councils on the boards of control. According to this article their fears were unjustified, as the workers were not trained in the critical analysis of statistics and accounts, and had hardly any more idea what to do with their representation on the boards of control. The future of the councils depends on educating the workers for management, but so far practically nothing had been done in this direction.

My own conclusions are as follows. The present economic situation in Austria is quite abnormal. The uncertainty of economic conditions and the extraordinary depreciation of the currency, in spite of generous increases in wages, confront the workers with grave anxiety about their livelihood ; hence the permanent unrest and an irritation which is foreign to the Austrian character. Add to this the widespread evasion of the law—one

(24) *Arbeitgeber und Arbeitnehmer*, Vienna. 1921.
(25) *Oesterreichische Gewerkschaftskommission.*
(26) *Betriebsrätepraxis.*

of the consequences of the war—tempting individuals or the masses to break regulations or contracts. The weakness of the public authorities weakens the employers, with the result that they are unable to get their rights enforced even when they have the law behind them. Finally there is the present tendency of the workers to extreme views in politics. These circumstances suggest that many of the objections of the employers to the councils are not really arguments against the institution itself, but against the persons who at the moment happen to be members of councils. Conditions are bound to improve, and with this improvement the objections will largely vanish. Moreover, the councils, like every new social institution, must outgrow their infantile ailments; for instance, the workers are too much inclined to stretch their power to the utmost limits, while the employers are anxious to restrict their functions. This leads to dispute and unrest, and is bound to confuse any estimate of the councils as an institution. When they have been longer in being, the experience of members, the routine of administration, even theoretical discussion, will form a training which will remove the causes of discontent. The employers sometimes complain that the right to examine the balance sheet invites indiscretion and that business secrets are inadequately protected, while knowledge of the salaries of managing officials and directors affords constant opportunity for objectionable personal attacks. The answer to these complaints is that such abuses can readily be prevented by law.

On the other hand, in the larger establishments, where the number of workers approaches or exceeds a hundred, a works council is positively indispensable to an employer. In times of unrest it would be impossible without it to carry through any step to the detriment of a number of workers, such as discharge, short time, a fundamental alteration in the running of the works, or wage reductions. Important measures even, such as some real change in the follow-on of the work, the arrangement of overtime, etc., are made much easier if the council is willing to co-operate. The increased self-respect of the workers now demands that arrangements that vitally affect their lives and possibly their economic status should not be made by the employer on his sole authority, without previous consultation with them or their chosen representatives, so as to convince them of its necessity and to obtain their consent. The putting into practice of such principles of industrial democracy in the eyes of the workers is simply complementary to political democracy. Where they have already succeeded in getting such industrial democracy established, they will defend it by every means in their power should any attempt be made—which is not very likely—to rob them of it again. In every industrial country where industrial democracy has not yet been introduced, they will seek to have it established. They will try first to fight out the question on trade union lines, getting collective agreements signed which will foster such institutions of this kind as already exist, until legislation steps in and makes them compulsory.

The struggle for works councils, or for some institution of similar standing, will vary in the different countries, lasting a longer or shorter time in proportion to the political power and organised strength of the workers and employers in each ; but whether the struggle be long or short, this just demand of the workers is bound to find satisfaction. The future influence of the councils will depend on the mental and spiritual equipment with which those who serve on them approach their task. A second fundamental factor will be the relations between the councils of workers and of salaried employees respectively ; if they oppose each other, they will weaken each other's position and the employer will profit. The most important factor of all will be the relations of the councils to the trade unions. It seems likely that the trade unions will gradually undergo a fundamental change ; they will eventually be built up on a system of works councils and be influenced by them. The result will be, for the unions, an escape from the danger of bureaucracy and the introduction of new life. At the same time the power of trade unionism will increase the influence of each works council, while the co-ordination of the councils within the framework of the unions ought to be an effective safeguard against the very real and great danger of the selfish "works spirit".