



## Collective Agreements in Germany

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**T**HE term "collective agreement" is applied to those arrangements under which the conditions of employment are governed by the terms of a bargain made between employers or associations of employers and a group of workers employed by them, or an organisation of which these workers are members. In Germany such agreements are commonly called *Tarifverträge*<sup>(1)</sup>, i. e. "wage-rate agreements", a name probably due to the fact that originally wage rates or wage tariffs were their most important part. They include awards made by arbitrators or an umpire. In these cases the bargain, instead of being made directly between the parties, is, in effect, made for the parties by a third person or persons acting with their authority.

### HISTORY OF COLLECTIVE BARGAINING

Collective bargaining between employers and workers is of comparatively recent origin. It had been practised in a few cases during the first half of the last century, particularly in the building trades, but it only became possible on a larger scale after the right of combination and association had been granted to workpeople and employers by the Industrial Code of 1867. Even after 1867 the right to use it was for a long time very rarely exercised, because the employers still preferred the individual contract. The majority of trade unions were, at first, also opposed to formal and binding contracts, on the ground that such binding contracts would prevent them from making demands on the employers at some moment when, owing to the conditions of trade, a stoppage of work promised them success. This was the prevailing attitude until the last years of the nineteenth century.

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#### (<sup>1</sup>) SOURCES :

REICHSAMT FÜR ARBEITSVERMITTLUNG : *Die Tarifverträge im Deutschen Reiche am Ende des Jahres 1914-1919 ; Sonderhefte zum Reichsarbeitsblatte.* Berlin, 1916-1921.

Ad. BRAUN : *Die Tarifverträge und die deutschen Gewerkschaften.* Stuttgart. 1908.

*Verhandlungen der Gesellschaft für Soziale Reform*, 28 Oct. 1907 ; *Arbeits-tarifverträge.* Jena. 1908.

*Buchdruckertarif und öffentliches Interesse.* Cologne. 1911.

*Korrespondent für Deutschlands Buchdrucker und Schriftgiesser*, 5 Nov. 1921 ; *Entstehen und Werden der Tarifgemeinschaft im Buchdruckergewerbe.*

MAMROTH : *Gewerblicher Konstitutionalismus.* Jena. 1911.

The trade which for long was the most successful in the field of collective bargaining was that of the printers, mainly owing to the fact that they were the first to build up a strong trade union organisation. As early as 1848 the journeymen printers demanded the establishment of a general wage scale for the whole of Germany. When the employers refused to enter into negotiations, the men went on strike in some of the larger towns, but the strike failed. However, a local agreement was secured, covering the city of Breslau and a part of the province of Silesia, and a further local agreement for Leipzig, the most important printing centre in Germany, followed in 1852. National organisations in the printing trade were established in 1866 by the workmen and in 1869 by the employers.

In 1872 the employers' association proposed a wage scale for the whole trade, against which the men protested, demanding the right to take part in the determination of the conditions of labour. After many local strikes and lock-outs in 1872 and 1873, the employers recognised the workers' right to collective bargaining and entered into negotiations. In May 1873 the first national collective agreement was reached, which was subsequently revised in 1876, 1878, 1886 and 1890. In 1891, however, a general strike lasting nearly three months occurred and ended without any new agreements being reached. Six years later, in 1896, negotiations were re-opened and led to the conclusion of an agreement binding both parties for five years. This was renewed in amended form in 1901, 1906, and 1911, and continues in force to the present time.

Until the end of the world war the practice of collective bargaining was limited almost entirely to such industries as are commonly conducted on a small scale, as, for example, the building trades, clothing trades, food trades, printing and book binding, wood turning and furniture making, certain branches of the metal trades, etc. Here the influence of trade unionism had already made itself felt at a time when the employers in the large industries still emphatically declined to have any dealings with labour organisations, for in the small-scale trades the employers had not the financial resources necessary to resist prolonged strikes, or to establish so-called "yellow" labour unions. Moreover, the employers in the small-scale trades obviously suffered more from competition between themselves than large-scale industries. By bargaining with their workers they were able to eliminate overbidding for employees, and, as labour cost is a most important item in these trades, it was not difficult to convert them to the principle of collective bargaining.

To sum up : during the last years of the nineteenth century the labour organisations in almost every trade became favourably inclined towards the policy of collective bargaining, and the practice of negotiations with employers or their organisations extended step by step as the trade unions gained in power. Where, on the other hand, the power of capital was overwhelming, the principle that the employer ought to be master in his own house was upheld practically until the last day of the old

political order. Only when labour became an important factor in national politics could its influence no longer be esteemed lightly even by its most bitter opponents.

But if up to the Revolution collective bargaining was restricted to certain trades, this was not alone due to the varying strength of labour organisations. It was largely also caused by different circumstances. The advantages of collective bargaining appear the most obvious where the effects of a stoppage or strike—which collective bargaining purposes to avoid—are most immediate and marked, for instance, where such a stoppage directly affects the general public, or where commodities are obviously in danger of perishing, or again where it is difficult to see how such stoppage can ever be made good again, owing to seasonal conditions. Thus the printing trade is working largely to serve the daily requirements of trade and commerce and of the general public; if newspapers and other periodicals cannot be printed because the workers are on strike, the employers suffer an irreparable loss. In the building trades, where collective bargaining has been a recognised practice for many years, the annual number of working days is considerably restricted by bad weather, and it is in the interest of the employer to prevent a further reduction of working time on account of strikes; damage might be caused to unfinished buildings exposed to the influences of climate. In street construction the nuisance of a disturbed roadway is obvious; the danger of deterioration of the half-finished products in tanning and currying is another instance. The same applies to the food and drink trades. In some trades, the products of which are being largely consumed by the working classes, a certain pressure may be applied by them to the employers, if a boycott of such products is threatened. Circumstances are quite different in the staple industries, as, for instance, in the iron and steel, the chemical, and the textile industries, which do not necessarily produce for immediate consumption, but for a future market.

## GENERAL CHARACTER OF COLLECTIVE AGREEMENTS

### *Types of Agreements*

In many instances the collective agreement is entered into between a single firm and its employees (or a trade union representative of these employees); several establishments owned by the same firm may be covered; in any case a comparatively small number of persons are affected. In 1914 agreements covering a single firm (with one or more branches) represented 74.8 per cent. of the total number of all agreements, but their importance is decreasing, and in 1919 they stood at only 52.6 per cent. The total number of workers covered by such agreements also declined from 28 per cent. of the whole number of employed persons in 1914 to 16.5 per cent. in 1919.

While securing uniformity in conditions of employment as between the different persons employed by a single firm, this kind of agreement affords no security against undercutting by other firms. On the other hand, when the agreement regulating industrial conditions is entered into by a number of firms, and, in particular, where the firms bound by an agreement comprise the whole or the greater part of the establishments carrying on a given industry within a wide area, all the workers employed by the employers signing the bargain are assured equality of treatment, while each of those employers is largely protected against the danger of being underbid by firms obtaining their labour upon easier terms than he himself enjoys. The number of local agreements applying to all firms of a certain trade and locality increased from 12.2 per cent. of all agreements made in 1914 to 23.3 per cent. in 1919. The number of persons covered by local agreements increased threefold between 1914 and 1919. However, expressed as a percentage of the number of persons covered by all kinds of agreements, the proportion covered by local agreements fell from 17.3 per cent. in 1914 to 12.0 per cent. in 1919, owing to the tremendous increase between 1914 and 1919 in the number of persons covered by district agreements as against local agreements.

District agreements are those extending over an even wider area ; they have become more and more popular during the last few years. In 1914 they represented 12.9 per cent. of all agreements made ; in 1919 they rose to 23.7 per cent., while the percentage of workers covered also rose from 49.2 per cent. in 1914 to 63.7 in 1919. The number of employees covered by all district agreements in force at the close of the year increased from 302,599 in 1918 to 3,810,140 in 1919. The increase of district agreements was most remarkable in 1919, when collective bargaining became common for the first time in certain trades where it had not been in vogue at all before, or at least practised only to a very limited extent. Mining, the iron and steel trades, the textile trades, and the manufacture of chemical products are the most important of these trades, and here the district agreement has been accepted as the most common form.

The most comprehensive form of collective agreements are those extending to the whole of Germany<sup>(2)</sup>. In 1918 there were only 15 of these, but in 1919 there were 46 and 70 at the close of 1920.

It should be noted that the statistics published by the Federal Government fail to make fully clear the tendency to supersede agreements covering single firms only, or localities, or districts, by contracts having a wider application. It is quite usual to sign a "covering" agreement<sup>(3)</sup> operating over the whole country, but containing general provisions only, while the regulation of details, particularly rates of wages, is left to supplementary local

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(2) *Reichstarife*.

(3) *Rahmentarif* or *Mantellarif*.

agreements. The official statistics take note only of these supplementary agreements in order to avoid duplication. General "covering" agreements of this kind numbered 26 in 1919 and 46 in 1920. Frequently the arrangements between central organisations of employers and employees are actually nothing more than directions to be observed in making local agreements. In 1919, for instance, such directions were laid down by the Association of German Towns<sup>(4)</sup>, which cannot legally become a party to collective agreements, and the Union of Municipal and State Employees. They formed the basis of a large number of collective agreements entered into between municipal authorities and their employees. In course of time such directions tend to be superseded by national collective agreements.

Table I below gives the numbers and percentage of various types of collective agreements in force at the end of the years 1912, 1914, 1918, and 1919, while table II shows the numbers and percentage of persons covered by agreements.

TABLE I. NUMBERS OF AGREEMENTS CLASSIFIED BY TYPES AS AT 31 DECEMBER 1912-1919

Year	Single Firm		Local		District		National		Total
	Number	Per cent.	Number	Per cent.	Number	Per cent.	Number	Per cent.	
1912	7,809	72.7	1,388	12.9	1,531	14.3	11	0.1	10,739
1914	8,108	74.8	1,318	12.2	1,402	12.9	12	0.1	10,840
1918	5,148	65.8	1,333	17.1	1,323	16.9	15	0.2	7,819
1919	5,786	52.6	2,563	23.3	2,610	23.7	50	0.4	11,009

TABLE II. NUMBER OF WORKERS COVERED BY VARIOUS TYPES OF AGREEMENTS AS AT 31 DECEMBER 1912-1919

Year	Single Firm		Local		District		National	
	Number	Per cent.	Number	Per cent.	Number	Per cent.	Number	Per cent.
1912	419,075	26.6	283,532	18.0	790,733	50.2	80,945	5.2
1914	390,796	28.0	240,955	17.3	687,537	49.2	76,435	5.5
1918	306,286	27.2	232,781	20.6	302,599	26.8	286,024	25.4
1919	990,070	16.5	716,649	12.0	3,810,140	63.7	469,616	7.8

A marked change took place in 1919. Up to that year the relative number of persons affected by agreements applying to a single firm or a small number of firms remained about constant, but after the war these agreements declined in importance. There has been a steady increase in the average number of establishments and workers affected by collective agreements, as

(4) *Deutscher Städtetag.*

is shown by the fact that, while in 1914 the average number of establishments covered by one agreement was 13 and the average number of persons affected 129, in 1919 these figures had risen to 25 and 544 respectively.

TABLE III. COLLECTIVE AGREEMENTS CLASSIFIED BY NUMBER OF ESTABLISHMENTS COVERED, END OF 1919

Number of establishments covered	Agreements		Establishments		Persons covered	
	Number	Percent.	Number	Percent.	Number	Percent.
One	3,893	40.0	3,893	1.4	449,397	7.6
2 to 10	2,987	30.7	15,690	5.8	661,640	11.2
11 to 20	1,088	11.2	16,103	5.9	588,489	10.0
21 to 50	914	9.4	29,344	10.8	857,108	14.5
51 to 100	384	4.0	27,564	10.1	737,307	12.5
Over 100	457	4.7	179,657	66.0	2,628,800	44.2
	9,723	100.0	272,251	100.0	5,905,741	100.0

Since 1914 agreements covering single establishments have decreased from 55.8 to 40 per cent. of the total, while the number of persons covered by them has fallen from 15.7 to 7.6 per cent. But agreements covering more than 50 establishments have increased. In 1914, they were 4.7 per cent. of the total number of agreements signed, and in 1919 they were already 8.7 per cent.; in 1914 they covered 46.0 per cent., but in 1919 56.7 per cent., of all workers covered by agreements.

The period during which collective agreements remain in force is now a good deal shorter than it used to be before the war. In 1914, most of the agreements then in existence had been entered into in the course of the three preceding years and the dates of their origin were almost evenly distributed over each of those three years. In 1919, however, 9,271 agreements out of 11,009 (or 84.2 per cent.) had been adopted or renewed during the same year, while very few of those remaining in force from previous years were unchanged in 1919, at any rate as to the provisions regulating wages.

The favourable effect which collective bargaining has on industrial relations is illustrated by the fact that it tends to prevent strikes and lock-outs. In Germany collective agreements are entered into nearly always without previous resort to a stoppage of work. Of the total number of 11,009 agreements in existence on 31 December 1919, the vast majority—10,436, or 94.8 per cent.—were the result of peaceful negotiation not preceded by a strike or lock-out. The number of persons covered by these agreements was 5,753,144, or 96.1 per cent. of the total number of persons covered by all agreements. In 1914 the corresponding figures were only 81.4 per cent. of the agreements concluded and 81.3 per cent. of the workers covered. This shows that peaceful negotiation has made considerable progress since 1914.

*Geographical Distribution of Agreements*

The geographical distribution of agreements shows that collective bargaining is most common—as was to be expected—in the manufacturing districts and in areas containing large towns. If we classify agreements on the basis of the number of workers which they cover, the Rhineland ranks first among the Prussian provinces, and Westphalia second. Collective bargaining is in extensive use also in the State of Saxony, the Prussian Province of Saxony, in Silesia, Bavaria, and Berlin. But while in 1913 Berlin ranked first in regard to the number of workers covered, in 1919 it held the sixth place only.

TABLE IV. GEOGRAPHICAL DISTRIBUTION OF COLLECTIVE AGREEMENTS.  
AS AT 31 DECEMBER 1919

State	Number of collective agreements	Number of persons covered
Prussia	6,374 <sup>(2)</sup>	3,530,828 <sup>(3)</sup>
Rhineland	929	1,280,425
Westphalia	638	427,075
Silesia	753	381,925
Saxony	690	320,263
Berlin	329	320,631
Hanover	680	254,894
Brandenburg	47	171,646
Hesse Nassau	395	159,834
Other provinces	1,310	212,635
Bavaria	1,165	460,277
Saxony	963	55,242
Württemberg	330	28,743
Baden	455	217,896
Hamburg	234	150,309
Hesse	257	81,588
Other States	1,173	217,386
National agreements <sup>(1)</sup>	50	469,616
Agreements applying to several States	8	124,590
Total	11,009 <sup>(2)</sup>	5,986,475 <sup>(3)</sup>

<sup>(1)</sup> Inclusive of four general 'covering' agreements.

<sup>(2)</sup> As printed on p. 35 of *Die Tarifverträge im Deutschen Reich am Ende des Jahres 1919* 23 *Sonderheft zum Reichs-Arbeitsblatte*. Berlin, Hobbing. 1921. The actual totals are 6,371 and 11,005.

<sup>(3)</sup> As printed on p. 35 of *Die Tarifverträge* etc. The actual totals are 3,530,325 and 5,985,975.

*Industrial Distribution of Agreements*

Table V shows the number of persons and establishments covered by all kinds of agreements in force at the end of the years 1914, 1918, and 1919, in the various industrial groups. In

1919 the largest number of persons covered, representing 24.4 per cent. of the total, was in the metal working and machinery group; they were five times as numerous as in the previous year. The number covered in the mining group, only slightly smaller, was 22.9 per cent.; scarcely any workers in this group were covered by agreements until 1919. Next came the building group, in which, however, the number was only one third of that of either of the preceding groups. In 1914 34.0 per cent. of all persons covered had been in this group, but during the war building activity was much diminished, and in 1919 the number of workers had not yet regained its pre-war strength. The textile, clothing, and wood-working groups each include over 300,000 persons covered by agreements. A striking increase occurred in the number covered in the chemical group, from 0.6 per cent. in 1918 to 3.0 per cent. in 1919. It is interesting to note that there has been comparatively little change in the number covered in the printing group; the explanation is, as given above, that most of the workers in this group were already covered by agreements before 1914.

As might be expected, the proportion of persons to establishments covered by agreements varies very considerably from group to group; for example, there are many more workers per establishment in the manufacturing groups than in those concerned principally with retail trade. In 1919 the average number of persons per establishment in the textile group was 72.9, while in

TABLE V. NUMBER OF ESTABLISHMENTS AND WORKERS COVERED  
BY COLLECTIVE AGREEMENTS  
AT 31 DECEMBER 1919 BY GROUPS OF INDUSTRIES

Industry	Establishments			Persons covered		
	1914	1918	1919	1914	1918	1919
Agriculture and fisheries	518	740	9,265	3,490	5,293	90,577
Mining and smelting	2	2	1,901	92	481	1,372,628
Pottery and china	3,629	2,496	3,217	60,166	26,794	158,213
Metal working and machinery	16,225	10,983	31,098	147,503	232,430	1,463,032
Chemicals	74	56	1,442	7,454	6,988	177,226
Forestry products	70	29	280	3,933	2,576	16,594
Textiles	453	8,063	4,556	10,847	91,399	332,277
Paper	2,278	1,650	2,322	38,844	35,142	122,514
Leather	5,090	4,965	5,511	32,254	43,440	81,152
Wood working	18,322	11,248	24,828	163,597	120,114	305,298
Food, drink and tobacco	11,431	11,620	11,303	108,237	63,407	213,950
Clothing	19,831	12,485	27,893	142,917	141,229	327,581
Cleaning and sanitation	2,323	267	1,924	5,940	1,563	22,224
Building	43,622	23,475	41,363	474,824	141,451	437,195
Printing	10,298	9,551	10,256	88,448	68,298	95,785
Commerce	2,737	2,513	26,790 <sup>(1)</sup>	45,165	34,589	134,786 <sup>(1)</sup>
Transport	4,665	4,331	17,487	53,919	38,916	118,426
Hotels and restaurants	1,932	1,946	14,534	7,600	7,690	145,444
Musical and theatres	94	95	1,482	559	743	14,100
Miscellaneous	16	919	5,750	234	15,167	277,479
Totals	143,650	107,503	272,251	1,395,723	1,127,690	5,986,475

<sup>(1)</sup> Includes 6 insurance offices covering 669 persons.



the hotel and restaurant group it was 10.0. The industries and trades comprised in the building and the food, drink, and tobacco groups are carried on in a relatively large number of establishments; 30.4 per cent. of all establishments covered by agreements in 1919 were in these two groups, but the proportion of persons in them was only 11.4 per cent. On the other hand, in the same year the mining group alone included 22.9 per cent. of all the persons covered, while the number of establishments was only 0.7 per cent.

In considering the relation between the number of agreements and the numbers of persons and establishments covered, it should be noticed that here again the organisation of the principal industries in a group is the determining factor. In the food, drink and tobacco group, for example, in 1919, there were 1,692 agreements, or one agreement for 24.4 establishments and 144.2 persons. In the mining group, however, there were 148 agreements, or one agreement for 12.8 establishments and 9,274.5 persons. The case of the printing group is exceptional, for, although the number of persons per establishment is only 9.3, yet the number of agreements is 47, or one agreement for 218.2 establishments and 2,038.0 persons.

#### SUBJECTS COVERED BY COLLECTIVE AGREEMENTS

The subjects with which collective agreements deal are many and varied. They cover not only wages and hours, but many other circumstances affecting labour conditions, frequently in elaborate detail.

##### *Hours of Labour*

The provisions contained in collective agreements as to hours of labour, in addition to regulating the length of the working day or working week, in most cases fix a special rate of remuneration for work done outside the regular working hours and in many cases limit the amount of such overtime work.

The larger number <sup>(5)</sup> of the collective agreements which came into force in 1919 fixed working hours at so many per week; the remainder either provided for a certain number of hours per day or else made no provision as to hours; it is to be assumed that in the latter case the statutory 8-hour day would apply. Where the working hours are stipulated per day, the length of the working day is not always the same throughout the week. It is often made shorter on certain days, particularly on Saturdays, and in some cases a weekly holiday—apart from Saturday—is provided for. Or the daily hours of labour vary according to the

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(5) Out of a total number of 9,331 agreements entered into in 1919, 6,615 or 70.9 per cent. fixed the length of the regular working week; they applied to 183,314 out of a total of 245,392 establishments (74.7 per cent.) and covered 3,607,926 out of a total of 5,694,508 employed persons (63.4 per cent.).

season, being shorter (as a rule) during the winter months and longer during the summer months<sup>(6)</sup>.

Table VI classifies agreements existing in 1919 which regulated the length of the working week on the basis of a certain number of hours.

TABLE VI. REGULATION OF WEEKLY HOURS OF WORK BY COLLECTIVE AGREEMENT AS AT 31 DECEMBER 1919

Number of hours fixed to constitute the working week	Number of agreements	Number of establishments covered	Number of employees covered
36 or less	2	3	52
Over 36 to 39	2	26	30
» 39 to 42	34	876	2,007
» 42 to 45	292	12,318	289,907
» 45 to 46	460	21,777	764,083
» 46 to 47	237	8,375	246,381
» 47 and less than 48	45	1,372	24,111
48	5,379	134,390	2,241,599
Over 48	164	4,187	39,756
Total	6,615	184,314	3,607,926

It is obvious that the 48-hour week enormously preponderates. In practice it conforms to the statutory 8-hour day established in December 1918. No less than 81.3 per cent. of the whole number of agreements set up the 48-hour week, and the number of employees covered was 62.1 per cent. of the total<sup>(7)</sup>. Where the regular weekly hours of labour were different for different groups of persons employed in the same establishment, the shortest working time was reckoned in compiling the statistics, except if such working time applied to a small minority only of the workers covered by the agreement. In that case the hours worked by the majority of the employees were selected.

The reduction since 1914 in the hours of work per day has been considerable. At the end of that year 89.7 per cent. of all persons covered by agreements were working over eight and up to ten hours per day in summer, while in winter the percentage was 54.1. The proportion of those working up to eight hours per day was 3.5 per cent. in winter and 39.8 per cent. in summer. In 1919 a little more than one per cent. of all persons covered by agreements were working more than 48 hours a week.

(6) In 244 collective agreements applying to agricultural labour the annual number of working hours is fixed, varying between 2,400 and 3,100 and distributed over the seasons of the year under the terms of the Decree of 24 January 1919 concerning labour conditions in agriculture. Similarly, in a few agreements in gardening, the pottery trade, and chemical trades, nothing more than the annual number of working hours is stated.

(7) A working week of less than 48 hours was fixed in 1,072 agreements (16.2 per cent.) applying to 44,737 establishments (24.4 per cent.) and covering 1,326,571 employed persons (36.8 per cent.).

### *Wages*

Wages fluctuated frequently during the war. Agreed rates were not observed for long, so that no actual wage scales can be quoted for a given date. But the form in which wages are to be paid—whether as piece rates or time rates—is regulated in a large majority of the collective agreements existing at the end of 1919, 10,395 out of a total of 11,009 including provisions of this kind. Of these 6,446, covering 1,299,588 persons (22.9 per cent.), fixed time wages only, while 150, covering 29,852 persons, fixed piece wages only; the remaining 3,799 agreements, covering 4,346,093 persons, permitted both forms of wages payment. The relative number of agreements fixing time and piece wages respectively has not altered much since 1914, but the practice of guaranteeing a certain minimum income to piece workers is gaining. Certain minimum earnings are guaranteed to piece workers in 1,867 agreements applying to 2,498,747 persons, i. e. to 57 per cent. of all persons whose wages are regulated by collective agreements, instead of only to 31.1 per cent. of such persons, as in 1914. In some cases the agreements in force in piece-work trades are extremely voluminous documents, which contain lists of a great number of separate piece prices, applicable to a large number of different articles or operations, lists which, in fact, deal in minute detail with every probable kind of work in the trade concerned.

When an alteration in wages appears to be necessary, the usual method of effecting it is by negotiation between the parties or by conciliation and arbitration. Sliding scales and other means for the automatic adjustment of wages under collective agreements have not been at all largely adopted, in fact, only in a very few cases, nor is it likely that they will become more popular in the immediate future.

Where wages are fixed in the form of a time wage, the usual payment for overtime, namely 25 to 50 per cent. over ordinary rates (but with great variations), is stipulated; Sunday and holiday work is also provided for in the usual way, mostly at time and a half or double time. In the case of piece wages, overtime is compensated for either by increasing the piece rates themselves (by adding a proportionate fraction or, in some cases, a fixed amount) or else by paying a supplementary time wage in addition to the ordinary piece rates.

### *Use of Employment Exchanges*

Another subject of importance frequently dealt with in collective agreements is the compulsory use of employment exchanges. Provisions binding the employers, and in some cases the employees also, to make use of certain employment exchanges were included in 1,508 of the 11,009 collective agreements existing at the end of 1919; they applied to 89,038 establishments with 1,974,379 employees. The employment exchanges to be used were

in 38.1 per cent. of all cases, covering 77.3 per cent. of the workers, those jointly maintained by the employers' organisations and trade unions, and in 35.6 per cent. of the cases, covering 18.6 per cent. of the workers, the municipal employment exchanges. A small number of agreements provided for the use of purely trade union employment exchanges.

### *Settlement of Disputes*

The extent to which collective agreements provide for the settlement of industrial disputes merits attention; unfortunately, the clauses on conciliation and arbitration are most frequently included in the general "covering" agreements, details as to which, as already stated, are omitted in the official statistics of other agreements in force at the end of 1919; of these, however, 7,150 or 64.9 per cent., covering 4,800,295 workers or 80.2 per cent., included clauses on conciliation and arbitration<sup>(8)</sup>. A Decree dealing with collective agreements, but also with conciliation and arbitration and the establishment of employees' committees, was issued by the Federal Government on 23 December 1918<sup>(9)</sup>. The clauses dealing with collective agreements were amended by a further Decree of 31 May 1920.

The Decree of 31 May 1920 laid down provisions as to the insertion in collective agreements of clauses about the settlement of industrial disputes. As a matter of fact, these clauses are of a temporary nature, for they will expire automatically as soon as the new legislation proposed to deal with industrial arbitration and conciliation comes into effect<sup>(10)</sup>. Meanwhile they are and have been of sufficient importance to merit some description. Boards of conciliation are established for certain districts. They consist of three representatives of the employers and an equal number of representatives of the workers. The members may agree on an independent chairman and vice-chairman, or may elect a chairman and vice-chairman from among the permanent members. Of the representatives of each party two shall be permanent members and one shall be a temporary member elected *ad hoc* for every individual dispute; as far as practicable, the temporary members shall be persons engaged in the trade to which the dispute relates. The permanent members are to be elected by the State government concerned from lists of persons nominated by employers' and workers' organisations. The tem-

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<sup>(8)</sup> Of these 7,150 agreements 41.9 per cent., covering 11 per cent. of the persons affected, applied to single firms only: 25.4 per cent., covering another 11 per cent. of persons affected, were local agreements; 32.1 per cent., covering 68.4 per cent. of persons affected, were district agreements; while 0.6 per cent., covering 9.6 per cent. of persons affected, were national agreements.

<sup>(9)</sup> *Verordnung über Tarifverträge (Arbeiter- und Angestelltenausschüsse) und Schlichtung von Arbeitsstreitigkeiten vom 23. Dez. 1918. Reichsgesetzblatt, 1918, p. 1456. Also International Labour Review, Vol. V, No. 1, Jan. 1922, pp. 51-65; Methods of Adjustment of Industrial Disputes in Germany.*

<sup>(10)</sup> See p. 586 of this article.

porary members are to be nominated by the independent chairman, or, if no such chairman has been agreed to, by the permanent representatives of the parties.

An appeal may be made to a board of conciliation by any individual employer, or by any workers' or employees' committee, or, where no such committee exists, by the employees directly, in any case of a dispute on wages or other working conditions that could not be settled between the parties themselves, and provided that they have not made already a joint application for decision to an industrial court or similar institution. Trade organisations of employers and employees may appeal to a board of conciliation to obtain the execution of a collective agreement and, for other causes, on consent of the employer or of the works council of the establishment involved. In cases where special conciliation boards are provided for by a collective agreement, these bodies must be used and recourse may be had to other means only if they fail to act.

A General Board established under the Decree of 23 December 1918 may intervene not only at the request of either or both parties, but also on its own initiative, provided that the dispute has not been submitted to some other body for decision. If a special board exists which would be competent to decide a dispute, and the parties fail to appeal to it, the General Board must request them to do so, and, if no action follows, it is the duty of the General Board to open conciliation proceedings. It has to make enquiries into the cause of the dispute, and its president has power to summon witnesses and to compel their attendance. After hearing evidence, a joint meeting of the parties is arranged to discuss the proposals formulated and to come to a settlement. Agreements when accepted by the parties are signed and published. But should mediation fail, the board embodies its own conclusions as to the terms upon which, in its opinion, the parties should agree in the form of a ruling, and calls upon the disputants to declare that they accept or reject this within a certain time. Absence of any declaration is interpreted as rejection. After the time limit has run out the board's ruling and the disputants' statements are published. Should the votes of employers' and employees' representatives happen to be equally divided on a ruling and should no independent chairman be acting, or should he abstain from voting, the board issues a statement to the effect that no decision could be arrived at.

#### LEGAL RECOGNITION OF COLLECTIVE AGREEMENTS

\* The Decrees of 23 December 1918 and 31 May 1920 also regulate the general legal position and force of collective agreements. They determine the circumstances in which the aid of the law can be invoked to enforce voluntary collective agreements. Where employment conditions are regulated by a collective agreement, no individual agreement which does not conform to its terms may be entered into, unless expressly permitted by the

collective agreement in question and in so far only as the differences are in favour of the employee.

But if this is one way of lifting collective agreements above the rank of mere contracts and of giving them almost the character of an industrial law, to which no individual exceptions can be permitted, still more so is this the case when means are taken to make some one agreement binding on all establishments in a whole trade or area <sup>(11)</sup>. This may be done by request of one or both of the contracting parties by Order of the Federal Ministry of Labour; or a request to extend an agreement and make it generally binding may also be made by any organisation of employers or employees not a party to it, but which would be affected by such extension. The request to extend must be published in the *Deutscher Reichsanzeiger*; within a certain period objections may be filed with the Ministry of Labour, and the parties to the agreement must be heard; the decision rests with the Ministry which, in practice, uses every possible means to arrive at a fair decision. Should the decision be in favour of the applicants a date must be fixed on which the extension is to come into force. Collective agreements made generally applicable must be entered in a register to be kept by the Ministry of Labour or such other authority as may be designated by it and the original or certified copies must be filed as appendices. The register must be open for inspection during ordinary office hours. Copies of an agreement may be obtained by employers and employees bound by the decision <sup>(12)</sup>.

In August 1921 the Committee for Uniform Labour Legislation of the Federal Ministry of Labour submitted a draft Bill to regulate collective agreements which is intended, as already mentioned, to replace the earlier regulations just described. The most important provisions of the Bill are as follows.

(1) Collective agreements may be entered into by those voluntary organisations of employers and employees whose constitution permits them to do so; excluded from this right are workers' organisations confining membership to workers of certain establishments only <sup>(13)</sup> or those admitting employers.

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<sup>(11)</sup> Cf. *International Labour Review*, Vol. V, No. 1, Jan. 1922, pp. 35-50: *The Theory of the Collective Labour Contract in France*, by Professor Gaëtan PIROU.

<sup>(12)</sup> According to the *Reichsarbeitsblatt*, 1921, No. 26, the total number of collective agreements made generally binding in conformity with the provisions quoted above was 1,679 at the end of June, and 1,777 at the end of September, 1921; of the latter number, 677 were agreements concerning non-manual workers. These agreements may be classified according to type as follows.

	June 1921.	Sept. 1921.
Local agreements	440	462
District agreements	1,178	1,248
National agreements	61	67

The number of workers bound by such agreements is not stated.

<sup>(13)</sup> *Werkvereine*, corresponding to the "company" union of the United States.

- (2) Collective agreements may deal with any subject whatever.
  - (3) All individual contracts not in conformity with a collective agreement shall be declared null and void.
  - (4) Collective agreements may be extended so as to be universally applicable, within certain conditions.
  - (5) No claim for damages can arise out of breaches of a collective agreement; fines of a limited amount may, however, be imposed.
- The draft Bill is now under consideration in the trade unions and employers' associations.

#### PRACTICAL ADVANTAGES OF COLLECTIVE AGREEMENTS

As has been already stated, the vast body of trade unionists were for long reluctant to forego what they called their freedom of action, i. e. their right of launching demands against their employers at any moment, and of enforcing them by means of a strike. Yet the gains of labour were meagre under this system. The instability resulting from labour struggles constantly threatening or actually going on was severely felt by the workers no less than by the employers, and the situation became worse when the employers, forming organisations on their part, replied to the strike by declaring the lock-out<sup>(14)</sup>. It was frequently proved that, though improvements could be won by a strike, they could not be maintained. Here the benefits accruing to labour from some form of contract, binding on both parties, i. e. from a collective agreement, became obvious.

Consequently, about a quarter of a century ago, the trade unions in Germany recognised that it was much better to avoid the disadvantages inherent in their past policy by resorting to collective agreements. The popularity of such agreements was greatly increased by their successful working in the printing trade. Peaceful negotiations became more and more popular, and every year since 1906 has seen the number of workers involved in strikes and lock-outs become much smaller than the number of those who have settled their trade disputes without stoppage of work.

Collective bargaining secures that industrial stability without which it is impossible to make advance calculations as to manufacturing costs and to maintain contract time. It eliminates unfair rivalry between the employers themselves, for employers are positively prevented from yielding to the temptation to

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<sup>(14)</sup> An idea of the loss caused in consequence of labour struggles may be gained from the following figures published by the General Federation of Trade Unions in Germany. During the period from 1890 to 1918 the trade unions affiliated to this body were involved in 35,307 strikes and lock-outs directly affecting 3,890,548 workers. The number of working days lost could be ascertained as regards 2,881,000 workers, and their aggregate loss of time amounted to nearly 60 million days, or an average of about 2 million days per year, which meant a heavy loss of wages. In addition to this, the trade unions spent the sum of 142 million marks in strike pay.

underpay or overwork their labour. It is indeed an effective means of preventing stoppages of work when the material loss arising from such stoppage would be great, and it keeps capital and labour in permanent contact, minimising antagonism.

It has been argued that the practice of concluding agreements has a levelling influence upon labour conditions. Such agreements, it is said, prevent the worker of superior ability from earning a higher wage than his less talented fellow workman, or from obtaining any other reward for operations requiring exceptional skill. The answer is that the rates of wages fixed in an agreement are not standard wages, but minimum rates only. It would be a breach of contract if an employer were to pay, and a workman to accept, a wage below the minimum rate, but a higher wage than the union rate may be paid and received. Nor is a collective agreement any obstacle to the making of a special arrangement between an employer and his workers for the purpose of improving labour conditions, for instance, for the purpose of giving an annual holiday not provided for in the original contract.

In order to avoid unfair competition, it is of the greatest importance that the range of collective agreements should be made as wide as possible, for, if a considerable number of employers and workers remain outside the agreement, its success is very problematical. Indeed, experience has shown that the interests of both employers and workers are best served by making collective agreements of national application; scales of wages can then be graded according to cost of living in the various localities, or can be determined locally, always provided some adequate arrangements are made to settle wages disputes by conciliation or arbitration.

The practice of agreeing to collective labour contracts is now firmly established in Germany. The sweeping away of all limitations of the right of combination in consequence of the attainment of full political democracy gave a great impetus to collective bargaining. It now covers the vast majority of workers in manufacturing industries and trade. It is even beginning to make headway in agriculture. To all appearance, this method will tend in the near future to secure industrial peace without resorting to any kind of autocratic intervention in disputes between labour and capital.

