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REPRESENTATIVE GOVERNMENT

AND A

PARLIAMENT OF INDUSTRY

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REPRESENTATIVE GOVERNMENT AND A PARLIAMENT OF INDUSTRY // A STUDY OF THE GERMAN FEDERAL ECONOMIC COUNCIL

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TO

SIDNEY AND BEATRICE WEBB

PREFACE

THE study here presented is the result of reflection upon some problems of Representative Government, particularly in relation to the formulation of policy in modern democracies. This problem is constantly present, but occupation with it was particularly stimulated by the presence in the new German Constitution of a body expressly designed to secure greater creative power than the customary institutions of democracy afford. Two visits to Germany, one in August-September 1921, and the second in August-September 1922, enabled me to collect the necessary material, and to secure interviews with some of the men most connected with the creation and subsequent operation of the German Federal Economic Council. The second visit was made possible by the fact that the Henry Atkinson Trustees allowed me a grant to meet expenses. My thanks are here gratefully recorded for this kindness.

The Economic Council has been in existence only about two and a half years, but the theories surrounding its birth and the problems that have arisen since its establishment and during its short period of life are already of importance to political scientists. This study contains a large proportion of history, but it is history that affords a lesson and not merely the barren annals of

a transient movement. Comparison with England has been made both to give occasion for an analysis of English institutions and needs as well as to bring out the significance of the German experiment.

Berlin in 1922 charmed my heart as well as occupied my mind. For here was a people in deep distress showing a great courage in face of an economic future without any promise of betterment. It was a toiling people, a constructive people, and on the whole, a very kindly people. The courage and the beauty of the city at that time can never be forgotten. For I could commune at will (as never at home) with the music of Mozart and Wagner and Strauss played to houses full of people direct from the labour of the day ; I could see the emotion of the spirit portrayed on their faces as the story of Peer Gynt passed before them in scenes of marvellous stagecraft.

Nor will my great gratitude to, and delightful memories of, my good friends of Berlin and from London suffer diminution. Unnamed, those friends yet have the knowledge of my deep thankfulness.

My sincere thanks are due to my colleague and friend Mr. H. J. Laski, to Mr. and Mrs. Sidney Webb, to Professor Graham Wallas and to Sir William H. Beveridge for their valuable comments on my MS.

HERMAN FINER.

April 18, 1923.

Mais surtout, réunissez-vous tous. Vous êtes perdus sans ressource, si vous restez divisés. Et pourquoi le seriez-vous, quand de si grands intérêts communs vous unissent ? Comment, dans un pareil danger, la basse jalousie et les petites passions osent-elles se faire entendre ? Valent-elles qu'on les contente à si haut prix ? et faudra-t-il que vos enfants disent un jour en pleurant sur leurs fers : Voilà le fruit des dissensions de nos pères ?

ROUSSEAU, *Lettres écrites de la Montagne, ix.*

C'est la science, et non le peuple, en qui est la souveraineté. Une bêtise répétée par trente-six millions de bouches ne cesse pas d'être une bêtise.

ANATOLE FRANCE, *M. Bergeret à Paris.*

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PART I

SOME ASPECTS OF REPRESENTATIVE DEMOCRACY

CHAPTER I

ANCIENT LIGHTS

Some men look at constitutions with sanctimonious reverence, and deem them like the ark of the covenant, too sacred to be touched. They ascribe to the men of the preceding age a wisdom more than human, and suppose what they did to be beyond amendment. I knew that age well; I belonged to it, and laboured with it. It deserved well of its country. It was very like the present but without the experience of the present; and forty years of experience in government is worth a century of book-reading; and this they would say themselves were they to rise from the dead . . . laws and institutions must go hand in hand with the progress of the human mind.—THOMAS JEFFERSON, in 1816.

IT is assuredly of great moment that, as Mr. Shaw says, the English Constitution is revolutionary. The grand question, however, is this: Is it creative? We here inquire whether it promotes the greatest possible entrance of intelligence, science and benevolence into the government of the country.

An examination of the governing institutions of this country in the light of this inquiry is disturbing. It cannot completely reassure the person who is convinced that without such creativeness, and the application of knowledge and sympathy to present-day social problems, we must continue to go along wastefully and miserably.

"The wisdom of our ancestors," in Burke's phrase, has provided us with a tradition in political theory and institutions. That tradition has been quite outgrown by social organisation during the last half-century, and the driving force behind this development remains as strong and even more urgent than before. It is worth

considering the assumptions upon which that legacy was transferred to younger generations, and the possibilities of once again bringing the institutions of government into a more adequate relationship with the environment of social problems. At once a confession is necessary. We here make no revolutionary proposals. We do not seek to sweep away the old governmental forms and replace them by an entirely new synthesis. Only the generation of Rousseau and one or two belated apostles of that thinker could venture so impossible a purpose. That generation knew almost nothing of government in its present-day connotation; it had few reliable facts upon which to base its theories. Of that, indeed, *L'Esprit des Lois* and the *Contrat Social* are supreme illustrations. It could revolt; it could throw down; its generalisations afforded that much power. It could not, however, create; for the technique of free government lay as yet in the future, and only a widespread and long experience of it could give the measured, tested and precise induction of a constructive revolution.[1] The student of politics, especially where he considers the relation between the administrative departments, the representative assemblies, and the whole of a modern community, sees himself compelled to this judgement: salvation, as far as it is to be attained through political institutions, lies in a process of continuous adjustment; the suppression of an old and outworn institution here, there the realisation in an institution of some new and fruitful idea, the unfortunately slow, but, nevertheless, continual adaptation of the political body to the newly unfolding purposes of society. Such a judgement is the result not of the study of English governmental machinery only, but also of the experience of the United States of America, of France, of Germany (both

[1] It needed forty years of extensive and intensive research, thought, experience and writing on political, social and administrative affairs to produce *The Constitution for a Socialist Commonwealth of Great Britain*, by Sidney and Beatrice Webb.

before and after its revolution of 1918–19), and of Italy during the nineteenth century and in our own time. Before the complexity of the modern administrative scheme revolutionary maxims can achieve only bewilderment and confusion. Let us therefore turn back to our legacy in political institutions and consider its adequacy in relation to modern society and the creativeness necessary to the tasks of the present age.

The Legacy and its Prodigal Use

It is remarkable with what an optimism the elder Mill,[1] apostle of Jeremy Bentham, bequeathed to us the theoretical basis of Representative Government. Searching for the means of good government (in relation to the political situation of his time and to the crude attempts at psychological analysis of his circle), he found it in representation. "In the grand discovery of modern times," he said, surely with the enthusiasm of one crying Open Sesame! "the system of representation, the solution of all the difficulties, both speculative and practical, will perhaps be found. If it cannot, we seem to be forced upon the extraordinary conclusion that good Government is impossible. For as there is no individual, or combination of individuals, except the community itself, who would not have an interest in bad Government, if entrusted with its powers; and as the community itself is incapable of exercising those powers, and must entrust them to some individual or combination of individuals, the conclusion is obvious: The Community itself must check those individuals, else they will follow their interest, and produce bad Government.

"But how is it the Community can check? The Community can act only when assembled: And then it is incapable of acting.

[1] See *English Utilitarians*, vols. i. and ii., Leslie Stephen; and *La Formation du radicalisme philosophique*, vol. ii. c. 3, Halévy.

"The Community, however, can chuse Representatives: And the question is, whether the Representatives of the Community can operate as a check?"[1] That check was to be found in the short duration of the representative assembly.[2]

The essential of the theory, and it became the principal element in English practice from 1832 onwards, was the rise of a Parliament assumed to be the sole and sovereign representative of the citizens.[3] The will, the needs, the interests of the citizen so far as they came under the purview and power of the central political authority, were deemed to be clearly expressed and sufficiently represented by persons chosen at periodical elections. It implied that the citizen knew, or could be taught to know, his interests; that the representative caught up the conception of interests from the elector, and then proceeded to act in the sovereign Parliament in accordance with the sense of the electorate. The electors were "atomised": each was assumed to speak in his own right, and for his individual judgement. The sources of policy, of benevolence, of sympathy, of suggestion as to the realities of life in the nation as mirrored in one body, in Parliament alone, were plainly regarded as discoverable in the enfranchised citizens grouped in their territorial constituencies. And by 1922, after a process of extension of the franchise in 1867, 1884 and 1918, there were some nineteen millions of such citizens in Great Britain. In the U.S.A. and in France similar theories of representative democracy produced similar representative assemblies and, at first, "atomised" and undifferentiated citizen-electors. In Germany the story is different, and of its importance we shall speak later.

[1] *Essay on Government* (1824), James Mill, pp. 16, 17. [2] *Ibid.* p. 18.

[3] Cf. Brougham, House of Lords, Oct. 7, 1831, on the Reform Bill of 1832: "The system of representation consists altogether in the perfect delegation by the people of their rights and the care of their interests to those who are to deliberate and to act for them." Cited in Laski, *Foundations of Sovereignty*, p. 220.

On this theory Parliament stood as the sole representative assembly, making and unmaking Ministries, conceiving plans, discussing projects, speaking from knowledge, accommodating and reconciling interests, passing laws, and in relation to the day-to-day business of administration acting as the "grand inquest of the nation." If Parliament had these properties it was representative in reality. If it had not, the quality of being representative should be openly denied it, because public morality is to be improved only after we recognise the truth about our ruling fictions.

Observation, however, over the last three-quarters of a century discovers two things: first, that neither Parliament nor the Cabinet (the committee responsible to Parliament) believed in their own due acquaintance with the interests of the nation; and, second, that the citizens increasingly distrusted the theory of representation through elections in territorial constituencies and deliberation in Parliament as being in any sense adequate as the servant of their interests in government. In relation to the first observation, one notices from the first Reform Parliament the growing number and importance of Royal Commissions,[1] Select Committees and Departmental Committees set up by the Government, most often at the instance of some member in the House of Commons, to make researches and inquiries into matters upon which all sides were ignorant.[2] Sporadically, advisory bodies are set up from persons wholly or mainly outside the Departmental bureaucracy. Their purposes are either to gain the consent of the various interests concerned to policy or intended policy, or to obtain from the interests the technical information

[1] Sydney Smith: "... the whole earth was in Commission, and mankind had been saved from the Flood only to be delivered over to barristers of six years' standing"; and G. Toulmin Smith, *Local Self-government and Centralisation*, 1851, p. 158.

[2] A splendid picture of the work of Royal Commissions of Enquiry is to be had from a study of the Parliamentary Papers giving returns of the Commissions; Accounts and Papers, 1856, vol. 38; Parliamentary Papers, No. 720 of 1850; No. 317 of 1862; No. 720 of 1850; No. 342 of 1885; No. 338 of 1896, and No. 315 of 1904.

that the Administration requires.[1] The same phenomenon appears in other countries with representative government: neither the private member nor any one party organisation, nor even the permanent officials in the Departments of State, know, really, either the needs, the interests or the will of the nation whose fate, in some measure, lies in their hands.

Of the second observation, the illustrations are as numerous as, and even more instructive than, of the first. No day goes by without its Press story of some deputation to the Departments: it may be on behalf of an organisation of employers or workers in some industry or group of industries, of some ratepayers' or educationists' association, of agriculturists anxious to avoid this thing or compass that. There is sporadic but constant direct action of citizens, freely grouped on the basis of interest, upon the Government. Within the House of Commons are groups of members specially formed to further their common purpose, not as citizens, but as representatives of a distinctive social interest. In France one hears of the Agricultural Group, the Sugar Group, the Vine-growing Group, the Group of Physicians.[2] The Industrial Group (of big industrials) meets every week for House of Commons purposes; there are groups serving motor transport services and agriculture. It is not without cause that the flats in the places surrounding the Palace of Westminster are increasingly occupied by the offices of various associations for industrial and social purposes.

Nor is the process of "lobbying," *i.e.* directly soliciting the support of members of legislature for or against a measure, known only in the U.S. Congress or in the

[1] Cf. Ministry of Agriculture Act, 1918, and Ministry of Health Act, 1919.

[2] Cf. Bryce, *Modern Democracies*, vol. i. p. 284: "These aggregations form a sort of cross division of the Chamber. Most of them have nothing to do with party politics, and exert pressure on the Ministry only for the advancement of their special industrial or commercial aims." Cf. also Roustan, *Les Groupes*, 1914, p. 459 *et seq.*

French Chamber of Deputies.[1] It is the irruption of the interested person into the very chamber of council: it should be moderated by other groups with a *locus standi* and by the community. The process is legitimate: but the proceedings should be systematic, public and open, and not subject the possessors of uncorrupt wishes and desires for expression to the humiliation of a suspicious private solicitation.

Nor is this the whole tale. For from France and Italy in late years have come significant facts. In France the Parliamentary Commissions[2] which frequently decide not merely the details of a bill, but also its whole principle, have found that in their inquiries relating to bills and in their control of the administrative Departments with which they have come to be associated, the stream of letters received from outside organisations is proving insufficient to make their work creative—that is, to allow of constructive measures based upon a clear perception of social realities. "The time has gone," says one of the reporters on the Chamber of Deputies Commission for Procedure, "when the commissions were chapels closed not only to the public, but also to all the

[1] Bryce, *American Commonwealth* (ed. 1918), p. 691, Note (B) to chapter xvi. "*The Lobby*: 'The Lobby' is the name given in America to persons, not being members of the legislature, who undertake to influence its members, and thereby to secure the passing of bills. . . . The name, therefore, does not necessarily impute any improper motive or conduct though it is commonly used in what Bentham calls a dyslogistic sense. . . . The causes which have produced lobbying are easily explained. Every legislative body has wide powers of affecting the interests and fortunes of private individuals, both for good and for evil. . . . When such bills (public and private) are before a legislature, the promoters and the opponents naturally seek to represent their respective views, and to enforce them upon the members with whom the decision rests. So far there is nothing wrong, for advocacy of this kind is needed in order to bring the facts fairly before the legislature," etc. etc. P. 694: "'In the United States,' says an experienced publicist, whose opinion I have inquired, 'though lobbying is perfectly legitimate in theory, yet the secrecy and want of personal responsibility, the confusion and want of system in the committees, make it rapidly degenerate into a process of intrigue, and fall into the hands of the worst men. It is so disagreeable and humiliating that all men shrink from it, unless those who are stimulated by direct personal interest; and these soon throw away all scruples. The most dangerous men are ex-members who know how things are to be managed.'"

[2] Cf. Pierre, *Traité de droit politique, électorale, et parlementaire* (ed. 1919), vols. i. and ii. (Supplément), and *Journal Officiel*, jan. 24, 1920, p. 50 *et seq.*; jan. 27, 1920, p. 60 *et seq.*

members of Parliament who did not belong to the commissions. The principles of politics in the open, of control and the collaboration of opinion, have made obligatory close relations between the Chamber, the administration and the public."[1] Therefore he insisted upon the invitation, more, upon the right, of the person representing outside organisations to be heard.

Two other points, of importance in this analysis, need to be mentioned. The first is that experience in the French Commissions as successful thought-organisations evidently dictated the judgement that only the actual presence of interested and expert people, and not the mere submission of reports, could result in a really creative work: "If the written procedure, the exact record, the certified assertion are made use of more and more in the hurried and complex modern world to preserve evidence, fix responsibilities, avoid errors, supply useful information, so does the régime of free speech give indisputable results by means of questions and replies, suggestions or criticism which, born suddenly, are accepted or refuted at once by the possibilities of a fresh invitation or understanding, by complementary questions or the acceptance of experience, by allusions, suggestions, agreements, etc."[2] And secondly, useful collaboration between the Parliamentary representatives in the Commissions and members of the public could only take place in a special form and under special conditions: "The influence of opinion, in order to be exercised with precision, permanency, tenacity and certainty, needs the intervention of two elements of an advanced social culture, over and above general intellectual and moral education, viz. the expert and the association . . . (democracy) must admit and consider them (the experts) as their élite and legitimate aristo-

[1] *Annales de la Chambre des Députés*, Documents, fév. 1920, p. 374.
[2] *Annales de la Chambre des Députés*: Session extraordinaire; 27 décembre, 1919, p. 137.

cracy. The administration should always utilise them as advisers, sometimes as executors, always as controlling power." [1] Then follows a eulogy of the utility of associations to control the government in a democracy.

Nor is this all. The alleged futility of the electoral process, the lack of essential knowledge on the part of the Deputies, the atmosphere of intrigue, personal ambition and excitement, the amount of work to be done compared with the time to do it in, the still incomplete development of the Parliamentary Commissions, has led to a movement for professional representation—that is, for a Chamber of Deputies either wholly or partly based upon elections by the citizens grouped in occupations. For local government purposes in authorities governing new " regions," similar projects are afoot. It is hoped in this way to secure a legislative assembly more actually containing knowledge and possessing the confidence of the occupational groups. It is a revolt against the encyclopaedic character of the present Chamber based upon citizens united (even if that word has, in this regard, any sense) in a certain neighbourhood by chance and a party organisation,[2] as well as an outcrop of syndicalist and federalist theory possessing so long and illustrious a history in France.[3]

Towards the end of 1920 it was the intention of the then ruling Ministry in Italy to present a project modifying the old Superior Council of Labour in such a manner as to establish by the side of the political Parliament a consultative technical Parliament of 150 members appointed in equal numbers by workers' and employers' organisations. Its powers were to have been decisive in relation to labour discipline and conditions. It

[1] *Loc. cit. supra.*

[2] " Élus sur les programmes équivoques, représentant une poussière d'électeurs sans volonté, les députés demeurent amorphes comme la masse qui les a choisis " (Bernard Lavergne, " La représentation professionnelle," *La Grande Revue*, 1914, No. 3, p. 563).

[3] See the review and critique of these theories in Esmein, *Éléments de droit constitutionnel*; Barthélemy, *Le Problème de la compétence dans la démocratie.*

would discuss regulations relating to industry and examine questions of relations between employers and employed. Divided into two sections, one industrial and commercial, and the other agricultural, each with its permanent committee to prepare the material, and to supervise the execution of the laws, it would elaborate the special rules for the execution of the labour code.[1]

So far, then, we have seen in this and other countries the gradual rise of institutions and ideas commendable perhaps from the standpoint of good government, but not so commendable upon the old and pure assumptions of representative democracy.

Concomitantly with these developments the House of Commons has lost any real reputation for creative work. If it ever had a character as a thought-organisation, it surely cannot command that designation any longer.[2] In view of the enormous amount of business, the private member, from whom in days gone by some fruitful suggestion was expected, has been told that he has no natural right[3] to use the House as his audience, and the Cabinet has more and more taken up the time of Parliament. The repeated and increasing doses of the closure, guillotine, or, more euphemistically, the "allocation of time," have largely stifled the minority and reduced the necessity for Ministers to convince the Opposition and the nation by reasoned argument: the "rack," or fatigue, counts more in favour of the passage of the clause than any argument as to its relation to the needs of the country.[4] The consequent loss of corporate self-respect can only mean a diminution of zeal, a loss of enthusiasm and interest in the necessary processes of thought about the end and methods of government, and that cannot but

[1] *Epoca*, October 5, 1920. Cf. Esmein, *op. cit.*, 7th ed. vol. ii. p. 353 *n.*

[2] Cf. Wallas, *The Great Society*, chaps. xi. and xii.

[3] Hartington, March 20, 1882, Hansard, col. 1327; and Select Committee on (House of Commons) Procedure, 1861 (No. 173), vi. 26.

[4] Lord Robert Cecil, Evidence, House of Commons Procedure (Select Committee) Report, No. 378 of 1915, pp. 50 and 51; and cf. Hansard, April 2, 1906, col. 226, "Weariness is the great ally of ministers."

make for a loss of creative power. Here is no encouragement, no inducement to thought and suggestion; and then, the increasing length of the sessions, the working into the summer months, add irritability and slack attendance. Dragooned by Ministers, harassed by Whips, out of touch with the constituency, tired out by attendance at Committees and passing through division lobbies, told that even if they worked twelve hours a day for twelve months in the year they could not overtake arrears of work,[1] the House which holds the position of sovereign representative assembly loses that deliberation, circumspection, and practical efficiency, that kindly attitude towards the Opposition view, which are the marks of any successful thought-organisation. It is clearly a will-organisation dependent upon a plebiscite taken every four or five years. The very convention of the moral authority of majority government begins under these circumstances to be denied.[2] The system though "revolutionary" is not overthrown because the majority of English men and women are moderate and non-revolutionary.

At the same time the Cabinet, the edicts of which are registered with unfailing regularity by Parliament, is thrown back upon its permanent civil servants for the main business of thought in the discovery of the nation's needs and the reconciliation of the various interests of which the Common Welfare consists. If an ex-Cabinet

[1] Mr. Asquith, Hansard, April 11, 1912, col. 1405.

[2] The opposition in the Session of 1913 became so restive under the rules of the House and the claims of the Government to legislate on the most vital elements in State life, that finally it began to denounce the Government's right to do what it wanted in the name of majority rule. This was the spirit of the attack, though the letter concerned itself with saying that too much legislation was being brought forward, important points of principle were remaining undiscussed, and the Government was introducing measures not demanded by the nation. The Government, driven back on fundamentals, was constrained to answer: "We honestly and sincerely think that these are good Bills. We have put them to our constituents, and we believe that our constituents agree with us, and that we have a mandate to carry them into law. We believe that by the procedure laid down by the Parliament Act, and expressed in this Resolution, we have done the hon. members opposite more than justice in the opportunities we have given them to oppose the policy which we were returned to carry into force." (Mr. MacCallum Scott, Hansard, June 23, 1913, col. 882).

Minister told the truth "about his own participation in the gradual shaping of policy on such vital questions during his term of office, he would tell us that he hardly remembered any Cabinet decision being formally taken on general policy, unless legislation of a controversial kind had been introduced into Parliament, unless some dramatic decision had to be taken, or unless the administration of a particular Department had offended some powerful outside interests or had become a public scandal." [1] The 450 civil servants in the Administrative Class of the British Civil Service upon whom falls the work of gathering information, composing Ministerial speeches, advising the Ministers, drafting legislation, have their knowledge, in the main, second-hand. They have obtained their conception of society and its processes through books and lectures to the time of their examination; and from entry into the service have watched a minute part of the universe at work through the medium of their office. This is supplemented by the stirring events of deputations, the findings of Parliamentary and Departmental Committees and Royal Commissions. That knowledge is remote from reality. It is second-hand. Little that such a method of approach to reality can give may serve as an impulse to creative effort. If it is too much to say with Mr. and Mrs. Webb [2] that these men desire "the amenity of a quiet life," and that "the special skill in a civil servant which is most appreciated by his Parliamentary Chief and by his colleagues in the Civil Service is not initiative or statesmanship, and not even the capacity to plan and to

[1] Webb, *Socialist Commonwealth of Great Britain*, p. 67.

[2] *Ibid.* p. 68; and see Viscount Haldane's remark in the preface to *The Development of the Civil Service*: "Now these methods of destroying the chances of the Civil Service (having no policy or having more than one) have disclosed themselves constantly in the past and they disclose their existence to-day. They are the outcome of a defect in the public habit of mind, one that is common in British parliaments and in British Ministers who derive from these their authority. That habit is to proceed to immediate action without systematically spending time on prior reflection. The tendency leads to inevitable confusion and waste. But it is in harmony with a parliamentary tradition which has always laid the main stress on gifts of a parliamentary and platform order."

explain the departmental projects, but either to avoid questions in the House, or, if these are asked, to furnish answers which allay without satisfying the curiosity of the inquirers,"—if that is too keen a criticism on these men, it is not unjust to say that their work can only be better when their perception of the social process ceases to be, as it is now, second-hand and based on hearsay evidence. And the higher tasks of creative effort come, through the process of promotion by seniority, to the elderly men, past middle age; men who neither by nature nor by the necessities of their situation are impelled to take the risks and flights of imagination necessary to the invention of new devices. It is their business to clothe Blue Books and letters with reality, but outside life cannot directly compel and invigorate them. For them, as for all others, the quickening juices of life are to be found in life itself, and this, so far, they are without.

Our best sources of inspiration in legislation and administration lie, then, not in the representative assembly itself, nor in the bodies, Cabinet and Civil Service, which have gradually gained almost complete control over the initiatory process.[1] Nor in their sporadic, transient Royal Commissions and Parliamentary and Departmental Committees do they find seemingly better instruments of mental stimulation. For these wait upon a public crisis or an exceptionally thoughtful statesman's idea to be brought into life. They are often biassed by the selection of members before their birth. They have a procedure of formal questions (to experts separately) and answers, constituting no real basis for productive thought; the experts do not question each other, sometimes they know nothing of the previous evidence.[2] They have no power to press for the parliamentary discussions of the proposals made and arguments

[1] Cf. Milner, *Journal of the Institute of Public Administration*, April 1923, p. 85 *et seq.*

[2] Cf. Report of Select Committee (House of Commons Procedure), No. 378 of 1915, pp. 59 and 163, where witnesses admit ignorance of previous evidence.

advanced.[1] They are not conspectual, in the sense that all interested parties share in making the decisions arrived at. It is a "second-hand" system; and Lord Randolph Churchill's Blue Book Adventure[2] and Lord Robert Cecil's reproach in the manner of Job are its marks.[3]

A few words may be said about the party organisation in its relation to the problem of bringing to the task of government a satisfactory understanding of national problems. Quite clearly most of the fruitful minds in the country are left out of the national service because they are not of the temperament (Mr. Wells's *kinetic* type)[4] to fight and win elections, or cannot afford the expenses which an election inevitably entails. It would be easy to compile a formidable list of men who could be of great service to the general political work of the State, but who for the above-mentioned reasons are excluded from a public forum which still commands some attention. The party organisation wants "safe" men who can win seats, or lose them with compensating *éclat*.

The party is inextricably bound up with the territorial constituency. It is on the one side the band

[1] Cf. *Representative Government*, J. S. Mill, in relation to the Select Committees of the House of Commons: "the opinions or private crotchets which have been overruled by knowledge always insist on giving themselves a second chance before the tribunal of ignorance."

[2] *Lord Randolph Churchill*, by Winston Spencer Churchill, vol. i. p. 387. In relation to Anglo-Russian relations in 1885, the Government's Eastern policy and a vote of credit of £11,000,000: "The vote of credit came on at once. The speech which he then delivered was a speech of minute detail, but of accurate detail. In twenty-four hours he had mastered an enormous Blue Book. No one could contradict him at any point." Many members have not the energy, few the time, but a handful the imagination, to constructively criticise the action of Government and the making of policy by this method. A more direct relation between the forces of society described in Blue Books and the makers of policy is necessary.

[3] Cf. Hansard, Jan. 30, 1913, col. 1553, Lord Robert Cecil on the Resolution for Allocation of Time on the Established Church (Wales) Bill. "We all know how a Bill is discussed under the guillotine. We know how grotesque were some of the answers given by ministers on this Bill. They had not taken the trouble to understand the brief furnished by the permanent officials. They read it out, and very often they read it out wrong. I do not blame them. They are human beings. They know it is quite unimportant what they say under the guillotine. They know that nobody can hurt them, and that when the bell rings they will have their cohorts brought in from outside to vote as they are told."

[4] Cf. *Modern Utopia*, p. 256 *et seq.*

which unites the otherwise politically "atomised" electors; on the other, the instrument through which the latter exercise their political power.[1] But the method of exercising that political power through the party is curious, perhaps amazing. It is their claim that they represent the electors. To an unsophisticated person this claim would be taken to mean that the representative knows the citizens' interests and undertakes to promote them in Parliament. But, it may be objected, perhaps many citizens themselves do not know their interests. For what does that knowledge of interests imply?[2] Surely this, that each citizen has a multitude of relationships, from the more personal duties which rarely come so overtly into contact with other people that they can become the subject of outside organisation and control, then through his family ties, his interests relating to his occupation, and other social institutions, to the whole State, his neighbours, and foreign countries. This knowledge of his interests, or what he would like done in regard to these various relationships, gets more and more dim and confused as he moves towards knowledge of phenomena dependent upon the publicity-instruments of Press, platform and cinema. Of his interests in relation to these things he knows little, because he knows next to nothing about the phenomena themselves. The representative would not, it appears, admit the possession of such ignorance. He adopts the attitude of a benevolent autocrat and provides the citizen who cares to listen to him or his agents, or to bend the knee before the rubric of his party without listening to him, with a set of conceptions, more or less vague, of his interests, that is, the desirable relationship between himself and other entities—a set of conceptions either invented by the candidate (rarely), or borrowed from the Press, or bestowed upon him by his party. The party conception is, for the citizen, more

[1] Cf. my article on "Cabinet and Party, 1914–1921," in *Economica*, January 1922.
[2] Cf. importantly Walter Lippman's analysis in *Public Opinion*.

worth adherence than either of the other two, because it is in the course of time tested by the opposition of other parties and tested by the Press. The necessity of future recourse to the electorate and the local party executives in the constituencies, the need for maintaining a continuum of prestige, compel the party to maintain, by means of research committees,[1] conferences and publication departments, a certain reputation for understanding, expressing, and being active in realising, the needs of the nation.

The system has in many respects served the country well from 1832, when the Registration Societies became the basis of the modern caucuses,[2] but the electoral process, well enough analysed by Ostrogorski and Graham Wallas; falsified even the rather clumsy representative power they could claim ; and their tendencies towards oligarchical control[3] gradually robbed them of a basis of confidence necessary for real civic contentment with their action.[4] But worse still is the fact that as soon as positive problems of social transformation arose for settlement in the first two decades of the twentieth century, as soon as the fundamental questions relating to private property, income, religion, education and relations between employer and employed were touched in Parliament, the defects of the electoral process, the oligarchical nature of the party, the faults of procedure

[1] *E.g.* Labour Research Department, which formerly had this character, and other Advisory Committees of the Labour Party, Beer, *History of British Socialism*, vol. ii. p. 290 *et seq.* Cf. *Daily News*, February 21, 1923. "London Liberal candidates who stood at the last General Election conferred at the National Liberal Club on Monday night with the committee of the London Liberal Federation on questions of industrial policy, especially with reference to unemployment, retiring pensions and the necessity of securing for the workers a more adequate share in the fruits of industry. After animated discussion Mr. John H. Harris moved a resolution urging the leaders of the Liberal Party to set up without delay a Research Committee with a view to the formulation of a forward policy on social, industrial and economic problems. The resolution was carried unanimously, and with acclamation."

Is this "*Ave, Imperator, morituri te salutant*" ?

[2] Cf. Ostrogorski, *Democracy and the Organisation of Political Parties*, vol. i. p. 140 *et seq.*, and Parker, *Sir Robert Peel*, vol. ii. p. 368.

[3] Cf. Michel, *Les Partis politiques*, especially Parts 1, 2, 3 and 6.

[4] A rather subjective treatment is that by Belloc and Chesterton, *The Party System.*

of the House of Commons, the essentially uncreative nature of the latter's proceedings, spoke clearly their failure as useful instruments for the authoritative settlement of such questions. Something more than majorities gained at the polls and marching through the division lobbies was needed. There was needed, indeed, the introduction of a closer relationship between the law-making authority, Parliament, and the nation it was supposed to represent. There was needed a system designed to secure careful discussion and thought and acts of will based upon a probing investigation of all material evidence, the variety of possibilities, the hearing of all voices through the medium of something better than party. Indeed, the old claim of the House of Lords to the power of deciding to refer bills from the Commons to the country was a manifestation, though a particularly crude one, of this attitude to the party system as the medium of representation.[1] All the panaceas offered just before the war—reform of the House of Commons' procedure, devolution, reform of the Second Chamber,[2] Proportional Representation, the resuscitation of the Royal Veto, the Referendum,[3] Round Table Conferences—spoke the same language: before vital problems the old machine of party government, upon which Parliamentary and Cabinet government rest, inaugurated by the introduction of practically universal suffrage, was breaking down.

[1] Cf. Lowell, *Government of England*, vol. i. chap. xxii.

[2] Cf. Hansard, vol. xv., 1910; H. W. Lawson, cols. 1222 to 1227; Lord Hugh Cecil, cols. 1335 *et seq.*; Balfour, cols. 1186 *et seq.*; Asquith, cols. 1165 and 1166; vol. xvi., Lyttelton, cols. 40 *et seq.*; and Belloc, col. 99 *et seq.*, where a Second Chamber with suspensive powers was argued as necessary to secure a *peaceful* economic revolution.

[3] Cf. Dicey, *Law and Custom of the Constitution*, ed. 8, Introd. p. xci *et seq.*

CHAPTER II

NEW LAMPS FOR OLD

THOSE problems were indeed fundamental. The State had become positive, or, as Dicey has it, at work under a collectivist theory.[1] Its action, in Lassalle's phrase, as a *night-watchman*, had, by 1870, become merely a very pale shadow of reality. It began to serve, to foster, create, take the initiative; and the rise of a series of new Departments of State was indicative of its positive and creative attitude towards the life of the citizens it contained.[2] Adam Smith's "invisible hand"[3] theory had left too great an inheritance of misery to be re-elected as pilot of the future. The necessitarian and voluntaristic theories of law-making gave way before the sovereignty, in all political parties, of what has been aptly called the "engineering" theory of law—that is, a theory that the purposes of society may be discovered by the processes of reason, and implemented through

[1] Cf. *Law and Opinion in England*, especially Lectures VIII. and IX.

[2] *E.g.* New functions of Board of Trade; Ministry of Transport, 1919; Ministry of Labour, 1916; Ministry of Health, 1919; Education and Agriculture and Fisheries.

[3] Let us at once be clear what this means. "He (the individual)," says Adam Smith, "generally, indeed, neither intends to promote the public interest, nor knows how much he is promoting it. By preferring the support of domestic to that of foreign industry, he intends only his own security; and by directing that industry in such a manner as its produce may be of greatest value, he intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end which was no part of his intention. . . . By pursuing his own interest he frequently promotes that of the society more effectually than when he really intends to promote it. I have never known much good done by those who affected to trade for the public good." Cf. *Wealth of Nations*, Cannan's edition, vol. i. p. 421.

the enactment of statutes.[1] The central political authority became (or attempted to become) "the engine of a systematic democracy." If that last phrase has meant anything to the majority of citizens and social philosophers, it has meant the Parliamentary remodelling of social and industrial institutions and processes. The purpose of such remodelling was to secure to the citizens an income giving a sufficient degree of material comfort in return for their work, and to put them in such a position in relation to their occupation and society that they should have a positive feeling of liberty in the sense of "a continuous possibility of personal initiative."[2] And any State action in this regard centred clearly upon the institution of private property, which in the end means practically unchecked power over the mental and physical activities of other people for private purposes. The progress of equality in this regard was one of Condorcet's factors of expectation for the perfectibility of his Tenth Epoch in the Tableau of Human Progress;[3] it was to

[1] "We seek continually to formulate the social progress of the present in everyday law-making, and we turn continually to the legislature and invoke the aid of the legal imperative for the means of putting into action the ideas upon which we rely to bring about social progress in the future. The amount of energy expended by organized society in the performance of this function of expressing and furthering social progress through law has come to be prodigious" (p. 721). "In an age of engineering triumphs, then, why not an engineering interpretation of jurisprudence? . . . The satisfaction of a maximum of wants with a minimum of sacrifice of other wants, the economizing of social effort, the conservation of social assets, the elimination of social waste, are juristic problems which may easily be stated in terms of engineering" (p. 724) (Dean Roscoe Pound, "Law and Society," in *American Journal of Sociology*, May 1917).

[2] Cf. Wallas, *New Statesman*, Sept. 25, 1915, p. 586, and *Our Social Heritage*, chap. vii., "Liberty"; and Webb, *Socialist Commonwealth of Great Britain*, p. 100: "And the object of Democracy is not merely the negative one of excluding the alternative of legislation, control and administration being exercised by individuals or classes contrary to the desires of the people at large, but also the positive one of obtaining for all the people, in the fullest degree practicable, that development of personality, and that enlargement of faculty and desire dependent on the assumption of responsibility and the exercise of will."

[3] Cf. Condorcet (Caritat), *Esquisse d'un tableau historique des progrès de l'esprit humain* (1795), p. 309 *et seq.*: "Our hopes as to the future condition of the human species may be reduced to three points: the reduction of inequality between nations, the progress of equality in each single nation, and thirdly, the real improvement of man. . . . Is the difference of knowledge, of means and of riches, hitherto observed in all the civilised peoples, between different classes of which each of them consists; is this inequality which the earliest progress of society has increased and, so to say, produced, an outcome of civilisation itself or of the mere imperfections of social art? Must it not be weakened continually

Madison the gravamen of political conflict;[1] it constituted the central purpose of some thinkers towards the Reform Bill of 1832, and later became the testament of the working class in politics.[2]

It is by no means a simple issue. John Stuart Mill imagined that the distribution of wealth could be interfered with freely according to social purposes.[3] But no economist worthy of any repute can now believe in so simple a doctrine. To operate upon a society based on private property and the people whose power is built upon it, is to operate upon the most tenacious, deep-rooted, defensive and intricate of instincts, and upon institutions of a truly basic character.[4]

The task of political institutions to-day seems to be to determine by artificial methods the course of manufactures and agriculture; it begins with a virtual denial of the continued operation of natural laws largely beyond human control, and asserts the possibility of their manipulation in accordance with a theory of social interests. Such, for instance, is the attempt sufficiently described in periodically issued Blue Books,[5] to bring the decaying occupation of agriculture out of the depths into which it has fallen, owing to the competition of virgin

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so as to give place to actual equality, the ultimate aim of social art, which, by diminishing even the effects of natural difference of faculties, leaves only an inequality which is to the interest of the art, because it will favour the progress of civilisation, knowledge and industry, without entailing either dependence, humiliation, or impoverishment? In short, will men ever approach the state where they will all have the necessary knowledge for conducting themselves according to their own reason in the common affairs of life, and maintain it exempt from prejudice, so as to know their rights well, and make use of them according to their own opinion and conscience; where all will be able to obtain, through the development of their faculties, assured means of providing for their needs; and lastly, where stupidity and misery will be no more than accidents, and no longer the habitual state of a considerable portion of society?"

[1] See *Federalist*, Essay No. 10.

[2] See *The Development of Parliament in the 19th Century*, by G. Lowes Dickinson.

[3] *Autobiography*, 1873, p. 231 *et seq.*

[4] Cf. Geldart, "Some Aspects of the Law of Property in England," in *Property, Its Duties and Rights* (Macmillan, 1922); Tawney, *The Acquisitive Society*, chap. v.; Rivers, *Psychology and Politics*; and Graham Wallas's analysis of the property instinct and the place of property in modern society in *The Great Society*, p. 290 *et seq.*

[5] *E.g.* Report on Equipment of Small Holdings, Cd. 6708, 1912–19; Agricultural Policy (Reconstruction Committee), 1917, Cd. 8506.

lands abroad. The process needs continual thought, continual argument, continual experience, continual supervision. It is to be dealt with successfully only by means of an extensive series of laws (and a consequent change of habits) based upon long and continuous arguments of the type of, though with better procedure than, the Coal Industry Commission of 1919. A long-continued process of sapping and petty encroachment upon the ground to be won, with previous thorough investigation, is here the only wholesome method of remodelling. The present political scheme is incapable of serving this process; and few people desire the methods of *fascismo*.

If the old oracles of government are fallen dumb, we may perhaps find the promise of fresh instruments which can help to the attainment of these purposes. While the old legacy of representative government has suffered attrition, there has arisen outside its organisation a veritable multitude of associations: citizens grouped for special purposes; for purposes of production (in Trade Union and professional organisations), for purposes of consumption (in Co-operative Societies, Rentpayers' Associations, Telephone Users' Associations, Season Ticket Holders' Associations), for teaching purposes, as the Workers' Educational Association, for propagandist purposes, *e.g.* the Divorce Law Reform Union. This is no attempt at an exhaustive enumeration or scientific classification of associations, but merely an indication of their existence and activity. The essential of these associations is this: they are usually continuous until they have achieved their purpose; their membership consists of people who join, mainly voluntarily, because they approve of the purpose and the methods taken to achieve it; the members are in the main cognisant of the conditions of their purpose, *i.e.* they have a sufficiently close acquaintance with the purpose to possess a pungent and vivid sense of the relations between that purpose and the wider society in which they live; they have,

lastly, a vital interest in accomplishing their purpose. Whether their group loyalty and purpose should imply their endowment with an authority as primary and as absolute as that which the association called the State claims to possess is a question that is not material to this study. The important point is that these associations exist, have a purpose, are the embodiment of an interest and the repository of knowledge vital to the successful operation of the political institutions—so vital that the State consults them from time to time, and is subjected to pressure when its independent course threatens the stultification of their purposes.

But the method of action is indirect, roundabout and often secret. The real rulers of a society, it has been said, are undiscoverable.[1] Who can tell how far the private and sectional purposes masquerade as public policies owing to the connection between the associations and the various political parties? The action of such bodies as, say, the Federation of British Industries upon the course of government is perfectly legitimate in its object, and could, indeed, be made more fruitful for the State were it not obliged to act by secret manœuvres. It thus becomes suspect; in perfectly open and public deliberation it could perhaps gain public respect. The same holds good of the whole body of Trade Union organisations. Here is a union of men and women based upon productive activity, with regulations, purposes, constitutions and real knowledge of the vital processes of industry and working-class life, attained, after over a century of struggle, to a status which gives it the power and the practically acknowledged right to a positive say in the government of the State.[2] Unless

[1] Cf. John Chipman Gray, *The Nature and Sources of the Law*, ed. 1921, chapter ii., "The State."

[2] S. and B. Webb, *History of Trade Unionism*, ed. 1920. "We may, in fact, not unfairly say that Trade Unionism has, in 1920, won its recognition by Parliament and the Government, by law and by custom, as a separate element in the community, entitled to distinct recognition as part of the social machinery of the State, its members being thus allowed to give—like the clergy in Convocation—not only their votes as

it wishes to speak in impotence on the Opposition benches—and even there to prophesy to minds that are, as we have seen, deaf but obstinate—it must adopt the method, only sometimes successful as an instrument of creation, of the deputation to a Government department. Nor can we ignore the possibilities of the Chambers of Commerce. Of them a U.S. Government report[1] says that they are in the United Kingdom frequently consulted by Governmental authorities in regard to the commercial interests of local character or matters affecting industries strongly represented in certain localities. They send deputations to Parliament, and submit memorials, suggestions and petitions to the Government. And, further, of the Association of Chambers of Commerce, the objects are . . . "(*e*) to prepare and promote in Parliament bills in the interest of the trade, commerce, manufacture, and shipping of the country, and to oppose measures which, in the opinion of the association, are likely to be injurious to those interests."

Now, the perception of the activity and essential creativeness of such organisations led, in the years immediately preceding the war and during the war, to two movements, one theoretical, the other practical. Both were designed to bring together for direct, continuous deliberation, reconciliation and government in the central institutions of the country, persons actuated by the needs of their groups and fertile through immediate contact with the realities of their situation.

In the hands of Mr. Cole,[2] Guild Socialism, on its constitutional side, denied, with a jargon perhaps unnecessary, the efficacy of the old theory of representative

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citizens, but also their concurrence as an order or estate." See also Orton, *Labour in Transition*, *passim*.

[1] *Commercial Organisations in the United Kingdom*, Special Agents Series, No. 102, Department of Commerce, pp. 9 and 10.

[2] *E.g.* see *Self-Government in Industry*, 1918; *Social Theory*, 1920; *Guild Socialism Re-stated*, 1920.

democracy in the modern State; and put in its place a system founded upon largely self-governing functional groups whose inter-relationship was left to be "co-ordinated" by a head organisation, a Congress of Guilds, composed of representatives from the various guilds (the self-governing functional groups). The necessary preliminary disintegration of the centralised State, the possibility of a too great growth of corporate conceit and professional conservatism, and the revolution in human nature necessary to the realisation of such a social theory, rendered it of little utility for immediate practical purposes. But the theorist pointed in an unmistakable direction, away from the undifferentiated citizen united by the bond of political party and towards the interest and knowledge lying in the group organisation.

Then Mr. and Mrs. Webb constructed their Socialist Commonwealth of Great Britain.[1] We here consider but briefly the central institutions in their Commonwealth. Directed by long study of both producers' and consumers' associations towards a perception of the manifold character of human needs in society,[2] the authors argue the amendment of "our institutions (so) as to sort out the issues" (p. 93). Their central theme becomes the impossibility of the member of Parliament representing the General Will—the representation *for all purposes*—of the whole varied complex of emotions and desires that are combined in the individual elector. The vehicles of representative government, then, are to be two assemblies, both based upon election from territorial constituencies ("local inhabitancy"), though each with differently sized circumscriptions and with elections at different times.

"They' both have the function of expressing the desires and formulating the will of the community as a whole. But they will have distinct spheres, which will

[1] *A Constitution for the Socialist Commonwealth of Great Britain*, 1920.
[2] *Op. cit.* p. 102.

wax or wane in magnitude and importance at different rates. The issues of national policy on which they will be elected will, from the outset, be markedly different; and they can, from the nature of the case, never be identical" (p. 121). The one assembly, the Political Parliament, much like the present House of Commons with its collective responsibility of the Cabinet, will have authority only in Foreign Affairs, the government of the Dominions, India, the Crown Colonies and Dependencies, National Defence and Justice. The second, the Social Parliament, working largely through Committees, and elected for a fixed period, will control the national, economic and social activities.

These two Parliaments, it is said, are to be "co-equal and independent, neither of them first or last."[1] Each in its own sphere has authority uncontrolled by the other. But it is conceded (p. 123) that the laws passed by the Political Parliament "cannot fail to affect the administration of industries and services within the sphere of the Social Parliament and of the various bodies within its jurisdiction."

But the practicability of this highly ingenious and important scheme breaks down in relation to finance. Who shall tax, and how shall revenue be apportioned among the national services? The Social Parliament has a control over the aggregate (and therefore over the detail) of the budget compulsorily to be submitted by the Political Parliament. A final settlement depends, then, upon a joint session of the Houses: that is upon relative numbers. Or there is a referendum vote, or a double dissolution resulting in the election of new Parliaments. The latter solution clearly does away with the separate elections designed to meet the evils of the encyclopaedic representative. Then, finally (p. 127), "It may well be that our proposals do not adequately

[1] Thus standing in contradiction to the experience of bicameral systems all over the world.

provide for the different problem of the 'power of the purse.' The joint session of the two Parliaments may become, not an exceptional expedient, but the regular way in which the year's estimates are voted." It is not too much to say of this final expedient that it would ultimately become a third and decisive Chamber over the body of which all political strife in the two legislatures and the country would take place. It would seem impossible, with the history of federal governments before us, to divide the powers functionally (territorial division is an easier, yet not a quite successful, expedient), and yet keep the authorities co-equal, independent, neither being first or last. The merit, then, plainly contained in the scheme, *differentiation of functions*, is not adequate to the acceptance of the difficulties, *division of power*, inherent in its realisation.

But in its insistence on *differentiation of functions* the theory is fruitful. It suggests to the reader the establishment of a second House by the side of a Parliament retaining all its present functions but advised, criticised and helped out both in principles and details, by a body avowedly inferior to it in final power, but superior to it in representative character and the authority of its science.

With this in mind we may turn to one practical result of the war, which served to bring into relief, if but for a passing moment, the wealth of creative suggestion which lies in the various organisations, and especially the great industrial organisations of the country—the National Industrial Conference of 1919. Its genesis may be traced in Hansard, beginning with the anxiety shown generally by all members, and particularly by Mr. Lloyd George, then Prime Minister, during the debates on the Royal Address in early February of 1919.[1] Parliament was plainly deemed unfit to *think out* the necessary measures; even its sovereign authority to will the measures when put before it did not at that time

[1] Parliamentary Debates, Official Report, 5th series, vol. 112.

stand uncontested.[1] Recourse was had to a conference outside Parliament, and some part of its history may be told by the *Labour Gazette*.[2] "The national conference summoned by the Government to consider the present industrial situation was held at the Central Hall, Westminster, on 27th of February. Invitations to send representatives had been issued to Employers' Associations and Federations, Trade Unions, Joint Industrial Councils, Interim Industrial Reconstruction Committees, Trade Boards and certain other important interested bodies such as the Parliamentary Committee of the Scottish Trade Union Congress, the Federation of British Industries, the National Alliance of Employers and Employed, etc. Altogether there were about five hundred workpeople and three hundred employers' representatives present. The Prime Minister, the Minister of Labour, the President of the Board of Trade, the Postmaster-General, the Minister of Food and other members of the Government were also present, as well as the principal officials of the Ministry of Labour. The Minister of Labour distinguished the meeting as unparalleled in history. 'It is representative,' he said, 'as no previous meeting ever has been, of the whole organised industrial life of our country.'[3] Its object was to 'separate the temporary from the permanent sources of discontent' of the time. The upshot of some hours' talk was the election of a Provisional Joint Committee of sixty, thirty from the Employers' organisations, and thirty from the Workers' organisations, to examine and report upon three groups of questions: (*a*) relating to Hours, Wages and General Conditions of Employment; (*b*) on Unemployment and its Prevention; (*c*) the best methods of promoting co-operation

[1] It was the year in which Direct Action by workers' organisations, and a kind of "state of siege" through the Emergency Powers Act, 1919, seemed to be the dominant characteristics of English polity.

[2] March 1919, p. 78.

[3] Minutes of the Proceedings of the National Industrial Conference, 1916 (H.M.S.O.), p. 5.

between Capital and Labour.[1] Sub-Committee No. 1, with Sir Thomas Munro in the chair, concerned itself with making recommendations concerning, among other things, "the method of negotiation between employers and Trade Unions, including the establishment of a permanent industrial council to advise the Government on industrial and economic questions with a view to maintaining industrial peace."[2]

On April 4 the Conference met to consider and vote the Report of their Committee, and prominent in that Report[3] is the question of a standing National Industrial Council. The Report said: "For the purpose both of carrying on future investigation into matters now affecting the industrial situation and of keeping such matters under continuous review in the future and advising the Government on them, it is the unanimous view of the Committee that there should be established some form of permanent National Industrial Council." . . . (Their recommendation appeared below.) "It is sufficient at the present stage to record the conclusion of the Committee that such a Council should be instituted, and to point out that in their view matters in which this Committee themselves have been unable to make recommendations would be appropriate subjects for consideration by that Council."[4] The Minister of Labour read a message from "the Prime Minister welcoming the Report, and promising that if the recommendations of the Committee were approved by the Conference, they would receive the immediate and sympathetic consideration of the Government."[5] After some discussion a motion of Mr. Henderson's was carried. It ran: "That this Joint National Industrial Conference, representative of employers and trade unionists, welcomes the report of the Provisional Joint Committee, and agrees to submit

[1] Minutes of the Proceedings of the National Industrial Conference, 1916 (H.M.S.O.), p. 58.
[2] *Labour Gazette*, March 1919, p. 79.
[3] Industrial Conference, Cmd. 139, 1919.
[4] Cmd. 139, p. 6.
[5] *Labour Gazette*, April 1919, p. 125.

it for the acceptance of its constituent organisations immediately the Government officially declare their readiness to proceed at once with the legislative and other steps necessary to carry the report into effect; and the Provisional Joint Committee remain in being until the National Industrial Council and the Standing Committee have been brought into operation."[1] The Chairman replied that "he believed that the principles of the Report would receive without delay the favour of the Government. It had always been their intention to endeavour to set up some permanent body to advise the Government on industrial matters, and they entirely agreed with the suggestion of a National Industrial Council and its objects." Meanwhile there were strikes and Royal Commissions at home, and the Peace was being made abroad.

In May, the Provisional Joint Committee met to get the Government's intentions in relation to their proposals. The Minister of Labour read them a letter from the Prime Minister, who was making the Peace abroad. "On the Continent," it ran,[2] "as I have good reason to know, your work is being closely watched. Foreign countries are looking to Great Britain to give them a lead in the foundation of a new and better industrial order, and this report marks the beginning of such a foundation." Many of their solutions, the letter continued, would be accepted, in principle, but *needed some modification in certain particulars.* Lastly, "I cordially welcome your proposal to set up a National Council, and hope that you will take steps to bring it into being as quickly as possible, as I am sure that it will be of great value in assisting the Government to improve industrial conditions." The Committee then adjourned in order that both sides might have an opportunity of considering the reply and deciding upon their attitude.

Months passed, the Government legislated, the Com-

[1] *Labour Gazette*, April 1919, p. 125. [2] *Ibid.*, May, p. 176.

mittee, the Conference and the Report, even the Prime Minister's letters, were apparently ignored or forgotten, save for occasional mention in the House of Commons.[1] The Peace was made and widespread distress came over the country. Then in July 1921[2] the Provisional Joint Committee met at the Ministry of Labour to consider its position. It plainly had none. Its effort to stimulate the Government in the direction of carrying its Report had been fruitless; and then, it being evident that further efforts would be fruitless, the Committee resigned.

The last scene in this history was in the House of Commons on August 4, 1921,[3] when, during the Debate on the Ministry of Labour Vote, Mr. Clynes complained of the passing of "a body for which there never was and indeed is not now any substitute of a national kind," a "Labour Parliament, labour in the sense that it is representative of the joint and collective interests engaged in labour, whether on the side of the wage-earners or on the side of the employers."[4] In a juxtaposition in nowise strange, and yet prophetic, it was the voice of Viscountess Astor, a few minutes afterwards, which called out in relation to "sweating" scandals, "It is ignorance, not malice on the part of members, that allows these things to continue."[5]

We ought not to ignore the economic crisis which compelled the Government to have recourse to the conference: but neither should we pass over the permanent realities in our social system which called, and still call, for something in the nature of an Industrial Parliament.

In an article in the *Times* of April 25, 1922, called

[1] *E.g.* Parliamentary Debates, 5th series, vol. 115 (55), vol. 116 (2280), vol. 121 (97 and 1061).

[2] See *Labour Gazette*, August 1921, p. 395.

[3] Parliamentary Debates, 5th series, vol. 145 (1680 *et seq.*).

[4] Appendix I. gives the Recommendation of the Committee and the method of composition of employees' representation.

[5] *Ibid.* col. 1720.

"A Parliament of Industry," Mr. Henderson returned to the old charge once more and advocated a parliament of industry, based upon trade unions and employers' organisations, on a parity—"to provide industry as a whole with a mouthpiece and an organisation through which it can express itself," and act as advisory and scrutinising agent in relation to all legislative proposals affecting industry as a whole. And his thesis is supported by Lord Milner, who, after a brilliant survey of our economic and social situation,[1] concludes that the first steps towards salvation in industry lie in the creation and development of the Joint Industrial Councils for each industry, and then at the centre a Parliament of Industry. His judgement, emerging from quite a different line of reasoning from that adopted here, is worth quotation:[2] "Finally, if this system grows and National Councils are established in all or most of the principal trades, they may pave the way to a further development of great importance. There are many questions affecting the welfare of any given trade which can only be properly settled by the people who are themselves engaged in it and have practical experience of the difficulties to be overcome. But there are other questions affecting the relations of one trade with another, or involving regulations which, if they are to be equitable, must apply to national industry as a whole, that cannot be dealt with by a number of separate and unco-ordinated authorities. These problems may in the last resort require the intervention of the legislature. But Parliament is a very bad arena for thrashing out the complicated details of industrial organisation. Even if its ultimate intervention is necessary, it can only intervene successfully after the matters with regard to which it is called upon to act have been thoroughly discussed by

[1] A series of four articles in the Sunday *Observer*, on Jan. 7, 14, 21 and 28, 1923, entitled "Towards Peace in Industry."

[2] January 28, 1923.

practical industrialists. Under present conditions such discussion could best be assured by the creation of a national deliberative assembly, in which Capital and Labour enjoyed equal representation."

We are again under the regime of the Second-hand in thought and representation, of chance majorities in the Commons, of Whips, of the unco-ordinated thought-process and creative suggestion of Fleet Street, Downing Street, Montagu House, the Board of Trade, the Parliamentary Committee of the Trades Union Congress, the Committee-rooms and the Lobby of the House of Commons. We still talk of representative democracy when there is neither representation nor democracy, and it is clear that new solutions are necessary.[1]

Perhaps the origin, the constitution and the work of the German Federal Economic Council during the last two and a half years may help towards a better perception of our own problems and towards their solution. In an environment of institutions and ideas in many respects similar, in some respects poles asunder, we shall see the growth of theories and the rise of instruments of government, if not overwhelmingly commanding, at least fruitful in suggestion.

[1] Cf. *Essays in Liberalism*, p. 120 *et seq.*, "The Machinery of Government" (Ramsay Muir), in which an analysis of English political and administrative institutions is made, and a National Industrial Council suggested as a body required for the "most serious and systematic discussion of such (important industrial) questions," and to "satisfy the demand for interest-representation." See also the same author's *Liberalism and Industry* (1920), *passim*.

PART II

THE GERMAN FEDERAL ECONOMIC COUNCIL

(DER REICHSWIRTSCHAFTSRAT)

CHAPTER I

GENESIS

FAFNER. Ich lieg' und besitze :—
Lasst mich schlafen !
Siegfried.

THE history and general social environment of the German Economic Council are as important for an appreciation of its character as its mere constitution and functioning. More : the underlying ideas, the ancestral and contemporary tendencies which united to its establishment, distinguish it as being no passing institution. For it is the result of elements in the German State which exhibit signs of permanence and stability. They possess, too, marked similarity to political conceptions and forms outside Germany. A review and appreciation of these elements is therefore undertaken in this chapter and the next. Once again let insistence be placed upon this fact : that any argument in relation to the German Economic Council, and particularly to its adaptability to the needs of other countries (*e.g.* England), is useless unless due allowance is made for these elements.

THE POLITICAL BACKGROUND

Until the Revolution of 1919 Germany was not possessed of a system of free government. Her rulers, Emperor, Imperial Chancellor, Ministers and Federal Council (Bundesrat), were not constitutionally liable to

popular control.[1] True, the Reichstag was founded upon universal male suffrage, but this was merely Bismarck's concession to the liberal elements in the Empire in return for their adhesion to the idea of Imperial unity. It was not a recognition of the theory that government should be directed by the wishes of the governed.[2] Its apparent promise was falsified by continual governmental assertion of the divine right of the Monarchy,[3] by the manipulation of elections, during which the Liberal and Socialist forces were combated by Government propaganda, and by the successive Imperial Chancellors securing the biggest Reichstag majorities through coalitions of parties at the cost of the least possible concessions in policy. The government of the country was not directed, it was *directive*. The party policies were not the effective sources of creativeness in government; the leaders in the Reichstag and the country simply gave lectures on political subjects.[4] The source of creativeness was in the bureaucracy, aided occasionally, but not publicly, by the method of deputation and petition from various associations, and by private conversations with great industrials.[5]

The governmental institutions as inventors of means to securing the satisfaction of the nation's needs showed the same signs of failure in Germany as in England. The criticism of the party system as the vehicle of representation of these needs possessed the same characteristics that have already been noted of England in the earlier part of this study. The process in Germany is instructive, and demands attention.

[1] Cf. Finer, *Foreign Governments at Work*, chap. iv., and Barthélemy, *Les Institutions politiques de l'Allemagne contemporaine*, Paris, 1915. The first work referred to gives numerous references to evidence used by the present author.

[2] Cf. Richard Angst, *Bismarcks Stellung zum parlamentarischen Wahlrecht*, Leipzig, 1917.

[3] Cf. Bülow, *Imperial Germany*.

[4] The term *Redeparlament*, speech-parliament, was the constant term of criticism of their parliamentary system, used by all parties.

[5] Dawson, *Evolution of Modern Germany*, chap. v.

It was argued that [1] in the Reichstag the members of the non-material vocations, like lawyers, editors and journalists, together with party secretaries and professional politicians, preponderated, while the representatives of finance and industry and the class of artisans were represented in but a small measure, and only agriculture showed any appreciable amount of real vocational representation. For this reason the vital economic questions of the nation were solved from the party standpoint rather than from the standpoint of technical knowledge and of the experts. These parties exercised a tyranny of ignorance.[2] They proceeded, not from the previous perception of a grouping of various economic and social interests in the nation,[3] but from an attempt at representing the citizens, without discrimination or differentiation, according to a world-conception (*Weltanschauung*) or a scheme of individual and social values derived from the excogitation of the study.[4] Actuated by a principle, considered and designed to represent the General Will of the community, the parties tended to forget the concrete interests of groups in debate, and the substance of legislation was then dominated by the idea of a ruling majority [5] of citizens. The parties dealt for the main part in abstract citizens—" they allowed themselves to count individual persons and their power of work like mark-pieces." [6] True it was that the parties, except the Centre, could show the characteristics of internal vocational grouping—indeed, whatever of usefulness had been accomplished in Germany had been accomplished by this expert element; but then the world-conception [7]

[1] Oppeln-Bronikowski, *Reichswirtschaftsrat und berufsständischer Gedanke* (Berlin, 1920), p. 8.

[2] Dr. Josef Grunzel, *Der Sieg des Industrialismus* (Leipzig, 1911), p. 158.

[3] Dr. Emil Lederer, " Das ökonomische Element und die politische Idee im modernen Parteiwesen," *Zeitschrift für Politik*, Band V. Heft 4, 1912, p. 535 ff.

[4] See reference [6] below.

[5] *Ibid.*

[6] Prof. Max Wundt, " Parteien oder Stände," in *Deutschlands Erneuerung* (Munich, May 1919), p. 333 *et seq.*

[7] *Ibid.* p. 335.

and the desire to attract majorities with millennial programmes [1] and maintain power had extinguished the objective operation of such internal organisation and expertness. The slogans of the parties had done little to give the equally enfranchised citizens an insight into economic actualities [2] and a power over the economic activities of the State. The period of Manchesterism and *Polizeistaat* could well have been served by such a party system,[3] and parliamentary action with party manœuvres to secure majority resolutions in accordance with a previously established mental attitude.[4] But in the present period of the rendering of positive services by the State, knowledge and expertise were at least as important titles in the creation of political decisions as the declaration of will based, in the last resort, upon the electoral process and the early nineteenth century conception of representation.

The force of these arguments, stated by different men at different periods, was given point by no less an authority than Jellinek in an influential study.[5] He showed that Parliaments were in all countries giving over their powers of concerting decisions to other bodies, like special committees, derived from them, and that many of the propositions for constitutional amendment in France had been directed to bringing the deputies into a more close legal dependence on the electors. "If, then," he said, "you go to the heart of these matters (relating to the system of representation of citizens by the territorial constituency), it will be discovered, that no political scheme is so built upon fictions and so out of correspond-

[1] Rehm, *Deutschlands politische Parteien*, p. 16.

[2] Grunzel, *op. cit.* p. 157.

[3] Dr. August Müller, "Wirtschaftsvertretung und politisches Parlament," in *Die neue Zeit* (May 6, 1921).

[4] Note W. v. Möllendorff, *Deutsche Gemeinwirtschaft*, Berlin, 1916: "The economic influence of political parties was higgled over according to the model of the marketing of goods. The manner and the result of disputes were not settled by the economic experts, but either by the previously existing extra-economic creed, or, and this more often, by the strength and conditions of secret self-seeking."

[5] *Verfassungsänderung und Verfassungswandlung*, Berlin, 1906.

ence with ideal types as popular representation."[1] Such representation meant the party system, and that again meant the emergence of a desire for partisan power which diminished the excellence of legislation. Moreover, people with expertise did not necessarily get elected. He then noted that "the days when the Parliamentary tribune was the only place from which could emanate influence on Governments have long ago passed away." The Press had its influence. But a more important phenomenon was the rise of associations of all sorts—"instead of the atomised mass of nation there was to-day a profuse grouping, almost impossible clearly to apprehend."[2] The future lay perhaps with the organisation of the will of these various associations. The idea of representation could be better worked out and expressed as the interests of the groups were more definite.[3] Already many of the organisations had official duties, and perhaps John Stuart Mill's idea of having a legislative committee,[4] but containing the representatives of interested groups concerned, could be adopted. This committee would have direct relations with the Government. "It would be the duty of the latter to balance against each other the demands of the various parties, and the central Parliament would have, with much more limited competence than to-day, to take up in its own bosom the settlement of interests, by way of assent or rejection."[5]

[1] *Op. cit.* p. 64.

[2] *Ibid.* p. 79.

[3] Cf. Cole, *Social Theory*, chap. iv. and vi.; Webb, *Socialist Commonwealth of Great Britain*, Pt. I. chap. iii.

[4] Cf. *Representative Government* (Everyman Edition), p. 237 ff.: "Any Government fit for a high state of civilisation would have as one of its fundamental elements a small body, not exceeding in number the members of a Cabinet, who should act as a Commission of legislation, having for its appointed office to make the laws. If the laws of this country were, as surely they will soon be, revised and put into a connected form, the Commission of Codification by which this is effected should remain as a permanent institution, to watch over the work, protect it from deterioration, and make further improvements as often as required. No one would wish that this body should of itself have any power of *enacting* laws: the commission would only (*oh! irony!*) embody the element of intelligence in their construction; Parliament would represent that of will."

[5] Jellinek, *op. cit.* p. 79.

Given this criticism of representation and the work of Parliament, it can be no matter for surprise that reform of German parliamentarism took place, as later it did, on lines allowing for the direct impact of representatives from the various associations upon the legislative and administrative work of the central authority, and even, as will be seen later, upon the governmental sphere of the local authorities.[1]

But this development was made the more certain by two other political factors: first, the positive saturation of German political theory and institutions with the conception of estates and vocational or, generally, group representation; and second, the increasing dependence of the Chancellor and the Departments upon agencies other than their training, and Parliament for the knowledge necessary to framing policy.

During the nineteenth century,[2] when the equal and general franchise were being extended in England and France, the mediaeval institution of Estates, adapted to new conditions, served as an important subject of political thought in Germany. In the various Germanic States from the Middle Ages there had been the representation of prelacy, knighthood, nobles and towns. This order lasted down to the close of the eighteenth century and the dissolvent period of the French Revolution and the Napoleonic Wars. Even then most of the new State constitutions drawn up between the Treaty of Vienna and 1848 provided for a representation of specific estates in their Upper Chambers. Everywhere, for instance, the small landed proprietorship, as a group within the State, was recognised as having a right to be so represented. The conservative political thinkers (afterwards powerfully influencing the Conservative parties), *i.e.* those thinkers antagonistic to the Declaration of the Rights of Man and its underlying political and social

[1] See *post*, Chapters VI. and VII.

[2] Cf. Herrfahrdt, *Das Problem der berufsständischen Vertretung*, Berlin, 1921.

assumption of natural rights, maintained the tradition of representation of the forces of society by estates. The principle was accepted from history and contemporary institutions, though it needed restatement in accordance with the new stratification of society. Further, apart from the historic argument, natural rights theorists proceeded to deduce from the ideas of a social contract a theory of representation which would secure to each class of the population its proper weight in the Diet. That is to say, given that the people was sovereign and should be represented, an attempt was made to estimate *proper weight* of representation not by the giving of equal votes to undifferentiated citizens, as would have been done in the equalitarian republic of Rousseau, but by the previous assessment of the political worth and importance of the citizens to the society: this in order that intelligence (or rather, education) might be given a slight superiority over the masses, and that no specific independent branch of human activity should be either excluded from representation or over-represented.

These ideas did not die with the Liberal revolutionary movement of 1848, which was based essentially on the levelling and atomisation of the citizens in relation to their political system. The theory of an organic grouping of society which would find its expression in representation is to be found in the works of August Winter (1852),[1] Karl Christian Planck (1881),[2] R. C. Mohl (1860),[3] and Schäffle (1894).[4] All of these writers based their variously composed and variously empowered systems on vocational and other forms (*e.g.* university, church, towns) of grouping.[5] Here, then, was a theory, always important in the Conservative armoury, ready,

[1] *Die Volksvertretung in Deutschlands Zukunft.*

[2] *Testament eines Deutschen*; and 1918, *Der Berufsstaat* (remains brought together by Planck's daughter).

[3] *Staatsrecht, Völkerrecht und Politik*, i. 408 *et seq.*

[4] *Das Problem der Wirtschaftskammern*, and *Volksvertretungsprobleme.*

[5] A good summary is given in Tatarin-Tarnheyden, *Die Berufsstände, ihre Stellung im Staatsrecht und die deutsche Wirtschaftsverfassung* (Berlin, 1922), p. 113 *et seq.*

not to be resuscitated, but to be reburnished and re-shaped for the new needs of the State should occasion arise.

The theory was a possible alternative to the party system, which had never been of great effect in the State; a system, indeed, which had suffered from two defects since the constitution of 1871 had given it any room for real organisation. Its first defect was that it had no decisive power over the ruling authorities and was therefore tempted to slip into a state of dogmatism, to make unrealisable promises to the electorate, and to assume an attitude of carping criticism towards the other parties. Its second defect was perhaps more dangerous to its possibility of ever attaining the whole plenitude of authority in the government of the State. The system arose in a period when rapid industrialisation and the growth of a very strong system of organisations and associations provided a rival more interested in creative suggestions, more cognisant of the needs of the grouped forces that went to constitute the State, and at least as capable in concentrating the expression of its requirements upon statesmen and the Government Departments. The presumption was as much in favour of the associations outside the representative scheme as of those within it. And the next part of the discussion will make this even more apparent.

The system of government, I have said, was not responsible, it was directive. The power of independent creation lay then, more than in England, with the bureaucracy. As far as its training, its traditions of service, and its mental qualities went, no officialdom in the world was so expert or conscientious.[1] The administrative, political and economic sciences were, by nature of the Civil Service examination and promotion system, the very marrow of its bones.[2] Yet its authority was not accepted without demur, any

[1] Cf. Demartial, *Revue politique et parlementaire*, Sept.-Oct. 1908.
[2] Cf. Goodnow, *Comparative Administrative Law*, vol. ii. p. 266 *et seq.*

more than that of Plato's Guardians or H. G. Wells's Samuraï would be. It was a government of the people, not by the people, and so suffered mistrust, especially when the people so grouped themselves that they could provide spokesmen in more immediate touch with actual affairs. Its interest in logical thought and inventiveness was the result of administrative discipline and professional tradition,[1] and that is, obviously, a less powerful stimulus to creation than the necessity felt by an interested person. When the sphere of the State was narrow, when it had neither assumed many duties nor had had many services thrust upon it by the alteration of material environment and the growth of a new conception of State action, it could serve the community in a fair measure, and, with moderation on the part of the political Parliaments, pass without its authority to decide being disputed by the nation at large. Then came the seemingly inevitable process: "The extraordinary complication and interlacing of modern economic relationships soon led, however, to the consultation of expert bodies alongside the political Parliament — the composition of which was determined not principally by economic knowledge, but more or less constantly by political creed and the capacity for political push—before laws of far-reaching economic consequences were made. The demand became of urgent necessity in the second half of last century as the interlocking of industry and administration, at variance with the whole of economic-political belief of 1850 or 1870, forced itself to realisation through irresistible development."[2] The result was a number of special commissions of inquiry, on the Stock Exchange, on cartels, on meat supplies. Then, too, special advisory councils for railway, postal and other authorities were

[1] Cf. *Die Frage der deutschen Beamten*, H. Fribolin (Karlsruhe, 1914), for an account of the measures taken to secure a distinctive status and habit of mind for civil servants.

[2] Report Nr. 2794 from Sixth Committee of the Constitutional National Assembly, p. 10 (Drucksache, Nr. 2794, 6. Ausschuss, Verfassungsgebende Deutsche National-Versammlung, 1920, s. 10).

set up with varyingly long periods of activity. Later, in the war period, the advisory councils and the experts grew in number and importance, to the annoyance of the bureaucracy and the encroachment upon its sole right to create. But *their constitution in one body was still lacking.*[1] In the light of the sporadic and non-permanent nature of the advisory bodies the bureaucrats found, as all permanent authorities in every administrative system find, that in the end power remained with them. But it was not undisputed: their method of training was attacked in relation to the duties they had to perform. "Especially unsound," it was said, "was the spectacle of the ruling part played in legislation and administration by juristic methods of thought, which, of course, were admirably fitted to give everything its best form, but were bound to fail when confronted with the task of examining or promoting the inner substance of industry. Political economy was candidly esteemed as a branch of legal learning. Jurists projected, amended, discussed and passed economic laws, and everywhere there developed (and fortified itself) a class of political advocates which never shrank from dealing with and deciding any economic questions. That class took things as they were and clothed them in the raiment of legal form."[2] Clearly, then, it was argued,[3] "neither the State bureaucracy[4] nor the political parliamentarians

[1] Report Nr. 2794 from Sixth Committee of the Constitutional National Assembly, p. 11.

[2] Möllendorff, *op. cit.* p. 16, and Curtius, *Bismarcks Plan eines deutschen Volkswirtschaftsrats*, Heidelberg, 1919, p 51.

[3] Rudolf Wissell, *Praktische Wirtschaftspolitik*, p. 124.

[4] Cf. Dr. M. I. Bonn, on the important question of Civil Service training and aptitude in *Die Auflösung des modernen Staats* (Berlin, 1921), p. 20: "Also, purely technically, the State organisation has commenced to fail in its functioning. The German administrative officials have set before them the task of providing for the economic needs of sixty million people, not counting the army. The training of the Civil Service is in the main juristic and formal; as far as it has an economic training, it is historical-empirical. The officials are taught by historical national economy to solve modern problems by comparative considerations of the past, they cannot, with few exceptions, construct; they see only time-relationships, not causal relationships. Beyond that, owing to the carefully carried out specialisation, they are not used to consider problems as a whole. You have only specialists, while economic relationships demand

alone are in a position to exercise this economic authority for the whole nation. Only from industry itself, from the employers and workers, merchants and consumers belonging to practical life, can be derived the powers that shall direct industry and create the organisation necessary to the making secure of their sphere of action."

Yet another development, assured of a certain immortality because connected with the personality and political theory of Bismarck, has now to be considered. It left powerful marks upon influential minds.[1] Bismarck had always held political parties in contempt.[2] His ideal was a strong monarchical power controlled by a publicity-giving representative assembly of estates or vocational associations.[3] He was profoundly influenced by the Hegelian philosophy of the State, a philosophy which postulated the need for a strong Government and an omnipotent State synthesising the varied classes into a common whole.[4] The strength of the State and the dissolution of the individual in the State were exceedingly acceptable to Bismarck's way of thinking;[5] so too was the Hegelian theory that the governmental system hung together with, indeed derived its very shape from, the religion, the art, the philosophy, the climate, the world position of the nation.[6] The synthesis of views as to policy could take place in a Bismarck's mind when once the estates had spoken; all he needed was to hear spokes-

universality. This far-reaching specialisation had before the war a double consequence. On the one hand, it led to the officials bringing in experts, *i.e.* the interested people whose knowledge of detail is naturally beyond the detailed knowledge of the most efficient official. They not only used, however,—and this is the second consequence—the knowledge of the parties concerned—which is right and proper: they allowed them, on account of their technical knowledge, an *influence* which is only just if given to non-interested people."

[1] Tatarin-Tarnheyden, *op. cit.* pp. 96-98.

[2] *E.g. ibid.* p. 88: "It is owing to your squabbles that the Empire does not progress."

[3] *Bismarck, The Man and the Statesman*, vol. i. p. 18..

[4] Cf. William Clarke, *Collection of his Writings* (edited by Burrows and Hobson), p. 209 *et seq.* "Bismarck"; and Hobhouse, *The Metaphysical Theory of the State.*

[5] Cf. *Bismarck*, by C. Grant Robertson.

[6] Cf. Meinecke, *Weltbürgertum und Nationalstaat*, ed. 1915, chap. ii. p. 273, "Hegel."

men of the nation and then liberty for himself to frame and execute policy. A master of material realities and the descendant of a Prussian agricultural family, he could not remain uninfluenced either by the conservative theory of estates, the shortcomings of the bureaucracy,[1] or the growing forces of industrial associations. Burdened with his schemes of State socialism and constant tariff disputes, he resolved upon the creation of an advisory Economic Council standing side by side with the Reichstag.[2] To this end he created a forerunner, an Economic Council for Prussia.[3] Its first session began in January 1881. It was composed of 75 members, appointed by the King of Prussia for five years.[4] Of the 75, 30 were to be directly chosen at the instance of the Minister (15 of them from the class of handicraftsmen and workers), the other 45 to be selected by the Minister from people elected to a list by the official representative bodies of the various branches of industry—chambers of commerce, merchants' corporations, agricultural associations. The Council was to fall into the three sections: Commerce, Industry and Trade, Agriculture, to allow of group discussion. To this body projects of all laws and decrees touching the more important economic interests of Commerce, Trade, Agriculture and Forestry were to go for scrutiny and advice before they became effective.

The Economic Council was the result of two factors.[5] On the one side there was the constant pressure of vocational associations to secure a central voice by which the highest State and Imperial authorities could be directed; and from the Handicraftsmen Parliament (Handwerkerparlament) of 1848,[6] and at various in-

[1] Cf. *Bismarck, The Man and the Statesman*, vol. ii. chap. xxvii.

[2] Herrfahrdt, *op. cit.* p. 69 *et seq.*

[3] Curtius, *op. cit.* chap. iii.

[4] Tatarin-Tarnheyden, *op. cit.* pp. 84, 85.

[5] *Op. cit.* pp. 81 *et seq.*; and Herrfahrdt, *op. cit.* p. 58 *et seq.*; and Curtius, p. 11 *et seq.*

[6] Cf. Phillopovitch, *Grundriss der politischen Ökonomie*, zweiter Band, erster Teil, p. 182 *et seq.* (Tübingen), 1920.

dustrial and commercial congresses, this pressure became increasingly insistent. Projects for Trade Councils and Economic Senates began to abound. On the other side there was Bismarck's conviction that, now, when the legal-State was becoming the welfare-State and abundant planning was necessary, "the doctrinairism of the omniscient ministerial councillors," [1] "private secretaries' decrees" and "schemes issuing from the writing-table" were not adequate to the purpose. "You, sirs," he said, in his speech at the opening of the first session of the Prussian Economic Council, "will bring us expert knowledge from practical life. You are called together to form a central body which, by accommodatory co-operation, shall promote the common and special interests of commerce, industry and agriculture by free expression of opinion." [2]

That Council was called together on four occasions, in 1881, 1882, 1884 and 1887. On the first occasion it discussed Accident Insurance and Reform of the Guilds; on the second occasion, Sickness and Accident Insurance and introduction of a tobacco monopoly; at its third assembly it advised on the reform of the Industrial Code and Accident Insurance; on the fourth and last meeting, Old Age and Invalid Insurances came before it. The advice served Bismarck for his Imperial schemes.

A Royal decree had carried the Prussian Economic Council into effect and had saved Bismarck the trouble of dealing with the parties in the House of Deputies: but no such easy method of attaining his will existed in the Empire. His Imperial project—the Prussian Economic Council of 75 with the addition of 50 representatives from the various States—was subjected to the criticism of the Reichstag when the demands for the necessary funds were put into the Imperial Budget of 1881. Party prestige and anxiety for free govern-

[1] Curtius, *loc. cit.* [2] *Ibid.* p. 17.

ment against monarchical encroachment caused the Progressive Party, the National Liberals and the Centre to oppose the project.[1] They argued that enough experts were already present in the Reichstag (148 estate owners and 48 manufacturers and merchants); that the English system of special inquiries was good enough; that, particularly, such a body would compete with the Reichstag, and as the importance of economic institutions increased the commercial and industrial classes would leave the Reichstag and pass into the Economic Council; that many of the members of the Council itself would be inexpert in some questions—they would not argue, but would vote; and lastly, as a logical threat, one could on such reasoning fairly demand a council to consider the spiritual and cultural interests of the nation. The impossibility of securing the reconciliation of divergent interests was also emphasised.

The Conservative side of the House, and some members of the Centre (Catholic) party, generally stood by the Bismarckian project. They argued that the technical qualifications of the Reichstag were not of any high level, as people in practical life could not afford the time for political activity; *ad hoc* inquiries were subject to the suspicion that those who were chosen to serve upon them were appointed by the Government according to their previously known views. Bismarck himself riddled the opposition argument with wit, contempt and reason. The academic education of politicians and bureaucracy were not capable of securing the ends for which statutes were made: the congestion of business in the Assembly, and the purely political conflicts arising there, gave inadequate time for proper discussion. They were out of touch with practical life. "We need to inform ourselves, and I rather like to believe that parliamentary assemblies should equally feel this necessity."

[1] Curtius, *op. cit.* chap. iv.; Tatarin-Tarnheyden, *op. cit.* Bk. I. Pt. II.; Herrfahrdt, *op. cit.* p. 72 *et seq.*

No judges were to be established, but merely witnesses and experts. The too great fear of the Liberal Progressive parties for the very being of the Reichstag caused the project to be rejected. But the idea lived on, and when disillusionment with the work of the Reichstag—"To the German nation," is the dedication above the main entrance to the building—began to be aggravated, the Bismarckian plans proved no mean attraction for the present generation of political leaders. And in the home of the Economic Council, in Prussia, during the discussion of constitutional reform in 1917, the ideas of 1881 inevitably lived again.

Consideration of the German political background to 1914 shows, then, several important elements: final political authority was denied the Reichstag, and therefore the political parties; there was no such conception of parliamentary sovereignty as in England; the representative character of the party system had behind it no such trust as even the English citizen accords to his parties; the idea of vocational representation backed by centuries of theory and practical working was at least as strong as the idea of representation of an amorphous mass of undifferentiated citizens; industry was sufficiently strong in organisation to desire to speak for itself.

The Economic and Social Background

Meanwhile, the industrial and social development of Germany from about 1860 led clearly to a political system which should give its vocational associations much more of a say in the direction of creative political effort than was afforded by the old constitutional system. Even more of consultation was demanded than could be provided by a system as good, say, as that in operation in England.

An examination of this development discovers several elements of basic importance.

The first is the rapid industrialisation of the country, beginning about the middle of the nineteenth century, and continuing with a tremendous momentum until the outbreak of war. The effects were much the same as are discernible in the first generations of England's industrial revolution: an intricate specialisation of labour, and consequent upon this, but in Germany in a more thorough and logical fashion than in England, a constant establishment of organisations representing the special groups engaged in the pursuit of a craft, or a profession. Beyond this there was the institution of organisations representing the interest of all people engaged in the crafts belonging to a large and fairly definite branch of economic activity, *e.g.* of transport, metal workers, forestry, agriculture, gardening, public services, commerce, industry. The associations were sometimes local, *i.e.* for each State (as Germany is of a federal structure), for each town, but inevitably centred in a head organisation for the whole Empire. Further, there was the division of associations dependent upon the existence of the capitalistic system in industry: by employers' associations on the one side, and employees' and workers' associations on the other. Closely following the latter in matters of wage and work conditions, came the associations of officials. Finally, there were the associations of the liberal professions.

The employers' associations concerned with economic, political and socio-political questions (as their primary or secondary purpose) numbered for the whole Empire in 1915, 603, of which 483 covered the whole Empire, 57 covered special districts, and 63 smaller localities.[1] The alliance of German Employers' Associations covered in 1913 (end of year) 69 associations, and about 2,000,000 workers; in 1919, 130 associations and

[1] *25. Sonderheft zum Reichs-Arbeitsblatt*, p. 7. In 1922 the numbers were—total, 1514 associations: Imperial, 1294; State and District Associations, 121; and Local Associations, 99.

4,000,000 workers; in 1920 and 1921 followed further increases.[1] Besides this, there were insurance organisations of employers' associations against strikes.

The employees (*i.e.* salaried workers distinct from wage-earners in the great Trade Unions) from all branches of industry numbered in their associations in 1914 some 600,000, and in 1919 (in 63 associations) some 1,500,000.[2] The United Association of German Employees' Unions, uniting twelve employees' associations, had in 1920 some 500,000 members.[3]

Then the great fighting and benefit organisations of the Trade Union movement totalled in 1914 some 2,300,000, and in 1919 some 9,000,000,[4] with numerous craft and industrial sub-associations.

Associations of officials[5] (in 1922) numbered 377, were grouped into 14 classes according to their activity (general associations; general administration; public works, mining, industries; finance; agriculture, domains, forests; railways; posts; police; administration of justice; education and church; army and navy; insurance, health administration; civil servants' associations of various Departments; local government), and contained together 2,206,561 members.

The liberal professions,[6] falling, as far as they were publicly known, into eight fairly well-defined groups (general associations; jurists and economists; medicine and welfare; technicians; education and instruction; painting and artistic trades; musical art; literature and the Press), included 135 associations and 380,937 members.

The activities of all these associations were of great diversity. Instruction by lectures and Press, the

[1] *25. Sonderheft zum Reichs-Arbeitsblatt*, p. 9. [2] *Ibid. p.* 11. [3] *Ibid.* p. 13.

[4]

	Free Unions.	*Christian.*	*Hirsch-Duncker.*	*Independent.*	*Economic-Peace.*	*Confessional.*	*Total.*
1914	1,502,841	218,197	77,749	205,360	167,074	130,971	2,302,162
1919	7,337,477	1,000,770	189,831	308,365	150,000	83,398	9,072,841

Op. cit. Übersicht 20, p. 79.

[5] *Ibid.* 21, p. 80 *et seq.* [6] *Ibid.* 23, p. 90 *et seq.*

guardianship of a professional ethic and tradition, the fostering of invention, the training of apprentices, the expression and use of persuasion and force to obtain better economic advantages for their members (the lock-out and the strike are illustrative), together with pressure upon the Government in relation to measures touching group interests, the well-reported periodical conferences of delegates, all these activities were signs of an internal life and power to create which any system of government worthy of that name would in due course be compelled to invoke for the better ordering of society.[1]

It is impossible even within the space allotted to the whole of this volume to give any adequate picture of the extraordinary diversity of interests represented by the intricate system of associations, or of their remarkable influence upon the growth of German industry,[2] agriculture[3] and social life. It is necessary, for even a bare and inadequate numerical summary, to have recourse to the 25th special number of the *Federal Labour Gazette* (1922) of some 150 pages.[4] Only that can give a slight suggestion of the manner in which the teeming adult life of a nation of sixty million people has been harnessed within the shafts of associations. "No doubt," says a commentator[5] on the vocational organisations of Germany, "can exist that the overwhelming proportion of all occupied people is organised, and that those who are not formally organised regard the vocational organisations as the representatives of their interests. Already in the

[1] I count 552 association and craft journals (so far as known), *25. Sonderheft zum Reichs-Arbeitsblatt*, p. 11 *et seq.*

[2] Cf. Dawson, *Evolution of Modern Germany*, chaps. x., xii. and xv.

[3] Cf. Von der Golz, *Geschichte der deutschen Landwirtschaft*, vol. ii.; and *Report on German Agricultural Conditions*, col. 8305, 1918, Ministry of Agriculture.

[4] *Jahrbuch der Berufsverbände im Deutschen Reiche, 25. Sonderheft zum Reichs-Arbeitsblatt*, Hobbing, Berlin, 1922. Such a survey of vocational associations is urgently needed in England: the whole question of vocational representation and Guild Socialism could be argued then with much greater perception of realities. So far *The New Statesman* supplements on professional organisations in October 2, 1915, and April 21 and 28, 1917, remain the best descriptions of professional organisation in Great Britain.

[5] Tatarin-Tarnheyden, *op. it.* p. 83.

year 1913 the condition of society was characterised . . . with the phrase 'Everything organises itself!'—how much more so is this the case to-day after the advent of the Industrial Alliances!"[1]

Here, then, was a basis for government as essential and useful as, perhaps more so than, the old unit of local habitancy. Later, in 1919 and 1920, when the erection of new institutions of government was in immediate, nay, urgent contemplation, a leading minister explained his scheme of an Economic Council by reference to the structure of associations within the State. His argument is of both theoretical and practical importance.[2] "When we are considering the reconstruction of the overturned economic system of a country, we must carefully make use of the existing underlying tendencies towards combination of the productively active population. In a thinly populated agricultural State, with a little-developed transport system and a little-civilised population, these unifying factors are *regional*. The community-forming element is the *territorial* neighbourhood. The natural sub-structure for economic and political activity is, in such a country, the small locality.[3] But it is otherwise in a thickly populated industrial nation with a highly developed transport-system and a literate population. Here the individuals can easily move out beyond local boundaries. In the formation of the community the *occupational* neighbourhood is of more force than the *territorial*. The territorial boundaries of the small locality are increasingly eliminated, and personal association according to occupational groups becomes pre-eminent.

"It is therefore no accident that already in the decades before the war the feeling of solidarity within the individual vocational groups exhibited itself as the strongest community-forming power. We can perceive this as well in the association of employers in craft organisations

[1] Described *post*, p. 64 ff.
[2] Rudolf Wissell, *op. cit.* p. 82.
[3] Literally "Gemeinde," the primary unit of the Prussian local government system.

as in the Trade Union movement of the working-class and the similarly directed tendencies of the liberal professions. On these elements must be founded the new economic order, if a new structure, with the force of life in it, is to be erected." [1]

The second point of importance in the industrial and social background lies in the antagonism of the employers' and workers' organisations. It was the first generation of employers, overwhelmed perhaps by their own enormous creations of cartels and combinations and the smaller forms of what was still big industry, that ruled the economic process in Germany before the war. They knew not even the restraint in the exercise of their economic power which English employers had learnt by the force of public opinion and the influence of Parliament and industrial warfare during the course of the nineteenth century. They exulted in all the delight of unlimited *imperium*. The workers' unions had legal right of existence,[2] but no claim to be recognised by the employers, and accordingly they received only occasional recognition. The majority of the workers in the Free (*i.e.* the Social Democratic) Trade Unions were Marxian, to the extent of accepting the idea of the class-war: the employers therefore did all they could to combat the slightest of the workers' demands as the first line of protection against Social Democracy. Even the movement for collective wage-contracts arranged with the employers of certain trades under the pressure of the Trade Unions, and covering at the outbreak of war some 1,500,000 workers and 150,000 works, was obstinately rejected by the leaders of big industry, who

[1] Note this was in a speech to Berlin merchants and industrialists, June 5, 1919, and the ideas expressed had been embodied in the memorandum to the Cabinet of the Imperial Ministry for Economic Affairs on its plans for economic reconstruction, *op. cit.* p. 83.

[2] *Gewerbeordnung* 152, "All prohibitions and penal regulations against industrial employers, industrial assistants, journeymen, or factory operatives regarding agreements and combinations for the purpose of obtaining more favourable conditions of wages and work, particularly by means of the suspension of work or the dismissal of workpeople, are repealed."

held fast to the standpoint that the regulation of labour conditions was purely an affair of the separate firms and concerned only the employer and "his" workers. Even in the industries possessing wage-contracts, and therefore seemingly ruled on peaceful lines, there was the same condition of antagonism and conflict between employers and workers.

Such an antagonism it was impossible to eliminate by the ordinary political institutions of pre-war Germany. An institution was needed in which the objective facts of economic life could be dealt with slowly, progressively, quantitatively, by both parties to the dispute over work and wealth, instead of the antagonism remaining one of conflict in industry inflamed by conflict in the political press during the election periods, and by speeches in the Reichstag. The demagogic necessity implicit in political democracy only served further to separate the disputing parties. How a *rapprochement* came, and the conditions it imposed on the constitution of the Economic Council, will be dealt with in the next chapter.[1] As the war proceeded and an unhallowed peace followed, Germany found an unbridled private enterprise, with all its implication of dispute, wasteful and uncreative conflict, too great a luxury to afford.[2] An institution of accommodation and reconciliation was needed.

If these associations exercised an unofficial influence upon the course of government, the Chambers of Commerce, Industry and Agriculture in the various German States had, differently from the English Chambers of Commerce, been from time to time accorded an official situation in the task of government. The Chambers constituted a "compulsory general interest-representation of a specific vocational group within a specific territorial district, bearing an official character on the one side, and, on the other, the character of a self-governing

[1] *Post*, p. 64 ff.

[2] Cf. Sinzheimer, *Bericht und Protokolle des Ausschusses über den Entwurf einer Verfassung des Deutschen Reichs*, Nr. 21, p. 393.

institution."[1] By various State laws since the '80's of last century these Chambers had been given the official duty of acting as intermediaries between their members and the Departments of State. Their constitution and functions were similarly laid down by State laws. The Chamber of Commerce, further, nominated commercial judges, suggested experts, supervised Stock Exchanges. Chambers of Handicrafts and Trades existed on lines laid down by Imperial law. They were the institutional expression of the pre-war Governments' kindness towards the demands of the handicraftsmen class for the right to control their conditions of apprenticeship, and examinations for entry into the trade in order that the independent worker might not be subjected to complete extermination by the extension of the factory system. They were united in history with the old craft guilds; were, indeed, a resuscitation of the guild idea in the trades of butchers, smiths, wheelwrights, cabinetmakers, glaziers, plumbers.[2]

These various Chambers formed great Imperial organisations, which were looked to before the war, in their periodic conferences, as authoritative organs of expression on questions of industrial legislation. Their existence as *employers'* organisations, in the main, had two consequences: first, that from 1885 there were continual demands by the workers for Chambers of Labour,[3] to represent officially the labour attitude towards governmental policy; and secondly, that a demand arose for a reformed Chamber as the substructure of a central Council of Industry to be the permanent advisory body to the Government.

This complex system of associations (including consumers' associations)[4] resulted in the rise of a conception

[1] Tatarin-Tarnheyden, *op. cit.* p. 61.

[2] Clapham, *Economic Development of France and Germany*, p. 334 *et seq.*; and Sombart, *Die deutsche Volkswirtschaft im 19. Jahrhundert* (1921), p. 276 *et seq.*

[3] Tatarin-Tarnheyden, *op. cit.* p. 69 *et seq.*

[4] Robert Schlosser, *Der Konsument im Rätesystem* (Berlin, 1920), p. 17 *et seq.*, for general consumers, co-operative societies' interests, housewives, house-renters.

of self-government in industry which rejected the system of command and creation of policy for all spheres of life by uncriticisable central institutions. This sense of essential freedom arising out of the perception that, after all, the best judges in certain matters relating to the government of industry were the vocational organisations, was certain to lead to a revolt against the authority of the central Parliament, and to make for an attempted separation of politics from industry, and that in terms of actual institutions.[1] These institutions would need to be so constituted that on the one hand the vocational organisations should not, as often up till the present, stand contrary to the demands of the community, while on the other hand the State should be made clearly conscious that it ought not, as far as possible, to lay public duties on the organisations in the rigid form of commands.[2] The implication was public consultation.

Altogether, then, we find a growing independent spirit on the part of vocational organisation—or rather, *functional* organisation, because the vocation was not alone the basis of the structure of organisation. And one can already begin to visualise a system in which new estates shall talk over their relations with one another in an assembly dedicated to the affairs which were the very pith of their everyday life, bowing perhaps to an assembly representative of majority will, because that is the ultimate *force* in society, but discussing, thinking, reconciling, creating, in order that the legal imperative might have a basis of science to support its authority.

Nor was this all that could be discerned in the pre-war situation. The meaning of State and local government areas, with boundaries set up decades before the Great

[1] Goebel, *Selbstverwaltung in Technik und Wirtschaft*, p. 97 *et seq.* (Berlin, 1921). The book is concerned with a review of the various vocational organisations, their functions, status and future in the State. And the very able comment appearing in *Archiv für Sozialwissenschaft*, 1921 (III.), p. 761, by Dr. Hans Schäffer, called *Neue Tendenzen in den wirtschaftlichen Organisationen der Gegenwart.*

[2] Goebel, *op. cit.* p. 100.

Industry came to spread its tentacles of communication, mining and commerce across them was being rapidly destroyed in Germany as in France, the U.S.A., and England. New groupings of population and industry denied any economic significance to these old frontiers: indeed, asserted their positive defectiveness in many cases.[1] The effective reorganisation of the central institutions, to suit an age when the economic interests of nations were so important as a basis of better civilisation, was to depend, too, upon a rectification of areas and authorities and duties, on a territorial basis, within the Great State equally with the new empowering of those other elements of State structure, the functional elements.[2]

Yet again came the cry of the worker in Germany, as elsewhere, for emancipation, in some way or other, from the small process upon which he was everlastingly engaged, and his elevation to an oversight of the whole process of production, which would, it was thought, make his daily toil a thing of more significance and greater contentment. There was a desire, shared by a number of thinkers, to get back to the workers' "comprehensive"[3] situation in relation to his work. "To this end," ran the theory, "it is much more necessary that the worker, who, with modern methods, can no longer be actually the creator of the whole final article produced, shall be made the more so in the spirit. This purpose is to be accomplished by his own surveyal of the whole process, his perception of his own work as a necessary constituent part of this process, and in his acceptance of the responsibility for the final result by executing his own special task. Labour thereby becomes an ethical factor and ceases to be a mere instrument of gain. This can only happen when the workers educate themselves in increasingly

[1] Cf. Cole, *Social Theory*, chap. iv.

[2] Cf. Chapter VII., *post*.

[3] Cf. Wallas, *Our Social Heritage*, pp. 112-13, on the "integration of labour," in contradistinction to Adam Smith's "division of labour."

great measure as producers, and thus also determine the course of production in an increasingly decisive fashion. This again is only to be attained collectively. And in this collective work is the real idea of the council system to be found." [1] That is, there ought to be a system of works and producers' councils leading up to a central Chamber of Industry, having as one of its reasons for existence the broadening of outlook and interest of the worker.

So stood Germany at the outbreak of war. Her political scheme was authoritarian, her parties challenged by traditional forms and new developments ; her citizens were strongly grouped in associations discontented with a government not based on consultation ; her workmen suffered from the mechanisation of the industrial process and craved a wider interest in a new system of production which should not reproduce in the private employers the authoritarian element to be found in the political sphere. "The Revolution" (of 1918–19), said one observer [2] later, "is in truth also a revolt of the people against the spiritually coercive structure of the State and the economic system, a revolt of men against the depersonalisation, the materialisation, of their souls." And another said, "The subject in industry must be transformed into the citizen in industry." [3]

The necessities of war took Germany one step nearer to the establishment of a central Economic Council, for war meant a union of social forces. That step is now to be described.

[1] Max Cohen, *Sozialistische Monatshefte*, November 1919, p. 1043 *et seq.*; *Der Rätegedanke im ersten Revolutionsjahr.*

[2] Feiler, "Der Ruf nach den Räten," *Flugschriften der Frankfurter Zeitung*, 1919, p. 27.

[3] Erkelenz (German Democratic Party) in *Der deutsche National-Versammlung im Jahre 1919*, p. 4330.

CHAPTER II

THE WAR AND NEW IDEAS

Spirit of the Pities:

They are shapes that bleed, mere mannikins or no,
And each has parcel in the total Will.

HARDY, *The Dynasts*, Part First.

THE war defined a single national purpose, and the forces of the people were united. The antagonism of workers and employers was largely eliminated, and the advice of associations valued and used by the Departments of State.

Raw materials, clothing, food, all that could help the armies to victory and keep the civilians contented, came under the regulation of the Departments.[1] The regular form of war industry organisation was the "war company," sometimes with ramifications over the whole Empire, a private company in whose direction the State took a part, either by the force of a veto or a permanent representation on the board of directors; or the State even held part of the capital.[2] Often they were divided into two divisions—the *administrative*, concerned with the governmental relations and the issue of decrees, etc.; and the *business* side, dealing with provision of raw material, warehousing, distribution, etc. There were, further, war committees, standing generally as advisory

[1] Cf. *Handbuch der Politik*, vol. iv. p. 132; Arthur Dix, *Die gebundene Volkswirtschaft bei und nach Kriegsende.*

[2] Cf. particularly "Die Kriegsunternehmung," Prof. W. Bruck in *Archiv für Sozialwissenschaft*, Tübingen, Dec. 1921.

councils of interested persons by the side of the military industrial organisation, which was itself contractor in certain spheres of industry. Then came a number of concerns, on the model of the old bank consortiums of pre-war days and run by interest-associations and the Ministry for War. Common regulations issued by the State determined the service obligations (*e.g.* the penalties for betraying official secrets) of the people employed in the various war industry organisations, and gave the State control over the property and activity of the different companies. Industries were forced to syndicate, others were compelled to cease work. "On the whole," says one writer, "the compulsory syndicalisation of war time exhibited a decidedly bureaucratic character, and the compulsory syndicates were not permeated with life from their core outwards, but they served the all-powerful Imperial Departments as machines with no will of their own." [1] The country was run on *communal-economical* [2] lines.

All industry was one, and was consulted by the State —"on account of the special necessity for the most intimate connection between industry, legislation and administration" [3]—in many advisory councils and expert commissions. And the effect of the memory of that time of bureaucratic direction of industry for the common-weal was threefold: the industrial associations became restive, and, when war necessity no longer pressed, demanded freedom of industry from State control and political manipulation; at least they demanded to be consulted; and communal regulation of the nation's forces became in the minds of many men a more potent rival than hitherto of the system of industry based upon private

[1] Nussbaum, *Das neue deutsche Wirtschaftsrecht*, p. 51, Berlin, 1922.

[2] This term, translating the German *gemeinwirtschaftlich*, will be met with often. It appeared as the saviour of the State in war-time, and the conception it embodied, as a substitution for private industry, became the ideal towards which strove many thinkers related to the movement for an Economic Council.

[3] Report of the Committee for Economic Matters, No. 2794 (already cited), p. 11.

profit. These effects are well summed up in a Report of the Ministry for Economic Affairs:[1] "The method of the so-called war socialism," said Rudolf Wissell, Secretary of State for Economic Affairs,[2] "proceeded on the fundamental mistake of organising industry not organically from below upwards, but, so to speak, bureaucratically from above downwards. This is no accident; it was very anxiously desired to avoid carrying out organic alterations of the economic system which would have made it impossible or at least difficult for industry to return to pre-1914 conditions, which was generally desired. In constant expectation of an immediate cessation of the war, it was believed unnecessary to make large alterations in the economic structure. Police-state measures were, as a matter of fact, employed, which, beginning timidly in certain directions, ended with the control of the whole of industry by central administrative authorities more or less bureaucratically controlled and knitted together by a network of orders and penalties. From this condition of a police-state and bureaucratically directed industrial system, which recalls the bygone times of the limited intelligence of the subject, we must as soon as possible attain to a self-governing organisation of German communal-industry built up from below on the living forces of economic life." And the central point of that organisation was to lie, as will be shown later, in a Federal Economic Council.

A glance at a still more important union of forces is urgently necessary to our purpose. The great central associations of employers and workers, hostile before the war, made tariff contracts inviolable for the war period and began a "civil peace." Alliances between both sides arose in several trades to concert measures for dealing with the unemployed and war-disabled men, but

[1] Period, January to July 1919.

[2] Report, March 5, 1919, to the Committee for Economic Affairs of the National Assembly, Wissell, *op. cit.* p. 22.

the attempt of the General Commission of Trade Unions in 1914 to bring about the establishment of a central alliance failed.[1] The Trade Unions (the four biggest Trade Union groups) satisfied themselves for the time being with a socio-political alliance among themselves and the employees' organisations. The alliance secured an appreciable economic and moral power as a united front against the employers. The workers further had co-operated well with the employers on the joint works' committees set up compulsorily under the *Hilfsdienst-gesetzes* (Auxiliary Service Law),[2] and the Arbitration Committees to settle controversies between masters and men, as the law bound the working men to their place of employment unless they could show special reasons for leaving.[3] Soon the transition period towards a peace economy loomed into view. When in 1918 the Imperial Ministry of Economic Affairs began the preparation for reconstruction, the employers, infuriated with bureaucratic management, decided that, better than State regulation, alliance with the Trade Unions was to be taught, "because at least they understand the needs of industry!"[4] The Unions hoped much from State regulation. It is to be noticed that the workers now stood for the State and many employers against it. The former, too, argued that vocational self-government was preferable to bureaucratic regimentation. Their terms of alliance, set out in deliberations with the employers in October 1918, included the employers' recognition of the Unions as the appointed workers' representatives in industrial arrangements; the unlimited right of association; the joint and equal regulation of labour information; the setting up of joint and equal[5] arbitration

[1] Cf. Paul Umbreit, "Die Magna Charta der deutschen Gewerkschaften," *Recht und Wirtschaft*, January 1919 (Berlin), p. 23. [2] December 1916.

[3] Cf. Umbreit, *loc. cit.*; also Sinzheimer, "The Development of Labor Legislation in Germany," *Annals of the American Academy of Political Science*, Nov. 1920, and *Korrespondenzblatt des Deutschen Allgm. Gewerkschaftsbund*, Berlin, Jan. 31-Feb. 21, 1920. [4] Umbreit, *loc. cit.*

[5] From this point the expression "joint and equal" will be indicated by the term

boards; and the conclusion of wage contracts in all industries; and lastly, the employers were no longer to foster the "industrial peace Trade Unions."[1] After an agreement had been reached on the conditions and project of agreements embodying them in November 1918, the first Industrial Alliance began to operate, formally, on December 12, 1918. Contracted between the workers' unions on the one side and a group of the Imperial industrial employers' associations on the other, it was called the Central Industrial Association of Industrial and Trade Employers and Employees of Germany.[2] A translation of their charter appears in Appendix II. From it will be seen that the alliance, represented in Joint Central Councils for each industry,[3] and in a Central Executive Committee of 46 "paritatically," of employers and employed, deliberates on the joint solution of economic, political and socio-political questions. The Councils and Committee express their attitude towards all legislation and administrative affairs which concern individual industries and trades therein represented. They exist, it has been said, to maintain creative will.[4] . . . "Free from all party evils the difficult reconstruction problems are to be solved purely technically."[5]

On December 11, 1919, followed an alliance—the Central Alliance of the German Transport and Communications Trade;[6] on February 20, in agriculture, arose the Imperial Industrial Alliance of Agricultural and Forestry Employers' and Workers' Associations;[7] and in

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"paritatic," a translation of the German *paritätisch*, meaning joint and equal representation and power. *Parity* we have in English, but not a manageable adjective derived therefrom.

[1] Cf. Leibrock, *Die Arbeitsgemeinschaft*, p. 21 (Berlin, 1920).

[2] Zentralarbeitsgemeinschaft der industriellen und gewerblichen Arbeitgeber und Arbeitnehmer Deutschlands.

[3] Of which there were fourteen in the Central Alliance. See Appendix II.

[4] Leibrock, *op. cit.* p. 88.

[5] *Ibid.*

[6] Zentralarbeitsgemeinschaft des deutschen Transport- und Verkehrsgewerbs.

[7] Reichsarbeitsgemeinschaft land- und forstwirtschaftlicher Arbeitgeber- und Arbeitsnehmervereinigungen.

November 1920 the Imperial Industrial Alliance of the Milk Trade[1] was founded. Attempts to secure an alliance in commerce and the clothing industry have failed so far; in the former owing to the lack of unity in the workers' associations, in the latter owing to the lack of unity in the employers' organisations. There is much dislike of the Alliances, of course, by extremists on both sides, but the German Ministry of Labour entertains a high opinion of the value of the Alliances to the community and the Government.[2]

Here, then, were Parliaments of German industry[3] already being constituted by the parties to industry themselves. Their influence towards a recognition of industry as an estate capable of and entitled to exercise a control over the actions of the Imperial Parliament in its relations to economic and social affairs is easily and abundantly to be discerned by a reading of the debates in the German Constituent National Assembly of 1919–1920. Again and again speakers of the most varied political attitudes of mind emphasise the importance of the Industrial Alliance idea—industry in conference must in future speak for itself and aid Government by its counsel. "The idea of a vocational representative body forcefully broke through the present-day influences of the party and electoral policy, and through the influence of catchwords and doctrines, which candidly make it impossible to establish objectively right decisions in economic affairs."[4] It was but a short step towards the establishment of a more comprehensive Parliament for Industry.[5]

Nor did immediate plans for such a step lack expression. Discussion, "already began during the war in

[1] Reichsarbeitsgemeinschaft im Mölkereigewerbe.
[2] Cf. *25. Sonderheft* (already cited), p. 34 *et seq.*
[3] Leibrock, *op. cit.* p. 29.
[4] *Ibid.* p. 117.
[5] Cf. remarks on the English National Alliance of Employers and Employed, and the Industrial League and Council, *infra*, Chapter VIII.

the offices of the Ministries and Imperial Departments, in the bureaux of the big enterprises and in various political clubs, at the time when the small yellow-book *Deutsche Gemeinwirtschaft*, by Wichard von Möllendorff, afterwards Under-Secretary of State, was to be found open—hidden, it is true, by many uneasy people—among official documents, circulating on the writing-desks and even in the rooms of the Heads, Ministers as well as industrial leaders." [1] This book was published in 1916, and contained a scheme for an economic Parliament composed of technical experts, leaders of industry, based upon self-governing economic organisations within an economic system ordained by the State. "A permanent Economic Council," said Möllendorff,[2] "along with its committees of second and third rank, would in its full realisation mean nothing else than economic self-government, as it was already forecasted by Stein [3] and Bismarck, and whose understructure was indestructibly built during the war. . . . A whole army of experts in war economy has been raised. It would be a sad matter were we not able to expect to see issue therefrom an able army of fellow-workers in the economy of peace-time." The scheme was further presented in a number of the *Vossische Zeitung*.[4] There, in an article entitled "A German Federal Economic Council," the author showed how, during the war, industry had been made the organ of State administration; how, then, to prepare for reconstruction, a Department of Economic Affairs had been set up at the end of 1917, outside the particularistic interests and

[1] Glum, "Das Problem des Reichswirtschaftsrats," *Recht und Wirtschaft*, February 1921, p. 35 *et seq.*

[2] *Op. cit.* pp. 22, 23. Möllendorff was a Professor in the Technical High School, Hanover, till his appointment as Under-Secretary of State for Economic Affairs in September 1918. He resigned July 1919.

[3] A pioneer in self-government in the municipal sphere. Cf. Möllendorff's *Von Einst zu Einst* (Jena, 1917), a collection of extracts from Frederick the Great, Fichte, von Stein, List, Bismarck and Lagarde on German national economy.

[4] September 14, 1918.

conceits of the separate Departments. This Department had been "decorated with a few business men, who, according to ancient formula, should be consulted." More was necessary. There should be established a system of economic representation on the basis of economic chambers of all sorts (including Chambers of Labour) and "Local Economic Councils," in the non-Prussian States. There would be provincial authorities [1] constituted on the lines laid down by the Government, wherever the provinces were executing the law of the central authority. There should then be Economic Councils for each craft, some twenty councils in number, each with forty members. Then, for direct assistance to the Imperial Ministry for Economic Affairs, and to be consulted in all the projects of laws and decrees touching industry (at the Council's request it was obligatorily to be consulted), a Federal Economic Council was to be established. It was to be composed of 90 members: 30 from the local economic councils, 30 from the Craft Economic Councils, and 30 to be appointed at the discretion of the Secretary of State for Economic Affairs. In this last appointed class the Secretary was to have regard to the claims of the less well-off economic groups.[2]

This was a rough sketch, and acknowledged its debt to the Bismarckian predecessor. Its author was later an active element in the Government which finally put the ideas to practical test and realisation. A memorandum to the War Office in 1916, in the composition of which Dr. August Müller, the economist and one-time Secretary of State, was concerned, proposed an Economic Council; and the idea was further propagated in Schmoller's *Jahrbücher* at the beginning of 1918.[3]

But from March 1917 a stronger blast from the East

[1] Largest local government authority in Prussia.

[2] The Economic Council proceeded from indirect election, which clearly would not have allowed for so vivid an impact of group intelligence upon the Government as a system of direct election by groups.

[3] Cf. Müller, *Sozialisierung oder Sozialismus?* (Berlin, 1919), p. 123.

blew the ship of State in the direction in which these already discussed elements were taking it.[1] It was no trained pilot with senses attuned, by long practice, to delicate steering through social shallows and intricate currents. It was a rough and masterful force, an immense urge, asking in the same breath for no State control over the individual's life, and yet for complete State control and regulation. It was Bolshevism, *socialismus asiaticus*,[2] a bacillus generated in Russia, and finding its form in a territorial and vocational hierarchy of Councils in which all sovereignty was deemed to lie, and from whose structure and functions the hitherto existing capitalists, all who lived on other people's earnings, were eliminated. The Bolshevik theory was the guiding faith of the Communist Party, composed of a number of secessionists from the Independent Socialist Party, itself a secession from the Social Democratic Party.[3] And the Council idea—the workers' most real link with the activities of the Great State—was preached in the workshops and found adherents there. Let the High Priest[4]—after Karl Liebknecht and Rosa Luxembourg—speak his prophecy, for that reveals at once the vagueness of the ideas and the strong passion lurking in it: "The Council idea is an outflow of the revolutionary mass-soul. It appears wherever the proletariat, or at least its politically interested and active class, carry forward the revolutionary movement. The more the revolutionary struggle is directed not only against old political systems, but against the capitalistic economic and social order, the deeper do its roots penetrate into the mass-consciousness. As long as the impulse, at first felt by many only instinctively, exists to bring about in

[1] Purlitz, *Deutscher Geschichtskalendar, Die Deutsche Revolution*, Erster Band (Leipzig), November 1918 to February 1919; a detailed survey of events in Germany, with extracts from Press, *passim*.

[2] *Vorwärts*, Nov. 6, 1918: "The German working-class is socialistic through and through, but it rejects *socialismus asiaticus*, which is 'Bolshevism.'"

[3] Cf. Bergsträsser, *Geschichte der politischen Parteien*, 1922, p. 110 *et seq.*

[4] Ernst Däumig, "The Development of the Council Idea," in *Für unsere Zeit*. p. 79.

practice the demands of Socialism, so long will the Council idea be alive and strive towards organised accomplishment in the Council system."

This force was not destined to be realised to the full as its followers wished : indeed, the realisation could in all its force and vividness in no wise be said to resemble this and other prophecies. But this revolutionary force and the idea of self-government through councils compelled a modification of the system of " formal democracy " in a single political representative assembly, and brought about the crystallisation of all the other elements in the genesis of an economic council.

The next event in the story is Revolution, and from that issued the German Economic Council.

CHAPTER III

THE REVOLUTION AND THE ECONOMIC COUNCIL

The Multitude
Show the way and we will follow !

Brand
Over frozen height and hollow,
Over all the land we'll fare,
Loose each soul-destroying snare
That this people holds in fee,
Lift and lighten, and set free,
Blot the vestige of the beast,
Each a man and each a Priest,
Stamp anew the outworn brand,
Make a Temple of the land.

Many Voices
'Tis a great Time ! Visions fair
Dazzle through the noontide glare.

IBSEN, *Brand*, Act V.

Two lines of development are discernible in the progress of the Revolution of 1918–19. We can see, first, a practically complete breakdown of the old principles of political and industrial government in Germany, and the path cleared for the introduction of daring new ideas as to the purposes and institutions of society. Secondly, it can be seen how the ideas of a Council system contained in the Bolshevik theories,[1] and certain schemes of Socialism realised partially for a brief space of time, came to be regarded by important bodies of workers as their only means of relief from what they considered the necessary oppressiveness of society based on parliamentarism and free enterprise.[2] Both these develop-

[1] Cf. Constitution of the Russian Federal Socialist Republic.
[2] Cf. Lenin, *The State and Revolution.*

ments were vital as crude material for the ultimate fashioning of an Economic Council.

In its general course this Revolution, beginning a few days before the abdication of Wilhelm II. and the series of other German princes on November 9, 1918, and following days, exhibits no striking difference from the course of other Revolutions which have their place in history. It reveals, with its accompaniment of unfortunate physical conflict, the appearance of mankind's natural weaknesses only too well. We perceive in those who contend for power the conception of designs that need great courage for their accomplishment, yet with the lack of foresight properly to regulate the events that lead to the desired result without pain ; their pride, their arrogance, their party spirit, their breathless fear to take great decisions, their muddle in details. We see how the pressure of official responsibility may often exclude the exercise of saving common sense, how men's minds are ruled by bewilderment, and, greatest of all, lack of understanding—that is, the lack of power swiftly to realise *all* the major consequences arising out of action immediately contemplated.

But the Revolution was the natural playground of the new ideas in statecraft concerned with securing to the workers a greater amount of the product of industry, and a share in the management of production. Begun as a revolt against an authoritarian political system and as a gesture of freedom from the barren war-time discipline, it soon was led by people who desired a social revolution. " But social right," it was later said,[1] " by the side of political freedom, economic democracy along with democracy in the State, the emancipation of people from the chains of class-stratification and their true endowment with equal right by the elimination of the wide differences in material possessions—in one word, the creation of a freer, juster and truer community, which should

[1] Feiler, *op. cit.* p. 5.

radically reform social life in no less a wise than political life,—all this is and must be the aim of the German Commonwealth."

For a moment there was a "Class-State,"[1] with all power in the hands of "representatives" of the working classes. All over the country Workers', Soldiers' and Peasants' Councils arose, composed of working men or intellectuals associated with the aims, if not with the work, of working men, and these began to supervise and control the work of the local authorities. In some places they did much good in saving property from destruction, in other places great harm through their extravagance and ignorance of administration. But they had felt what it was to exercise power, and the Spartacists' writers and speakers urged them to use it and keep it if the Revolution was to mean anything in terms of working-class freedom. The experience was not forgotten.

In Berlin a Cabinet (called the People's Commissaries) of six ruled—three Majority Socialists (Ebert, Scheidemann and Landsberg), and three members of the Independent Socialist Party (Haase, Dittmann and Barth).[2] Their actions were closely supervised by a Central Executive Committee of Workers' and Soldiers' Councils, composed of six Social Democrats and six Independents, claiming to be the sovereign body in the Empire: "The appointment and recall of the members of the authoritative Cabinet of the Republic—and, until the definitive regulation of the form of the State, of Prussia too—is in the hands of the Central Executive Council, to which also belongs the right of control."[3]

In the midst of the general chaos and confusion of a return to a peace footing and a simultaneous Revolution, of riots and processions, of mutual recrimination of the

[1] Bonn, *op. cit.* p. 22.

[2] Cf. Bernstein, *Die deutsche Revolution*, Berlin, 1921, p. 22.

[3] Cf. George Young, *The New Germany*, and Matthaei, *Germany in Revolution*, and, specially, the reports in the War Office publication, *Enemy Press Supplement to the Review of the Foreign Press*, vol. vi. 1918–19, *passim*.

moderate and slow-moving Majority Socialists and the old bureaucracy (supervised by the Executive Committee's agents) on the one hand and the Independent Socialists and Spartacists, who desired respectively swift socialisation and a Soviet system *à la Russe*, on the other, the issues began to emerge clearly and to take their place for decision by the majority of the nation.

Should there be a republican form of government, after the style of France and England, with all citizens, grouped in territorial constituencies and electing members of great political parties, to direct, indeed actually to exercise, the government of the country? Or should authority be left to a hierarchy of councils on the Russian system, with the non-proletarians eliminated? This was the issue. The forces on either side drew near to conflict, and brought us one step nearer the rise of the Economic Council, in the First Congress of Workers' and Soldiers' Councils, which met in the Prussian Chamber of Deputies on December 16-20, 1918.

The decision for a National Constituent Assembly, including the "bourgeois" members, had been, it may fairly be said, already taken and ratified by the nation, for the Independent Socialists had entered the Berlin Cabinet on terms which promised no Council system and which insisted on the right of all citizens to participate in the government of the country.[1] But the Congress of Councils

[1] Cf. Answer of the Majority Socialist Party to the Demands of the Independent Socialists concerning the Basis on which they should both agree to form One Government, issued at 8.30 P.M. on November 9 :—

"To the Executive of the Independent Social Democratic Party.

Guided by the sincere wish to achieve a union, we must make clear to you our attitude to your demands. You demand :

1. *That Germany is to become a Socialist Republic.*
   Answer : This demand is the goal of our own policy; nevertheless, it is for the people and the Constituent Assembly to decide.
2. *In this Republic the whole executive, legislative and judicial power is to be exclusively in the hands of the chosen men of the total labouring population and soldiers.*
   Answer : If this demand means the dictatorship of a part, a class, without the majority behind it, then we must reject this demand, because it would run counter to our democratic principles.
3. *Exclusion from the Government of all bourgeois members.*

gave it the final sanction. It thus took altogether out of the field the pure Council system as a possible substitute for the other forms of government. The way was therefore paved, almost immediately, for a National Assembly, which by its nature was impelled in the direction of a Western European system of political democracy, but with the addition of special vocational representation.

The Congress of Councils merits some little attention. It consisted of some 450 members, elected by the various Councils over the country, with a majority of 8 to 1 in favour of the old Social Democratic Party against the Independent Socialists. Enthusiastic scenes and speeches marked the opening; then came the more grave process of the Commissaries' vindication of their action and the Independents' censure of it. On the 18th the decisive battle of National Assembly or Council system was fought. The Social Democrat, Max Cohen, proposed the elections for a National Assembly for January 19, and supported his resolution by a brilliant argument showing that only the acceptance of his resolution could bring about the recommencement of production. Otherwise the reign of order was impossible; only the maintenance of Federal unity could save the economic system from the fate of Russia. Without it gradual socialisation was impossible, and the country would suffer from invasion by the Entente.[1]

Against this resolution and argument spoke Ernst Däumig, the leading representative of the Independent Socialists. To him[2] the Congress was the "first revolutionary Parliament" of Germany. He urged the Congress to declare that under any circumstances the Council system would be maintained as the basis of

Answer: This demand we must reject, because to accede to it would seriously endanger the feeding of the people, if not make it impossible," etc. etc.

Ex Documents of the American Association for International Conciliation, 1919, vol. i. pp. 544, 545.

[1] Cf. *Stenographische Berichte, Allgemeiner Kongress der Arbeiter- und Soldatenräte Deutschlands*, col. 209-25, and 273-7.

[2] Cf. *op. cit.* cols. 225-236, and 277-81.

the constitution of the Socialistic republic, and indeed in such a manner that the Councils would possess the highest legislative and executive power. He demanded that preparation should be made for the election of a National Congress of Workers' and Soldiers' Councils to decide on the future constitution of Germany ; that until the definitive constitution of the Socialistic republic had been decided a Central Council of 53 members, to be chosen from different parts of Germany, should form the highest authority of control over the Council of People's Commissaries and the Imperial Departments. To him " the joyful assent to the National Assembly was synonymous with the death sentence on the Council system." Then came the attack on "bourgeois" Parliamentarism. The old civic democracy with its ballot-papers and its parliaments was no eternal phenomenon; it had its historic conditions ; and as Socialism was arising as the new basic principle of the world, so was it also clear that civic democracy must give way to proletarian democracy, as it found its expression in the Council system. The parliamentary-bourgeois-democratic system would give them empty decorations, a marionette. " And this I tell you: all your illusions of a new, free, cultured and spiritually free Germany, of a German nation which has thrown off from itself the old subject spirit, which even now remains so deep-seated in the German people—all your illusions of a Germany in which the people has a truly active part in its destiny, and which does not run to the ballot-boxes every two or three years with a ballot-paper in its hand, will never be attained with this old system." True Socialism, in which the consumer and the producer were put on equal terms in a new economic order, was to be attained only through the medium of the Council system. Again, what was the use of the insight that the worker got into things by receiving a ballot-paper once every two or three years ?

By 400 votes to 50 the Council idea was rejected,

the National Assembly accepted. From that moment the Spartacist elements, reinforced by more moderate Independent Socialists and many disappointed workers, were driven outside ordinary constitutional discussion, to emerge in riots and strikes, in general ridicule of, and non-participation in, the elections to the National Assembly, and later, in March, to force (it is the correct word) a new article into the Constitution, and the erection of a new institution, the Economic Council.

Meanwhile the bourgeois parties and the Majority and Independent Socialists marched into the electoral battle, and the Council issue there was not an objective appreciation of the subject, but a denunciation of the shady sides of the Russian Soviet system. Bolshevism was the bogy, as were terror, dictatorships, reaction.[1] The general aim of the non-extreme monarchical bourgeois parties was towards a republican form of government; of the Majority Socialists, a republican form, with a steady movement towards socialisation; of the Independent Socialists, the republican form, with a rapid extension of workers' control and socialisation of industry.

The National Assembly, which was elected on January 19, 1919, by over thirty million men and women over twenty years of age out of a total electorate of thirty-five million, and which met in Weimar (away from revolutionary Berlin) in February, was composed of 421 members. Of these, small groups accounted for 10 representatives, the German National and German People's Party (both monarchical) for 63, the Christian National Party (Centre) for 88, the German Democratic Party for 75, the Majority Socialists for 163, and the Independent Socialists for 22. On February 10, Scheidemann laid the authority of the People's Commissaries in the hands of the National Assembly, and the episode of

[1] Cf. Purlitz, *op. cit.* p. 327 *et seq.*, for programmes and attitudes of parties during the election period; Heilfron, *Die deutsche Nationalversammlung im Jahre 1919*, vol. i., reproduces the party election placards. They give a measure of the temper of the revolution and the elections.

Soviet rule was at an end.[1] A bourgeois-cum-moderate-socialist policy and constitution were bound to follow.

Dr. Hugo Preusz had been Professor of Constitutional Law in the Berlin High School of Commerce. He was an orthodox and learned Democrat, and the author of several acute works on political science.[2] Under the Revolutionary Government and the Coalition after the elections he was Minister of the Interior. The day after the elections there appeared under his auspices the first project of a Constitution. It was a document full of learning. It sought to avoid being caught in the toils of representative democracy, as it was mismanaged in France, the U.S.A. and Great Britain. It aimed at the closest connection between people and Government by means of territorial constituencies, schemes of proportional representation, the Referendum and the Initiative.[3] Ingenious and logical, it was "formal democracy," that is, democracy by ballot, in its highest form, and had a remedy for every evil that the constitutions of other countries had made manifest. But, justified or not (the course of history must tell), it omitted institutional provision for the several political factors we have noticed at work in Germany: mediaeval estatism, the disruption of the belief in Parliamentary omnicompetence, the rise of functional organisation and the impulse towards group self-government, the failure of pure bureaucracy, and the immediate stimulus of war-economy and the extreme Socialistic drive towards Workers' Councils. Within its own bosom it bore another creation, destined, perhaps, to be not the least matricidal. It prescribed proportional representation; the result of which has been, with the large constituencies, the mechanisation of politics, the loss of the elector's touch with the personality of the candidate, and the coming of a "star" system of lists

[1] Cf. Heilfron, *Die deutsche Nationalversammlung im Jahre 1919*, vol. i. pp. 81, 82.

[2] *E.g. Obrigkeitsstaat und grossdeutscher Gedanke*; *Das deutsche Volk und die Politik.*

[3] The clauses relating to the Initiative were the results of amendments moved and adopted by more radical members of the Liberal side of the Assembly.

of candidates drawn up by the party executive, a " star " candidate bringing support to many mediocrities.[1] The party becomes an all-powerful machine, and the experience of the U.S.A. does not teach that it is then representative in the most vital sense of the word.[2]

The National Assembly was, too, divisible into 75 members (*i.e.* 18 per cent) from the great productional groups of industry, commerce, trade and agriculture, and 346 members (*i.e.* 82 per cent) belonging to the liberal professions. In a time of general economic disruption neither the forces of industry nor the good sense of the liberal professions could deny the necessity for a greater weight of industry in the national counsels: and the idea of an Economic Council gained adherents.[3]

While the National Assembly droned on in its still seat in the Theatre at the Weimar of Goethe and Schiller, the country seethed with miserable complaint and revolution. From the Assembly, from the whole Revolution, what new heaven had been won? Nothing, it seemed, remained in concrete existence of visions that seemed so soon to be conquered but three months ago. Not one dream had been caught. Merely, the present economic situation was heart-breaking, and for the future despair waited the watchful eye. The National Assembly with its old parliamentary methods, its return to the old manners of representative assemblies, its members' mutual recrimination over war-guilt, the slow march of socialisation proposals and the work of the Socialisation Commission,[4] " party politics "—all concentrated on producing by March 1919 a working class filled with irrepressible explosive impatience for something more than mere " formal democracy." They went on

[1] Cf. Erdmannsdörfer, *Das Wahlrecht*; and *New Statesman*, May 29, 1920, article by E. Bernstein on the German General Elections.

[2] Cf. Merriam, *The American Party System*, New York, 1922.

[3] Leibrock, *op. cit.* p. 117.

[4] Cf. Nussbaum, *Das neue deutsche Wirtschaftsrecht* (1922), p. 56 *et seq.*, for an account of the Socialisation movement from the outbreak of the Revolution.

strike for an economic constitution ensuring economic democracy.[1]

Meanwhile, in the Ministry for Economic Affairs the ideas of Wissell and Möllendorff were maturing. Their conceptions of *Gemeinwirtschaft* and *Planwirtschaft* (the economic process directed by a single authority in its general lines, for the benefit of the whole community, according to a consciously prepared scheme, the workers having their share in management) were gradually being matured and presented in conferences and memoranda to Germany at large and the Cabinet. The two men stood for a speedy construction of a carefully planned new economic system, and it is clear that their plans attracted the sympathy of many employers, workers and officials. The strength of their scheme in its essential principles, its weakness as something that could be immediately attained, are to be seen by one or two connected extracts from Wissell's account of the ideas he set himself to realise in his position of Secretary of State for Economic Affairs. He postulated,[2] first, a new spirit in economic affairs. "This new spirit is the spirit of social righteousness, the spirit of the planned ordering, not of the labour power, but of the personality of every individual in a community, the joint determination and the joint responsibility of the individual in relation to the whole nation. People shall once again make themselves free, make themselves into responsible personalities, and develop out of themselves, in a consciously planned structure and new social and economic forms, a new national and super-national community of life and culture." Then in place of the method of control by the "invisible hand" a new instrument would be fashioned. "The time already gone by has shown us where we have arrived with the doctrine—it is pre-eminently the bourgeois economic theory—that

[1] The London *Times* gives a good picture of Germany between the middle of February and the end of March 1919.

[2] Cf. Wissell, *op. cit.* p. 5 *et seq.*

the desire for gain is the sole motive force of economic activity. A national economic system cannot thrive on the motive of gain alone. It is an erroneous belief that the community is indirectly best served by the pursuit of individual interests. This belief with all its consequences led to the war, and finally to catastrophe, and would again lead us to disruption. We have never had greater need than to-day of putting the general interest into the foreground, even at the cost of the interests of the individual. The rule of our economic life must be the social interest out-topping the latter." Then came the climax in the suggested organisation. "Industry must be guided by communal-economic considerations, and move within the frame set up by laws made by freely self-governing bodies. . . . The standpoint of the plan represented by me is the creation of an organised structure of German economic life. The structure shall found itself upon self-governing bodies in which the workers sit equally empowered with the employers, and at the head of it there shall be a Federal Economic Council. If this organisation is not to militate against the needs of industry we must make use of the organisations already formed. Such organisations are everywhere existent, and ramify throughout the whole of our economic system. They associate according to the chief branches of industry, and have been formed by both employees and employers. The industrial organisations have here and there come together in Industrial Alliances for the carrying out of common duties. This has not everywhere been comprehended by the workers: they see only the opposed interests of the employers and the workers and not the common duties which they have to fulfil, not only in their own branch of industry but within the setting of the communal-economic system for the whole community. Nor have they recognised that in this association there sprout the seeds of a new industrial system which will grow to maturity. I wish to fasten

upon these organisations of workers and employers; they are to become the framework, the supports of our new industrial system. And these supports shall not be composed only of employers and workers, but also of consumers, and those standing between, the business men, who constitute the middle-men." [1]

Parliamentary economic reform and political revolution battled with each other for supremacy,[2] and the issue of that battle was the Economic Council.

The Central Council of Workers' and Soldiers' Councils had not ceased to pretend that it had a supervisory authority over the actions of the Cabinet. It represented to the Cabinet, late in January, that an Economic Parliament on a vocational basis should be included in the Constitution, and the proposal, after discussion in a joint sitting of Cabinet and Council, was completely rejected on the grounds that the old Parliament of Estates had been reactionary and always would be reactionary, and a bicameral system was "incompatible with real democracy." [3] The Workers' and Soldiers' Councils were being deprived of their first grasp of governing power by the central and local authorities.

Suddenly there came a direct challenge to the Council idea from the Government. After an interview given to the Press in which Scheidemann, the Chancellor, declared against the Councils, there followed a general Government declaration on February 26, through the Wolff Bureau. "The news is being spread," it ran, "by a late evening paper which has already attracted unpleasant notice to itself . . . that members of the Cabinet, among them Scheidemann, are considering the inclusion of the Council system in some form or another. It is further maintained that such an attempt will call forth the most determined opposition of the Centre and

[1] Cf. Appendix V.

[2] Cf. Behringer, *Die Fortbildung der wirtschaftlichen Räteverfassung*, p. 12.

[3] Cf. Max Cohen, "Der Rätegedanke im ersten Revolutionsjahr," *Sozialistische Monatshefte*, Nov. 1919, pp. 1045-6.

the Democrats in the Cabinet, and that in consequence a Cabinet crisis might arise. There is not one true word in the whole of this report. . . . No member of the Cabinet entertains, or has entertained, the idea of incorporating the Council system in any form whatever, whether in the Constitution or in the administrative system. Every one should already for long have been acquainted with the fact that the Social Democrats especially, most absolutely rejected the spoiling of democracy by a dictatorship which is necessarily bound up with the political Council system. The responsible authorities have always agreed that the Council organisation within the individual workshops could be well maintained as the instruments of mediation between the latter and the Trade Unions, but they have also always declared clearly that beyond these Works Councils the whole Council system was not of utility to the German Republic." Here was a challenge; but the main challenge was to the *political* character of the Council system.

All over Germany the Spartacist elements became active. The first days of March saw strikes for political purposes all over the country, but acutest of all in Central Germany, Halle, Thuringia, Berlin and the Ruhr Basin. Confidence in Weimar and formal democracy evaporated. Railway communication was interrupted, the anthracite and Ruhr miners struck, riots occurred in Berlin, and a state of siege was proclaimed on March 4. From the Government at Weimar came promises to " extend the organs of economic democracy, the Works Councils," and to bring about socialisation of the branches of industry, especially of mines and power factories, which were suitable to be taken over for public or mixed management.[1] On the 4th of the month negotiations took place at Weimar between the Government and representatives

[1] Cf. Government proclamation from Weimar, in *Enemy Press Supplement to the Review of the Foreign Press*, War Office publication, March 13, 1919, pp. 1032, 1033.

of the Majority Party from Berlin, where a Second Congress of Workers', Soldiers' and Peasants' Councils was in session debating the issue of the future economic organisation of the country. The leader of the deputation was Julius Kaliski, Majority Socialist, who had been associated for long with Max Cohen, Majority Socialist, in propagating schemes for a hierarchy of Chambers of Labour leading up to a Central Chamber of Labour of employees and employers with wide powers over the economic life of the country.[1] The influence of his theories is discernible in the result, and to those theories a return will be made later.

On March 5 peace was made by the Government's Declaration of its Legislative Intentions, and this declaration was the basis of the Economic Council on the one side, and the future substructure of that Council on the other. Its five divisions compassed Workers' Councils, Labour Code, Socialisation, Military Administration, and the feeding of the population. Of these divisions the first alone concerns us. It runs as follows :[2]

"I. Workers' Councils

"(*a*) The Workers' Councils are recognised in principle as representative of economic interests and *incorporated in the Constitution*. Their jurisdiction, mode of election, and duties shall be determined by a *special* law to be enacted immediately.

"(*b*) In individual undertakings Workers' Councils, composed of workers and salaried employees, shall be elected to co-operate, with equal rights, in the regulation of the general conditions of work.

"(*c*) For the control and regulation of the production and distribution of commodities *Industrial Alliances* shall be established in every branch of industry and

[1] Cf. Kaliski, "Der Rätegedanke biem Neuaufbau Deutschlands," *Sozialistische Monatshefte*, 1919, Nr. 6-7.

[2] Cf. Schäffer, *Der vorläufige Reichswirtschaftsrat*, p. 165 (Berlin, 1920).

trade, in which employers and managers, workers and employees, and employers' and workers' organisations shall participate.

"(*d*) For prescribed territorial districts *District Labour Councils* (Chambers of Labour), and for the whole Empire a Central Labour Council, shall be constituted. In the District and Central Labour Councils all persons performing labour, and also the employers, liberal professions, etc., shall be represented. These Councils shall co-operate in *measures of socialisation*, and shall be appointed to the control of socialised enterprises and branches of industry. Further, they shall supervise the application of all industrial and social legislation, and shall have the right to propose such legislation. The Imperial Government will consult the Central Council before the introduction of any economic or social legislation."

This was indeed a charter for all sides. It maintained the supremacy of the political parliament over the economic groups. It extracted from the Council movement its more emphatic political significance. A central advisory council on economic and social matters was prescribed, as well as a territorial and vocational substructure. In the "etc.," after the "liberal professions," in the last clause, the way was left open for a representation of consumers and other groups.

Thus was the die cast; cast under the pressure of "the street." And in calmer days, when the promise made in fear and accepted in hope came to be implemented, the panic nature of the creation was avowed by the leader of the deputation of March 4, 1919—"From the first day the construction was an escape from embarrassment, a concession to agitation, because the taking of downright decisions could not be risen to quickly . . . suddenly the people at Weimar came to the recognition that something must be done. So the promise was

made of the creation of Workers' Councils which the District Economic Councils would follow." [1]

The promise was made, however, and the Government were under an obligation to fulfil it. To that fulfilment we shall presently turn.

Meanwhile the last flicker of life was soon to burn brightly in the Second Congress of Councils in Berlin. Consisting of some 260 members, over a half of whom were Social Democrats, one-fifth Independent Socialists, and one-twentieth of the Democratic Party, it debated, with carefully prepared charts, the types of Economic Council and substructure suitable to Germany.[2] The Independent Socialists again stood out for a complete Soviet system with all political powers in the hands of councils. To them there could be no political equality while there was economic inequality. "The surface of the old authority-state has been revolutionised," said Däumig ;[3] "a change of personnel has occurred ; but the system is the same as before. And this system cannot be broken with by means of the old-fashioned democracy, not by parliamentary methods, not by the National Assembly. Complete breach with the old system is only possible with the introduction of a new method in practical life, and therefore we demand the political functions of the Workers' Councils. . . . No ; the Cohen plan[4] is a quite unhappy compromise between the political and economic activities of the Workers' Councils. It leaves without alteration this noble National Assembly in its full functions, and lets the parliamentary mills go on peacefully whirling. It does not so much as touch the old bureaucratic system, but leaves it. . . . It was impossible to couple the proletarian interests with capitalistic profit-making interests. . . . We demand

[1] Kaliski, evidence before Constitutional Committee of the Provisional Economic Council, April 19, 1921—*Verhandlungen des Verfassungsausschusses*, 1921, ii. 122.

[2] Cf. *Stenographisches Protokoll, II. Kongress der Arbeiter-, Bauern- und Soldatenräte Deutschlands, am 8-14 April 1919 im Herrenhaus zu Berlin*, 159 *et seq.*

[3] *Ibid.* 171 *et seq.*

[4] Discussed *infra*, p. 88.

the permeation of political life with the Council ideas, and we demand the permeation of the whole of industrial life with the Council ideas." That conception was never realised.

Nor was the scheme propounded by Max Cohen and Julius Kaliski ever realised, though it was accepted by the Congress. That scheme[1] centred in a Chamber of Labour for the whole Reich composed of workers and employers. Over all the substructure of local Councils of Production stood a general National Chamber and a Chamber of Labour. Every law needed the agreement of both Chambers; yet a law which had been accepted unaltered in three consecutive years by the National Chamber attained to statutory authority.[2] Each of the two Chambers had the right to demand a referendum. As a rule all legislative projects of an economic character (before all, laws on socialisation) went before the Chamber of Labour first. The latter might, too, take the initiative in this sphere; as a rule the legislative project of a general political and cultural character went before the National Chamber first. The distribution of delegates among the several occupations was regulated by a special law. Here was a two-Chamber system offering endless opportunities of friction and obstacles to legislative action. Neither did it arrive at realisation.

Wissell, the Government representative, pointed out the weaknesses of the various projects, and outlined the Government scheme of political democracy with the addition of a representative body of economic, social and general national interests in a Federal Economic Council. The Government scheme issued a few days before was commended as superior and more fitting to the national need than any of the alternatives discussed in the Congress.

[1] Cf. *Stenographisches Protokoll*, *cit. supra*, p. 267.
[2] Cf. here the influence of the Parliament Act, 1911, s. 2 (1).

Article 34*a*[1] (later article 165 of the definitive constitution) was not the product of Dr. Preusz, but the plan of the Ministries of Labour and Economic Affairs. It comprehended the clauses of the promise the Government had made on March 5, was issued on April 6, 1919, and laid before the National Assembly in June. The text of it is to be found in Appendix III., and here we shall concern ourselves merely with the course of argument issued with the project, the argument in the Constitutional Committee of the Assembly, and the progress of discussions in the full Assembly, which converted Article 34*a* into Article 165.

The argument of the Government project began by stating its conviction that there were in the Council movement the seeds from which could be formed the basis of a new social labour and economic constitution. Two conceptions in that movement seemed, to the Government, basic. The first was, that the wage-earning and salaried worker attempted to achieve a direct and better realisation of his interests in the separate works and of his status in the public mind. At the same time he attempted to emerge from the sphere of worker towards a personal co-operation in the process of production, which until now had been under the one-sided control of the employer. The worker no longer wished to live and die a worker at his place of work, with set tasks and without a view of the economic whole ; he was impelled to take a view of the general economic process beyond his work-place, thereby to render his technical knowledge and experience fruitful for it and to take a joint part in the direction of productive development. Old efforts mingled with new life-motives and were bringing about a radical spiritual movement in the whole working-class the fruitfulness of which had to be acknowledged in legislation. Otherwise there would be a reign of

[1] See *Entwürfe der verfassungsgebenden deutschen National-Versammlung*, Nr. 16 ; Drucksache Nr. 385, 1919 ; cf. Appendix III.

violence. This led straight to a structure of Workers' Councils, from the individual works through the District Councils, up to the Imperial Workers' Council.[1] They were to be complementary to the Trade Unions, which did not include all the workers, and were organised on a basis of industry and not on a basis of individual works. They would attend to questions of housing, health, statistics, advice, and investigation relating to the workers. Further, as advisory councils to the administration (local and central), especially in the social departments established by the larger municipalities, they could infuse life into general administrative activity. Particularly was the value of the workers getting an insight into the industrial process insisted upon.[2]

Nor was the complex of tendencies rendering necessary a Federal Economic Council overlooked. They were those we have already observed in examining the political and administrative characteristics of the German governmental system: those we have remarked, too, in the government of England. The pressure of business and party tactics resulted in urgent topics being dealt with late, or not at all.[3] "It may happen," ran the argument to the Government's project, "that even in the best-arranged democracy there arise dangerous discords between the forces of society and the practical methods of dealing with them. The best means of eliminating such discords[4] lies in the social forces themselves vividly laying their problems before the political parliament directly, independently of every political attitude and party-tactical consideration. At bottom this will only be bringing about openly and with decision

[1] See Appendix III.

[2] "The important point is, that the Works Councils shall be able to get an insight into the whole of the industrial process of the enterprise so that they may take a fostering part, with their experience and technical knowledge, in the management, and learn the conditions upon which the level of price and wages is dependent."

[3] *E.g.* reform of local taxation system in England.

[4] "Formal democracy" as embodied in the other clauses of the Constitution assigned this task to the Referendum and the Initiative; cf. Preusz, explanation to Project of Constitution, January 21, 1919.

a condition of affairs which otherwise would be done secretly, indirectly and more or less timorously.[1] The economic groups will not then work indirectly through Parliament; they have the opportunity of arriving directly at political validity. The political parliament remains sovereign in the acceptance or rejection of legislative proposals which the Federal Economic Council lays before it.[2] It can be seen from this argument how the crude political significance had been removed from the Council idea, and what a reformation the Soviet idea had undergone. On June 2, 1919, the projected article came before the Eighth Committee of the National Assembly. It was there steered through the shoals of criticism and proffered amendment by Dr. Hugo Sinzheimer (former member of the Reichstag and Professor at the University of Frankfort; Government representative on the Committee). He emphasised the idea that the social forces should *directly* attain to effectiveness, not merely through political legislation and administration. "It is, to put the matter shortly, the idea of *social self-determination*, and alongside the political constitution a special *social constitution* shall be created, in which the social forces themselves work directly."[3]

The Trade Unions did not need to fear for their authority and powers, for the regulation of work and pay must still occur through the industrial unions, and particularly by means of wages-contracts and industrial alliances. The Works Councils could supervise the execution of such contracts and regulate the more intimate and detailed conditions of pay and work. As to the Federal Economic Council, it would exercise a most

[1] *I.e.* by means of deputations and other less reputable methods.

[2] This denied the Cohen plan of two Chambers, each with power to call a Referendum.

[3] *Bericht des S. Ausschusses*, Aktenstück Nr. 391, p. 393. The phrase *social self-determination* is reminiscent of its author's treatise called "*Ein Arbeitstarifgesetz*" (München, 1916), the purpose of which was to provide a basis in jurisprudence for the problems arising in the establishment of a law on wage-contracts. It is a revolt against the theory of monistic sovereignty and an attempt to revivify and give a new content to legal science by reference to the social services which law ought to perform. Therefore the sub-title of the work, "The Idea of Social Self-determination in Law."

important right in its power to initiate legislation. "Every body is subject to the danger of a certain schematisation and routine. One does not always hear the things that happen in actual life, and it is of value to the Parliament itself if it can maintain a contact with popular movement and the development of life. It is good that men from practical life should be heard by it —men directly interested in practical life. We require, however, that there shall be not merely written negotiations (between the two bodies, Parliament and Economic Council) but, as a necessary consequence of the idea, procedure by word of mouth. We desire that the representatives of the Federal Economic Council shall have the right to appear in the National Assembly and participate in its proceedings . . . then parliamentary life, too, will obtain a new vitality and effectiveness." [1]

From the Committee the project went (with several not very important alterations) to the full Constituent Assembly. This was the body so reviled, and the process of debate on the project is the more worth attention for that.

The arguments have relation first to the theory of an Economic Council for the Federation, and a substructure of local economic councils ; and then, to the difficulties of organising such a system of bodies parallel to the ordinary political and administrative system.

The German Democratic Party [2] were generally in favour of the Economic Council, though they were anxious that its powers should not be too great against the Reichstag, the authority of which was the very centre of their political philosophy. To this end it was argued [3] that though the Economic Council must have the right

[1] *Loc. cit. supra*, p. 396. The later history of this part of the project is discussed in Chap. VI.

[2] Their policy was Liberal-Radical as that term is understood in England. They had 75 seats in the Assembly, and Preusz, the Minister of the Interior, was one of the spiritual lights of the party.

[3] Preusz in *Die deutsche National-Versammlung im Jahre 1919* (Heilfron, Berlin, 1920), p. 4367 *et seq.*

to introduce bills into the Reichstag, even *after* the Government had refused its assent to them, that introduction should take place through the medium of the Government. This for practical business purposes, as the Reichstag would never have an opportunity to debate its measures if Government representatives and Economic Council representatives (and Federal Council representatives) had previous rights of speaking. This possible subtraction from private members' time was emphasised, too, by a member of the Centre Party.[1]

As to the general principles underlying an Economic Council the Democratic Party were largely in agreement. "We are perfectly agreed," said an eminent spokesman,[2] "on the fact that the experts' work of the vocational groups can bring an extraordinary amount of benefit to the State. But in my view other forms (than the pure old Estate system) must be found for it. What we need, in my view, is a social Parliament[3] alongside the political Parliament, in which the various occupational strata, *e.g.* students, professors, farmers, workers, manufacturers, etc., are organised as far as possible. Such a body can exercise a certain legislative activity for which the great political Parliament has to stand sponsor."

Another member,[4] afterwards President of the party, was angry at the method of introduction of the clause into the Constitution, "through the compulsion of the street," and vindicated the electoral process so much despised of the Independent Socialist Party extremists. "The conception of citizen is for us the summit of our conviction, and we cannot accept the suggestion, therefore, that we should consider the ballot-paper as a white slip; but we see behind every slip the man, the citizen with his convictions, his will, and his soul." But with his party he was willing to make the experiment.

[1] *Op. cit.* vol. v. p. 3146.
[2] Schücking (Professor of Law at Marburg), *op. cit. supra*, vol. ii. p. 1183.
[3] Cf. Chap. II., p. 27, on the scheme of Mr. and Mrs. Webb.
[4] Erkelenz; cf. *op. cit.* 2, p. 4326.

The chief spokesman of the German National Party,[1] Dr. von Delbrück, observed justly that "the Council idea was the single new political idea with which the Revolution has up till now presented us, and particularly the single new political idea in the constitutional project as it now exists; because beyond this the constitution is nothing more than a modern remodelling of the idea of 1789 and 1848."[2] He desired such a Chamber as that envisaged in Article 165 of the Constitution as a counterweight to the sovereignty of Parliament[3] and the too great evils of parliamentarism.[4] It would be a good channel for the expression of popular interests and criticism, which was now visibly being denied by the new government by parties which withheld the whole force of criticism in order to maintain power.[5] He thought it desirable that the *Reichsrat*, the Federal Council, should be composed partly of vocational representatives; but this being refused by the Government as an impracticable solution of the problem forced upon them, he supported this new "third Parliament."[6] He expected that, since all laws were of a more or less economic and social character, the Federal Economic Council would strive to magnify its power, and this would end in the *Reichsrat*, the Federal Council, losing its power in favour of the former body.

The German People's Party (Nationalist, Conservative, Whig, Old National Liberals, with 21 seats) insisted upon the importance of the industrial alliance between workers and employers, and the directness of relationship between the representatives and the economic interests of their group—such a direct relationship was not to be found in the action of a political party.[7] Another member,[8]

[1] Conservative, Nationalist, *ancien régimist*, 42 seats.
[2] Heilfron, *Deutsche National-Versammlung*, etc., p. 4315 *et seq.*
[3] Cf. Heilfron, etc., vol. vii. p. 4318.
[4] A necessary result of his lifelong service in the administration of a directive State.
[5] Heilfron, etc., vol. ii. p. 947 *et seq.*
[6] *Op. cit.* vol. vii. p. 4322.
[7] *Ibid.* p. 4355.
[8] Dr. Gustav Stresemann; see Heilfron, etc., vol. iii. pp. 1230, 1231.

for many years a directing secretary of the Association of Industries of Saxony, put one aspect of the case for the Economic Council very clearly. "A mighty economic life," he said, "presses, in this country, for influence. On one side are the social demands and problems of the worker; on another side the needs of the middle-class population; on the third all the future anxieties of commerce and industry and the problems of agriculture. The only road completely open seems to me to be the conglomeration of all this into one great assembly—whether you call it Parliament is a separate question—where these matters can grapple with one another, where one tries to come to some common denominator, but not in such wise that this Parliament has executive authority, but so that it perhaps discusses legislative projects which come to us, or itself draws up such propositions. Herein it cannot prescribe what decisions we are to make, but lays on us the responsibility of rejecting a project of economic legislation which has found the assent of industry, workers and agriculture. We have in those circumstances at least the whole technical work consolidated before us. Thereby an influential factor comes into play to prevent the great economic vocational interests from suffering from political attitudes of mind."

The Social Democratic Party were generally in favour,[1] though there were no outstanding speeches.

To the Independent Socialists the arrangement was anathema. It set the seal on the judgement against the Soviets. Pitiful attempts were made by the speakers to maintain the case for a Council dictatorship and against the system of elections with territorial constituencies and ballot-boxes;[2] and to judge by the interjections the bitterness between the Independents and the Majority

[1] Dr. Sinzheimer, already mentioned, was their representative and reporter of the project to the Assembly.

[2] Cf. especially Heilfron, etc., p. 4267 *et seq.*

Socialists who supported the constitution was intense. The course of debate in the National Assembly may be concluded with the opinion of the Social Democratic representative and Committee reporter, Dr. Sinzheimer: "A need for the organisation of economic life has arisen. This need for organisation and regulation of economic life cannot be satisfied through the State alone. In order that this regulation and organisation of economic life may proceed with technical efficiency it is necessary that the economic forces themselves, directly, discover the norms and conditions which are necessary to regulate economic activity. And this independently of the State, even if within the State, on the basis of political statutes."

So the curtain rings down on the scenes in the streets, in the Departments of State, in the Committee-room and the Theatre at Weimar. What impressions are left on the mind of the spectator by this manifestation of human activity? He may in the *entr'acte* reflect how the visions of the men who with exultation held banners aloft in the streets; who left the depths of the mines; who were wounded to death in the Berlin riots; who forsook the railways (very symbol of subjection to the machine)—how these visions were rudely dispelled. But he may remember, too, how the truth in those visions served to light up in the minds of men with other beliefs and other desires what was of permanent significance in their criticism of the State of which all formed a part. Without these visions and these revolts there would have been sufficient arguments on behalf of the Economic Council: with them a speedier establishment was assured. And the spectator may be informed, too, that even while these reflections are passing through his mind the last light of those original visions was drawing near extinction. In the same town, in June, the party conference of the Social Democratic Party denied acceptance even of the Cohen-Kaliski plan, and agreed that the clauses of the project

in the Federal Constitution "are a suitable foundation for the establishment of an economic Constitution."[1]

The Constitution attained validity on August 11, 1919, and to Article 165 and its execution we may now turn.

[1] Cf. Cohen, *Sozialistische Monatshefte*, *op. cit.* p. 1051. The whole plan appears as Appendix IV.

CHAPTER IV

ARTICLE 165: TOWARDS AN ECONOMIC CONSTITUTION

As with books, so with principles. Men, whether as bodies or individuals, pick out as much from a principle and its plainer corollaries, as convenience and their purpose needs. The possible limitations of logical inference are widened or narrowed or thrust aside point-blank, just as actual necessity dictates.—MORLEY, *Notes on Politics and History*.

THUS, statutes had been obliged to capitulate before facts. A new Article stood in the Constitution. We are now concerned with its meaning and its realisation.

The Article runs as follows :[1]

(*a*)[2] " The workers and salaried employees shall be called upon to co-operate, with equal rights, with employers in the regulation of wages and conditions of labour, and also in economic development in general.

(*b*) " For the protection of their social and economic interests, workers and salaried employees shall be legally represented in Workers' Councils established for individual undertakings, and also in District Workers' Councils grouped in connection with economic districts and in a Federal Workers' Council.

(*c*) " The District Workers' Councils and the Federal Workers' Council shall combine with representatives of employers and other classes of the population concerned in the composition of District Economic Councils and

[1] Art. 165, " Die Verfassung des Deutschen Reichs," *Reichs-Gesetzblatt*, 1919, Nr. 152, s. 1383, Nr. 6982.

[2] The marks (*a*), (*b*), (*c*), (*d*), (*e*) and (*f*) are put in here merely for convenience of reference.

a Federal Economic Council for the performance of general economic functions and for the purpose of co-operation in carrying out laws relating to socialisation. The District Economic Councils and the Federal Economic Council shall be so constituted that all important vocational groups shall be represented thereon according to their economic and social importance.

(*d*) "All bills of fundamental importance dealing with matters of social and economic legislation shall, before being introduced, be submitted by the Federal Government to the Federal Economic Council for its opinion. The Federal Economic Council shall have the right itself to propose such legislation. In cases where the Federal Government is not in agreement with any such proposal, it shall nevertheless be bound to introduce it into the Reichstag, accompanied by a statement of its view thereon. The Federal Economic Council may arrange for any such proposal to be supported in the Reichstag by one of its members.

(*e*) "Powers of supervision and administration in any matters within their jurisdiction may be conferred upon the Workers' Councils and the Economic Councils.

(*f*) "The regulation of the composition and functions of the Workers' and Economic Councils and of their relations with other organs of social self-government shall be within the exclusive jurisdiction of the Federal authorities."

Some of the implications of these clauses of the article deserve attention. They naturally became the guide to the establishment of all the various branches of the economic constitution.

A fact of fundamental importance emerges immediately from the first clause (*a*). It gives constitutional expression to the thesis that workers as well as employers have an interest, not merely in the receipt of part of

the product of industry, but also in the right and duty of controlling the regulation of wages and conditions of labour and economic development in general. It further commands the co-operation of both the parties to the industry in these rights and duties, regardless of the private property rights of the employer. It bridges over the former serious division in interests between workers and employers, the division which was the source of the class-war doctrine. An association of master and servant is transformed into an association of partners.[1] Most important of all, the essential condition of the Industrial Alliances between Employers and Employed, *parity*—joint and equal representation—is expressed; and as we shall see later, the great battles in the further extension of the economic constitution in the local Economic Councils were fought on this ground. Lastly, one may note how the salaried employees are linked with the workers as a unity in face of the employers. Hitherto they had been a little suspect as dependent on the employers,[2] but their greater association among themselves and their alliance with the Trade Unions[3] had brought about the community of "workers by hand and brain," signalised in England in *Labour in the New Social Order*.[4]

In the second clause (*b*) the different interests of workers and employers are implied in the creation of special bodies legally representative of the workers and salaried employees, from the unit of the workshop upwards to a Federal Workers' Council. This itself has some connection with the pre-war movement for Chambers of Labour to be legally representative of the workers, as Chambers of Commerce, Agriculture, Industry and Handicrafts were, in the main, of employers. Sinzheimer, the Government's reporter on Article 165,

[1] Hatscheck, *Deutsches und preussisches Staatsrecht*, Bd. I. p. 133, Berlin, 1922.
[2] Cf. Webb, *Decay of Capitalist Civilisation*, pp. 56-58.
[3] Cf. p. 65, *supra*.
[4] Cf. Beer, *History of British Socialism*, vol. ii. p. 398 *et seq.*

explained the relation and distinction between the Workers' Councils and the Economic Councils as follows:[1] "In economic life there exists an antagonism and a community of interest. The antagonism that exists in our economic life which cannot be overlooked, is that between Labour and Capital. Therefore it is necessary, just as the interests of Capital already have their statutory representation in the Chambers of Commerce, etc., to establish for Labour, on the other side, a statutory representation which shall extend to all workers and employees. The purpose of this must be to express plainly all the interests of the great body of workers and employees as such in a regular way through a legally representative organ. This again is the Workers' Council. It is a one-sided representation of interests established to bring into effect and to enhance the economic influence of labour in general. In economic life, however, there is not only an antagonism but a common good. This community of interest is based upon the interests in production of the employer and employed. The Economic Councils serve the purpose, contrary to that of the Workers' Councils, of making effective these common aims of production in which the employer as well as employed are interested. They are to further productive interests, and to make use of all sections participating in production in order to increase it, to decrease costs of production and to regulate production as far as possible according to social standpoints."

It will have been noticed that in Article 165 the "etc."[2] after employers and employed, as the parties to be represented in the Economic Councils in the statement of the Government's intentions, is already translated into "other classes of the population concerned." Of whom those classes were to consist the Constitution

[1] Cf. Heilfron, etc., vol. vi. p. 4258 *et seq.*
[2] Cf. Appendix III. clause 2, and p. 116 *et seq.*, *infra*.

has nothing to say, but already the idea had been expressed in Committee[1] and in the full meeting of the National Assembly, that "consumers" would especially be represented in the Councils under this rubric. It was by no means an easy task to devise representation of the consumers. Nor was the final arrangement adopted without conflict with the productive groups.

Difficulty was further foreshadowed in clause (*c*), where representation of the various vocational groups was to rest upon "their economic and social importance." How was such importance to be measured? Mere proportion of the population was no solution, for that might mean either the creation of an unwieldy assembly or the non-representation of the smaller craft-groups. Equality of all groups was out of the question: corporate self-feeling would be too strong an obstacle for that. It was not an easy problem: the various groups wrangled, even shrieked loud and long, for a larger share of the common meal for themselves, but without compensation to any opponent.

Difficulties of interpretation of *fundamental and social and economic legislation* were to be expected.

The status of the Federal Economic Council in relation to the Reichstag, however, was clear from the beginning. Article 68 of the Federal Constitution says that Federal laws are passed by the Reichstag; the following Articles to Article 77 provide for certain rights of the Reichsrat, the President, the use of the referendum and the initiative in relation to laws. Clearly the political parliament (the Reichstag) and the people are the final authorities over legislation and the Federal Economic Council is subordinate. It has the right to scrutinise and report upon Government bills, and to initiate, and is guaranteed a certain effect upon the Reichstag through compulsory introduction by the Government, and direct advocacy

[1] Cf. *Bericht und Protokolle des S. Ausschusses* (already cited), Nr. 391, p. 395 *et seq.*

by one of its members. But it is a consultative, not a decision-making body.

It was no light task to make a Constitution thus outlined, and the process is full of political instruction.

The economic situation of the country was so serious as to result in a strong pressure by the Press and the National Assembly for the speediest possible establishment of the Federal Economic Council. Already in May 1919 (before Article 34*a* had been put before the National Assembly) an Economic Committee of representatives of the Departments responsible for economic and financial affairs had been set up. Its work was the investigation and execution of all necessary measures relating to control of exports, external currencies and credits, and the import of commodities and raw materials. Even then, with this committee in operation, there was continual complaint by industrial and commercial circles that affairs were not being conducted as they should be. Upon the resignation of Wissell and Möllendorff[1] from

[1] July 13, 1919. Wissell's letter of resignation to the Cabinet and to the Press is well worth quotation. His policy had not been properly supported by his own, the Social Democratic, Party, and here he vindicates his exit, and again explains the content of his policy: "I considered the reconstruction of Germany's economic life possible only on the condition that the interests of the community were given precedence over those of the individual, and that all sections of the producing community, employers and employed, industry and agriculture, were brought together to work in unison for the common good of all. I knew well enough that to speak of duties was unpopular, and my exhortations to duty were therefore without that effect which I wished for in the interest of our country. The fearful position which Germany now occupies appeared to me to be a sufficient incentive to the people and its leaders to do their utmost for the common cause, but I was disappointed—less, it is true, by the people, than by their political leaders. My programme cannot at present be carried out, because our present legislators are short-sighted opportunists. Nothing has dismayed me more than the off-hand manner with which my plan has been set aside—the plan, be it understood, of a man to whom the profoundest research into the problems of the moment and the completest sincerity are the first requirement. Clearly recognising the only means by which we can escape from our present distresses I have gone too fast for my Party's policy. I am disowned by the present-day politicians, because they still fail to grasp the problem which Germany has to solve and even yet misunderstand the social revolution which surrounds them.

"I do not claim that my plan is the only right one, but no alternative programme has even been proposed, and I rather gather that, to many politicians, a definite programme is a distinct burden.

"It was my intention to steer a middle course between the desire of the producers for autonomy and of the politicians to retain traditional forms of government" (*Enemy Press Supplement*, p. 661, July 24, 1919).

the Ministry of Economic Affairs and the entry into that office of the Social Democratic Federal Minister of Food, Robert Schmidt, the outside pressure on the Ministry for Economic Affairs began to have its effect. It was felt and said in the National Assembly that political action in relation to the economic and social measures necessary would be much more satisfactorily dealt with after the advice and criticism of a Federal Economic Council had been obtained. In August 1919[1] the new Minister for Economic Affairs announced to the National Assembly that the preparatory work for the Federal Economic Council was already in hand, and that proceedings were being taken in close connection with the Industrial Alliances. Further, that the establishment of the Council would proceed more quickly if it were accomplished by decree and not by the ordinary process of legislation.

The complaints of the public led then to an immediate half-measure, the creation of a Standing Council to the Economic Ministry, to be summoned regularly by the Inter-Departmental Committee already discussed. The latter was to take counsel with the former before making any decisions. Agriculture, industry, commerce, handicrafts, the local authorities and consumers were represented, and employers' and workers' representatives came in equal numbers. But it was soon found impossible to deal with control of exports, without touching other spheres of economic life; people, moreover, were demanding more State control of industry and prices, and the Government were criticised on the ground that their actions were not in harmony with economic practice. The Council was therefore elevated to higher powers. In November 1919 it was converted into the Economic Council to the Ministry for Economic Affairs. It was composed of representatives from Industry (2 employers and 2 workers), Handicrafts (1 each for employers

[1] Heilfron, etc., vol. vii. p. 679.

and workers respectively), Commerce (4 employers, 2 workers), Agriculture (3 employers, 3 workers), Consumers (1 municipal representative, 1 Consumers' Co-operative Association), Mining (1 employer, 1 worker)—22 in all. Experts and officials were frequently called in to assist in its deliberations. The measures planned by the Ministry for Economic Affairs were put before this body before they were made the subject of a final decision. When differences arose in the Council, the members voted according to vocation—as workers, as employers—and then sent the resulting expression of opinion to the Ministry. Its work was recognised on all hands as being of good service, especially since it was divorced from the political opinion of the day and in direct contact with industrial circles.[1] Its weakness lay in it having no power of initiative. Towards the end of 1919, Press and National Assembly again united in pressure for the erection of the Federal Economic Council prescribed in Article 165.

It was clear, however, to the Ministry for Economic Affairs,[2] that to build the whole structure, with the local Councils as basis, would take many months, if not years, of deliberation and arrangement. The decision was therefore taken to establish a Provisional Federal Economic Council, with powers almost as complete as those prescribed by the Constitution, and with the additional duty of creating the substructure and franchise of the future definitive Federal Economic Council.[3]

There now arose a divergence of opinion between the Ministry of Labour and the Ministry for Economic Affairs. The former wanted a local basis, district, State, etc., associations of employers and workers, for the

[1] Schäffer, *op. cit.* p. 17.
[2] Schäffer, *loc. cit.*
[3] *Bericht des Ausschusses für Volkswirtschaft, 6. Ausschuss*, Nr. 2794, National-Versammlung, 1920, p. 12.

Economic Council ; the latter considered the *craft* basis of central organisations the better. The former was supported by the State Governments, who were not pleased to see the forces of centralisation too much in evidence and authority ; the latter was supported by the big vocational unions. The *craft* basis was victorious, but at the cost of some concessions to the *territorial* basis (in many respects necessary). All this discussion took time, and caused an unavoidable increase in the number of representatives to the Federal Economic Council in preparation.

The official negotiations (lasting from August to December 1919) with the State Governments and various vocational bodies saw an increase in the original number of from 80 to 100 as the size of the Council to 160 in November, and by the official project (to be placed before the Cabinet) of December 4, 1919, it had arrived at 200. The increase was caused largely by the demands of the German Chambers of Commerce, who were anxious that the territorial principle should be given more weight.

This official project,[1] agreed upon between the Ministry of Labour and the Ministry for Economic Affairs, and the basis of the discussions between that date and the decree of May 1920, which created the Federal Economic Council, needs a short comment.

Its numbers totalled 200. This number was considered to be the " extreme limit of the possible." The total membership fell into nine groups, of which the first five (Groups I. to V.) represented producers. Groups VI. to IX. then represented " the other classes of the population concerned," which have already been discussed above. The number of seats was thus apportioned :

[1] *Erste Beilage zum Deutschen Reichsanzeiger*, Nr. 278, December 4, 1919. Received Cabinet assent on December 12, 1919. (*Vide* Tatarin-Tarnheyden, *op. cit.* p. 161.)

Groups.	Number of Members.	Vocational Grouping.		Territorial Grouping.	
		Employers.	Employed.	Employers.	Employed.
I. Agriculture and Forestry .	46	..	..	6	6
(1) Agriculture :					
(*a*) Agriculture including allied trades .	..	10	10	..	..
(*b*) Agricultural smallholders . .	..	..	4	..	..
(*c*) Agricultural societies	..	..	4	..	..
(2) Forestry . . .	..	2	2	..	..
(3) Fishery	..	1	1	..	..
II. Industry	46	..	..	6	6
(1) Central Industrial Alliance	..	14	14	..	..
(2) Federal Coal Council .	..	2	2	..	..
(3) Federal Potash Council	..	1	1	..	..
III. Commerce, Banks and Insurance . . .	30	..	..	5	5
(1) Commerce . . .	..	7	7	..	..
(2) Banks	..	2	2	..	..
(3) Insurance . . .	..	1	1	..	..
IV. Transport and Municipal Enterprise . . .	14	..	..	..	..
(1) Shipping . . .	..	3	3	..	..
(2) Posts	..	1	1	..	..
(3) Railways . . .	..	2	2	..	..
(4) Municipal Enterprise .	..	1	1	..	..
V. Handicrafts . . .	10	5	5	..	..
Total . . .	146	112		34	

The producers' groups gave, then, altogether 112 members on a craft basis and 34 on a territorial basis—in all for producers 146 members of a total of 200. Save for the 8 agricultural representatives of small holdings and associations, *parity* between employers and employed was assured.

The Groups VI. to IX. contained between them 54 representatives : 20 being contained in Group VI., Consumers ; 12 in Group VII., Officials and Free Professions ; 10 in Group VIII., being nominated by the Reichsrat from the various parts of the country ;

and 12 in Group IX., being nominated by the Federal Government.

An attempt had been made by the creators of this project to secure an approximate equality of representation (*a*) between employers and employed; (*b*) between the producing, the distributing and the "other classes" elements.

The appointment by central organisations had been preferred because the Industrial Alliances provided good nominating corporations. They were paritatically constituted, while the local associations on this basis had yet to be constructed. The central organisations could always make allowance in their appointments for representatives of territorial peculiarities within the Federation. The progressive institution of Industrial Alliances was applauded. Where these did not exist, the right to appoint members to the Federal Economic Council was given over to the various existing employers' and workers' associations in the vocational sphere.

The division of representation among the various producing groups had been determined partly (*a*) according to the population census of 1907; (*b*) moderated by its share in the total national production; and (*c*) most of all influenced by the various kinds of craft within an industry. All, or as many as possible, needed spokesmen.

This body was to carry out the functions assigned to the Federal Economic Council, with one or two slight modifications, to be discussed in relation to the final decree of May 1920. Since it was not definitive, and since a principal task was the preparation of the constitution for the final Economic Council, it was designated "preparatory."

Two points need short mention. First, that consumers and other non-producing elements had been admitted into the Federal Economic Council, for the reasons provided by the Ministries concerned. These

elements did not pass unchallenged, and the controversy in favour of them and against them, which is of some significance in modern government, will be discussed at some length.

Secondly, a reason given by the official project for the prompt creation of the Federal Economic Council was that it might review the orders and decrees issued by Government Departments in virtue of special war and transition conditions. "Here," the project said, "in the case of regulations made in the form of decrees the previous consideration of standpoints with a number of technically expert persons is urgently needed, the more particularly as these measures are not open to the same public criticism by the groups of the population concerned as are legislative projects introduced into Parliament." This is emphatically reminiscent of the great growth of Statutory Rules and Orders in England since 1890, and in a later chapter we shall need to return to this aspect of administration and the methods of control over it.[1]

Immediately on the publication of the project there began a great struggle for representation on the Federal Economic Council. Questioned why the Federal Economic Council had not yet been set up so that it might have helped in the discussions on the Works Councils Bill,[2] the Federal Minister of Labour replied that the project could only be delivered to the Reichsrat for scrutiny at a late date owing to the lack of unity among the industrial associations of the employers' side; they were, as a representative institution of the whole body of employers, quite disintegrated.[3] "We have in the camp of the employers a clearly-closed front against the workers' associations, but their industrial associations are disintegrated throughout, and the difficulties of dividing out

[1] Cf. Chap. VIII. p. 221.
[2] Passed by the National Assembly on January 18, and in force on February 4, 1920.
[3] Heilfron, etc., vol. ix. p. 72, January 14, 1920.

uniformly light and shadow are terrible and mean very lengthy proceedings."

A Press feud raged on the subject of representation when the project was sent to the Reichsrat[1] on December 16, 1919.

Before we consider the Battle of the Vocations for more representatives, it is well to summarise the principles to which the Government spokesmen held fast and the controversies which resulted.[2] The basis of parity between employers and employed as it had been embodied in the Industrial Alliances became the first sheet-anchor in governmental policy. Both extremists of the Right and Left disputed this principle. The Left, strangely enough, resuscitated the democratic doctrine of representation according to numbers, and by the force of this dogma demanded that the working-class representatives should be more numerous; and further, it was contended the number of employers actually functioning in economic life was far smaller than the number of workers: equity demanded that they should be represented with fewer votes than the employees. Obnoxious to the Right, because it was necessary to give each group its proper weight in the Federal Economic Council, and therefore in the groups of farmers, etc., and handicrafts, in both of which the distinction between employer and employed was frequently not observed, such a parity basis was impracticable. The Government course lay midway between these extremes: it attempted an arrangement on the basic principle of parity.

Secondly, the Government attempted to stand by an objective standard of determining the "economic importance" of the various groups. Representation was not to depend upon favour or pressure, or to be so ordered as to give a desired bias to the constitution and,

[1] Schäffer, *op. cit.* p. 19.

[2] Cf. *Bericht des Ausschusses für Volkswirtschaft* (cited *supra*), pp. 13 and 14.

therefore, the operation of the Council. No one denied the importance of this principle, nor the strenuous efforts of the Departments to maintain it. But the process of negotiation and group petitions showed that no group in the whole country considered itself truly represented according to its economic significance. Minorities, in the nature of things, to be represented at all, needed to be over-represented in relation to their numbers. And the only way to satisfy the demands of the agricultural spokesman (who demanded, with a tenacity which surely can only come of long struggles with an adverse climate and soil, one-third of the whole total of seats, or two-fifths of the entire producers' and distributors' representation) lay in giving agriculture equal representation with industry.

Nor did the consumers' representation pass into established fact without strong opposition and even stronger support; nor the Government maintain the smallness of total numbers without great firmness. But to these questions we shall return later.

In the Reichsrat Committee (Economic Affairs and Transport) and plenary deliberations the 200 of the Government project took a sudden turn upwards to 280.[1] Here agriculture constituted the main aggressor and held that the 46 seats accorded to it, in relation to the whole 200, were altogether too few. It secured two concessions: pure agriculture and forestry was made to constitute Group I., with 62 representatives, and there was established a second, independent, Group of Horticulture and Fishery (2 and 4 representatives respectively). Industry was not satisfied with less than agriculture and increased to 62. Commerce rose from 30 to 40; Transport and Municipal Enterprise, 14 to 34; Handicrafts, 10 to 20; and the Reichsrat members, not to be outdone by the Government nominees, from 10 to

[1] Cf. Tatarin-Tarnheyden, *op. cit.* p. 162 *et seq.*, and *Bericht des Ausschusses für Volkswirtschaft*, pp. 14 and 16.

12. In the former Group IV., containing Transport and Municipal Enterprise, two sub-groups were added—local authorities and public credit and insurance institutions. The increases in Industry and Commerce benefited the territorial principle against the craft principle. In Industry the entire increase of 16 members were to be nominated with regard to territorial necessities by the German Diet of Industry and Commerce; of the increase of 10 to Commerce 6 were territorial seats.

At the beginning of February[1] the Sixth Committee (the Economic Committee) of the National Assembly received the project as amended by the Reichsrat. It immediately adjourned to get the views of its respective political parties on the question of representation.

Meanwhile petitions from the various vocational and consumers' associations showed evidence of the strength of each group's belief in its own importance, and its reluctance to credit other groups with much significance to society.[2] Housewives[3] demanded 4 representatives each for wives and domestic servants respectively, not merely one each, and asked to be treated not as a consumers' group, but as a pure occupational organisation. The North-west German Handicrafts Union claimed a bigger representation by force of the number of people getting a livelihood in the occupations (including families), value of goods produced annually, and the wages paid; and further, that a new Federal association shortly to be set up be the sole court of experts in matters relating to handicrafts. Small commerce asked for more than 2 representatives, "to correspond to its importance." From several other small commerce associations came a similar plea. "In all these petitions submitted," said the Committee,[4] "it is specially pointed out that small commerce falls into various crafts and economic

[1] Cf. Schäffer, *op. cit.* p. 30, notes 4 and 5.
[2] Cf. *Bericht*, etc., cited *supra*, pp. 1-10 and 16-19.
[3] Petition of Union of German Housewives' Associations.
[4] Cf. *Bericht*, etc., p. 2.

groups, and there can only be a representation of interests if there be appointed a larger number of representatives from the various branches."

The German Diet of Industry and Commerce [1] complained that not sufficient weight was given to Chambers of Commerce, which represented the various parts of the country as well as the various vocational branches of commerce, especially as the Federal Economic Council would be discussing general economic questions and not merely those relating to the various vocations separately. The Imperial Association of German Industry pointed out that the composition planned by the Government did not suffice to bring German industry into effectiveness in a manner corresponding to its high stage of development and its strong vocational grouping. It considered it necessary to form at least 25 vocational groups, to be further divided into a series of sub-groups, with a pair of representatives for each vocational group. And to this number should be added 6 representatives of the territorially decentralised organisations representative of industry.

Another petition [2] was apparently less concerned with its own salvation than with that of the nation, for it requested that in general those people upon whom depended the welfare and reconstruction of the country's economic life should be given overwhelming representation, otherwise the Economic Council would become a place of tumult for conflict of interests and unfruitful theories. Perhaps it is uncharitable to suspect that the iron and steel masters wanted their interests specially well represented for reasons a little more selfish than those actually given in their petition.

Agricultural associations [3] claimed more seats, and argued from the proportion of agriculture in the total

[1] *Loc. cit. supra.*
[2] Union of German Iron and Steel Industrials.
[3] Especially the Imperial Committee for German Agriculture.

population, and, more, from the forecast, that in the next few years Germany's future lay in the path of agriculture. Industry was perhaps fairly represented in relation to agriculture, but commerce and transport had been too well treated. It was against parity in representation in agriculture, because many independent small farmers belonged neither to the employing category nor to that of labourers. The intermediate groups of independent small-holders needed special representation. Fairness was to be attained by dividing out the representation equally among employers, independent peasants, and labourers.[1] This was parity in agriculture.

Then women in agriculture demanded a representation distinct from housewives in the towns, as rural and urban economy differed;[2] and the milk-industry organisations also asked for special representation. And so the tale goes on. The Industrial Alliance wanted more; the bankers wanted more; the technical workers desired an increase; the cattle-dealers considered that their numbers entitled them to a say; the shipping and freight factors, the handicraftsmen, the Council of German Towns, the officials, the patent assessors, the transport industry, cried out aloud to the skies their value and importance, and appealed for a worthier representation.

Few had a good word to say for the consumers' representation. Indeed, some subconscious perception of a common cause and a united grievance resulted in all the producers' organisations attacking the consumers as a means to the increase of their own weight. But of that later.

It was the unenviable task of the Sixth Committee to resolve and accommodate these conflicting petitions.[3] A warning cry and a threat had already come from the Central Industrial Alliance of Industrial and Trade Em-

[1] *Bericht*, etc., p. 8. [2] German Agricultural Federation.
[3] When it met again on March 9, 1920, after getting instructions from the parties.

ployers and Employed. The Executive of the Alliance had directed the following resolution to the Committee :[1]

" The most serious doubts are raised against the resolutions of the Reichsrat and the composition of the provisional Federal Economic Council by the Central Industrial Alliance.

" These doubts are directed in the first place against agriculture receiving a predominance over industry — at least through the representatives assigned to gardening. We must express the desire that such a predominance shall be avoided in the final scheme.

" It should thus be noted that we accept on principle the standpoint that industry and agriculture must be put on an equal footing, and that any increase of the agricultural seats beyond the resolution of the Reichsrat must be under all circumstances rejected, unless the number of representatives of industry is correspondingly increased.

" The principle of parity must be carried through in the industrial vocational groups without any limitation.

" With respect to the representation of industry the principle must be asserted that the craft interests of industry must outweigh the territorial, and that these interests must be therefore expressed in the distribution of seats between the craft and territorial nominating bodies.[2] This necessity is not yet completely met in the Government project. By the resolution of the Federal Ministry just the opposite of these conditions will arise ; we must therefore make the request that the equal number of representatives which are to be appointed, according to the resolution of the Reichsrat, on the side of the workers, by the Central Alliance, shall be nominated for the employers' side, too, by the Central Alliance.

[1] Cf. Leibrock, *op. cit.* pp. 120-21.

[2] This is a symptom of the feud between the territorial and the craft basis of organisation, and the sides were taken by the German Diet of Industry and Commerce and the Reichsrat, on the one side (the latter being somewhat afraid of centralised power), and the Central Industrial Alliance on the other.

"Should these requests . . . not be met in the final form of the decree, the Central Alliance and the subscribed organisations of employers and workers reject any participation in the construction of the Federal Economic Council."

The Committee, therefore, had a most difficult task: for it had always to moderate its generous intentions by the necessity of maintaining a limit on the final total of members. In its full assembly it could not get to grips with the questions at issue, rambled on, its members suggesting that this group or that industry was being unfairly treated. Two days were thus spent. Then a Sub-Committee of seven was appointed.[1]

The Sub-Committee's draft (made after three days of discussion) of the division of the total seats was accepted by the full Committee on April 23.

The total number of seats had reached 326. The draft went to the Reichsrat, which accepted it, with the request[2] that (*a*) instead of the Imperial Committee for German Agriculture being nominating body for 11 representatives of agriculture, the German Agricultural Council should act; and (*b*) that in the Group of Industry the 10 territorial representatives (Diet of Industry and Commerce) should be increased to 14, and the craft representatives (Central Alliance) should be correspondingly decreased from 21 to 17. The Committee accepted (*a*) and rejected (*b*). The Reichsrat agreed. The most difficult question of the constitution of the Federal Economic Council had been solved.

The consumers had, on the whole, come out quite well. They were accorded, finally, 30 seats out of 326, nearly 10 per cent of the total. The crude theories of Soviets and Chambers of Labour uniting only workers and employers would have accorded them no representa-

[1] *Bericht*, etc., p. 25.

[2] Cf. Drucksache, Nr. 2963, *Ausschuss für Volkswirtschaft*, *National-Versammlung*, 1920.

tion. But in the name of Socialism it was felt necessary to look after the economically weak force.[1] The Möllendorff scheme had provided for representation of consumers from the Central Association of Consumers' Societies (Co-operative), but the idea was not much insisted upon, as it was expected that the egoisms of the various producing groups would cancel each other out. But Sinzheimer, the reporter of Committee of the National Assembly concerned with Article 34*a*, had emphasised the importance of the consumers' element, and in the course of the proceedings there it had been remarked that in the making of prices by the parties to production the consumer had been made to suffer. This had been so in the regulation of coal prices, where the employers and employed had come to happy agreements at the expense of the coal consumers.[2] The Departmental representatives from the Ministry of Labour were against the introduction of the consumers, as it would disturb the parity between workers and employers, and would cause difficulty in the number-relationship of all the other groups.[3] Little was said in the National Assembly debates on this question, as the purely constitutional relationship between Reichstag and Federal Economic Council was there of more importance. On the Economic Committee of the Ministry for Economic Affairs, consumers had their representatives,[4] and in the Ministry itself, Professor Hirsch, successor of Möllendorff, advocated consumers' representation and care of consumers' interests under a policy called " consumers' Socialism."

In the Government project of December 4, 1919, the consumers were given 10 per cent of the total representation of 200, and the Ministry for Economic Affairs made great play in their argument for the project with their scheme consumers' representation. "Along with

[1] Cf. Schäffer, *op. cit.* p. 24.
[2] Aktenstück, Nr. 391, p. 398.
[3] *Ibid.* 397, 399.
[4] Cf. p. 105, *supra.*

Industry, Agriculture and Commerce," it said, " as the vocations serving the production and distribution of commodities, the *final* consumers must find their representation in the Federal Economic Council; this need not be so for the *intermediate* consumers because they are already provided for in their capacity as producers. On the contrary the interest of the final consumer is not sufficiently secured through the parts of the population called to represent the producers, as experience has shown that in the conflict of interests the workers, too, are inclined to the producers' standpoint, and the danger arises that workers and employers will come to an understanding at the expense of the consumers." This was true, but what did that truth imply in terms of representation? " The interests of the final consumers in a Federal Economic Council, which has to concern itself with questions of production, cannot, of course, claim equal numerical representation with the producing groups of the population. Nevertheless its consideration must be so weighty, and the selection of the representatives be so established, that an assured weight of voting will be secured to it, and the manifold consumers' groups given the possibility of bringing forward their various wishes." It was expected, then, that the 10 per cent of consumers as a group would be supported by the group of officials and liberal professions, and on occasion by the Reichsrat and Government appointees. Industry was not much in favour of such representation, and but a few days after the project appeared, the journal of the German iron-smelting industry [1] proclaimed, in an article entitled " No Economic Parliament ! " against special consumers' representation, on the grounds that *pure* consumers were represented in the Reichstag (the political parliament) and the producers' associations were consumers of each other's products. This argument

[1] *Stahl und Eisen*, Nr. 50, Dec. 11, 1919; " Kein Wirtschaftsparlament ! " Dr. Friedrich Fremdt, Berlin.

became the weapon of the producers in their battle with the consumers. Against this the consumers' organisations [1] began to point out that the Industrial Alliances would exploit the consumers, and that a policy of price-raising could be easily pursued without the workers understanding what was occurring, because they knew nothing of the facts of costings. In the National Assembly a member of the German People's Party rejected the claim for consumers' representation on the ground that the task of the Economic Council was to ensure increased production, and here the consumers could not help; "the best protection of the consumers is always and will always remain the increase of production." [2] According to what policy, in what directions, in what qualities and quantities, production was to be increased, was not discussed in this speech. Yet such questions were the essential of consumers' Socialism.

In the Sixth Committee of the Constitutional Assembly in February-March 1920 came the main onslaught of the producers' organisations on the consumers' representation. The Imperial Associations of German Industry, asking for more representation, said it could be given without an increase in the total membership of the Economic Council, by the mere elimination of the consumers, for Parliament, the workers, and the mutual claims of the various groups safeguarded their interests sufficiently. Agriculture, too, wanted the complete abolition of consumers' representation; so did the Central Industrial Alliance, and various commercial organisations.

Against these tactics the various consumers' associations, the Federal Committee for Consumers' Interests, the Federal Association of German Consumers' Societies [3] (Co-operative), the Central Association of German Consumers' Societies (Co-operative), petitioned for more

[1] Cf. Schloesser, *Der Konsument in Rätesystem.* [2] Cf. Heilfron, vol. ix. p. 92.
[3] Representing, the petition said, 16 million consumers.

representation than was already accorded them. Through the influence of the Secretary of State for Economic Affairs in Committee and Sub-Committee, the consumers' group rose in number from twenty to thirty; yet fell slightly in proportion to total membership through the great increases accorded to other groups.

Whatever there was of conflict in the establishment of a "Provisional" (changed from "preparatory" by the Sixth Committee for Economic Affairs) Federal Economic Council centred mainly on the numbers of the groups and the consumers in relation to the producers. The other articles passed the various stages of discussion with little controversy or alteration.[1]

We have now to turn to an analysis and appreciation of the constitution, status and procedure of the Provisional Federal Economic Council (*Der vorläufige Reichswirtschaftsrat*).

[1] The following is a table showing the representation of the groups in the Council, according to the Government project of December 4, 1919, and the final form of the decree of May 4, 1920:

Group.	Final.	Per cent.	December.	Per cent.
I. Agriculture and forestry	68	20·86	46	23
II. Gardening and fishing	6	1·84		
III. Industry	68	20·86	46	23
IV. Commerce, banking, insurance	44	13·49	30	15
V. Transport and public undertakings	34	10·43	14	7
VI. Handicrafts	36	11·04	10	5
VII. Consumers	30	9·20	20	10
VIII. Officials and liberal professions	16	4·90	12	6
IX. Reichsrat nominees	12	3·69	10	5
X. Government nominees	12	3·69	12	6
Total	326	(100)	200	(100)

CHAPTER V

THE FEDERAL ECONOMIC COUNCIL, ITS COMPOSITION, STATUS AND PROCEDURE

The rights and interests of a nation can only be preserved by institutions. It is not the spread of knowledge or the march of intellect that will be found sufficient sureties for the public welfare in the crisis of a country's freedom.—DISRAELI.

THE decree of May 4, 1920,[1] called into life the Federal Economic Council, which met for the first time on June 30, 1920, in the former Prussian Upper House in Berlin. Though it is not a governmental body whose constitution, powers and status are definitive, and though it exists partly to establish a new constitution and substructure for itself, the conflicts which were solved with so much difficulty at its birth, the general satisfaction with the division of seats among the various groups, the services it has rendered, and the extreme difficulty of finding any more precise and intricate basis for its composition, make it difficult to imagine any speedy change of system for Germany, or any very much better model for argument for other countries.

The full translation of the decree has been reserved for a place in the Appendices,[2] and in this chapter we shall be concerned only with a general description of the constitution of the Council, together with a commentary thereon, and a discussion of its internal organisation and procedure.

[1] Verordnung über den vorläufigen Reichswirtschaftsrat vom 4 Mai, 1920; *Reichs Gesetz-Blatt*, Nr. 99, s. 858.

[2] Appendix VI., *q.v.* It is an integral part of this chapter.

It will be seen from the apportionment of seats and rights to nominate representatives,[1] that the assembly on June 30, 1920, must have presented a very fair picture of the whole German nation as grouped in its pattern of smaller economic and social communities. The most prominent organisations in agriculture, industry, commerce, banking, insurance, transport, municipal and national enterprise, handicrafts, consumers, officials, liberal professions, and people generally concerned (some as lifelong students of economics and politics), were represented by their best men.[2] Former high officials in the Federal and State Departments and the great local government authorities, burgomasters, secretaries of important Chambers of Commerce, Agriculture and Industry, economists practical and theoretical, estate, factory, brewery and mine owners, trade union leaders, professors of almost every description, farmers, gardeners and artists, engineers, merchants, journalists (but few), bankers, shippers, lawyers, telegraphists, not to mention butchers, house-decorators, bakers, doctors and authors, met together with a purpose, energy, variety and an all-inclusiveness irresistibly reminiscent of the concourse of children following the Pied Piper. In dignity, understanding, social creative power, representativeness, and potentiality of service, it is fair to say there was no parallel to this in any Parliament in the world. The electoral political process had not marred the choice of representatives. It contained such men as Cuno, Stinnes, Rathenau, Legien, Umbreit and Wissell.[3]

How had these men and women been chosen? They had been (save for Groups IX. and X.) chosen directly by the executives of the organisations mentioned in Article

[1] Appendix VI., Art. 2.

[2] To be discovered from a study of the membership list in Schäffer, *op. cit.* p. 186 *et seq.*; and *Vorläufiger Reichswirtschaftsrat, Mitgliederliste*, Nrs. 1 and 2, 1922.

[3] There were five women members, four in Group VII., representatives of housewives' and domestic servants' organisations; and one member of Group IV., a shop-assistant, nominated as representative of the Trade Union of business employees' associations.

2 of the decree.[1] In this way the choice had rested with a number of men, themselves elected to office, or selected for office, after many years of service to their particular organisation. It was a method admirably adapted to secure the man best fitted by eminence of understanding a place in the Economic Council. The test could not but be rigid and searching in comparison with the method of choice by political party executives. The Federal Minister for Economic Affairs then ratified the choice of the organisation in respect of the credentials of the person submitted. The age limit of twenty was put into application for eligibility of both men and women.[2] Some members were members of the Reichstag at the same time. To this the decree made no objection.[3] Indeed, the intention of the decree was to foster a warm relationship between the two assemblies. The clause framing this intention had come through the debates from the Government project of December 4, 1919, which thus argued its case : " Because the preparatory Federal Economic Council is not a Chamber equally empowered alongside the Reichstag, there are no objections to allowing members of the political Parliament to be members of the preparatory Federal Economic Council. Such double mandates can, of course, result in certain incompatibilities, as when the two bodies sit at the same time, or in the question of payment of members ; but the keeping open of this possibility is absolutely necessary, in order not to keep away leading intellects from one or the other body. We can even take it that the activity of the same man in the political and the economic body will serve to promote a beneficial co-operation of both and to avoid friction."

It has already been seen how the principle of territorial representation was forced into the composition of

[1] *Q.v.*, App. VI.

[2] More precisely (see Art. 3) persons eligible for election to the German Constituent National Assembly can be appointed members of the Federal Economic Council.

[3] Art. 3, App. VI.

the Council. To secure the best operation of the principle the nominations were required to be made first by the craft organisations in Groups I. to VIII. (save those representatives to be chosen by the German Diet of Industry and Commerce).[1] Their choice having been made, the Diet of Industry and Commerce was apprised by the Ministry for Economic Affairs of the nominations thus made, and then made its nominations in respect of territorial considerations. This process concluded, the Reichsrat and the Government made their nominations for Groups IX. and X.[2]

An apparent anomaly, perhaps but theoretical, is provided by the institution of a right to recall members, and an equal insistence that the members are bound by no pledges. Let us consider this a little more closely. Strictly speaking, no unlimited right to recall a member is given to the nominating bodies of Groups I. to VIII.,[3] for the summons recalling a member's right to represent an association is only exercisable by and effective through the assent and action of the Federal Government, which for this purpose is the Minister for Economic Affairs. Were the right to recall exercised by the association without the moderating influence of the Ministry, it might happen that such recall would be exercised on the grounds of an insistence upon group interests against the common weal. The most authoritative commentary on the decree says in this regard: "One can imagine cases of a misused proposal for recall; it might be because the member had voted against a proposition presented by his organisation and against its supposed[4] interest. From Article 5, Clause 1, it follows that no sufficient

[1] Art. 4, App. VI.

[2] Of the 326 members, 36 are appointed on territorial considerations; 20 for industry, and 16 for commerce, banking and insurance. This is regardless of territorial considerations in the Reichsrat appointments.

[3] Cf. Art. 4, App. VI.

[4] This looks very much like an attempt at the differentiation of an association's "real" interest from its "supposed" interests in terms of the Hegelian view of liberty in the State.

cause lies here for the retraction of membership. It is probable that in cases where a body believes itself to have been 'betrayed' in this way by its representative, it could give other reasons for its motion for recall. It is for the Government, in such cases, in which suspicion arises, to be specially reserved with its recall."[1] That is to say, the Government was made the guardian, in the last instance, of the common weal, when threatened with attack by a sectional interest. The commentator says, previously, that the aim of this rule is to maintain in the Federal Economic Council personalities who possess the confidence of their organisations, and thus avoid a state of affairs frequently arising in political parliaments with long periods of tenure. The project of December 4, 1919, says, too, that the recall is to be used where "the representative no longer possesses the confidence" of the organisation. To restrict this right to correcting absence from the assembly, or non-attention to duties,[2] is to take practically any significant content from the clause, and to cut off the possibility of the full vividness of the organisation having its effect upon the Economic Council. As will be seen later, the Council is not a will-organisation, and therefore the special interests of the associations will not necessarily result in their attaining what they think they are entitled to against the "will of the whole."

Article 5[3] referred to above constitutes the other side of the contradiction in the decree. It declares that members of the Economic Council are representatives of the economic interests of the whole nation, and that they are subject to their consciences only and not bound by mandates.[4] This pursues the intention, expressed in the commentary to the decree, of avoiding sectional disputes in the Council. "In the last resort," says the commentator already quoted,[5] "the significance of the

[1] Schäffer, *op. cit.* p. 88, Note 38. [2] As in Schäffer, *op. cit.* p. 88.
[3] *Q.v.*, App. VI. [4] Cf. Burke, *Speech to the Electors of Bristol.* [5] *Op. cit.* p. 92.

provisional Federal Economic Council for the development of German industry will depend on whether the body as a whole is successful in arriving at the just balance between craft and particularist egoism and finding the necessary common attitude of mind." As a matter of fact, practice, as will be shown later, has provided the continual spectacle of disagreement between groups in argument, and only a small amount of final agreement where differences were vitally serious to begin with. This in no wise impaired the benefit of the Council to the Government: as long as the interests came into contact, and in the light of each other's interests examined their own and criticised those of other groups, as long as there was a process of mutual stimulation, competition and comparison, a stream of illuminating argument and counter-argument, followed by *any* measure of accommodation, the Council was worth its establishment. We suspect that the clause was the result of some pious but (in this case) unnecessary reverence for the community and a copy of the clause[1] of the general Constitution which ran, "The deputies (to the Reichstag) are representatives of the whole people. They are subject to their consciences only, and not bound by any mandates." This was an inheritance from the Liberal creed and constitution of 1848, itself inspired by the French constitution of 1793; it originated in a state of society which knew nothing of modern electorates, modern social organisation, and would perhaps have quailed before the spectacle of the Party Machine. We live in an age of mandates and instructions. But the members of the Federal Economic Council are accorded a legal right not to be held by instructions.

The clauses relating to non-official and official information given in the course of the Council's work are of some importance. It is clear that without the full and unhindered flow of information of a more or less

[1] Section II., Article 21.

confidential nature there would never be any real substance in the debates and recommendations of the Economic Council. Such information is necessary as a basis of discussion and *rapprochement* between groups, even more between employers and employed, and certainly between producers as a whole and consumers and general representatives. Indeed, the access of employers to information which is denied to the employed has not ceased to be a potent cause of complaint against the existence of employers' organisations of Chambers of Commerce, etc., as official representatives of the economic needs of the country.[1] Nor is it less clear that the giving of such information may have at least two main consequences: to render various private firms open to loss of profit-making opportunities through competition of other firms, and secondly, to leave certain representatives (*e.g.* officials) open to penalisation for their action in the Economic Council.

Therefore Articles 5 and 6 address themselves to a regulation of this matter. In the first place, members of the Economic Council are secured immunity from legal and official action for their voting or for other action in the Economic Council done in virtue of their membership, nor are they to be held responsible in this regard outside the assembly. This would seem to be of some special importance in relation to officials in lower grades, who, representing public undertakings, may hold a view different from that of the higher officials. Evidence as to information which has come to members in their capacity as members of the Council, as well as evidence about the persons who gave the evidence, can be refused, and as to the seizure of documents they are on an equal footing with people who have been accorded the right, by law, to refuse to give evidence. Members are bound to refrain from making improper use of any information, measures and plans brought to their know-

[1] Cf. Chapter VII., *post*, p. 205.

ledge in consequence of their membership. The execution of this rule is guaranteed a certain reality by the power of the President of the Council (with the assent of the elected administrative officers) to censure a member, after he has been heard in defence, for breach of the rule; after a second or third reprimand, he can with the agreement of his bureau exclude the member from a number of confidential sessions.[1] As far as the president of the plenary assembly or any committee declare the proceedings confidential, secrecy is to be maintained. Lastly,[2] as to the production of necessary information, the Government, or an authority entrusted by the latter with the duty, shall use its powers of getting information required (limited here to "respecting economic conditions") and place it before the Economic Council.

These clauses ministered to the needed expertness of the Council. But this ministration did not cease here. For Article 8 empowered the Economic Council and its committees to call on persons, not members, as experts, on account of their special knowledge of the subjects under discussion. Two purposes were served by this provision. In the first place, where the Economic Council found itself at a loss for special knowledge among its own members, it had the means of directly introducing into its deliberations such citizens as were specially acquainted with the subject. Secondly, it made it possible for interests in the country, which were unorganised and therefore secured no representation, or being organised, secured little representation, to explain the interests of the part of the population to which the subject specially referred. Both were consequences of the necessarily limited numbers of the Economic Council.[3] On this subject further regulations appear in

[1] Art. 12, App. VI.

[2] Geschäftsordnung (Rules of Procedure), June 10, 1921, Art. 6, Clause 4; and Explanation to Article and Clause, p. 8: "In the Economic Council, on occasion, business secrets are revealed or decisions made, whose premature announcement could give a possibility of utilisation in business."

[3] Cf. Government project, Dec. 4, 1919, Argument to Article 8.

the Rules of Procedure of the Federal Economic Council. The Committee on Procedure which reported in June 1921,[1] said that during the period of a year the Council had had no special rules touching the methods of appointing experts, but that now a strict division must be made between experts who were valued by the Government or the debating body and "personalities from groups concerned in a subject of deliberation (interested persons)." The former class needed to be much more sparingly used in comparison with previous practice (they had to be compensated). In future,[2] experts of this nature were to be invited by (*a*) suggestion of the Government, (*b*) resolution of the Federal Economic Council or its Committees, (*c*) if members of the Council itself should be suggested as experts. The President of the Assembly would then review the suggestions in order to assimilate procedure in the various Committees, and then invite the experts. The introduction of interested personalities was to be left to mere proposition of a group, and the Committee decides upon the proposition. Such persons receive no compensation. How these experts are made use of by the Federal Economic Council will be considered in the next chapter.

The powers and status of the Economic Council stand in very close relationship to its internal organisation and procedure. Indeed, it is plain that the latter must be determined by the former, for the former constitutes the aim and purpose of the body, as it were, and the latter, the means of compassing the purpose. Any one who has watched the history of procedure reform in the House of Commons,[3] in the French Chamber of

[1] Vorläufiger Reichswirtschaftsrat, Drucksache, Nr. 160, *Bericht des Ausschusses für die Geschäftsordnung*, pp. 20 and 21.

[2] *Ibid.* Drucksache, Nr. 167, *Geschäftsordnung*, Art. 20.

[3] Cf. Redlich, *The Procedure of the House of Commons*, 3 vols., London, 1908, and Select Committee of the House of Commons on Procedure, No. 378, 1915; and Sir Courtenay Ilbert, "The Reform of Parliamentary Procedure," *Contemporary Review*, November 1906.

Deputies,[1] and in Congress [2] in the last half-century will know how the power to render the services expected by the community and made urgent by the development of environment and new purposes depends on the right organisation of the procedure of those bodies.

The powers of the Federal Council are stated broadly by Article 165 of the Constitution; but these could not be directly assigned to the provisional Federal Economic Council, since the substructure of Workers' Councils and Economic Councils was yet lacking and only their future establishment could warrant a full empowering of the Federal Economic Council. But it is so far deprived of only one right [3] accorded to it in the Constitution; that is, the presentation of its own proposals direct to the Reichstag by one of its own members.[4] Neither is there any compulsion on the Government to introduce bills initiated in the Economic Council into the Reichstag. For any real effectiveness of its right to advise the Government on matters of socio-political and economic-political legislative projects and initiate such measures the Economic Council is dependent upon the impressibility of the Government and the Departments and, as the project of December 4, 1919, put it, upon the "esteem of the parties and persons represented in the body." But the Decree has the force of any other law in the German statute-books; and within the powers —advisory and initiatory—given by the clauses of that Decree the Economic Council is legal master. The rest is dependent upon the personal element in the relations between the Government, the Administration, and the Committees and leading members of the Economic Council.

[1] Pierre, *Traité de Droit Politique, Electorale et Parlementaire*, 4th ed. with Supplement, Paris, 1919.

[2] McCall, *Business of Congress*; and Reinsch, *American Legislatures and Legislative Method*.

[3] Cf. Art. 11, App. VI.

[4] But see p. 163 *infra*, where the practice of employing a member as an aid to the Minister in the Reichstag has been established.

It is in the main, therefore, not a will-organisation; that is, its decisions are expressions of reasoned acceptance or rejection of Governmental projects, and not commands; it is not a commanding body, it is an authority expressing judgements, most frequently not of a bare affirmative or negative character, but of a careful and complicated mixture of the two. It cannot impress its judgements upon the German people by sanctions; it can only commend its views to the Government by virtue of the qualities of right thought and relation to facts they contain. It exercises no legal imperative; at most, its right reason is the measure of its authority.

Having regard to this, both the Decree and the Rules of Procedure of the Council enjoin a departure from the method of decision by majorities. Indeed, the essential of such a departure had been applauded in the Bismarckian Economic Council, and might well have served to mitigate the severity of the battle for greater numbers of representatives. The Decree makes the general provision [1] that save in the matter of arrangement of business there shall be a voting by groups as well as a voting by heads. There is thus given a qualitative and differentiated colour to the voting, and therefore the significance of the decision becomes of more value to the Government and the Reichstag and to the public than a mere division of undifferentiated members. Nor is that all. For at the request of an outvoted Group its attitude is to be notified to the Government: its weight of understanding and suggestion might conceivably be greater than that of the majority.[2] Similarly the presentment of such a report is made possible for a minority outvoted in a Group, where such minority amounts to more than one-third of the members of the Group. The reason for the latter rule is to be found in the proceedings of the sixth Committee of the National Assembly. A debate

[1] Art. 7, App. VI.
[2] Cf. the right to protest in the House of Lords.

arose on Article 7,[1] and it was seen that since the principle of parity had been departed from in regard to agriculture and handicrafts, which contained respectively the representatives of rural smallholders and the handicrafts unions, these small groups within the greater groups needed a special opportunity for expressing dissent.[2] Lastly, a minority, in a division by heads, amounting to at least one-fifth of those voting, has the right to notify the Government of its particular attitude.

It was with much truth that the Report of the Economic Council's Committee on Procedure said that[3] it was in a " novel territory " when it had to deal with a code of procedure for such a body. It had no real predecessor; for the old vocational and estate assemblies had different functions and modes of composition. It was compelled to take note of the experience of the former Economic Council to the Ministry for Economic Affairs, and the experience of the Provisional Federal Economic Council during the preceding twelve months. Both these bodies were limited in the lessons they could afford. Though many of the rules of political Parliaments could be adopted in their spirit, or even in the letter, any complete similarity of procedure was impossible—the conditions and needs were peculiar. The difficulty of arriving at a satisfactory code reflected itself in the amendments and re-amendments made to the various clauses during the Committee's deliberations.

Where did the central difficulty lie? It lay quite clearly in two directions: in the nature of the composition of the Economic Council, and the character of its functions. In relation to its composition it could be clearly seen that even the grouping of German economic and social life into ten divisions by no means corresponded in a sufficient measure to the real complexity that existed. Closer analysis of the Groups reveals clearly a number of

[1] Cf. *Bericht*, etc., Nr. 2794. [2] Cf. Schäffer, *op. cit.* pp. 109, 110.
[3] Drucksache, Nr. 167, 1920–1921, p. 4 *et seq.*

Sub-Groups each with special interests and point of view. Further, the first six Groups were again divisible into a connected grouping of employers and employed, and special rights were accorded to that division of the Economic Council comprised of Groups VII. to X.[1] by the Decree. Thus any adoption of pure majority and minority voting was out of the question. It was a vocational assembly, established partly on a denial of the all-powerfulness of majorities to represent social needs and an assertion of the value of group interest and knowledge. Communities large and small *qua* communities must be assured the right of self-expression. In relation to its functions the Economic Council was advisory, and therefore the arrival at majorities was not as essential as in a political parliament, which avowedly exists to concert acts of will, and therefore needs, for the authority of its decisions with the citizens, the ability to appeal to the majority principle of modern democracies.

Therefore throughout the rules of procedure the Groups are given particular distinctiveness, and the divisions into which the Assembly falls—Division I., Employers; Division II., Employed; and Division III., Consumers, etc., in Groups VII. to X.—are marked out as separate entities for action in the Committees and the plenary Assemblies of the Council.

The President and first and second Deputy-Presidents are elected by the Federal Economic Council.[2] Each of these three offices is filled respectively by a member of Divisions I., II. and III. The President and first Deputy-President change office half-yearly,[3] to give employed and employers an equal chance of securing the Presidency. Further Deputy Presidents and nine elected secretaries are elected on the same principle[4] —equality of the Divisions. These officers constitute

[1] Cf. Art. 7, Clause 1, App. VI.
[2] Art. 2, Clause 1, *Geschäftsordnung*, June 10, 1921, Drucksache, Nr. 10.
[3] *Ibid.* Art. 2, Clause 3.
[4] *Ibid.* Art. 2, Clauses 4 and 5.

the administrative bureau of the Assembly, and are concerned with the regulation of business and the administrative and servant personnel, and the summons to attend the sessions.

The Groups separately, and the Divisions each one for itself, elect their administrative bureaux also.

The elections of the Committees of the Economic Council (and they do the main work) take place in the Divisions, and by heads.[1] This regulation caused controversy between the members of the three Divisions concerned in its framing. The alternative was to constitute the Committees by election of members from the Groups. The employers and part of Division III. contended that constitution by the Divisions would deny the implication of the constituent Decree and the spirit of an economic assembly: that is, dependence on the interests of Groups. The practice of the workers of settling the elections in their Division, and previously establishing in the Division caucus[2] their attitude to the questions at issue, would tear the Economic Council and introduce political points of view (it is the fear of class war that is here being expressed) into economic questions. To this the workers replied that only in the elections by the Division was it possible for the different Trade Union Movements to be allowed for, while no consideration could be had to the minority policies in the election by Groups. It was impossible, therefore, to do without elections to Committees by Divisions. Nor could the workers forego the previous discussion of questions at issue. The regulation was carried against the employers' votes.[3] The Groups within each Division can secure their proportional

[1] *Geschäftsordnung*, Art. 9, Clauses 1 and 2.

[2] This word is, of course, not used in the Report on the Rules of Procedure. But it irresistibly reminds one of the caucus in the American House of Representatives to select the Committee of Ways and Means, which, pre-eminently perhaps, is a Committee of Selection for all the other Committees of the House.

[3] Cf. *ibid.* p. 8, Explanation to Art. 9.

representation on the Committees by a mechanical readjustment: where they get less than their fair share of representation on one Committee because of the indivisibility of the living human body, the fraction they have lost there is added to any other fraction over a whole man for some other Committee.[1] It is pedantic, but just.

The clause of the Decree, commanding that the two main Committees, for socio-political, economic-political matters, shall be equally representative of each of the three Divisions, is followed out in the formation of the other Committees of the Council—Division I. (Employers' side of Groups I. to VI.), Division II. (Workers' side of Groups I. to VI.), and Division III. (Groups VII. to X.) have equal numbers on the Committees.[2] Sub-Committees, appointed by the Committees for the preparation of material, are not subjected to such a rule according to the Code of Procedure. But, in practice, the Sub-Committees have been constituted on the same plan of equal representation.[3]

In this way has the balance between the Divisions been secured, and an equal liberty to express their respective views assigned them. The idea of parity between workers and employers was strong enough expressly to force equality of representation in the two chief Committees ;[4] and the importance of the third Division sufficient to warrant the express command[5] that it should not receive less than one-third the membership of each Committee.

The voting, in full Assembly, by Groups follows the already discussed clauses of the Decree. A representative of each Group calls out the result of the Group vote, with the numbers in the minority and majority. In the Committee there is no voting according to Groups,

[1] *Geschäftsordnung*, Art. 9, Clause 3. [2] *Ibid.* Art. 9, Clause 2.

[3] Cf. Drucksache, Nr. 125, 1920–1922 (Nov. 1922)—composition of the existing Committees, Groups, Divisions, etc.

[4] Decree, Art. 11, Clause 4. [5] *Ibid.* Art. 7, Clause 8.

but, on a motion, the way in which the members of the different Groups have voted is to be recorded.

In obedience to the general tendency of legislative assemblies in all the greatest modern societies, the Economic Council relies for most of its work upon proceedings in Committees, these being always smaller than the whole House.[1] The Committees cannot contain more than 30 members,[2] in the case of the two chief Committees. No others exceed this number, in practice. The two chief Committees (permanent), to deal respectively with economic-political and socio-political questions, are established in virtue of Article 11 of the Decree. They have some special duties which differentiate them from the ordinary Committees of the Council. (There are certain decrees, laws and orders made for the regulation of the transition from war controls to a peace footing. Such decrees, of an important nature, upon being issued or repealed or modified in important points, must be laid before the appropriate Committee for its advice. Should the Committee reach a deadlock with the Government to the extent of less than three-quarters of the votes cast, the Government can appeal to the full Assembly. Should the Committee maintain its difference from the Government by at least three-fourths the votes cast, the Committee may refer the question to the full Assembly.) For the rest its duties and mode of operation are that of the other Committees, set up in accordance with the directions of the Decree and the Rules of Procedure of the Economic Council. There are, further, special Committees for Control of Export Trade,[3] for Procedure, and for the Settlement of Disputes according to Article 94 of the Works' Councils Act.[4]

[1] This explanation is to avoid any suspicion of similarity to proceedings in Committee of the whole of the House of Commons.

[2] Decree, Art. 11, Clause 5.

[3] The export trade is, for fiscal purposes, carefully regulated.

[4] To decide disputes within the terms of the law where the enterprise stretches beyond the State frontiers, or where the conditions of work are subject to Federal supervision.

Beyond this, for the purpose of its ordinary work of advice, scrutiny, examination of witnesses, initiation of measures, etc., the Council establishes any other necessary Committees.[1] The vitally important rule relating to the Committees and their operation lies in the Decree,[2] for there the Council is given power to resolve that its Committees shall remain at work during its adjournment. It is, indeed, a vitally important and effective rule. For it makes it possible for the main body of the members of the Economic Council to disperse to their own affairs, leave the main deliberation and accommodation to go on in the Committees, which are, by nature, more fitted for this type of work than a body containing 326 members, and then assemble occasionally for deliberation and voting in plenary session. The Committees work continuously, and are in continual touch with the Government Departments: the full Assembly meets about once (for several days) every two months. The importance of Committee work can be inferred from the fact that as the Economic Council has developed the number of Committees for special purposes has increased. The latest return [3] of established Committees gives some idea of the organisation of the Council for working purposes, and of the nature of its services. There are:

1.	The Economic-political Committee .	30 members.
2.	The Socio-political Committee . .	30 „
3.	The Works' Councils Committee [4] .	6 „
4.	Export Trade Control Committee. (Sub-Committee of the Economic-political)	21 „
5.	Export Duty Committee. (Sub-Committee of Export Trade)	6 „
6.	Commercial-political Committee .	21 „
7.	Sub-Committee for Agriculture and Foodstuffs	18 „

[1] *Geschäftsordnung*, Art. 8, Clause 2. [2] Decree, Art. 7, Clause 8.

[3] *Vorläufige Reichswirtschaftsrat*, Drucksache, Nr. 125, 1920–1922 (at November 1, 1922).

[4] This contains only workers and employers: by Art. 94 of the Works' Councils Act of February 4, 1920.

8.	Coal Committee. (Sub-Committee of Economic-political Committee)	21 members, only 5 for Division III.
9.	Sub-Committee for Credits to Industry[1]	24 members.
10.	Sub-Committee for Timber Economy and Forestry	15 members, of which Division III. has 3.
11.	Sub-Committee for the Economic Fostering of Intellectual Labour	15 members: workers and employers 3 each, and Division III., 9.
12.	Sub-Committee on Socialisation . .	15 members.
13.	Sub-Committee for Amendment of Wine Law	4 „
14.[2]	Joint Sub-Committee of the Economic-political and Socio-political Committees	18 „
15.[3]	Constitutional Committee . .	30 „
16.	Finance-political Committee . .	30 „
17.	Sub-Committee (of 16) for Taxation Control	9 „
18.	Transport Committee . . .	24 „
19.	Water Supplies Committee . .	24 „
20.	Committee for Colonisation and Housing, and its Sub-Committee on Rural Colonisation	24 „ 6 „
21.	Committee for considering the Problems of the Training of our Vocational Talent	21 „
22.	Reparations Committee . . .	6 „

The Committees have the right to appoint Sub-Committees to prepare material for their deliberations, and in order that these may be made the more apt to their duties other members of the Economic Council may be added to the Sub-Committees, but only with the right to discuss and advise and without right of voting.[4] For every member in both Committees and Sub-Committees a deputy is elected. The further request of the employers' side for the power to vary their representatives

[1] *Unterausschuss für Produktionskredit.*

[2] Committees and Sub-Committees Nos. 4 to 13 are Sub-Committees of the Socio-political Committee and are selected from the members of the Mother Committee by the latter. They therefore do not come under the rule of parity between the Divisions.

[3] Concerned with the very important question of substructure and future of the Economic Council.

[4] *Geschäftsordnung*, Art. 8, Clause 3; and Explanations, p. 8.

to the Committees and so meet the demands of their businesses while maintaining a parity with the employed was refused ; only a temporary and extraordinary right of sending a special representative was allowed.[1] The Committees elect their own chairmen, deputy-chairmen and secretaries. The chairmen convene the meetings.[2]

The sessions of the Committees are not open to the public unless publicity is resolved upon by a two-thirds majority of the members, but the members of the Economic Council are free to be present at all Committee proceedings. A subject on the orders of the day may be declared confidential by the Chairman, and must be so declared at the Government's demand. Further, the proceedings relating to a subject may by a three-fourths majority be declared confidential (or at the Government's request, must be) ; in this case a special meeting must be arranged and all matters there arising be previously declared confidential, and here only Committee members, their deputies, and expressly commissioned Government representatives have the right to be present.[3] The proceedings are reported in full, with the consent of the President of the Economic Council. There is a paid administrative staff of a civil service character of 15, 9 others in occasional employment, and a number of low-grade employees, charwomen, lift-operator, porters, etc.[4]

It is the duty of the Committees to deliberate upon the matters put before them, and then to report to the full Assembly, which finally makes a decision.[5] That is to say, before the work of a Committee is allowed to affect the Government it passes through the medium of the whole Federal Economic Council. But if the

[1] *Geschäftsordnung*, Explanations, p. 8.
[2] *Ibid.* Art. 10, Clause 1.
[3] *Ibid.* Art. 11, Clauses 1-4.
[4] Cf. *Haushalt des vorläufigen Reichswirtschaftsrats für das Rechnungsjahr*, 1923, Anlage VIa. Their work is not of a high administrative order, but is concerned with reporting proceedings and other executive duties. The general work of preparing agenda and directing the work of the Committee is executed by its elected Bureau.
[5] *Geschäftsordnung*, Deckblatt zur Drucksache, Nr. 167, Art. 13, Clause 1.

administrative bureau of the Economic Council assents, the Committee's resolution can be passed to the Government before the full Assembly has made its judgement upon the report and resolution. This again makes for the enhanced importance of Committee work, and allows the Economic Council to operate and have its effect without too inconvenient a number of full sessions. A Committee resolution so passed to the Government must be placed before the full Assembly as soon as it has met. But Committees may make independent resolutions which need not be placed before the full Assembly if at least three-quarters of the members present so resolve.[1] This gives the Committees the right of initiation : a right which may be exercised directly *vis-à-vis* the Government. In the main their work is preparatory for the full Assembly ; but the rule discussed above gives a great opportunity for independent action.

The general right to initiate has been held to lie only with the full Assembly of the Council.[2] The relations between the Government and the Economic Council will be more fully dealt with in the next chapter, where the constitutional rules will be discussed in relation to the work actually done. On its own side the Government may commission representatives to take part in the proceedings of the Council and its Committees: such representatives have the right to be heard at any time.[3] As far as the Government desires it, therefore, contact with and influence upon the work of the Economic Council is assured. On the other hand, the Economic Council and its Committees are accorded an equal right of requesting the presence of Government representatives. This leaves the way clear for questions and interpellations by the Economic Council to the Government. Questions cannot be put by individual members: in the first twelve months of the Council's

[1] *Geschäftsordnung*, Art. 13, Clause 3.
[2] *Ibid.* Explanations, p. 9, Art. 14.
[3] Decree, Art. 10.

activity this was found to inflict too onerous a duty on the Ministers and the Government Departments. Not that the Government representatives are compelled to answer questions orally: that depends upon their inclination and the pressure of other business. But even the mere thinking about the answers and their writing was too great a burden on the Departments, already concerned with two other Assemblies, the Reichstag and the Reichsrat. Questions therefore are only in order from a whole Group or from ten members.[1] They are put to the President of the Economic Council, by him sent to the appropriate Committee, the Chairman of which asks the Government to send a representative to deal with the question. If none of the members who put the question is a member of the Committee concerned with the answering of it, at least one of those members must be co-opted by the Committee for the particular purpose of the discussion. The next process can, perhaps, hardly be called one of interpellation, because we associate with that word the idea of a debate in which the Opposition to a Government endeavour to obtain a majority showing no confidence in the Government. Nothing of that sort arises in the Economic Council.[2] The Committee, not being satisfied with the information given, is merely provided with the power to resolve that the question shall be further discussed in full Assembly, in the presence of representatives of the Government, and only then.

The Government may defer the discussion by the Council of bills which the latter initiates. It is thus safeguarded against unexpected measures and discussions, and is accorded a certain time for consideration of its attitude and preparation of material for discussion. Besides the ordinary delay of discussion to three days

[1] Cf. *Geschäftsordnung*, Art. 21, and Explanations.

[2] Indeed the Government protested that such a procedure did not lie within the constitutional power of the Council; cf. *loc. cit. supra.*

after introduction, and by Government request, any Group, or at least six members, can request further delay of discussion. This is to give an opportunity for previous Division, Group and Committee discussion before the whole Assembly takes up the task.[1]

For the full Assembly one-third the membership is a quorum;[2] for the Committees one-half. The latter is an indication of the importance of Committee work to the Economic Council.

The Decree secures to the member of the Economic Council a compensation for his time, and free travel.[3] By a Decree made for the purpose,[4] the members are allowed free travel on all German railways for the duration of their membership and the following week; compensation for each day they spend at a session of the full Assembly or Committees of which they are members or deputy-members. They are equally compensated for the days of recess in the sessions up to five days. The Berlin members receive only half the daily compensation of country members. There is a compensation to members not dwelling in Berlin for time travelling to and from the Council. There is specially large pay for the President. Where members belong to another political body they receive no compensation from the Economic Council for the days for which they have otherwise been paid.[5]

Such are some of the main dispositions of the law relating to the constitution, status and functions of the Council. We are now prepared to observe it in full function.

[1] *Geschäftsordnung*, Art. 14, Clause 2.
[2] *Ibid.* Art. 17.
[3] Cf. Art. 5, Clause 5, App. VI.
[4] June 28, 1920, *Reichsgesetzblatt*, p. 1335.
[5] The constant work in the Committees, the increasing amount of work thrown upon the Economic Council, and the pay to members raises the question as to the members' possible loss of touch with their vocational groups and the professionalising of their Council activities. This matter is referred to on p. 217 *infra*.

CHAPTER VI

THE ECONOMIC COUNCIL AT WORK [1]

The proof of the Superman will be in the living ; and we shall find out how to produce him by the old method of trial and error, and not by waiting for a completely convincing prescription of his ingredients.—G. B. SHAW, *Man and Superman.*

THE Federal Economic Council began its work amid enthusiasm, warnings and doubts. The enthusiasm came from those who had been most active in bringing about its establishment (various high officials connected with the Ministry for Economic Affairs) and the more moderate men and women in industry. Here they saw the opportunity of emancipating themselves from the rule of political parties and of speaking directly with the inner counsels of Government. One of the employers' members, who has since played an extremely hard-working part on the Council, greeted it as an organ with a power of industrial influence through which "the great idea of an official and comprehensive representation of all that was industrially creative" alongside the Government was first realised. To him it was a preparatory school for economic construction in the great style ; a place where the best experts from all branches of industry could come together for constant and close exchange of ideas, and speedily take up an attitude

[1] This chapter is based upon Stenographic Reports, the Accounts of Committee Proceedings and General Business, and the Printed Pieces of the Federal Economic Council, from its opening on June 30, 1920 to January 31, 1923, as well as interviews and correspondence with the leading men concerned in the constitution and working of the Council.

towards any questions which arose; this would bring it influence and power with all the branches of government.[1] The Trade Union leaders, at first opponents, naturally, of the Council idea, accepted the Economic Council as a working institution which would bring employers and employed together and extend the influence of both in legislation and administration, and determined upon the heartiest co-operation:[2] a determination that, to judge from the presence and activity of the leading Trade Unionists on the Council and its Committees, has not lacked fulfilment. Nor were the members of Division III. wanting in enthusiastic willingness to give the Council their energy and intellect. On the practical grounds of what they could attain for the classes of the people they represented, and to some extent (with the professors) on the theoretical promise of the institution, the members of Division III. were attracted, and the later history of their enthusiasm is a long record of activity.

The warnings and doubts that were uttered came from two classes. There were those who looked at all the possible pitfalls lying in the immediate path of the Economic Council: that it might soon emphasise rather than weaken the class war: that it might suffer from the domination of political parties in the Reichstag: be composed of mediocrities: suffer the contempt of the Departments and the Government: either not receive the legislative projects it should receive, or enter into unworthy controversies with the Government over its rights, owing to the difficulties of clearly defining them, and perhaps become merely an isolated talking-shop.[3] On the other hand were those of the extreme Left, and even the Cohen-Kaliski school, who thought that little

[1] Hans Kraemer (Member of Presiding Body of the Imperial Association of German Industry), *Die Post* (Berlin), June 30, 1920.

[2] *Korrespondenzblatt des Allgemeinen Deutschen Gewerkschaftsbundes*, June 18, 1921.

[3] Georg Bernhard, *Vossische Zeitung*, June 30, 1920, Article "Der Reichswirtschaftsrat."

good could emerge from its work as its powers were ill-defined and were insufficient: they desired either a single Legislative Chamber constituted on the vocational basis or a Double-Chamber system in which the Economic Council should stand equally empowered with the political Chamber in relation to law-making.[1]

What broad judgement can be made on the activities of the Economic Council during the period under review?[2] Unhesitatingly it is fair to say that no Parliament in any of the countries, France, England, Italy, the United States of America, in its full assemblies and its committees, could render such services to the process of government as the discussions and method of work of the Economic Council. Its work is well arranged, amply discussed, thoroughly thought out. It has constructed the proper technical apparatus in its Committees, has secured the best personnel to its purposes, it has made good use of expertise, has recognised its duty to come into direct, not second-hand, touch with the interests of the community, and has never forgotten that its greatest fruitfulness lies in making suggestions and in initiating inquiries and discussions, and then providing the Government Departments with reports that contain every element of creative research.

From the beginning the members of the Economic Council were determined that there should be no slight to its prestige or diminution of its statutory rights. It vigorously expressed its resentment at being accorded a provisional home[3] only after long and by no means good-natured negotiations between the Ministry for Economic Affairs and the Prussian Departments of State. And this resentment was not expressed merely in relation to the particular subject at issue, but to that subject as part of the whole constitutional status of the

[1] Cf. Review in *Blätter für Ständischen Aufbau*, Nr. 43, Oct. 26, 1921 (Brauweiler).
[2] June 30, 1920 to Jan. 31, 1923; *i.e.* two and a half years.
[3] In the building of the Prussian War Ministry.

Economic Council; for that body was from the first lynx-eyed as to its powers and status.[1] The result was a promise of a home of its own as soon as it could possibly be established: and so in December 1922, amid congratulations and apostrophes, its official and permanent seat was given it.[2] On that occasion the Imperial Chancellor Cuno said: "The establishment of this home accords the Federal Economic Council here a proper domicile, and that is an expression of the belief in, and a practical proof of the service which has hitherto been rendered by, the Federal Economic Council."[3]

Nor did the battle for its own prestige centre in this field alone. For it was long before the Minister of Finance would accord the Economic Council its own independent place in the Estimates as a separate, and not subordinate, branch of Government activity. There was a pretence upon the part of the Ministry of Finance that money could not be found for the staff, printing, etc., of the Economic Council since it was merely a provisional institution. It was easy to show that the Economic Council had its basis in the Constitution, and that therefore money must be found for it. But the original hesitation to provide for the Council's upkeep was an expression of Departmental ill-will and unwillingness to be disturbed from the slumbers of habituation by an intruder which claimed to scrutinise all projects of taxation. All treasurers are abnormally sensitive. Vigorous vindication of rights was not lacking. "We are neither an Amusement Club," said an eminent member,[4] "nor a Skittle Club, but a constitutional institution, and as members of this House we have to fulfil a duty laid upon us by the constitution. We can therefore demand that to the fulfilment of this duty the necessary means be accorded us; and not only this, that

[1] Debate, Full Assembly, 5th Session, Dec. 10, 1920, col. 141 *et seq.*
[2] Berlin, Bellevuestrasse 15.
[3] 46th Session, col. 2280.
[4] Georg Bernhard, Chief Editor of the *Vossische Zeitung*, 5th Session, col. 142.

the other necessities of life shall be created and maintained for us, without which no parliamentary institution can exist." The answer came, first, from the Federal Minister for Economic Affairs, under whose Estimates the Economic Council now stood. He would do all he could in the future, as he had done in the past, to secure its position and its compulsory consultation by the Government. For the troubles that had already arisen in relation to its Budget and occasional differences with some Departmental projects the Reichstag was much to blame. "It is clear," he said, "that the Legislative Assembly (the Reichstag alone, now and for the future) does not view with any great satisfaction, even if only the suspicion of it is awakened, the threatening of its legislative activity by some other organ." [1] He agreed with the Council that provision for the Economic Council *within* the Estimates of the Ministry for Economic Affairs did not correspond with the worth of the Assembly. The President of the Assembly once more upheld its position as a consultative body of importance, declared the necessity for constant contact with the Government, and demanded that the work of the Council should be permitted its influence upon the Ministers. An independent Budget was promised. After a long and difficult struggle the Cabinet gave in to the Economic Council;[2] and it was accorded the most significant mark of self-sufficient authority, an independent budget.

The difficulties that were feared, by critics and commentators, relating to the definition of the terms "fundamental," and of "socio-political and economic-political importance," appear to have given little trouble. The signs of quarrel between the Economic Council and the Government, save for one or two complaints in the first six months of its activity, are very rare. It protested against previous resolutions in the Reichstag (introduced

[1] Scholz, Minister for Economic Affairs, 5th Session, col. 144.
[2] Cf. Proceedings, 16th Session (March 1, 1921), col. 710.

by Ministers) relating to an Exceptional Levy and a Forced Loan,[1] and complained that one or two decrees had not been presented to it for advice. But as it proceeded with its work and the members of Committees drew closer in contact with the Ministries the complaints were fewer, less bitter, or never heard at all.

Three incidents of exceptional importance arose in the relations between the Council and the Ministries, and they mark the Council's vigour and self-respect. It was resolved by the Council (*a*) that the advisory powers of the Council were rendered difficult, might, indeed, be made altogether impossible, by the existence of various Advisory Councils in the individual ministries ;[2] and (*b*) the Government was requested not to appoint Advisory Councils to the Federal Ministries, and thereby render possible the elimination of double work, and the timely reference of questions to the expert Economic Council and its Committees.[3] This was one manifestation of a source of friction between the experts of the Departments and those of the Council which has been a frequent obstacle to its perfect operation, but which has been overcome by the fundamental good sense of both parties. The Government did not meet this matter in a sense favourable to the Economic Council, for again in December 1922 the President of that assembly complained of the continued existence of competitors in the Advisory Council at the Departments.[4]

The next question established rights of greater significance than could be settled by the point just discussed. To guard the community against a cessation of essential social services in the event of a strike in public utility undertakings the Government had provided a large vote in the Budget for a Technical Emergency Aid Corps. The only point upon which the

[1] 5th Session, cols. 146 and 147.
[2] Resolution, Drucksache, Nr. 81, Dec. 1920.
[3] Resolution, Drucksache, Nr. 98, Dec. 1920.
[4] Cf. Proceedings, 46th Session, col. 2286.

Economic Council was consulted — or not even consulted, though it gave an opportunity for an interpellation—was the mere intention of the Government to establish an Advisory Council for Technical Emergency Aid. It was in one respect looked at as an attack upon the power of the working-classes to obtain industrial amelioration by means of the strike weapon; and therefore since it profoundly concerned the Economic Council, the whole subject should have been put before the Council for preliminary discussion and reports.[1] On the other side, it was a question of the rights of the Economic Council to be consulted on Budget dispositions. The Government, of grace only it may be held, according to its constitutional duty, sent taxation projects to the Council. But it was not obliged to send them. That at least was the attitude of the Ministry of the Interior.[2] This caused a general debate on the Council's field of activity, and it was demanded from many quarters that *all* economic projects should come within the purview of the Council; more, that all budget proposals, in so far as they touched economic life, should be sent to the Council[3] as early as possible before introduction into the Reichstag. The Departments were censured for not having sufficient political sense to employ the Economic Council as a neutral court of experts in such a matter, where the extraction of as much pure political substance as possible was so desirable.[4] Employers[5] as well as employed and members of Division III. agreed that the Government was in the wrong.

But a still more important point arose in the course of a debate on Reparations negotiations in London in

[1] This is, too, an illustration of the fact that where Government measures are more political than technical, *i.e.* more dependent for their reason and authority upon command and coercion and sense of social values than upon objective quantitative relationships between measurable social forces, the Economic Council (a thought-organisation) becomes much subordinated to the will-organisation, the Reichstag.

[2] 9th Session, col. 416.

[3] Umbreit, 9th Session, col. 423.

[4] Bernhard, *ibid.* cols. 433 and 434.

[5] 9th Session, col. 424 *et seq.*

June 1921. A spokesman for the workers' side declared that a special and separate assembly had been called of Division I. (the Employers) to express their attitude to the probable consequences of the Entente's Ultimatum, and thus to influence the Government's policy. Although the resolution of the partial assembly had had no apparent effect upon the Government, the workers' Division made formal complaint of the procedure of the employers. "The Federal Economic Council," said the workers' spokesman,[1] "stands in its whole essence upon the foundation of parity between employers and workers." The right of the employers to state their attitude to all public questions through their associations or conferences was not denied. But they had not the right in their character as members of the Economic Council to attempt to influence the decision of the Government. For the employers [2] it was said that though the Chairman of Division I. had called the members together, they had deliberated solely as employer-members of the Economic Council, had not made their resolution as Division I. of the Economic Council, nor sent their resolution to any one save the Imperial Chancellor. It was an attempt to meet and act, the employers said, without throwing the authority of the Economic Council as a mantle of prestige over the resolution made.

Later [3] the Administrative Bureau of the Economic Council gave judgement on the dispute. In the first place, it was declared, no Group or Division of the Economic Council could act independently in relation to outside bodies, but these bodies were compelled to get the previous recognition of their resolutions and desiderata by the Bureau of the Economic Council, the formal channel of communication. Secondly, the central organi-

[1] Leipart, President of the Allgemeiner Deutscher Gewerkschaftsbund, in Session 17, col. 761 *et seq.*

[2] Edler von Braun, Managing Director of the Administrative Bureau of the Federal Committee of German Agriculture, *loc. cit. supra*, col. 762.

[3] 20th Session, Sept. 12, 1921, col. 902.

sations of the various associations could, according to their own discretion, take measures for the expression and safeguarding of their own interests outside the Council, though they were represented in it. Representation in the Economic Council did not limit the freedom of proceedings outside it. But where the suspicion of action as a constituent part of the Council was present, the Bureau should be informed, and Division II. also, in order that misunderstandings might not arise. This, in reality, settled the question of outside deputations, and while securing to the Economic Council the character of the Great and Permanent Deputation of German Economic Activity, did not exclude the free, outside, minor and temporary representation of sectional points of view.

These mutterings and rumblings on the part of the Economic Council were, to tell the truth, a necessary part of its procedure. It had to make itself heard in order that its essentially creative, and therefore disturbing, activities should set the Government in motion and influence the Reichstag and public opinion. And the record of its achievements is a sufficient proof that its jeremiads against the ministers were not without effect. Almost on the first anniversary of its Assembly the Imperial Chancellor gave an account of the London Agreement relating to Reparations, detailed the measures that Germany had to take in order to fulfil that agreement, and asked the co-operation of the Economic Council. As a preliminary to an account of the kind of work the Council has performed, and as an interim judgement on its position, the reply to the Chancellor, by an employer[1] is full of value and interest. "The Imperial Chancellor appealed for the co-operation of the Federal Economic Council. I may point out in this hour and from this place that the Council has hitherto never refused its co-operation. If it has preferred to work in silence, if it

[1] Kraemer, 17th Session, June 8, 1921, col. 759 *et seq.*

has preferred to place its chief activities in its Committees contrary to parliamentary habits, it adopted this course for adequate reasons. But concrete peaceful service, without great emotional declamation, is in no wise worse as a mode of deliberation than that mode, which, clothed with grand phrases, evades any concrete substance. (Here there was a lively expression of assent!)[1] The Economic Council has the duty of co-operation in the work of Government, which is, indeed, a duty of the whole German nation. Did it but draw back from this duty for a single hour, it would have lost its right to exist. It cannot be the duty of a body of experts blusteringly and grumblingly to hitch itself to the Government coach, indifferently, whether it is striped with white, red, yellow, or any other colour. It seems to me to be right that we do not seek to hang on to the Federal coach somewhat as a brake, even though it is alleged to be nearing a precipice, but that to-day we use the opportunity which has been offered us so amicably by the Federal coachman—please, don't take my expression harmfully—to sit with him upon the driver's seat, not as it were, occasionally to take the reins, but in order to show him the right road in this difficult economic-political country. . . . We have the duty of co-operation, but the Government has the duty of rendering our labours easier. And here I ask the Chancellor to secure from the whole scheme of Federal Departments what he has promised for his own behalf. It has not always been so, not even in the Ministry which the Chancellor holds together with his Chancellorship. I hope that with to-day's declaration, so happily made, a change will take place, and to-morrow will show that all that which the Economic Council needs as the basis for its deliberations will be put at its disposal openly and readily."

[1] Judging from the fact that the Reichstag has no great love for the Economic Council, this lively assent to the speaker's remark seems to be the Council's appreciation of an arrow well-aimed at the Reichstag's weak spot. It loves to talk, as do all Parliaments, at length.

How are the Ministries and the Council related in the work to be performed? It was the desire of the officials who made the first project to get the advice of the Economic Council on measures before they left the Department which made them and came before the Cabinet for discussion. In this way the legislative projects would be taken before they had arrived at advanced maturity, and the report of the Economic Council would have an influence upon Cabinet deliberations. So far this has not been carried out, though it is one of the necessities which have become more urgent as the work of the Council has proceeded. "This procedure," says the President of the Economic Council,[1] "has important defects. From time to time the Ministries used to take advice, when they were drafting propositions, from experts, and here the possibility arose that in the stage of the preliminary preparation the draftsmen might call in any experts whose suitability was subject to no control, while the Government's official organ of advice, the Economic Council, might not be consulted." A project then leaves the Cabinet and is handed in to the Bureau of the Economic Council by the appropriate Ministry, with a remark on its urgency. The measure then passes from the Bureau to the full Assembly of the Council, and by resolution is then assigned to the appropriate Committee for discussion and report. In case of urgency the Father of the House can at once order reference to Committee, before the full Assembly has been consulted.[2] In this way a stream of Government projects enters the Economic Council. During the period under review the stream was steady and continuous, the average of introductions being between one and two measures a week.

Some of the measures sent by the Government may usefully be enumerated. The various problems arising

[1] Cf. Full Assembly, 46th Session, col. 2286.
[2] *Geschäftsordnung*, Art. 4, Clause 1.

out of Reparation engagements and the Resolutions made at the International Labour Office at Washington were laid before the Council for advice; and, indeed, the speeches with which these were assigned to the Council showed much less poetical appeal, but a much greater common-sense hardness about the economic content of problems to be faced, than similar proceedings in the Reichstag. Then came, as items in a long series, measures on Railway Rates, the regulation of the Potash Industry, the organisation of Imperial Waterways and Harbours (as a single system in relation to the economic needs of the country); there were, too, several projects relating to provision against future unemployment and the relief of present distress, hours of labour in industry. Particularly has the Council been active in its discussions of the great financial measures which are the direct result, first, of the new system of Federal finance giving the Federation first claim on all sources of taxation,[1] and secondly, of the extremities to which the war has brought German industry. Further, the Council was called to advise upon measures dealing with Maternity Aid and Care, Sickness Insurance, Industrial Arbitration, the creation of a Department for Wage Statistics, the establishment of Advisory Councils in the Railway Administration, Domestic Labour and pay, hours of labour of employees, housing. It is difficult to conceive a better institution than the Council for the discussion of a measure providing means for relieving the economic necessity of the Press, by cheap timber for wood-pulp and facilities for news-gathering. And this is as true for Bills relating to the employment of badly wounded ex-soldiers, the divulgence of banking secrets, the alteration of the statutory basis of limited liability companies, central organisation and uniformly directed administration of labour information and exchanges. Of particular

[1] A vast difference from finance under the old Federal system, for which see Venator, *Unitarismus und Föderalismus*, and cf. Howard, *The German Empire*.

importance and interest were the laws relating to the status and hours of domestic servants, the Lease and Rent Protection Bills, and the project of a law on Balance Sheets, Trading and Profit and Loss Accounts.[1] With regard to projects of taxation, the Council has put on record the necessity for a careful reference to the whole public burdens already placed upon industry, and the need for a complete overhauling and simplification of the financial system, and a simpler definition of taxation schedules which were causing severe troubles to revenue officials.[2]

The projects are sent to the appropriate Committees. There is a preliminary discussion of the principles of the measure with a representative, Minister or permanent official, from the proper Department to explain the Government's intentions and attitude to the measure. The members of the Committee get their copy of the project for study and to enable them the easier to move amendments. If it is necessary, outside experts are called in to advise on certain clauses, or other members of the Council not members of the Committee called for counsel. The various divisions bring any interested members as counsel. Perhaps a Working Committee, a small Sub-Committee of the whole, is formed for preparation of the material, and the opinion of the Committee begins to form. The various sides consult their organisations and their Group colleagues, and amendments are discussed and compromised upon, a vote takes place. Departmental representatives arrive, at their own instance or at the request of the Committee, take part in the discussions and say how much the Government is prepared to give way at once, how much is yet doubtful. Here there is the real interaction of Government and the various parties to the Committee.

[1] The last was designed to render less obscure and obscurable the facts relating to his business which the employer was compelled by the Works Councils' Bill to exhibit to the workers' representatives.

[2] Drucksache, Nr. 188, 1920–1921.

"I ask you," said Chancellor Dr. Wirth, "for your support and your powerful co-operation in the Committees, where the centre of gravity of your work lies." [1]

Most people are very satisfied with the working of the Committee system: for the speeches have lost their original declamatory and historical flavour and are directed to business-like discussion over the points at issue. A quantitative balance of differing standpoints is considered and embodied after careful accommodation in the Committees' reports. The general principles being already given by the Government, expert argument, within those lines, has been much stronger than the party political considerations of the political parliament.[2] This indeed accounts for the fact that while in the period under review (two and a half years) between 1500 and 2000 Committee sessions have been held, only 52 sessions of the full Assembly can be recorded.[3] The break-up of the Council's work into Committee specialities threatened the members with loss of a comprehensive view of the Council's activities. At the request of the members, a Bulletin was instituted—*Mitteilungen*—which every Saturday gives a review of the work of the Council and its Committees and announces future arrangements.[4]

The report of the Committee then goes to the full Assembly, first printed, and then explained by a reporter elected by the Committee, and it is here that, during the debates on ratification of the report, the objective work

[1] 17th Session, June 8, 1921, p. 759.

[2] August Müller, *Die Neue Zeit*, May 13, 1921.

[3] The Council sits for two or three days each time it is convened.

[4] *Mitteilungen* Nr. 1, Series 1. Such a Bulletin is most urgently needed in the House of Commons. Again and again members make complaint that they wander through the business of the House in a maze. There can be no abundance of zeal upon the part of the private member while he is ill-informed or not informed at all about the total activities of the Assembly he has been elected to serve. These Bulletins should be sold to the general public, too; for they would give accounts of the proceedings of the Standing Committees in such a form (précis) that the argument against reporting Committee work (still strong enough to stop official reporting) that rhetoric is encouraged at the expense of business-like debate could be rendered devoid even of the small content it now contains.

of the Committees is often spoilt. The *genius loci* of the big Assembly hall, the tribune of the speaker, give here, as in other Parliaments, notably the French Chamber of Deputies, rein to emotional speaking,[1] not without its value, but in an assembly of this kind out of place. Worse still, class ideology begins to play upon the agreements already effected in Committee. The Groups and Divisions meet a day or two before the full Assembly opens and consider their attitude to the reports. They are, of course, made conversant with the Committee proceedings by the members of the Committee, but the feel of reality, urgency, understanding and purpose which makes Committee work possible and fruitful cannot be transferred by however vivid a report, and therefore the full Assembly attitude becomes, not often, but yet too frequently, a class-attitude,[2] though there are splendid exceptions. Here, as a prominent member[3] has said, "the political attitude, which is the expression of a world-conception born of class-interest, always showed itself stronger, at least in decisive questions, than the technical economic argument. In this regard it is interesting to remark that frequently the representatives of individual Groups who gave their decision in the Committees and Sub-Committees by the weight of technical necessities were disavowed when their vote was later considered in the Group or Division by the whole of the class-colleagues." So that objectivity does not completely cast out political attitude of mind. But it is a mercy that it, at any rate, influences it. In all the discussions that have taken place, and in the final report, sanctioned by the full Assembly, the Government is subjected to a criticism or an approval which influences its attitude to the measures, and later to the Reichstag. The eloquence and the strength of numbers in the full

[1] Schäffer, *Recht und Wirtschaft*, July 1921.
[2] *E.g.* in the full Assembly debate on the project relating to Domestic Servants.
[3] Dr. August Müller, article in *Neue Zeit* cited *supra*, and as related in interview.

Assembly are not so great in their effect as majorities would warrant in a political assembly. Walter Rathenau's view is worth remark. He said,[1] "The over-valuation (*over*-valuation, be it noted) of the arithmetical idea is senseless. If we ask ourselves, What significance have majority relations had here in the Economic Council, which already has three-quarters of a year of experience behind it?—the answer is, Not the slightest. Perhaps something in the composition of the Committees, but even there only very weakly, because the composition of the Committees can be always regulated for each separate case. It is a matter of indifference in what arithmetical proportion the Economic Council is composed. Assume for a moment that in any case the employers and employed vote, the former for Resolution A, the latter for Resolution B, and it emerges that the employed had, through absence of so and so many members or because they were represented more numerously, ten votes more. Would that make any difference with respect to the legislation of the country? People would merely say: 'The workers were in favour, the employers against'; nobody would count how many votes were on one or the other side. It is somewhat different for political Parliaments, where the resolutions are actually made by voting and on the basis of a purely arithmetical summation. For us arithmetic has no meaning." It certainly had not the influence upon Government that such considerations necessarily had in the Reichstag; the very rules of procedure, discussed in the last chapter, were based on that recognition. But its significance and necessity for an occupational and merely advisory chamber are undeniable, and the reasons will be discussed later. The Groups may have been tilting at windmills a little too chivalrously and eagerly when they demanded greater numbers, but the windmills were worth conquest.

[1] Constitutional Committee of the Economic Council, *Verhandlungen des Verfassungsausschusses, 8. Sitzung*, April 21, 1921, cols. 237 and 238.

The initiating faculties of the Economic Council have not remained dormant. They have been exercised in two directions. The first, a veritable bombardment of Propositions of Law[1] and suggestions relating to policy, of a more or less detailed nature, has not ceased to play upon the Government Departments since the Council began its work. Secondly, there has been presented to the Government a number of completely worked-out projects, in the form of reasoned Committee reports and consequent resolutions. The outstanding examples in both directions (particularly in the latter class) are propositions relating to accident insurance, pensions to miners' widows, orphans and disabled workers, the creation of a Department of Cultivation and Colonisation, income-tax, special levy for the purposes of housing, unemployment, the grant of credit to German industry; important reports have been made on agriculture and food-supplies. Two other inquiries of outstanding importance are being carried on. The first is a thorough, systematic inquiry into vocational education of every type given in the whole country by whatever authorities; and for this both the Government and the State authorities had promised the necessary material and facilities. The second is an examination into the means whereby "internal carrying out of State administration could be more economically arranged, and specially whether this is to be arrived at by the realisation of the slogan, "Fewer, but better paid officials."[2] There may also be mentioned a project to reform the law of copyright; and a project to raise a levy for cultural purposes, which levy would make a common fund from which needy authors could be helped, new works of high value be published, and these and other classical works sold at low prices: the fund to be administered by an independent court of authors of all kinds. The full projects of laws initiated

[1] *Antrag* (resolving on a certain principle as the basis for legislation).
[2] *Mitteilungen* (Communications), Nr. 22, 2nd series.

are subject to the same vicious influences in the full Assembly as the projects the Government sends to the Council. But the creative activity of the Council and its Committees is clear, certain and abundant; and it has a small influence upon the Departments and the Ministers, though not so great an influence as the number of its suggestions and projects would convey. Creation is there, however, for the Government's asking.

It will now be asked what is the relation between the Council and the Reichstag. How does the work of the Council affect the political Parliament which is to give final sanction to the work of thought and creation in the Economic Council? Where the Government has wholeheartedly adopted any suggestion of the Council, the Reichstag gives its consent because the Government can influence its constituent parties. Where it is convinced that the work of the Economic Council is of great and overwhelming importance, it adopts its advice entirely.[1] Where, however, the Government has given way under the heavy fire of the personalities in the Council, it takes the opportunity either of not referring to the report of the Economic Council, or of putting extracts only of the report before the Reichstag or its Committees. That is to say, according to its party complexion it picks and chooses from the expert advice offered it and uses what it wants to reinforce its arguments. In April 1921[2] the Social-Political Committee complained that the Reichstag was sometimes partly, sometimes not at all, informed of its advice to the Government, and the Committee demanded that its advice be put before the Reichstag unaltered, regardless of what the Government accepted or rejected of it. This complaint and demand was pointed by a

[1] *E.g.* in Law on the autonomy of the Reichsbank, where both the Committee proceedings and full Assembly debate were in entirety put before the Reichstag and commended in the report on introduction. *Berichte des Deutschen Reichstags*, Nr. 23, 1922.

[2] *Mitteilungen*, Nr. 18, Series I., p. 94.

question put in the Reichstag [1] to the Government, in which the information was given that when the "Project for a Law on the Raising of a Levy for the Promotion of House Building" was laid before the Housing Committee of the Reichstag the advice of the Economic Council was not laid at the same time. Such a proceeding was held to be derogatory to the prestige and value of the Council. But nothing could in reality be done, because the constitutional right of the Definitive Economic Council to send its representative to the Reichstag was yet lacking, and the Government's effectiveness as the channel of communication between the Council and the Reichstag depended entirely upon the promises already made in its party programme to the electorate and to the Reichstag "fractions" forming the coalition upon which the Government rested. Where the matter was technical and did not reverse the principles to which the parties had already sworn allegiance in public, the Council had its influence; for the rest it had to rely upon the openmindedness of the Cabinet and the private talks with members of the Reichstag.[2]

The Economic Council was not content to leave its work so at the mercy of the Government, but began demanding the possibility of entry into the Reichstag in order that its work might be presented directly and with all the depth of the expert's belief in the efficacy of his remedy. The Council asked that instead of the mere presentation of the printed legislative project as made or amended by the Economic Council to the Reichstag or Reichsrat, the Council be permitted to send a member as a Government commissary.[3] The

[1] Reichstag, Drucksache, Nr. 2003, 1920–1921, May 10, 1921.

[2] Information from Dr. August Müller, representative in Group X., economist, former University Professor and Under Secretary, Ministry for Economic Affairs.

[3] It is the constitutional right of the Cabinet Ministers in Germany and France to entrust the task of explaining projects of law and the various clauses thereof in the Chambers to officials who are expert in the subject. These men are called commissaries. In England the Minister is omniscient, and merely refers to the Civil Servants, who sit near the Speaker's chair, when he is at a loss.

whole matter was best put by the President of the Economic Council at the taking over of its new building :[1] "I have in view, much more (than initiation of projects), cases in which the provisional Federal Economic Council gives its advice, in the regular course of its business, on the projects of the Government. There is contained in these commentaries, as will be well known to all those present, often an abundance of valuable material which has been brought together in the sedulous detail-work of the Working Committees most usually after the examination of numerous experts. The Reporter to the Economic Council has, through months of labour, transformed himself into a specialist of high degree in the sphere to which his problem is related. When the comment of the Economic Council is ready, it is then of course printed and attached to the project upon its introduction into the Reichsrat and the Reichstag. But the question often arises, especially in the case of difficult material which presupposes knowledge of the subject, whether these printed commentaries can have the same significance as a short address or even only a technical explanation by the Reporter of the Economic Council in the proceedings of the legislative bodies. Now it cannot be denied that constitutional reasons may render difficult such a co-option of a member of the Economic Council *as such*, and a contention to this effect has already been made by the Presiding Body of the Reichstag. But it is just as certain that no legal reasons exist to prevent the members of the Economic Council participating in the deliberations of the legislative bodies as representatives of the Government, as, so to speak, demonstrators[2] of the proceedings of the Economic Council. According to information, the Cabinet agreed upon such a participation in a meeting held some time ago. But the resolution has not yet arrived at fulfilment, and I

[1] 46th Session, cols. 2286 and 2287, Dec. 12, 1922.
[2] Lit. intelligence-officers (*Auskunftspersonen*).

should therefore like to ask the authority concerned once more to take up the question, and for the sake of efficiency allow a participation of the members of the Economic Council in the proceedings of the legislative assemblies in suitable cases."

This was at once an official analysis of past conditions and an official appeal for new relationships. Unofficial, or rather less official, members of the Economic Council thought along the same lines.

The reply of the Cabinet to this appeal is promising. It resolved [1] that with reference to the employment of members of the Economic Council in the Reichsrat and Reichstag Committee [2] deliberations, it would henceforth be left to the discretion of the individual Ministers how far such a power should be used. The mouthpiece of the Cabinet in this matter, the Minister for Economic Affairs, informed the President of the Economic Council that in future, and in cases which seemed to the President appropriate, the Economic Council should nominate one of its members to the Ministers directly concerned. Upon this the President of the Economic Council informed the Chairmen of the various Committees that they were, from case to case, to supply him with the names of their members, pre-eminently their Reporters, to act as Government commissaries to the Committees of the legislative assemblies. Further—and the point is of some importance,—where it was urgently desired in individual cases he would attempt to induce the Minister to accept *two* commissaries from the Economic Council, one to represent the majority, the other the minority views of the Committee and the Council. A warning was further given that no unduly great use should be made of such powers until this new instrument of

[1] Cf. *Mitteilungen*, Nr. 3, 3rd Series, January 20, 1923.

[2] Not in full assembly of these bodies, be it noted; but the Committees in the German as in the French political system have a far wider authority in the amendment of projects of law than have the Standing Committees of the House of Commons, and a much greater authority in debate in the full assembly than the Committee members in the English Parliamentary system.

communication and influence should have worked itself into the governmental system.

Thus, gradually, by the method of trial and error, of difficulties encountered and remedies discovered to surmount them, by wakeful guardianship of its claims to power, the Economic Council makes its influence felt.

The records show a watchful survey of Press news and questions to Ministers based upon any discoveries of interest and suspicion thereon ; the various associations in industry petition the Council for the redress of their grievances.

The introduction of the consumers and the last two groups (IX. and X.) and their activities in the Economic Council have drawn from observers a mixed judgement. Rather extreme working-class members of the Council have complained that often Division III. stands as the deciding factor in projects and resolutions upon which the employers and employed are equally divided, and that the decision is often given to the employers, who please the consumers by their insistence upon free competition in industry. It is also desired by some that the moderating influences, the objective arguments, of the consumers, liberal professions and Groups IX. and X. should be eliminated to leave the class-alignment of members of the Council in all its naked harshness! Still another observer claims that the class antagonism tends to be made more severe because a competition takes place between employers and employed for the support of the Third Division.[1]

All this indicates a presumption that the division containing a representation of consumers, free professions and general economic politicians has a good deal of influence with members of what tend to be opposing worlds. And this presumption has its basis in truth. For the record of proceedings of the Economic Council and the Committee shows that in every discussion a

[1] Cf. Tatarin-Tarnheyden, *op. cit.* p. 196.

prominent part has been played by the members of these groups. Again and again one sees the influential intervention of the Director of the Central Association of German Consumers' Co-operative Societies;[1] of the President of the Association of Housewives' Unions of Greater Berlin;[2] of the Central Association of the German Domestic Servants;[3] of the experienced municipal government officials;[4] and particularly of the twelve members appointed by the Government. The occupations of these twelve members can be thus classified: six are or have been professors in chairs of social and economic science, three are journalists of distinction who have done notable service in the Trade Union world and movement for the Council system, one is the Federal Minister of Labour (a happy appointment), two are distinguished Civil Servants. These appointments were universally applauded. The influence of these men, particularly of the professors, in the Committee proceedings has been remarkable in its expulsion of vague rhetoric, its moderation of class bias and its introduction of a liberal and objective outlook. Both employers and employed have been taught what are economic possibilities and impossibilities, so far as reason was able to surmount ingrained selfishness. The members of Division III., emanating from the administrations of great municipalities, have been able to put their knowledge of the working of municipal enterprise at the disposal of Committees concerned with problems touching upon State control and direct administration of business.

At a session of the Committee which is preparing the future substructure of the Economic Council the beneficial work of Division III. was made a special argument in favour of consumers', etc., representation in the local Economic Councils which are being projected. The Reporter on this proposition said: "I know that the

[1] Hugo Bästlein.
[2] Frau Mühsam.
[3] Frau Luise.
[4] Dr. Luther.

Government's right of appointment and the Reichsrat's were at first met with great opposition. This opposition was right with regard to the way in which the Reichsrat exercised its right of appointment.[1] But no one will deny the fact that a Government right of appointment can act most wholesomely. I believe it is acknowledged by Division I. as well as by Division II. that, in spite of everything, men will be able to be found who look at things more objectively than do those directly interested. . . . As far as I know, the Reichsrat would be glad enough to repair its mistake if one had provided it with a further right of appointment. I believe that the greater objectivity bound up with disinterestedness promotes material reconciliation between the directly interested persons, and that it is necessary to have within the District Economic Councils, just as in the Federal Economic Council, representatives who, as I have said, are not immediately interested but understand the great economic conditions. It has been shown in the Federal Economic Council that the appointed representatives have had much and varied influence upon both employers and employed, and that—if I may say so—one believes in their loyalty when and if they oppose the wishes of the one side as much as they do the wishes of the other."

Nor has Division III. been valuable merely as a moderating and objectivity-promoting instrument. It has served also to support the productive interests of those lines of economic activity which, owing to their spiritual nature, their ministration to the mind and not the stomach, cannot form the object of vocational associations of such strength that they can wring from society a high estimation of their economic work by strikes. This was best shown by a long, able and disturbing address to the

[1] The Reichsrat foolishly (in the light of the principle of parity between employers and employed) appointed eleven men on the employers' side of big industry or agriculture and one Civil Servant. The employees and Division III. much resent this. Max Cohen, *Verhandlungen des Verfassungsausschusses*, 16th Session, Dec. 19, 1921, col. 644.

Constitutional Committee concerned with the admission of liberal professions into the future Council system, by an eminent painter [1] called as witness before that Committee. After picturing to the Committee the inadequate manner in which the interests of artists were dealt with in the Reichstag and the Departments, and the insufficiency of representation through artists who were members of any one of the political parties, he said:[2] "Under the system hitherto existing the occupation was not given sufficient weight. That was not so bad for some occupations; for example, those which have to do with enormous amounts of material commodities, as agricultural and industrial, whose political and vocational interests are synonymous. But there are big occupational groups for whom that is not the case, and a representation is lacking for them, which we can now see in these Councils. Perhaps some of you will have a different opinion about this, but for us the most important and essential reason why we have participated in the work of the Economic Council with so great a joy has been the fact that here we have a regular occupational representation, and we have already seen in practice how fruitful a thing that has been for us."

One other point of importance emerged from the evidence of this witness; in complaint, and, therefore, all the better as evidence. "If, perhaps, I may put it somewhat crudely, I have found that in the Economic Council all problems on which we deliberate are discussed practically exclusively by *quantitative methods*. For example, in the case of the Socialisation Law we were always hearing of so and so many thousands of tons of coal, of so and so many thousands of miners, and so and so many thousand houses and calories, which were necessary for them; *but practically nobody looked at*

[1] Otto Marcus, historical painter, and teacher at the School of Instruction of the Art Trades Museum.

[2] *Verhandlungen des Verfassungsausschusses*, 15th Session, July 9, 1921, col. 590.

it in the light of the souls of the miners. But that seems to me to be a very important matter, and here, according to my opinion, is just where the liberal professions and the artistic professions can be pre-eminently of effect."

Opinion is certainly in favour of the value of representatives of the consumers, liberal professions, and a general impartial corps of members like those chosen by the Reichsrat and the Government, especially when chosen in the manner of the latter.

Before an analysis of contemporary opinion relating to the work of the Economic Council is made, one or two discussions may be singled out, not because they contain elements significant for generalisation and absent in other cases, but precisely because they were present in all other cases, but not in so vivid a manner.

The Government proposed a law[1] to enable it to make a census of wage and salary conditions of workers and employees as a basis of statistical record, and to make the necessary rules therefor, with severe penalties for their contravention. All sides (in the socio-political Committee) agreed upon the necessity for wage statistics. But the members were loth to give the Government untrammelled powers to make orders regulating the administration of the law. They demanded the establishment of an advisory council of employers and employed to review and ratify the statutory rules made by the Ministry. The advisory council would best be selected by the Economic Council. Against this suggestion the Government urged that the result would be a delaying of action. The Government urged speedy report upon the project, but the Committee established a sub-committee to think out an attitude and provide a resolution. The sub-committee's resolution ran: "The issue of these regulations (concerning the institution of wage-statistics) and the working out of the procedure are to be accomplished in alliance with an expert com-

[1] Cf. *Mitteilungen*, Nr. 37, Series I., September 17, 1921.

mission to be appointed by the Federal Economic Council." The Reporter said this was a compromise resolution, agreed to by the workers' representatives only because "in alliance with the Government" had been substituted for the original "with the consent of the commission of experts." The Government stated its inability to be bound by the vote of a Commission in any manner or degree. The Government had already before suffered defeat at the hands of the employers in their attempts to set up a wage-record, and the influence of these men would, too, be felt in the proposed Commission. It did not wish these statistics, which were urgent and the basis of intended wage-contracts, to suffer either complete defeat or, at the best, delay at the hands of the Commission. The Committee again declared, in debate, the necessity of consultation of the employers and employed: the former demanded that the Government be *bound* by the Commission's judgements; the latter denied such mandatory authority, with some differences in their own ranks—they had only agreed to the sub-committee compromise because by "in alliance with" they had not understood "with the assent of." The latter interpretation must not be embodied in the Commission's constitution, for it would make possible the complete stoppage of such a wage census; all the Commission ought to do was to give an opportunity to the representatives of industry to take a part in the technical execution of the law. A lively debate began on the words "alliance" and "assent." After three motions in various senses had been put to division, the Committee adopted the motion of the sub-committee by 14 votes to 12 (employers against employees). The Committee agreed that the several motions and the votes thereon should be laid before the full Assembly.

The report of the Committee to the full Assembly and the discussion were full of interest.[1] It was stated

[1] Proceedings, October 26, 1921, cols. 1054 *et seq.*

by the Reporter how strong was the feeling on the part of employers that the compiling of wage-statistics was an affair for the employers' organisations alone. Yet as a basis for all sorts of industrial and social schemes a public record was necessary. Both sides in industry made them, but no impartial third authority had so far come in and set up an objective and uniform record. The employers had specially complained of the enormously complicated forms sent to them on previous occasions, forms which were bewildering. The attitude of the employers, their desire for a mandatory vote on the actions of the investigating Department, was then recited to the full Assembly, and the voting results explained. Further, it was shown how a difference, so far undetermined, had arisen over the interpretation of the Commission's powers, and how complaints had been made about imagined betrayal of business secrets and draconic punishments. Even the workers had voted against the compromise to which their own representatives had given consent.

The discussion then exhibited the desire of both sides for unanimity in the resolutions of the Economic Council. The employers stood by the motion of the Committee. The Secretary of State for Economic Affairs entered the discussion, now become vital, and, dealing with the industrial fear of bureaucratic interference, said he would consider matters very unbearable if the Administration did not, before every census, come to an understanding over ways and means with the parties interested—"because otherwise there could easily arise an overburdening of industry with tasks which industry could not fulfil and which it does not need to fulfil." Still, the mandatory character of the Commission ought to be lessened. A Commission of investigators for joint discussion and advice, with responsibility for action on the Minister, would be workable.

An acute employers' criticism of the Departmental

statistics and methods of securing them then followed, and the experience of the Commission advising the Ministries on the so-called social tax-levy and the Export Duty was cited as favourable to the case for a Commission, with large powers, in the matter at issue. The Government stood by its desire for merely an advisory Commission. Then the point at issue was referred back for further compromise to the socio-political Committee. The next morning the Committee[1] met and arrived at an almost unanimous decision, which received the approval of the Government. The compromise resolution ran: "Before the issue of executory rules to this law the competent Committee of the Economic Council is to be consulted. A standing advisory council is to be instituted for co-operation in the technical execution of the law." This went to the full Assembly the same day. The Reporter announced the compromise with the declaration to the Assembly: "As now agreement exists between the workers and the employers, and also between the Government and the socio-political Committee, I do not think that there is any doubt that the plenary Assembly will assent to this resolution, and for that assent I ask." The resolution was adopted without opposition; as were the other clauses of the law.

The peculiar composition of the Economic Council was shown to exceptional advantage during both the Committee and plenary Assembly proceedings on the Project for a Law relating to Domestic Service. The Council had[2] in its Committees done an enormous amount of work[3] in relating the project to the general laws on hours of work, status of workers and conditions of work, and had induced the Government to accept many amendments of the original project. Particularly fruitful was its examination and amendment of various clauses

[1] Cf. Proceedings, 24th Session, Oct. 27, 1921, col. 1080.
[2] Cf. Report of Socio-political Committee, Drucksache, Nr. 274, May 22, 1922.
[3] Twenty-nine Committee sessions.

in which different classes of servants were included, but not in a sufficiently defined manner. The essence of the project, however, was to get rid of "the old authority conditions" that still ruled in the domestic field; and in this regard, and in regard, too, to the computation of the hours of work, compulsory leisure time for servants—*e.g.* "The domestic servant has a claim to an undisturbed night rest of nine hours"—engagements to train young women, the representatives of the Housewives' Associations on the one side and those of the Domestic Servants' Associations on the other were of incalculable value.

The most disputed question, and the one which caused most amusement in discussion through the ironic pictures of a household conducted strictly according to the Act, was naturally that regulating the hours of work and the guarantee of a definite rest-time. The Government provided for thirteen hours' work, the Trade Unions suggested ten. The Committees of the Council could reach no decision with their amendments of the Government proposition. The employers and employees in this case stood directly and uncompromisingly opposed. The truth was fairly put by the Housewives' representative [1] when she said in debate [2] that "whoever had been present at the sessions (of the Committees) and, further, examined the necessities of life in an objective light, cannot deny the force of the impression that here as well other than objective contentions were at work." There stood on the one side the Housewives' perception that the regulation of a household is dependent upon a number of factors—husband's work and habits, children, invalids, etc.—which make uniform regulation impossible, and the desire, too, for the necessary *imperium* for full use of the servant's powers; and on the other, all the long memory of oppression and desire for a freer and more assured status. This cleavage was not to be bridged by

[1] Frau Mühsam, Proceedings, 41st Session, July 5, 1922, col. 2014 *et seq.*
[2] Frau Kähler, *ibid.* col. 2023.

the declaration of the domestic servants' representative that to hear the other side was to believe herself in the seventeenth century, or that she assumed that here in the Economic Council they were in an Assembly where laws were discussed objectively and not in speeches which might be made anywhere and in the manner which people adopt when their statements cannot be examined. It is perhaps irrelevant to wonder whether these women, of such long social service, looked at each other as contemptuously and pityingly as their arguments and the jocular interjections of the male members would suggest.

Suffice it to say, that the various parties began to be influenced by the arguments expressed in debate, and a number of motions were put designed to moderate the bare nine hours' uninterrupted rest for servants accepted at the second reading in the full Assembly. In the third reading an eminent member [1] of Group VII. (Consumers) introduced an element of objectivity by an appeal based on " the manifold character of the needs of the household, the variety in occupation of the husband, the school-times of the children." [2] His speech gives the impression of negotiations and arrangements in the Committee rooms and lobbies. He had induced the chief Housewives' representatives to agree to a system of thirteen hours of work and an uninterrupted nine hours' rest, with the odd two hours at the disposal of the mistress according to need. " And lastly," said Frau Mühsam, " one request to the domestic servant : Do not put principles above economic necessities ! " Yet this is precisely what was deplored a few moments later by the Syndic of the German Trade Union Federation.[3] The Housewives' attitude and its support by the Economic Council (employers particularly) had shown the existence of

[1] Dr. A. Wermuth, former Oberbürgermeister and privy councillor.
[2] Session 44, Oct. 18, 1922, col. 2199 *et seq.*
[3] Dr. Thissen, *ibid.* col. 2201.

two separated blocks of opinion : " The saddest thing that I have experienced hitherto in the Economic Council was the situation which arose at the second reading, arising out of the self-disavowal of numerous members of this House in opposition to their attitude in Committee." The Reporter then attempted to unite the opposing sides on the basis of a fifteen hours' period during which work could be demanded, with a four hours' rest (meals, etc.) spaced according to domestic possibilities. This was too arbitrary for the workers and Government side, who were endeavouring to delimit as clearly as possible the period of actual work. Finally, after much wrangling and attempts at meeting on common ground, the second-reading resolution—nine hours' uninterrupted rest—together with an addition that the servant was to stand in readiness for work for at most thirteen hours daily (added by the Housewives), was accepted by the Council ; the employees standing in minority.[1]

It was a case, it is just to say, of objective facts supporting a class prejudice and overthrowing the Committee compromise, which, allowing (with a thirteen hours' readiness for work) *eleven* hours' unbroken daily rest, had marked the entry of a more generous interpretation of domestic necessities.

Generally speaking, it appears, the matters which do not cut deep into the material interests of either side are quickly and easily compromised upon ; the others lead to long argument and acceptance of a solution by weight of votes. In the first case the Government and the Press have given to it an analysis, by experts and interested persons, of actual conditions and a united expression of what is desirable ; in the second case the arguments, though not bringing the opposed interests into harmony, at least cut deep to the heart of facts and grievances, and usually result in acceptance of a policy with more of

[1] Proceedings, Session 44, col. 2225.

justice in it than a mere immediate vote according to habitual prejudices would have given.

This, then, has been the mode and content of the Council's activities, and we may now introduce the views of a number of observers as to its consequent repute.

Take first the Opposition. The Reichstag is the most acute critic of this other body which stands by its side and performs a service very like its own. The Reichstag has two main grievances. The first is the possible threat of the Economic Council to the unconditional authority which the parties constituting the Reichstag wish to exercise over their following in the country. Such complaint is natural, since the parties have for decades worked to secure a rank-and-file organisation upon which they can rely. The possible reconciliation of masters and men constitutes a threat to party slogans like "Master in my own house!" "Industry free from control!" "Unlimited class-war!"[1] Secondly, personalities of importance and intellect who do not care to enter into politics by the electoral and party-machine process have here an alternative organ of expression, and in so far as they make use of it they deprive the parties of valuable support; the more the Reichstag magnifies the power of the Economic Council, then the more its constituent parties will be losing material which might serve to strengthen its own. There is no desire, therefore, on the part of the Reichstag to agree that the Economic Council is of much value; but a consideration of its attitude during the debates upon its Estimates in 1920, 1921 and 1922[2] shows that the Reichstag parties generally give it credit for being a

[1] Cf. Schäffer, *Recht und Wirtschaft*, Berlin, July 1921.

[2] Reichstag, Stenographische Berichte, 1920, 38th Session and 40th Session; 1921, 123rd Session; and 1922, 218th Session (Hammer, German National Party), p. 7622. With reference to Socialisation: "We actually possess in the Economic Council a body in which such matters can be dealt with in a manner impossible in the Reichstag or its Committees, in which, all the same, we do much fundamental work."

body which renders economic problems clear and saves them a certain amount of work.

The original distaste of the bureaucracy for the Economic Council has not suffered much diminution. The Council is still a factor of disturbance to what otherwise might be periods of leisure or easier working. The Departmental expert is unwilling to recognise the expertness of the men who come from industry and meddle with affairs they are held not properly to understand. It is the usual conflict between the expert by study and the expert by practice.[1] It means that the former has to attend in the Council's Committees and make long and carefully-prepared explanations of a manifestly obvious character, and that in spite of all the trouble taken the Committee thrusts aside the theory and goes its own way. But here, too, with the continued activities of the Council there are signs of improvement and a *rapprochement* on the basis of more generous mutual recognition of the value of both sides.

Some of the big industries have not stilled their criticism of a place in which employers and employed meet on an equal footing. A memorandum of the Hansa-Bund[2] said that the Economic Council, in spite of its extraordinarily complex mechanism, had not the ability to give any special services; especially had no real influence in economic legislation fallen to it. Observation of the course of debate in the Constitutional Committee seems to suggest that the bigger industrial employers would be glad to be out of an Assembly which gives the workers an equality of numbers and status. It has been pointed out, too, that the hopes of a reconciliation between workers and employers on economic organisation have been disappointed, and this as much by the workers as by the employers. We have already observed

[1] Cf. *Korrespondenzblatt des Allgemeinen Deutschen Gewerkschaftsbundes*, June 18, 1922.

[2] Cf. *Verhandlungen des Verfassungsausschusses*, 1921, Part I. cols. 35 and 36. But this was early in its career.

an instance in the case of the law on domestic service. A general judgement on this matter—the difficulty of arriving at agreement between the Divisions I. and II. and of reconciling the interests of the various groups—was given by Dr. Thissen in his evidence before the Constitutional Committee:[1] "In the discussion of all these questions[2] I am seized with the wish that the Economic Council should use some of the adaptability, method, or whatever you like to call it, of the much-reviled political Parliament, especially the Reichstag. It would not be the first experience in the Economic Council of the crude consciousness of interest not only spoiling an understanding, but bringing with it the lack of appreciation of compelling common necessities. Afterwards, apparently, the political Parliament had to set right what the famous parliament of economic experts had not succeeded in doing." But the differences are unavoidable, and looked at rightly need not be so deplored. Nor are they always present, for the journal of the North German Hansa-Bund has itself given testimony to the value of the Council after a year's work, in these words: "Through the activity of the provisional Economic Council very useful work has been done under the most difficult political circumstances, work which could only be accomplished by mutual understanding between employers and workers."[3]

Lastly, there are the extreme members of the Economic Council and people outside it, who refuse to accord it any confidence because it is an advisory and not a mandatory authority. There are still people who look back to the days of the Revolution, and who either demand a complete Soviet system[4] and no dealing with the employers, or at least wish to see the Council given powers over

[1] *Loc. cit. supra*, col. 53.

[2] *I.e.* the duties and composition of the local Economic Councils.

[3] *Freie Bahn*, p. 112, May 1921, Hamburg.

[4] Cf. Reichstag Debate, Stenographische Berichte, Malzahm (Communist Party), 218 Sitzung, p. 7623 *et seq.*

legislation co-ordinate with those of the Reichstag; otherwise they see much of their work doomed to find no place in actual law.

But none of these good-natured or ill-natured criticisms of the Economic Council is able to make away with the clear evidence of the activity of the Council, its constant service in economic detail work, and the Government's appreciation of these services. The fact that there is always an attendance of two-thirds and over of the members of the full Council, and that the Committees never cease taking votes (and more than half the members must be present for that), is evidence that influence is possessed by the Council; and certainly its own members discern the promise of more with the passage of time and the proper establishment of better communication between themselves and the Reichstag.

A more general reflection upon results of the examination into the Council's methods and activities will be entered into in a later chapter. Meanwhile the passage of compliments between the Imperial Chancellor and the President of the Council upon the establishment of its definitive home in December 1922 is not without value as evidence: because both are hard-headed men and both spoke to an equally hard-headed audience, which excluded the possibility of empty claims and undeserved thanks. The Chancellor found it impossible[1] in his appraisal of the work of the Council to enumerate the individual projects they had discussed and advised upon, and the suggestions they had made —they were so many and so intricate. He hoped for the further fruitful work of their deliberations.

The President of the Economic Council, loyal in its service since before its first assembly two and a half years before, sketched the history of its activities. "This chapter in the history of the Federal Economic Council invites a short retrospect over its service during the two and a

[1] 46th Session, col. 2280 *et seq.*

half years of its existence. It is a service rendered more in the sittings of Committees than in the plenary sessions, and, indeed, this not merely because one was unwilling to convene the plenum from motives of economy, but because, primarily, the earnest creative work which is necessary as a foundation to render valuable the advice of the Economic Council can only be performed in the narrower confines of the Committees. If people wish to make objective criticism of the work of the Economic Council, then one must not leave out of account the fact that the great and fundamental reforms in all the spheres of social, economic and financial legislation after the close of the war were already accomplished by the time the provisional Economic Council met. This is so in the socio-political sphere, in the case of the introduction of the Eight-hour Day, the Works Councils Bill; in the economic sphere, of the Export Trade Control and Compulsory Housing Law; and in the financial sphere, of the Transfer of Direct Taxation and Railways to the Federal Government, as well as of the Federal Emergency Levy Law. Finally, the depreciation of the currency, though not so low in value as at the present moment, had gone, by the time the Economic Council met, beyond the limits within which its recovery was possible by the Empire's own remedies. Therefore the Economic Council can bear only a limited responsibility for the fundamental changes in economic life in "so far as they were brought about in the legislation of the after-war period." Also it could not co-operate as it wished in economic reconstruction through the consequences of the Versailles Treaty and the internal political currents. "Within these given narrow limits, however, the Economic Council had honestly set to work to promote the success of industry and to ward off or to mitigate its too heavy burdening as far as was possible. Among the basically important legislative projects in which, up till the present, the work of the Economic Council had

assisted are the following, standing out pre-eminently: In the socio-political field, the project for an Arbitration system, the Law on the Appointment of Members of the Works Councils to the Board of Directors, the Domestic Servants' Law, numerous complementary laws in the sphere of Social Insurance, as well as, most recently, the Hours of Work Law, upon which the discussions are not yet terminated. In the economic-political sphere, the laws on the gradual disestablishment of compulsory production of necessaries of life are worthy of special mention, as well as the reintroduction of a certain compulsory economy in trading with corn and sugar. Apart from this, the work of the Economic-political Committee has supplied a particularly rich material for the policy of the Government. Sedulous work has been accomplished in the Export Trade Committee and the Export Duty Committee. Finally, in financial-political matters the Economic Council has, as I believe I may say, according to the exhortation addressed to it last year by the Chancellor, Dr. Wirth, been taken into full co-operation. It has not only most minutely commented upon the great Reparations taxation programme in extraordinarily full detail-work, and eliminated this or the other economic impossibility from the project laid before it, but it also attempted to find the principles for a stable standard, for even at first mere permissive introduction, as well as the principles for the establishment of interest-payment and the amortisation of any foreign loans. If I have picked out these points from the very comprehensive field of work of the provisional Economic Council, it is not to minimise the significance of the work of the Committees not specially mentioned, like the Constitutional Committee, the Committee on Procedure, the Transport Committee, the Water Traffic Committee and the Educational Committee."

Few people in Germany deny the value of the actual Economic Council; still fewer deny the promise con-

tained in the institution. As a council of experts providing the creative power which is essentially lacking in the Reichstag, debating economic detail-work for which the Reichstag is unfitted and without the necessary time, as an instrument of expression of criticism, it has proved its worth and its right to exist. It is an institution which, provisional in powers and composition, has exercised much authority, and will, according to the prophets who have taken part in its proceedings, do even better service when its understructure gives it an even deeper foundation in the very heart of German industry, and when a period of peace renders its labours less hurried.

We have now to discuss the prevalent ideas about its future, and then to concern ourselves with some general reflections upon the study already made—reflections which have so far been omitted in order that they might be formed by the reader unprompted. But let it at once be said that the ideal which some people, most closely in contact with the work of the Council, hope to see realised by its continued activity, constitutes not the least important sign of the vitality of its constitution and power to serve.

CHAPTER VII

THE FUTURE AND THE PROSPECT

"But, oppression by your Mock-Superiors well shaken off, the grand problem yet remains to solve: That of finding government by your Real-Superiors! Alas! how shall we ever learn the solution of that, benighted, bewildered, sniffing, sneering, God-forgetting unfortunates as we are?"—CARLYLE, *Past and Present*, "On Democracy."

THE Conservative statesman Delbrück's prophecy that Article 165 would prove for many years the ferment-promoter of the new German Constitution has been amply fulfilled.[1] Not only have the problems connected with the building and functioning of the Economic Council caused a fluttering in governmental and departmental circles, but the problems related to the establishment of the final substructure to the Federal Economic Council have proved to be not without an abundance of obstinate thorns. For Article 165 was couched in most general terms, and the study of its genesis could give no certain and detailed clue to the constitution of the more concrete complex of institutions it foreshadowed.

Reference to the terms of Article 165 [2] will show that the following institutions were envisaged. First, to represent the peculiar interests of the workers there were to be established Works Councils for each separate works; then a series of District Workers' Councils, "based on economic districts"; and, crowning all this, a Federal Workers' Council.

Of these Councils only the Works Councils have

[1] Heilfron, *op. cit.* p. 4318.

[2] See Chapter V.

been established to the present, and, as they touch the Federal Economic Council in a comparatively remote degree, they must here be dismissed with a very brief remark. Put barely, then: by the Works Councils Act of February 4, 1920, there has been established a system of bodies representing the workers in all factories and workshops containing twenty or more employed. To these Councils a big range of powers has been accorded, in certain cases even the right to demand the production of a balance-sheet and explanation thereof by the employer; designed in all to secure, as Article 1 of the Act runs, "a protection of the common economic interests of the workers (wage-earners and salaried) in relation to their employers, and to support employers in effectively carrying on the enterprise. . . ." The reader is referred elsewhere for further discussion of this most important innovation in the German industrial system.[1]

If the ideas that surged up from the Revolution of 1918-19 in Germany were vague as to the realisation of the promise of Works Councils, they were even less possessed of clarity and form in relation to the District Workers' Councils and the Federal Workers' Council. Nor were people clear about the District *Economic* Councils, designed to supply the co-ordinating factor for employers, employed, and other groups of the population in their contact with the Government of the economic affairs of Germany. Neither the territorial basis of these local Councils ("the economic district," or "economic region"), nor their duties, nor their relation to the Federal Economic Council, had been made clear during the course of the last two years of constitutional

[1] Cf. Dersch, *Betriebsrätegesetz*, Kommentar, Berlin, 1922 (a splendid discussion and commentary by a high official in the Federal Ministry of Labour), and *Works Councils in Germany*, Studies and Reports, Series B, No. 6, International Labour Office, Geneva, and *The Labour Magazine*, London, October-November 1922; Heilfron, *op. cit.* vol. ix. pp. 5-157, for the interesting and invaluable debates on the second and third readings of the Bill; Nörpel, *Aus der Betriebsräte-Praxis*, 2 vols., Berlin, 1922; and *Korrespondenzblatt des Deutschen Allgemeinen Gewerkschaftsbund*, Jan.-Feb. 21, 1920, for an account of the law and the background of opinion.

development up to the time of the establishment of the provisional Economic Council. Yet the constitution had prescribed a certain hierarchy of Councils, and it was incumbent upon some Government to implement that prescription. It was no light task to graft a new economic constitution on to the old political system of the various States, the political system of the Federation, and to relate this new constitution to the structure and functions of the local government areas in existence already for over a century. "I am," said a member[1] of the Constitutional Committee of the Provisional Economic Council concerned with the creation of this new economic constitution, "perhaps the only one of the members of the Committee who in his time co-operated in the National Assembly, under the pressure of the street riots in Berlin, in the formulation of Article 165. Then, too, the workers were not at all clear what actually the District Economic Councils should do. The guiding idea was the Federal Economic Council, The Federal Workers' Council; to the District Economic Council less significance, in relation to the Federal Economic Council, was attached. Neither in the stenographic reports of the Constitutional Committee nor in the full Assembly can anything be found in more detail to indicate the activity and duties of the District Economic Councils. This must emerge from practice."

But in order that practice might indicate what theory could not yet do, theory had first to build a basis for the play of practice. To this end the Government (in the shape of the Ministry for Economic Affairs) began building its plans from the end of 1919, and then, interrupted awhile to erect the Federal Economic Council, it endowed that body (in its Constitutional Committee) with the task of thinking out the substructure enjoined in the constitution, and meanwhile returned to its own

[1] Cf. *Verhandlungen des Verfassungsausschusses*, 1921, I. cols. 46 and 47.

plans, matured them, and then later (in February 1921) published them.

Our course now is to discuss the ideas, emanating from the Ministry for Economic Affairs, concerned with the future constitution and basis of the Federal Economic Council, and secondly, to review those conceptions and proposals which are the product of the members of the Constitutional Committee of the Economic Council and the series of experts it brought before it.

Let us mark the nature of the problem set in Article 165. It was, to constitute a body representative of employers, employed, and other groups of the population in proportions yet undefined, for "economic regions" to be discovered, with duties yet to be assigned, and drawn from an electorate by a process and from vocational constituencies still to be instituted. The number of unknown quantities was remarkable, and it was a sufficient warrant that for many months those concerned with the problem would neither slumber nor sleep.

The most important complex of questions arising both for the Ministry of Economic Affairs and the Economic Council was the District Economic Council [1] in relation to (*a*) its territory—"an economic region," (*b*) to its duties—"for the performance of general economic functions, and for the purpose of co-operation in carrying out laws relating to socialisation," and (*c*) its composition from bodies one stage lower—"so constituted that all important vocational groups shall be represented thereon according to their economic and social importance."

What was an "economic region"? What subdivision of the whole country constituted an entity so special that it could be marked off as the most useful and at the same time most convenient area for the activity of the District Economic Council primarily, and the District Workers' Councils secondarily?

[1] Cf. Art. 165, Chapter V.

This question, in relation to the government of areas smaller than the whole country, in relation, that is to say, to local government, is not without its parallel in other countries. It is, moreover, of the highest importance to the simplicity and the efficiency of local administration of certain services. The U.S.A., England and France each suffer in their areas of local government from the fact that these areas were laid out at the beginning of the nineteenth century, and then altered piecemeal, if altered at all, as new social and industrial services demanded the institution of differently sized territories which a single local governing body could survey and administer uniformly.

In America it is the State frontier which now comes under criticism. It is now suggested that the real federal relations of the United States are shaped by the interplay of *sectional* forces (that is, of forces territorially comprising more than one State) with national needs, rather than by the old relation of *State* and Nation;[1] and the grouping of States in Presidential elections, in the Tariff and Appropriation conflicts in Congress, for purposes of the Federal Reserve Board Act and for railroad administration, is pointed to as the main material foundation for a theory of Sectionalism or Regionalism. The State line, as it has developed historically, cannot fruitfully meet the interdependence of the people who live on either side of it.[2] A new devolution of power to economic and geographical areas, areas which have their own particular characteristics and needs, is suggested as a consequence of such interdependence.

Such a devolution of power to new economic and geographical areas has, however, more ardent apostles in France, and with much reason. France still suffers in many ways from the system of centralised administration fixed on her, in the main, throughout the reign of

[1] Cf. Turner, *The Frontier in American History*, p. 321.
[2] Cf. Root, *Addresses on Government and Citizenship*, p. 254.

Louis XIV., and made rigid by Napoleon.[1] The successive political revolutions, with their watchwords of liberty, have left little mark upon this excessive centralisation. In 1873 and 1884, when the Department and the Commune were given a little freedom, the leaders in the cause of decentralisation, which has become a strong political issue since the Regional Programme of Nancy in 1865,[2] believed that they were moving towards real reform—that is, the liberation of the local authorities from strict central and hierarchical tutelage. Since 1884 the actual tendency has been towards a further centralisation secured by central grants-in-aid given on the fulfilment of certain conditions of administration laid down by the central authorities. The total result of this system is constant delay in the settlement of even small affairs of local government, an invasion of the spirit of system and routine, congestion in the central departments, and a notable falling off in local responsibility and initiative. Further, and for our immediate purpose, the weight of importance lies here: the areas need a thorough revision, because the Departments are, in the main, too small to carry out the big economic works connected with modern power-provision and transport (roads, light railways, canals, electricity and hydraulic power supply), education and public assistance.[3] Their resources are insufficient: the areas are inconvenient. From all this the *regionalist* movement derives its power. The central idea is, primarily, to construct about eighteen areas of local government based upon the special economic activities and attendant problems of different parts of the country, combined with the distinctive geographical characteristics of these parts, with some allowance made for traditional communities and popular wishes; and then, secondarily, to give these

[1] Cf. De Tocqueville, *Ancien Régime*, and *Democracy in America*, vol. i. pp. 83, 87.

[2] Cf. Hennessey, *La Réorganisation administrative de la France*, p. 94.

[3] Bouchéron, "La Réforme administrative après la Guerre," *Revue politique et parlementaire*, June, July, August 1918.

areas greater liberty.[1] The war prevented the materialisation of these projects.

England is also confronted with the serious problem of finding more convenient regions of local government. The present system of areas and distribution of functions has shown itself to be incapable of dealing economically and efficiently with the problems of public health, transport, relief of distress, supply of motive power, education, water supply and unhealthy areas.[2] The smaller areas (particularly rural) are so poor that their administration is wasteful : could they spend more their economy would bring more than proportional gains in utility. But most of the areas, even the largest counties and county boroughs, are too small, taken separately, to cope with the services which require wider areas—the services mentioned above. The extension of areas in accordance with the material factors in present-day civilisation has become a prime necessity of good government and, further, of democratic government. But what provision is made so far for such extension of areas ? Does it depend upon some impartial authority, which, surveying the areas of local government, and judging them in the light of present deficiency and future need, may make a rule for the elimination of the lesser authorities and decree the junction of large, thickly populated and distinctive authorities ? Not at all. Extension is left to be the sport of expensive battles between rival local authorities [3] and of a patriotism which is, in some cases at least, largely spurious,[4] being only a means to magnify the chances of office for little local men. Co-operation between authorities to minimise the evil results of improperly drawn boundaries, typified in the Education

[1] Cf. especially the report on the latest project before the Chambers in Hennessey, *op. cit.* p. 140 *et seq.*

[2] Cf. Report on Unhealthy Areas, 1921.

[3] Cf. Sir Alfred Mond, Parliamentary Debates, June 13, 1922, col. 307.

[4] Cf. Wedgwood Benn's oration in the debate on Edinburgh and Leith boundaries, Parliamentary Debates, June 8, 1920, cols. 328 *et seq.*

Act of 1918 [1] (joint schemes between county authorities for the provision of higher education), in the agreements to link up dead ends of tramway and light railway systems, joint water supply areas, burial boards, sewerage boards, hospital boards, in joint town-planning schemes,[2] tuberculosis treatment,[3] is no substitute for the creation of regions, for it is merely an occasional method marred by the jealousy of the authorities, and removing the joint administration out of control of the still separated electorates.

So the way has been made clear for the coming of a regionalist theory in England—an attempt to define and institute ten or twelve great areas, each being a distinctive agglomeration of citizens : distinctive in geographical surroundings, in economic activity and problems, and, a resultant of these elements, distinctive in habits. The vital question is, what are the elements of a distinctive region, what are the limits to the extent of such a region ? It is to this question that several English writers have addressed themselves,[4] and to which the Ministry of Health has already made a valuable contribution in its Report of the South Wales Regional Survey Committee.[5]

It was this question that most exercised the Constitutional Committee of the Economic Council and the Ministry for Economic Affairs.

The idea of the country grouped in special economic regions had been already expressed in a hotly disputed article of the constitution, Article 18, which commanded that the " organisation of the Federation into States shall serve the best economic and educational interests of the people. . . ." [6] It was a revolt against State frontiers

[1] Cf. Mr. Fisher's comment, Parliamentary Debates, Aug. 10, 1917, col. 801 *et seq.*

[2] Housing and Town Planning Act, 1919, Sect. 42 (2), (11).

[3] Public Health (Tuberculosis) Act, 1921, Clause 5.

[4] Cf. C. B. Fawcett, *The Provinces of England*; G. D. H. Cole, *The Future of Local Government*; H. J. Laski, *The Foundations of Sovereignty* (chap. i.); and Webb, *A Constitution for the Socialist Commonwealth of Great Britain* (Pt. II. chap. v.), the most original and stimulating of suggestions.

[5] Ministry of Health, 1921.

[6] See the commentary by Dr. Hugo Preusz, *Article 18 der Reichsverfassung*, 1922, Berlin.

which were the dictates of ancient needs and accidents. And this article, together with the theories of regionalism, which had arisen already before the war,[1] as a demand for more self-government and political non-interference with the Great Industry grouped in its special districts, pointed in the direction of the problems raised by Article 165.

During the course of the year 1920 the Ministry for Economic Affairs entered into negotiations with the State Governments on the subject of the economic regions and the District Economic Councils,[2] and in August 1920 it published a memorandum on "The Structure of the Workers' and Economic Councils according to Article 165 of the Federal Constitution."[3]

Two plans were submitted, Plan A and Plan B. Plan A envisaged an economic constitution appearing thus: at the base were, for the employers, Chambers of Commerce, of Handicrafts and Agriculture, the former for districts of the size of a Government District (about the size of Durham, 1,400,000 inhabitants), and the latter per district the size of a Prussian Provinz (largest area of local government in Prussia, ranging from about six million inhabitants down to one and a half millions); and alongside these were to be established, for the workers, District Workers' Councils for districts of the size of a Governmental district. These employers' and workers' Chambers were to be kept together by paritatic Committees for agriculture, commerce, industry and handicrafts. The Intermediate Stage of this economic structure was to consist of a paritatically composed series of District Economic Councils (with the addition of representatives of the consumers and liberal professions). The workers' and employers' representatives on these bodies were to be appointed by the Chambers of employers and workers

[1] Riccius, "Wirtschaftsprovinzen," Article in *Die Röder* (Berlin), 1921, Nr. 6.
[2] Brauweiler, *Blätter für ständischen Aufbau*, November 30, 1921, p. 349.
[3] See *Recht und Wirtschaft*, Sonderausgabe, "Der Aufbau der Bezirkswirtschaftsorganisation."

forming the primary stage of the constitution. The Highest Stage of the system would consist, for the employers, of the great Diets composed of representatives from their Chambers all over the country. For the workers, there would be a Federal Workers' Council elected by their Chambers of Labour in the primary stage. At the crown of this system the Federal Economic Council would come into existence by elections of equal numbers of representatives from the Employers' Federal Diets of Chambers and the Federal Workers' Council, with the addition (procedure and electorate undetermined) of liberal professions and consumers.

This was Plan A, and its nature is best to be observed from a comparison with Plan B.

Plan B foresaw a constitution of greater complexity. The Primary Stage of Plan B was a series of vocational associations as expressed in the natural growth of the various Chambers for official representation of the employers. There was no stipulation as to the area for which these Chambers were to be responsible. But by the side of every such existing Chamber a Chamber of Labour was to be established for the workers' interests. The twin employers' and employees' organisations were then to send representatives to a common paritatically composed Committee, which then became the official vocational representative body: the presidents of the Chamber would be joint presidents of the Committee; there would be an alliance of the separate administrations and officials. These Committees, called Economic Chambers, would have special powers given to them by statute within which they would regulate the affairs of their vocation. As for the Chambers of Agriculture, they would be made a joint organisation by the simple introduction of representatives of the workers.

For the Intermediate Stage there would be (*a*) a paritatic representation of workers and employers in a *District Economic Council* elected in equal numbers from

the separate vocational organisations of both sides; and adding a number of representatives for the representation of consumers, officials, liberal professions and other similar groups; and (*b*) for the workers' special representation the workers' delegates upon the District Economic Council would constitute the District Workers' Council. The latter would have comprehensive independent duties, especially in relation to socio-economic matters.

Lastly came the Highest Stage, and that again consisted of two distinct organisations. (*a*) *The Federal Economic Council* would be composed of, say, *three-eighths* of its members from the District Economic Councils, *three-eighths* appointed by the Federal Industrial Alliances or other vocational central associations, and then about *two-eighths* of representatives of officials, consumers and liberal professions. Workers and employers in the District Economic Councils would be independent electorates for appointment of representatives to the Federal Economic Council. (*b*) The Federal Workers' Council would consist of the workers' fraction of the Federal Economic Council.

Consider the fundamental differences of the two plans.

Plan A placed special value upon a District Workers' Council in a small territorial circumscription (Government district), with a common participation *of all branches of production*. Alongside this the hitherto officially recognised occupational representative bodies were allowed to continue to exist without participation of the workers. On the other hand, Plan B provided for the occupational representation of the workers' representatives in the primary stage too, and wished to transfer the official occúpational representation only to bodies in which workers were also represented. In Plan B, too, the gathering together of workers of *all* branches of production in a District Workers' Council took place only when one reached the wider territorial basis, a district

the size of a Prussian province, or a medium-sized State.

According to Plan A the *District Economic Council* was to be constructed on the employers' side from delegates of the various occupational Chambers, on the workers' side from the delegates of the multi-occupational District Workers' Councils existing in each Government District. In the case of Plan B both District Economic Council and District Workers' Council issued from the occupational representative bodies of employers and employed.

In relation to the bodies at the summit of this economic pyramid the differences were these: in Plan A the Federal Economic Council is the production on the one side of an employers' representation (Industrial and Commercial Diets, Diet of Chambers of Handicrafts and Trades, Agriculture Council) issuing from occupational Chambers, and on the other side of a Federal Workers' Council composed multi-occupationally of workers of all branches of production, who are delegated by the Workers' Councils established in the Government Districts. Then enter the representatives of other groups of the population, as in the case of Plan B. Here, then, in Plan A, there is no link between the Federal Economic Council and the District Economic Councils projected for the individual Provinces and States. Plan B, on the other hand, attempts to constitute the special workers' representative bodies, District and Federal Workers' Councils, in the Economic Districts as well as for the Federation, of the workers' fractions of the paritatic bodies (the District and Federal Economic Councils) or at least to make these workers' fractions the core of their representation. The election to the Federal Economic Council, here, takes place partly on a territorial basis (the District Economic Councils) and partly on an occupational basis (from the Trade Unions, the Vocational Associations, the Industrial Alliances).

These, then, were the plans produced by the Ministry,

which then left the matter open to the investigation of the Provisional Economic Council and the Press.

Discussion immediately focussed, with some emotional bitterness, upon two points, and they were the most important. The first comprised the duties and status and area of the "economic regions"; the second, the question of such a reform of the various Chambers of Commerce, Agriculture, etc., as would admit workers on equal terms.

The discussion on the "economic regions" may be divided into two schools of thought—the normal and the abnormal. Not that normal is here taken to mean sane, and abnormal insane. Simply, normal is what was not so extraordinary that its acceptance would demand a change of mind upon the part of so many people as to be impossible of attainment; abnormal, that which could not be accepted save without such a change of mind.

Let us take the abnormal first: it contained much good sense, together with certain constitutionally untenable propositions. From a Conference of Industrials (including Hugo Stinnes, Dr. Cuno, Dr. Brand and Dr. Quaatz) at Essen in October 1920,[1] emerged the idea of Germany divided into a number of "economic provinces," to the disregard of the hitherto existing State and administrative boundaries, with exclusive jurisdiction over economic affairs. It was definitely economic separation, and at once a gesture of despair at, and defiance of, political interference with the policy of industry. The Government Plans already described were rejected by the Essen Conference, which wanted economic representation only through economic regions (in special Councils for each region) and maintained that this was all that the Constitution promised. Predominant, however, was the desire for the independence of the "economic provinces" from the State and Federal authorities.

[1] Behringer, *Die Fortbildung der wirtschaftlichen Räteverfassung*, Hamburg, 1921, p. 19.

The attitude of this conference can be gauged from the programme summed up by Dr. Quaatz, the reporter, in the sentence: "Freedom of industry, unity of industry, industry directed to the common welfare."[1] A further appreciation of this separatist element in the idea of "economic provinces"[2] can be gained from the attitude of the Ministry for Economic Affairs and the Constitutional Committee of the Economic Council.

This is the summing-up of the discussions by the Ministry for Economic Affairs:[3]

"*Economic Provinces—State Economic Councils.*

"Of late the establishment of Economic Provinces and State Economic Councils has been much discussed. This suggestion emanated from the Rhenish-Westphalian industrial circles, especially from Stinnes, Vögler, Quaatz, Pyska, and was put for discussion and dealt with at a session of the Rhenish-Westphalian Chamber of Commerce with the introduction of representatives from Bavaria, from the Hanse Towns and other neighbourhoods. The upshot of these proceedings has been published in a special number of the *Economic News from the Ruhr District*,[4] under the title 'Organic Industry.'

"These economic provinces, the organ of which appears to be a State Economic Council, receive the right of economic self-government, by which in the course of their speeches the representatives of the idea do not always mean the same thing.[5] The most important representatives demand the right of independent legislation and administration in the economic sphere. They

[1] Behringer, *op. cit.* p. 20.

[2] It should be observed that the term "province" arose in the Press discussion in the Ruhr district and at the conference of Industrials. It gives the idea of self-sufficiency, self-importance, and freedom from controlling authority.

[3] *Recht und Wirtschaft*, Sonderausgabe, *op. cit.* p. 6.

[4] *Wirtschaftliche Nachrichten aus dem Ruhrbezirke Nr.* 28, 1920.

[5] Exactly the same judgement may be made respecting the discussions in the Constitutional Committee.

desire, fastening upon conditions before 1866,[1] to set up economic territories, which are bound together, from the economic standpoint, only by an economic federation with certain rights of supervision and accommodation. To the State Economic Council the right of far-reaching interference in private industry will be given through powers of expropriation, combination, and other economic organisatory compulsory interference. Other representatives of these conceptions who are, on principle, opponents of public economic regulation do not wish to enter a new compulsory economy through the economic province. This group only wishes to transfer to the State Economic Councils those powers, in the main, which are to-day, too, carried out communally, but now through the local government authorities and unions of such authorities; so, especially, water, gas and electricity supply, road-making, housing and settlement, regulation of municipal and inter-municipal transport by tramways, expresses, motor-car lines, etc."

The view taken, then, was that here existed a somewhat sinister separation based upon economic interests grouped in certain districts.

In the Constitutional Committee, under cross-examination,[2] Dr. Quaatz, called the representative of the "Essen movement," was taxed with making the old administrative area a *quantité négligeable* in the determination of the economic provinces. His answer was at once comic and indicative of the fall of the conception of independent economic areas. He said: "I know nothing of the Essen movement. I have only read in some newspapers that in the coal district some very black fellows carry on their existence, who wish to reserve the coals for themselves, to execute a private economic policy

[1] Before the political unity of Germany was secured.

[2] *Verhandlungen des Verfassungsausschusses*, ii., 6th Session, April 19, 1921, cols. 160 *et seq.*

in alliance with Bavaria, they giving coals to Bavaria, and Bavaria sending them beer; then they would live each for the other, and all the rest of the country might starve. I cannot differ from these black men, because I have not met such beings in the Ruhr district. I consider it as out of the question that in sincere political or economic circles any one maintains the ideas of *autarchy*, of the autonomous economic province. That would be a policy that could not be too sharply judged. Therefore I reject quite emphatically the name of economic province."[1]

And similarly the abnormal conception of a series of economically autonomous districts was rejected by all the experts and members of the Constitutional Committee of the Economic Council.[2] The conception, indeed, was more a snap of the teeth at central and municipal government by a few big and somewhat conceited industrialists, encouraged in their temper by the scientific facts of actually existing differentiated economic regions. The Ruhr district and Lower Saxony had made them take the necessary *differentiation* of régime as a basis of *separation* of régime. A similar mistake resulted in the erection and maintenance of the theory of separation of powers in government from the perception of a difference in functions. A not very dissimilar observation of the essential differences in vocations results in the theory of autonomous Guilds with interests reconciled in a Congress.[3]

We return, then, to the broad path of normal suggestions, that is, those which could be accepted without a preliminary revolution in men's common habits of thought. Fear of a breakdown of the larger community,[4] and, politically, of the independence of States

[1] *Verhandlungen*, cols. 161 and 162.

[2] *E.g.* evidence of Preusz, Drews and questions put by Reporter Mitzlaff in *Verhandlungen*, ii., 1921, and the final report of Mitzlaff, *Verhandlungen*, v., Dec. 19, 1921.

[3] *E.g.* in Mr. G. D. H. Cole's theory of Guild Socialism.

[4] *E.g.* cf. Regierungsrat Dr. Jachmer (Essen) in *Rhenisch-Westfälische Zeitung*, Jan. 12, 1921, *Wirtschaftspolitische Dezentralisation*.

within the federation,[1] were the two most important of such habits of thought.

The discussions in the Ruhr and the Hanse Towns laid bare the elements of an economic region, though the thorough and systematic delimitation of the regions was acknowledged in the Constitutional Committee's discussions as immensely difficult, if not impossible. But certain results are of some value in showing what was and what was not possible.

An article in the *Economic News from the Ruhr District*[2] dealt with "The Natural Frontiers of the North-West German Economic Region," and based the unity of the district on five factors. It took, first, the reach of the economic forces from the central points of production —*e.g.* the zone fed by electric power, coal supply, steam power based on central supply. Secondly came the ramification and reaction upon one another of the branches of industry fed from the economic centre—branches of industry dependent for their intermediate products upon the finished article of some other branch. Thirdly came the character of agriculture and handicrafts within the district—they were markedly a unity. Then regard was had to the purely territorial reach of the existing vocational and territorial organisations in the area. Lastly, arose a cultural unity from the uniformity of economic life and economic interests. Water, steam, electric-power supply and coal-mining defined the natural frontiers of this North-West German Economic Region[3] —and the expression of the unity was shown by the extent of basic circulation of the *Kölnische Zeitung*, the *Kölnische Volkszeitung*, the *Rheinische-Westfälische Zeitung*; here was mirrored a uniformity of attitude and needs,

[1] *E.g.* cf. *Bayerische Staatszeitung*, Nov. 18, 1920; *Wirtschaftsräte und Föderalismus*, by Dr. Franz Mataré, München.

[2] Reichlin, *Wirtschaftliche Nachrichten aus dem Ruhrbezirke Nr.* 31, Nov. 6, 1920, pp. 663 ff.

[3] Cf. *op. cit.* p. 671 for details of the frontiers which are expressed in terms of German States and towns and local government divisions, to which only a specialist need refer.

which had been made valid in a clear and distinctive parliamentary outlook since the beginning of constitutional life.

Another authority [1] looked to the division of Germany into ten economic regions ranging from a population of about two millions for East Prussia (agricultural) to about eleven millions in Rhineland—Westphalia—Birkenfeld, based upon coal and electricity supply, transport and the complex of industries in the case of industrial economic districts, and food-stuff producing pursuits in the agricultural districts.

In the Constitutional Committee it soon became apparent that though there was a clearly observable differentiation of economic districts they could not be given any strict boundaries, as there was such a complicated connection between the different districts. It was pointed out that in spite of the scientific discussions and the generally expressed opinions that such economic districts existed, their delimitation for governmental purposes would be prevented by the fact that transport, power-supply and even the ramification of middle-sized trades (not big industry, as coal-mining or ship-building, which *is* very differentiated according to territory) knitted together the seemingly distinct districts.[2]

The evidence of one expert is, however, of outstanding merit.[3] He remarked upon the difficulty of attaining to a clear demarcation of economically single areas, and the especially great lack of distinctive grouping in agriculture. But nevertheless he thought there were certain characteristics discernible which could make for demarcation—signs of "economic intensity." He went back upon the fact which gave the clearest insight into the question of delimiting areas — the distribution of the

[1] *Freie Bahn* (Hansa-Bund), May 1921, pp. 112 *et seq.*, "Great Hamburg, or North-West Germany."

[2] Cf. *Verhandlungen*, iii., May 26, 1921, cols. 326 *et seq.*

[3] Dr. Tiessen, Professor at the Berlin High School of Commerce, *loc. cit. supra*, 350 *et seq.*

population in general. As an economic geographer he thought that "the regions within the German Empire which remained behind in the development of the density of the population have to thank, for this peculiarity, not capricious desertion on the part of human intelligence, but the concatenation of disadvantageous natural conditions." Agriculture was spread about too thinly to have any very distinctive areas; and where the latter existed they were based mainly on an outcrop of industry and commerce, *i.e.* big towns and harbours. Handicrafts, too, were too small and scattered a branch of activity to mark out districts; these little groups "were not appropriate to a clearer working-out of *economic-intensity centre-points* or *core-zones of industry* which also form the core-zone of economic regions and thus a point of support for boundary demarcation." [1]

The most important factors for the standard of economic neighbourhood then were: (1) Industry, including Mining; and (2) Transport in relation to Commerce, and both of these were closely connected with the element of population-density, partly as a cause, more as a consequence. In the main, mining, at importantly productive places where big stores were kept, was to be considered; here anthracite and brown coal were the deciding elements; as to transport, the important centres were the meeting-points of railway, sea and interval waterway traffic. These points corresponded with the zones of greatest density of population; and further, they were of great influence upon the conditions of the labour market. From all this followed a fairly clear indication of a number of core-zones: zones of economic intensity. Other related conditions had to be taken into account in each zone; but the central substance was "the decisive importance of certain definite industrial and developmental factors." Beyond this came *Sub-Zones*, which did not reach the industrial

[1] *Op. cit.* col. 352.

intensity of core-zones, but got near them and showed an overwhelmingly industrial character; then *Transition-Zones*, in which the latter quality in clear form was not present (stone, earth, timber industries); and lastly, *Boundary-Zones*, in which a low industrial intensity with a lack of distinctive character and no density of population appeared.

This was the expert view, and upon it the witness based a system of fairly well defined regions. His concluding judgement is important, as much for its intrinsic worth as for its being a general expression of the Constitutional Committee's judgement after many other experts had been heard. He said:[1] "If finally I am asked on my conscience, what according to my opinion ought to be done, I should say: the political boundaries should be maintained in essence, with the reservation that smaller States should be brought together or given to the regions to which they most belong according to their territorial situation and economic character. Although it is to be hoped that the study in which I am co-operating, as much as the work which is now being performed in individual presumptive economic regions will not be entirely lost, it will be impossible in the last resort to arrive at new economic frontier lines which are considered advantageous by *all* concerned and not as a repression of individual and, perhaps, important divisions of industry. If we see how, already, small regions rebel—I remember Geestemünde and Harburg—if a dispute arises about their belonging to this or the other projected economic district, I believe I should have to doubt whether a compulsory regulation with strict desertion of political boundaries will give a result serviceable to the progress of industry and the internal peace and development of the Fatherland."

These problems of delimitation of economic regions and the extension of boundaries beyond the local

[1] *Op. cit.* col. 357.

government areas are not without their parallel in England.[1]

The upshot of the whole discussion was the recognition of the difficulty of establishing these regions, and the simple report by the Reporter of the Committee " that the Districts of the District Economic Councils should comprise larger economically dependent regions. The boundaries were to be so formed that the regions of the smaller States and the political administrative districts should not be cut through. States with less than one million inhabitants were to be combined with neighbouring regions with which they were economically connected." For the rest the delimitation was left to the Government and the Federal Council with the advice of the Federal Economic Council.

As to the duties of the District Economic Councils there was also controversy. The medium and most normal expression of views was taken by the Reporter of the Committee,[2] adopting the general standpoint that the District Economic Councils were appointed to complement the work of the Chambers of the various branches of industry and to promote the general economic and social interests of the district within the frame of the whole economic system of the country. They were to be, first, the official agencies of advice to the Federal Economic Council as well as the central and local authorities of the Federation, the States and the municipal authorities. They were to be consulted before economic and social

[1] In the winter of 1921 an attempt was made by the Ministry of Health, in face of the expensive and unsuccessful attempts at extension of areas by big boroughs, to induce the Municipal Corporations Association and the County Council Association to come to an agreement on lines of future development. " We had a number of conferences," said Sir Alfred Mond, in the Debate on Supply for the Ministry of Health (June 13, 1922), " and very interesting they were. Both sides put their case with their customary ability, skill, argument, and wit, but I am afraid I have reluctantly come to the conclusion that no amount of meetings will reconcile the fundamental difference between them. That being the case, I do not propose to proceed on the lines of conferences, but by the method of a Royal Commission, to which I understand both sides are agreeable."

It is clear that when such a Royal Commission begins its investigations the question of *regionalising* England will be one of the most important elements in its work.

[2] Mitzlaff, *Verhandlungen*, v., December 19, 1921, cols. 622 *et seq.*

measures were adopted. For the solution of economic and social problems they could send resolutions and suggestions of any sort to the competent authorities; and more importantly, by Federal or State law they could be accorded rights of previous assent to certain legislative and administrative measures, and also directly to administer some services. Other authorities concerned with administration could by law be compelled to accept the co-operation of the Councils (in the measure prescribed by special law); and in the same way the Councils were to co-operate in the fulfilment of communal-economic duties (socialisation, municipalisation, planned-economy, etc.). They were to appoint a certain number of representatives to the Advisory Councils, Committees and similar bodies appointed by the political authorities for economic and socio-political questions. The other political-administrative bodies of the Federation and the State could always attend and speak at the sessions of the District Economic Councils. Lastly, a proportion of the members of the Federal Economic Council were to be elected by the District Economic Councils.

The reason given for the special creation of these Councils,[1] when other bodies were already in existence to express the needs and feelings of organised industry, was, that no organ existed which brought together the various branches of economic life. Economic questions had become so important that it was absolutely necessary to weave the various forces of economic life into a united function, and this was as necessary for the community's economic life in the different parts of the country as in the central representative assembly.

The point of dispute in the Committee was whether the District Economic Councils should have independent rights of administration, *e.g.* in electricity supply, light railway management. The proponents of such a line of activity were mainly the experts who came from the

[1] *Op. cit.* col. 626.

Rhenish-Westphalian district, who were so imbued with the idea of independently administering economic services that they wished to eliminate the political authorities (State and local government) altogether. Also some workers' representatives, hitherto excluded from any management of affairs on a large scale, were supporters of this view of the Council's activities. Against these views it was shown that it meant the complete remodelling of German local government with no particular advantages to be had over those already provided by the local government authorities acting with the *advice* and at the suggestion and sometimes under the control of the Economic Councils.

One other question has so far come under discussion: the relation between the District Economic Councils and their constituencies. What bodies were to form the units from which the Councils could best be composed? The Government Plans A and B envisaged either paritatic Committees of Employers' Chambers and Chambers of Labour, or the actual conversion of the Employers' Chambers into Chambers of Industry, uniting both sides for common concerns. These alternative plans were put before the Constitutional Committee by the Reporter, Max Cohen,[1] in the name of the principle of parity. A very lively discussion of these proposals took place both in the Press and the Committee: the employers showing determination to maintain their independent rights in their Chambers, and the employees determined on the breaking open of these arcana of employers' interests and entering upon a basis of equality. The employers argued for parity only in the District Economic Councils and the Councils above this stage. With regard to the reform of methods of voting for the Chambers (they were antiquated and representation inequitable between small and big business) and the combination of the Chambers in bigger and more

[1] *Verhandlungen*, i. cols. 20 *et seq.*

uniform districts the employers were willing to make concessions. Further reform in the direction of admittance of the employees to common talk with them in the Chambers was considered as an attack upon their private interests. But the workers maintained that if the Chambers were to remain as the official representative bodies of industry and agriculture, standing alongside the District and Economic Councils, perhaps doing work of more importance than these,[1] the workers would be at a disadvantage, because in relation to advice given on occupational questions (the District Economic Councils dealt only with multi-occupational, general economic questions) the employers had control of information about the progress of affairs denied to the workers. This information, a most vital basis for such advice, could be only properly given and gained at a common court of employers and employed.[2] The employers were adamant. The employed were insistent.[3] "If, then, this influencing of industry is the affair of the occupational representative bodies only, of the Chambers, then the supporters of separate Chambers for workers and employers will not deny that the employers have no right to influence economic policy and the development of our industry without giving the workers the opportunity of doing the same." The Reporter concluded with a report suggesting that the Chambers existing, with some slight reform, should, by the election thereto of workers' representatives, become occupational Chambers for Agriculture, Industry, etc., and be the sub-stage for the elections to the District Economic Councils. The matter has still to be decided. In January 1922 the Committee had before it the workers' motion asking for the Council system which Article 165 had promised; in the form of Chambers of Industry uniting both sides on an equal footing.[4] In

[1] *Verhandlungen*, v. col. 640.
[2] *Loc. cit. supra*, i. col. 60.
[3] *Ibid.* v. col. 641.
[4] *Mitteilungen*, Nr. 2, Series 2, Jan. 14, 1922.

Agriculture, common Chambers with one-third [1] workers' representatives have been accepted in Committee, practically unanimously. Later an unanimous agreement on Chambers of Commerce and Industry was reached, after much debate,[2] and after several resolutions had been rejected. The solution is: a Joint Chamber composed equally from the official organs of both sides, standing as the public official occupational representative body.[3] The workers' and employers' constituent bodies are to send to each other any independent resolutions beforehand, or in urgent cases at the same time as they are laid before the body to be advised.

The question of representation of the consumers, officials, and representatives of general interests, in the District Economic Councils was determined, after the evidence and cross-examination of witnesses had been heard, in the direction that one-third of the representation on the Economic Councils should go to members of these bodies, appointable by their central organisations, and to the extent of one-third appointable by the Government. Whether there should be such a Division III. here as in the Federal Economic Council had revealed a variety of points of view. The most opposed were those of Dr. Hugo Preusz, the maker of the Constitution, and Walter Rathenau. Preusz held [4] that the best defined body would be formed for advisory purposes from those directly interested in production: employers and employed. To go beyond this was to attempt to reproduce the completeness of a political parliament and thereby to rouse expectations which the Economic Councils could not fulfil. Rathenau,[5] imbued with the Guild Socialist idea, looked to the representation of all associations in the Economic Councils. On the

[1] One-third owing to the peculiar nature of the industry.
[2] *Mitteilungen*, Nr. 38, Series 2, Nov. 18, 1922.
[3] *Ibid.* Nr. 42, Series 2, December 16, 1922.
[4] *Verhandlungen*, ii.
[5] *Verhandlungen*, ii. cols. 236 *et seq.*

proposal that Consumers' Chambers should constitute the constituencies for the Economic Councils (as suggested by the Reporter[1] in his original report to the Committee), the experts had been almost to a man against the idea.[2] There had emerged no clear method of setting up such a Consumers' Chamber. Even the consumer had a variety of manifestations: as ratepayer, as a member of a co-operative society or of a housewives' organisation—these could be represented separately.

These, then, are the ideas that have so far emerged from the discussion on the substructure of the Federal Economic Council, and the provision of an economic constitution which will bring into play all the creative forces in German industrial and social life. It attempts a union of seemingly diverse interests to secure action that will bring about the best results for all.

There emerges from these discussions, if a difference on the question of organisation, at least an insistence upon the need for three things: industry's greater influence upon politics than it has hitherto had; a union between the old warring partners in industry; and a moderator in the shape of the consumers, the liberal professions, and general economic representatives.

Perhaps two other abnormal projects of an economic constitution may be briefly touched upon. Walter Rathenau offered a complete alternative to the normal system we have been discussing, in a Guild system, that is to say, "a system in which all vocational associations are organised throughout the whole country, and find their summit in a central economic representative assembly, the Federal Economic Council."[3] He pointed out the particularistic conflicts possible between economic provinces based upon similar industries (*e.g.* the textile industry of Saxony and that of the Rhine district). They would dispute legal rights and attempt to secure

[1] *Verhandlungen*, i. cols. 3 *et seq.*
[2] *Ibid.* v. col. 646.
[3] *Ibid.* ii. cols. 229 *et seq.*, April 21, 1921.

more for themselves at the expense of the other provinces. In the Federal Economic Council one would get the conflict of local claims. Big districts would, perhaps, mitigate the severity of such conflict. But he looked forward hopefully to national and State guilds entering these bodies and linking them, vocationally, with the centre. The system would be dependent upon the gradual development of a Guild system.

The second abnormal, but nevertheless eminently sane, expert was Georg Bernhard, editor of the *Vossische Zeitung*, long a supporter of an economic constitution.[1] His standpoint is peculiar. "We are clear," he said, "that no positive idea lay at the root of Article 165. . . . The intention of Article 165 was to sabotage an idea good and right in itself. Article 165 was made to ward off the reasonable execution of the Council idea. . . . In consequence, Article 165 is a completely useless instrument." His Federal Economic Council would then be not merely an advisory and initiatory body, but a body making mandatory resolutions—laws. It was a plan to prevent the *étatisation* of industry; to put it into the hands of industrials—employers and employed.[2] Industries were to be thoroughly organised on both sides, and a common council for each industry would control the affairs of that industry. Representatives therefrom would compose the Federal Economic Council. This would be the supreme legislative authority for economic affairs, the supreme administrative authority for economic affairs, the supreme court of law in industrial disputes. In such an Economic Council would take place the final reconciliation of different group interests. The executive authority of this body would be the District Economic Councils appointed by the District Committees

[1] *Op. cit. supra*, cols. 267 *et seq.*

[2] The reader of the literature relating to economic reconstruction in Germany cannot but be struck with the constant insistence upon the need for taking the control of economic affairs out of the hands of ordinary politicians. The word *Entpolitisierung* in relation to industry is reiterated by both employees and employed *ad infinitum*.

of those paritatic organisations which appointed to the Federal Economic Council. In both District Economic Councils and Federal Economic Councils the consumers and liberal professions would have a place.

The abnormal views are not likely to be accepted. Instead it appears that there will be set up a constitution on the lines of Government Plan B, because Plan A does not take any account of the great vocational organisations such as the Industrial Alliances, or the Trade Unions, or the Central Association of German Big Industry. Plan B suffers, however, from the attempt to include a large proportion of delegates issuing from a process of indirect election from the District Economic Council. Territorial representation might well, perhaps, be left to the central vocational organisations. Whatever the outcome, the economic side, in all its stages, will be subordinated to, but will always effectively aid, the political bodies to introduce into their economic and social policy a substance more serviceable to the real demands of society than has hitherto been possible.

We shall consider in the next chapter the development of the ideas and institutions relating to this Economic Constitution and estimate the lessons to be drawn from it.

CHAPTER VIII

CONCLUSIONS AND REFLECTIONS: GERMANY AND ENGLAND

I am tempted to believe that what we call necessary institutions are often no more than institutions to which we have grown accustomed, and that in matters of social constitution the field of possibilities is much more extensive than men living in their various societies are ready to imagine.—DE TOCQUEVILLE.

A MENTAL review of the birth, the growth, the operation, and the discussions about the future of the Federal Economic Council will reveal how Germany's State-form stands between the products of two Revolutions, Parliaments and Soviets. "Between two world-shaking Revolutions, the French Revolution of 1789, which brought us formal democracy, and the Russian of 1917, which threatened to force upon us the Soviet system, stands Germany, the 'country in the centre,' tottering and disrupted, as the spiritual battlefield of the western and eastern ideas of the State, as it may soon become the battlefield of the western and eastern armies. And yet it can find a synthesis between East and West in its own theory of the State—the vocational Parliament."[1] It stands so, because it stands between two civilisations: the capitalistic and the more socialistic.[2]

The present German constitution of course contains the declaration that sovereignty resides in the people;[3] but the early nineteenth-century conception of Parlia-

[1] Oppeln-Bronikowski, *op. cit.* p. 7. [2] Cf. Appendix IV., Clause 1.
[3] Art. 1, "The supreme power proceeds from the people."

ments no longer sufficed in a new civilisation to make that declaration a reality. For that declaration implies the imperative nature of a majority vote in the constituencies and in the representative assembly as an act of will. And it was the task of the nineteenth-century constitution makers progressively to supply machinery for the adequate expression of that will, by regulating election expenditure, corrupt practices, bribery, instituting ballot-box voting, and even by the mechanism of the Referendum and the Initiative denying the omnipotence of the representative principle.[1] Yet, at most, all these devices merely prevent the sovereignty of the people in Government from going violently wrong; they do not foster inventiveness. It may be said that the needs of the people will be more clearly stated in the representative assembly if a measure of Proportional Representation is adopted. It may; but such a system throws the elector into the hands of the party machine which is concerned with the drawing up of "lists"[2] of candidates for the large constituencies involved. It renders easy the introduction of mediocrities into lists of candidates, where, the top man being popular and the policy attractive, a veil is drawn over the lack of personality and intelligence in the "tail" of each list.

But it is exactly the introduction of eminent personalities at which the Economic Council idea aims. It rejects the average party politician, and seeks out those men whose claim to be heard in the counsels of government arises from their rich acquaintance with the powers and needs of their vocation. In the end, it is realised, the majority must rule, not because it is possessed of divine illumination, but because it may suffer from innovations by rulers out of touch in knowledge and

[1] Cf. Wallas, *Human Nature in Politics*, Part II. chap. ii.; and Bryce, *Modern Democracies*, 2 vols., 1921, is of course a magistral monument to the political striving of the nineteenth century.

[2] I am referring more particularly to the German system of proportional representation established by the law of April 5, 1920; see *Proportional Representation*, No. 37.

sympathy with ordinary human nature, and it may revolt. But this only asserts that the legal imperative must, in the last resort, lie with the votes of the majority, whatever its wisdom; it does not assert that the highest wisdom is implied in majority government. And so that will can never be sufficiently instructed. Given the vocational structure of the modern State it is possible to add to the elements of creation in government by drawing upon the best representatives of these vocations. They are usually men and women who, unless selected by the informed electorate of their own organisation, would never stand as "factotum candidates" for a political Parliament. That very process of selection is valuable, because, besides the attribute of popularity, it ensures the possession of the quality of expertness in the representative. It ensures the possession of a judgement independent of the claims of the excited audiences and the Press which mark government based upon General Elections.[1] It was with the feeling of long experience that Walter Rathenau declared[2] to the Constitutional Committee of the Economic Council that the most popular and pleasant person is seldom the strongest. "This principle (of the most popular instead of the most able being elected)," he said, "which we have learnt to know in its complete fearfulness in connection with the Reichstag, reflects upon the whole of our economic system and political system, where you must admit that the number of really able people is very small, where people are always asking: How can this intellectual country of sixty million people bring forward only so few able men? Therefore the more you emancipate yourselves from the principle of popularity and move towards the principle of ability, so much more fruitful and effective will the organ be that you create."

An essential, therefore, of the Council idea is the

[1] Cf. Dawson, *The Principle of Official Independence*, chap. i.
[2] *Verhandlungen*, ii. col. 242.

establishment of effective centres of creative policy-making. And this not only in connection with the central authority, the Federal Parliament and Departments, but equally with the local authorities. The latter idea is not new to England. It is to be found in an incipient stage in the co-option of outside interested and expert parties on to the Committees of local government authorities.[1] But the German idea of the District Economic Councils and their advisory activity bears the advantages of the keen and careful discussion the suggestion passed through, and the scheme itself offers a systematic introduction of vocational control in local government.

Why is there all this insistence upon the establishment of new bodies upon a vocational basis to advise Government and Parliaments, whether central or local? The circumstances which forced this opinion upon men are clamant for attention. The State more and more advances its sphere of authority over man's life in society.[2] It claims political authority, and certainly possesses political power. It can coerce. But if its political power is to be converted into fruitful political authority it can achieve this ascent by conversion only through a previous constructive examination of its purposes and methods; for though its servants may by the force of imagination create appropriately to the needs of its clients, the citizens, a greater amount of satisfaction results (it has so resulted in Germany) from previous consultation with those who are to suffer or enjoy the product provided. A new content has to be inserted into the Rousseauite doctrine of consent as the basis of government and political obedience.[3] And that content took, in Germany,

[1] *E.g.* on to Education Committees and Maternity and Child Welfare Committees.

[2] Cf. declaration of Second Division Clerks to Royal Commission on Civil Service, 1914, Second Report, App. V., pp. 493 *et seq.*, for an expression of this fact and its implication. "The Civil Service is becoming more and more the indispensable servant of the community, and it is the business of the community to ensure that all who serve it are appointed on the score of capacity and character alone, and that those who reach the highest posts in that service shall do so by virtue of ability and merit."

[3] Cf. Laski, *Authority in the Modern State*, chap. i.

the shape of an Economic Council concentrating in its bounds the representatives of the nation as grouped in its smaller communities. It is the erection of a new institution in government based upon the conception that they shall speak in council who best can speak, not in the flight of oratory, but in the depth of knowledge.

If we turn to English political institutions in the light of these ideas and German experience, what would a reform of these institutions imply in terms of mechanism and of spirit? We have seen in Part I. of this study that many of the elements in Germany which point to a lack of institutional creativeness are present also in England. What then would the supply of this deficiency, in an English Economic Council, mean in terms of necessary change? There would arise, in the first place, the problem of the internal organisation of such a body if it is to stand by the side of the House of Commons. There would need to be solved, secondly, the question of the relationship between these two assemblies. And we might reflect, thirdly, upon the services such a change would render.

Plainly, the institution of parity between employers and employed would be a necessity. This would be a mere extension of parity from the Whitley Councils. Neither side would agree to its lesser representation, and though the majority principle is not of material importance in a merely deliberating and advisory body, whose word is not law, the self-respect of both sides is better secured by parity. Class-war appeals would easily be fostered by any inequality in representation; on the other hand, for the workers particularly, the moral satisfaction of parity is at least, as German experience shows, a moderating influence upon combative appeal.

There would be, undoubtedly, a big battle over representation for the groups, as in Germany. Again, the comparative lack of importance of majority resolutions can be no complete satisfaction to the claims of the

groups. If the Council is to be representative of the various groups in industry, and to follow the principle of group *locus standi* in all the economic and social affairs of the community, it has to provide for at least two things. First, it must secure to each group the psychological satisfaction of knowing that it is represented in the measure of its own idea of its significance to the community. Sincere co-operation in the work of such a Council could not otherwise be expected. Dissatisfied groups would stay away. The corporate self-feeling of the associations must be ministered to. That is the lesson of the controversy for representation in the German Economic Council. It is the first big occasion of the establishment of a vocational chamber, and the experience throws a light upon the difficulty of reconciling the differences of Guilds in a Congress established for that purpose in a Guild Socialist System, unless by the method of representation according to numbers in the industry: in that case it seems clear that the more numerous, and not necessarily the most productive, groups, would have the legal imperative in an assembly where group differences and claims were, according to the very assumption of the system, most strikingly expressed. A Guild Congress could, then, only be empowered to express opinion, and not make resolutions. The second task in representation of the groups in industry is to represent in the most realistic fashion. It means analysing down to the smallest distinctive and differentiated organisation. Somewhere that must stop, and beyond that limit, unless experts are brought in *ad hoc*, the smaller groups must feel unjustly treated. This involves the whole mechanism and voting and separate statements of attitude by the various groups and fractions of groups.

Within an English Economic Council the representatives of the consumers and general economic experts might find an effective place. The Co-operative Societies would, through their able representatives, undoubtedly

exercise an important influence in the Group representing Industry and Commerce (as producers). But the smaller organisations like the Telephone Users' Association and the Railway Season Ticket Holders' Association, the Ratepayers' Association, the numerous other organisations which seem to spring into the most energetic activity during the two weeks preceding a parliamentary election,[1] might also be accorded representation, either permanently if important enough, or, as required, for each special inquiry. From the Municipal Corporations Association and the County Councils Association several members, well versed in the administration of great local authorities, might make fruitful suggestions in debates upon matters concerning the spread of State activity. But the most emphatic need is the presence of a dozen men who are not interested in the actual process of production of wealth as the employers and the employed are—a dozen men used to the handling and the objective analysis of sociological and economic argument.

Current German opinion in the Departments and the Economic Council favours the reduction of the numbers of the Council to about 200 members. This number would probably contain sufficient representatives of the main vocational organisations in this country. A greater number does without any doubt make far too seductive a call for eloquence in the full assembly at the expense of concentrated debate. As in Germany, experts could represent special interests, and these could employ expert legal counsel if they so desired. The latter is not forbidden in the Rules of Procedure of the German Economic Council.

Such a Council would need, as in Germany, to do its main work in Committees, which need not publish verbatim reports, and which could make their more

[1] It should be noted that these organisations approach the candidates, not in the name of the "citizen," but plainly in the name of the motor-car users, or the temperance reformers, or the Protection of Young Girls' Society, or the Anti-Vivisection Society.

confidential arrangements in private. Their counsel would be made sufficiently public in the subsequent House of Commons debates. It is only in Committee work, indeed, that fruitful thought is to be accomplished, and the House of Commons has in late years sufficiently recognised this.[1] But that Assembly has not been able to avail itself of any full use of its Standing Committees for this purpose. Any matter of contention, that is, any matter of principle upon which the parties have made up their minds and made promises to the country, is not within the Committee's sphere of action : little more than verbal alterations are made, and these are closely scrutinised on the Report Stage. Here one thing needs guarding against. A very great number of Committees and an acceptance of too much work must mean the presence of members upon several Committees and at full Assemblies. This means that the member of the Economic Council tends to become separated from his vocational group and its interests, and the representative and expert character is lost. In Germany the Committees still show a very wide variety of members, but already a number of names, about a score, can be noted as appearing more frequently than others. It is fair to say that they are the more eminent of the representatives. But it is in this Committee work that the Economic Council could be of most value to the House of Commons, or even better than to that body, to the country. It could scrutinise and carefully comment upon the principles embodied in the different clauses of the project, advise the Government, and thus provide an analysis and alteration of principle before the debates in the House of Commons took place. It is the method of the German Economic Council ; the more detailed mechanism will be discussed later.

The influence of the Council upon the permanent

[1] Cf. Report of Select Committee on House of Commons Procedure, 1st and 2nd Reports, 1906, Nos. 89 and 181.

civil service would be no less salutary and invigorating, though its demands (questions, attendance at debates, and answers to resolutions) might, as in Germany, cause the work of the service to be appreciably increased. In England now, the theory of civil service neutrality [1] in politics denies it the exercise of that most potent source of inventiveness, political passion. An Economic Council would offer a tribune where policies, otherwise necessarily pigeon-holed, could be discussed in an atmosphere which law and convention would tend to keep pure from party politics. Even that would not be the full limit of the Council's possible effect upon the Departments. If the suggestion that Intelligence Bureaus (for investigation and planning of policy) should be set up in every Department [2] were adopted, those Bureaus could be in constant touch with the Council's Committees and be stimulated to make inquiries to the importance of which the Departments would otherwise be blind.

A vocational assembly also implies a more careful organisation of vocations than at present exists in England, and, further, requires a good public register of the various organisations. The ease with which the German Economic Council was erected was due to the existence of both these factors in Germany, and, beyond this, to the previous institution of the central Industrial Alliances, which at once assured the principle of parity and the existence of recognised nominating bodies. Unorganised and unregistered groups would not be represented, save where this could be effected by the nomination of experts for occasional discussions in Committee.

More serious questions arise in the relations between the two Houses. There is every evidence from German experience hitherto that the scheme of duties conferred

[1] Cf. Sir Wm. Beveridge's lecture in *The Development of the Civil Service*, pp. 228 *et seq.*; and contrast his theory of "anonymity" of the civil servant, with Mr. Laski's reasons for publicity in the same volume, pp. 20 *et seq.*

[2] Cf. Report of the Machinery of Government Committee, Cd. 9230, 1918, pp. 32 *et seq.*

upon the Economic Council, especially in its definitive form, is sufficient for the creative work of the Assembly. This does not mean that there are not people in Germany who demand more powers for the Economic Parliament. As has already been pointed out, some members demand that it shall wield power co-ordinately with that of the Reichstag. There are others who wish to eliminate entirely the parliamentary system as based upon parties and territorial constituencies and establish a system of vocational parliamentarism, in which the vocational Parliament shall be the unique legislative authority, with control of the Executive.[1] But these are views quite unlikely to be accepted, for both are fraught with great practical difficulties. Article 165, therefore, stands as the most likely final statement of the relation between the Economic Council and the Reichstag. It implies, let it be clearly understood, no division of authority: the final act of will lies with the political assembly, Reichstag or House of Commons. But if there is no division of authority, there is a differentiation of function. The Economic Council holds the definite and limited position of a body whose sole function it is to examine the government projects, to inquire, investigate, deliberate—its members acting and reacting upon one another because their interests are different—to state conclusions. It may even propose a policy and embody it in legal form. It may even enter into the precincts of the House, not upon the floor, but in the Committee Rooms, and there speak its purpose. In all these activities it resolves what the nation *ought* to do, but to the political Parliament is reserved the power to say what the nation *shall* do.

In the light of this there is no room for parliamentary jealousy of an Economic Council, save jealousy of its aptness to its function. No political thinker can applaud

[1] There has been instituted in Berlin a learned Institution for the study of theories and institutions, industrial and political, relating to vocational organisation and parliaments, cf. Brauweiler, *Blätter für ständischen Aufbau*, Oct. 5, 1921, p. 218. The latter is the organ of the Institution.

or give sanction to such a feeling. Authority must follow upon function, not upon tradition.

It may be feared that Ministerial Responsibility would be impaired by the creation of an Economic Council. Such a fear is unfounded. The doctrine of Ministerial Responsibility, as it has been realised in the practice of the English Constitution, is fundamental to the proper working of representative democracy; that is sufficiently proved from the defects of Congressional Government and the French Cabinet system. But an Economic Council with the constitution and powers already outlined would not interfere with Ministerial Responsibility: it would make it more effective. For what does Ministerial Responsibility mean?[1] It means, briefly, that the Cabinet Ministers stand before Parliament and the country as the unique policy-making body of the nation, ultimately answerable to the majority of the House of Commons, whose confidence is necessary to their continuance in office. To accept advice from an Economic Council would be adding merely to their wealth of material for judgement and would not detract from their sole and indivisible responsibility to the House of Commons. The act of acceptance of advice tendered by the Economic Council could never be construed as an act under compulsion—such a plea would be unconstitutional. The act of acceptance would then be voluntary, as voluntary as the refusal to see a deputation or the acceptance of advice therefrom. The merits of that act would need to be explained and defended, as all other uses of ministerial power, in the House of Commons; and defence of policy constitutes the first pillar of Ministerial Responsibility. The second pillar of Ministerial Responsibility is dismissal of a Minister or the whole Cabinet where such defence is deemed insufficient. The House of Commons could not lose full use of this power to

[1] This is discussed at some length in an article entitled "Cabinet and Party, 1914–1921," in *Economica*, January 1922.

dismiss because an Economic Council has tendered advice. The Cabinet is responsible for what it accepts or rejects: the ultimate control lies with the House of Commons. But Cabinet and Parliament have in all this process been made richer by the *expertise* of the Economic Council.

Statutory Rules and Orders would naturally go to an appropriate Committee of the Economic Council before they were laid on the Table of the House in pursuance of statutory obligation. They would there receive the scrutiny they hardly ever receive in the House of Commons, which is far too busy to know that the Orders and Rules come before it, or even to know that the Table of the House means, in practice, the Library. Executive encroachment on political power[1] by this growing practice of secondary legislation would thus be subjected to a review, not now practised, by the persons interested in the substance of such legislation. The Economic Council would serve as a permanent and public reservoir of men and women to whom the Departments would apply for advice on the making of those Rules and Orders. At present the Departments are often at a loss in which direction to turn in order to secure the *expertise* of the representative character and trustworthiness necessary to this process of "secondary legislation."

The experience of Germany shows, I think, that the most fruitful connection between the Cabinet and the Economic Council would result from projects of law being dealt with after they have emerged from the Departments and are receiving their first consideration by a Cabinet Committee prior to being placed before the whole Cabinet. The Cabinet Committees have come into great vogue since 1870;[2] for since then the work of the

[1] Carr, *Delegated Legislation*; and Parliamentary Debates, vol. 144, 5th Series, col. 429, where the increase of Rules and Orders is shown; in 1890, 168 Rules and Orders. in 1913, 444; Lynden Macassey, *Journal of Comparative Legislation*, February 1923, pp. 73 *et seq.*; and Laski, "Administrative Discretion," in *Journal of Public Administration*, April 1923.

[2] Todd, *Parliamentary Government in England*, vol. ii. p. 6; and Parliamentary Debates, Oct. 19, 1920, col. 756-7.

State has become enormously complicated and larger in amount. The whole Cabinet has to delegate the preliminary function of thought to a small Committee of three or four of its members.[1] The Economic Council could do good work by acting in alliance with these Committees. The records of the proceedings would enable members of the House of Commons to prepare themselves for subsequent debate. The secrecy of the proceedings of the Cabinet as a whole could be maintained as well as at present. But though this seems a reasonable method of connecting Government and Economic Council, it has not been tried in Germany. The Cabinet there first gives sanction to the principle, then details as sent from the Departments, and then the Cabinet submits the project to the Council. I have been told that it is the Reichstag's jealousy that prevents the earlier consultation of the Economic Council. The constant spectacle of divided authority between the French Ministers and the *rapporteurs* of the Parliamentary Commissions in the French Chamber of Deputies would seem emphatically to suggest that the members of the Economic Council should never be heard on the floor of the House of Commons whether in support of, or in competition with, the Minister in Charge. Activity in the Standing Committees and influence upon the Government and members[2] by reports and verbal explanations would constitute its best method of operation, within the English political system.

There would of course be implied no breakdown in the party system, as in the theory of Guild Socialism. The party system certainly has a multitude of faults,

[1] In Germany there was established in 1920 a special Economic Committee of the Cabinet, presided over by the Minister for Economic Affairs, and consisting of the Ministers of Labour, Transport, Food, Government Property, Finance, and Economic Affairs. It meets to secure a harmonious policy in economic affairs. Cf. Reichstag, Stenographische Berichte, 38th Session, 1920 (Nov. 29), pp. 1338 *et seq.*

[2] I assume that sooner or later there will be instituted for the better control of policy a system of Parliamentary Committees parallel with the Departments of State.

and perhaps the spectacle of an eminent Economic Council challenging its claims to a representative character might spur the political parties on to cure at least the malady of ignorance. But the party system embodies one precious principle. It is the principle that the community is one. The party seeks to embrace the interests of all groups and classes and to reconcile them in its scheme of values. From time to time it confers benefits upon one group, or applies coercion to another which seems to make too great claims upon the rest. Such a co-ordinating force would be swept away by the coming of a pure vocational State, and the sense of the larger community which has often been the saviour of weaker groups might be lost in a scheme of Guilds. But the Economic Council idea accepts the parties as the final arbiters, for they are the expression of popular will as far as constitutional mechanism can promote such expression. It gives to government, however, what the party organisations can seldom give, a creativeness arising out of direct and continuous contact with the bodies to be represented.

The sceptic will say that such a Council will not bring about a *rapprochement* between employers and employed. On the whole, the experience of the German Economic Council will bear him out in this judgement. But then, as Mill said long ago, the working of the mechanism of Government, as of other pieces of mechanism, depends upon the forces outside it. Such a *rapprochement* demands a change in the traditions of social and industrial life; it may be in the constitution of human nature. Those who have been accustomed to rule and possess are not likely speedily to accept the co-partnership of the other party in industry.[1] But if

[1] Even in this there are apparent signs of improvement. The National Alliance of Employers and Employed, and the Industrial League and Council, are organisations composed of representatives of employers and employed. The organisations seek to promote understanding between both sides, and are convinced that such understanding is possible, providing the facts relating to industry are made public, and the essentials of the economic

a process of teaching is needed for such an eventual colleagueship where better can it be found than in an Economic Council? For both parties are affected by statutes, and both have an interest in the final form of those statutes. Here, then, is a forum, where, on the basis of equality, the best intellects and the most responsible leaders of both sides can state their points of view, and attempt reconciliation.[1] A process of mutual teaching is bound to go on. In the smaller affairs of policy agreement between the two sides has already frequently taken place: of this the agreement to accept a common Committee of Industry as a basis for the District Economic Councils and as official occupational representative body is the clearest proof. In the course of time this body, without the asperity of political creed and denunciation connected with the hustings and the Reichstag, is expected to bring about the greatest possible measure of agreement between employers and employed, and, in its local substructure, to palliate, if not altogether to abolish, the mechanisation of life by giving to more citizens the opportunity of a glance at the whole process of economic activity. After two and a half years of working this is the faith of most of the members of the Economic Council with whom I have come in contact.

system taught without bias. Their organs, *Unity* and *Current Opinion* respectively, published monthly, contain articles on current industrial topics, with parallel statements by employers and employed on important subjects. Each organisation has a good and gradually improving educational side which arranges well-attended lectures in London and the provinces on economic subjects. Committees paritatically composed regulate the administration and the educational activities. Cf. *National Alliance of Employers and Employed*, Report 1922, and *Unity* (Office, 25 Queen Anne's Gate, London, S.W.1); *Industrial League and Council*, Annual Report, 1922, and *Current Opinion* (Office, 82 Victoria St., S.W.1.).

[1] Cf. National Industrial Conference of 1919, Cmd. 139, p. 15: "There has been apparent throughout the proceedings an earnest anxiety on the part of the representatives, both of employers and employed, to approach the subjects of their discussion in a spirit of mutual accommodation, so as to arrive at a satisfactory settlement of outstanding difficulties. The Committee confidently believe that if effect is given to the recommendations now made, and if the same spirit that has characterised the deliberations of the Committee actuates the future consideration of other difficulties that exist or may arise, much will have been done to promote that spirit of mutual confidence which is a first essential to the effective and successful conduct of industry in the interests of employers and employed and the nation generally."

It must further be remembered that there is never complete agreement in the House of Commons, after all its deliberations. Its judgement is accepted because, on the whole, weighed against the chances of betterment by revolution, the clauses of its measures are not in too extremely violent opposition to the interests or conscience of the citizen. Parliament and people are then content with their work because the majority of citizens have explicitly accepted on many private occasions or subconsciously assumed the majority principle as, on the whole, the best expedient; or because they have never thought about the metaphysics of the political process at all and are overawed by the existence of Parliament as a lesser God from which evils and sometimes blessings flow, ordained as naturally as the sun's revolutions, the courses of the stars, or the falling of a London fog.

The worker and the consumer are, in this system as it works in Germany, expected, as time goes on, to take a more direct and living part in the life of the State, because they are linked more securely and obviously, through their associations, to the central workshop of government decision. This aspect of the economic constitution has been termed the "Revolution of responsibility." [1] It may indeed be a fact that to expect expenditure of more time, more interest, a greater richness in opinion on the part of the average citizen because an economic constitution is created is to await disappointment. But at least the energetic action of the Economic Council shows that to look in that direction is more fruitful than to say merely that the better future of democracy lies in its being educated. That is a platitude worth emphasis. But no progress is made until practical steps have been taken for such education. One such step clearly lies in the creation of an organ which

[1] Rathenau, cited in Schäffer, *Der vorläufige Reichswirtschaftsrat*, p. 27, in which the expectations above expressed are to be found; expectations still entertained by that author after the closest co-operation with every phase of the Council's operation since its inception.

continuously demands the participation of employers, workers and consumers in making decisions and openly expressing their attitude on questions of the most urgent importance. If it is by the thread of economic interest that the citizen feels himself attached to society, then that is the necessary thread by which he can be drawn into a perception of his relations to others, which, after all, is the only way to arrive at a true and whole perception of himself. The occasional petitions from industrial bodies to the Economic Council illustrate this view.

At any one moment there are in this country a number of industrial disputes either in being or held in threat. The permanent and basic causes of such disputes are hardly ever explored, unless a great crisis occurs and produces an inquiry on the lines of the Coal Industry Commission of 1919. Even the work of such a Commission [1] is forgotten because it ceased to be of public effect after it had made its report. But the Economic Council constitutes a sort of permanent Royal Commission which is continuously investigating the deeper causes that might ultimately issue in industrial friction not obvious to the public eye, or in a complete stoppage of work fraught with great economic waste. Such a Council would sense the coming storms in this country. It could act with a definite sense of the interdependence of one group's grievances and the interests of other groups. The Trade Union organisations would, as before, and as still in Germany, make the agreements with employers, but the preliminary complex of inquiry forming the basis of both employers' and workers' action would issue from the continuous investigations of the Council. It is clear that as in ordinary life the State can make no separation between "self-regarding" and "other regarding" actions on the part of individual persons, so in the case of each vocational group in

[1] And we may make the remark equally of the Reports of the Poor Law Commission of 1909.

industry no distinct cleavage can be made between those actions which regard itself alone and those which regard other groups.[1] All industry constitutes a great federation. Indeed, I have the firm conviction, inferred from the progress of the Russian and German Revolutions, the course of industrial disputes in recent years in England, and the battle of the Numbers in the German Economic Council, that in the future the war between vocations will be of more serious threat to the common weal than the old doctrine of the class war. Insistence upon interdependence and common counsel is therefore the more necessary. The Economic Council could rouse discussion before the unreasoning heat of conflict made peaceful settlement impossible: all sides would have heard each other, and respective standpoints and objective material for argument would be ready to the hand of the Government, the House of Commons and the public.

On the local government side, assuming the eventual reconstruction of areas along the line of "regionalist" theory, the authorities might well extend the present introduction of expert and interested citizens into their counsels by co-option. For this purpose some sort of a federation of Whitley Councils within the local government District might form the nominating body, and the Local Government Authority through its appropriate Committees would accept or reject the names

[1] Cf. *Unity* (organ of the National Alliance of Employers and Employed), July 1922, in reference to coal industry dispute: "If industries were run solely for the people engaged therein all these matters could be left for internal arrangement, but as it is becoming more and more recognised that industries are services upon which the modern State depends, a much wider field of responsibility for the supply and terms of those services is opened up. Everybody's business is, unfortunately, nobody's business, and the duty goes by default for want of an authoritative body, expert on industrial requirements equipped with the technical knowledge, that can at the same time express the view of the consumer. Ideas for the creation of such a body are gradually taking shape. Vague conceptions of an industrial Parliament are flying about like kites. Certain it is that the black clouds hovering over the coalfields will not be permanently dispersed until British industry can act as a huge protective force, protecting all interests—within and without our separate but interdependent industries—from all internal and external forces."

presented. Failing the existence of Whitley Councils the professional organisations of employers and employed would form the nominating bodies. The people so accepted would take part in Committee deliberations only, would have the power to introduce proposals, but would have no right to vote. This would give the vocations the opportunity publicly to state points of view and would interest a greater number of people in the work of local government. Further than this little could be done in the present state of social organisation. After the long discussion on the subject of District Economic Councils in Germany related in a previous chapter, the Constitutional Committee found itself at a loss as to the exact place of such Councils in the local and central government schemes. It was plain that a state of over-organisation was being approached, offering complexity without utility.

It may seem to some people that the whole system is of confusing complexity. It is, without doubt, complex, but it works without any great friction or confusion in Germany, where the State system is already less simple than in England. Assuredly it makes for a complex mechanism, and for the sake of civic understanding complexity, where unnecessary, should be avoided. But the modern State has a multitude of problems and needs the indispensable mechanism to its purpose. Those problems are not solved merely by a doctrine of simplicity.[1] The logic of such argument leads to a dictatorship. If complexity in English central institutions is feared from the establishment of an Economic Council, *then the House of Lords could bow its head to a new world and depart; for the Economic Council idea is worth far more than all the "stuffiness" of the normal suggestions for a reformed second chamber made in this country since 1884.*[2]

[1] Cf. Max Cohen, *Verhandlungen*, I. col .92.

[2] Cf. Hansard, House of Lords, March 21, 1921; Temperley, *Senates and Upper Chambers*; and Bryce, *Report on Second Chambers*, col. 9038.

The most important hope which may be legitimately entertained from the experience of the German Economic Council is that such a body would supply an element of sustained research, thought and formulation of policy. It would be an almost limitless well-spring of suggestion, more sympathetic in its composition than a deputation, more public than the lonely thinker, more continuous, pressing and representative than a Royal Commission, more in touch with the vital elements of industry and society than political parties, less suspect than the creations of the "lobby," more sedate and objective in its deliberations and less given to sudden fevers of partisanship than the political assembly.

The House of Commons as a rule-making body must be unified. But though the source of authority should be unified, the net of knowledge is best drawn as wide as possible, so that the provision for the making of rules may come from the integration of all the sources that are affected by their publication. We have seen in Part I. of this study that in the modern State the integration of such sources is haphazard. It is the experience of the German Economic Council that such an institution ensures the presence of all persons affected.

For a century, already, short of a decade,[1] the House of Commons has toiled with the work necessary to the age it entered upon with the Great Reform Bill. In the course of some thirty Committees on Procedure and with continual reform of its rules it has attempted to compass its new purposes. Yet like Sisyphus it has watched the load roll down the mountain-side in spite of its efforts. It has accomplished by these efforts little more than the curtailment of discussion, and certainly never the increase of thought and creativeness. Must it still proceed, like an abandoned windmill, to let its

[1] The present author has in preparation a book on *The Relief of Parliament*, in which problems of complete reform of the House of Commons in relation to the congestion of business will be dealt with.

sails whirl to the gusts of opinion, with no substance of grist? A recent inquiry into the machinery of government has dwelt upon the lack of creative effort in our institutions. "Turning next to the formulation of policy," it says, "we have come to the conclusion, after surveying what came before us, that in the sphere of civil government the duty of investigation and thought, as preliminary to action, might with great advantage be more definitely recognised. It appears to us that adequate provision has not been made in the past for the organised acquisition of facts and information, and for the systematic application of thought, as preliminary to the settlement of policy and its subsequent administration." [1]

Such a provision of thought-organisation seems in any prophetic view of the course of State life the first necessity of peaceful progress. Problems are clearly visible [2] which exhibit all the portents of dissensions and violence in the State. Good sense can stay such conflict, and good sense and communal sense have been promoted in the German Economic Council. Nor has its experience extinguished the hope of further and greater services.

[1] *Report of the Machinery of Government Committee*, col. 9230, 1918, pp. 6 and 7, and 22-35.

[2] See Chapter II. p. 20 *et seq.*

APPENDIX I

REPORT OF THE PROVISIONAL JOINT COMMITTEE PRESENTED TO MEETING OF INDUSTRIAL CONFERENCE, APRIL 4, 1919. Cmd. 139

(1) *National Industrial Council* (p. 15).

(*a*) A permanent National Industrial Council should be established to consider and advise the Government on national industrial questions.

(*b*) It should consist of 400 members, 200 elected by employers' organisations, and 200 by trade unions.

(*c*) The Minister of Labour should be President of the Council.

(*d*) There should be a Standing Committee of the Council numbering 50 members, and consisting of 25 members elected by and from the employers' representatives, and 25 by and from the trade union representatives, on the Council."

(2) APPENDIX — *Provisional Scheme for Trade Union Representation on the National Industrial Council.*

Schedule A

Number of representatives allotted to each group :

Group	1. Mining and quarrying	23
„	2. Railways	17
„	3. Other transport	15
„	4. Iron and steel trades	7
„	5. Engineering and foundry workers . . .	21
„	6. Shipyards	8

Group	7. Building and woodworking	13
„	8. Printing and paper	5
„	9. Cotton	13
„	10. Other textiles	6
„	11. Boot and shoe and leather	5
„	12. Clothing	6
„	13. Food trades	2
„	14. Distribution trades	4
„	15. Agriculture	4
„	16. Clerks and agents	3
„	17. Government employees	9
„	18. General labour	30
„	19. Women workers	3
„	20. Miscellaneous trades	6
		200

The reader is referred to the Report, Appendix, p. 17 *et seq.* for other information on detailed representation, method of election, etc.

APPENDIX II

The Constitution of the Central Industrial Alliance of the Industrial and Trade Employers and Workers of Germany, of the 12th December 1919[1]

Permeated with the recognition and responsibility that the reconstruction of our economic system requires the combination of all industrial and intellectual forces and all-round co-operation with a single aim, the organisations of industrial and trade employers and workers unite in a Central Industrial Alliance.

1

The aim of the Central Industrial Alliance is the common solution of all economic-political and socio-political questions concerning the industry and trade of Germany, as well as all legislative and administrative affairs touching the same.

2

The organs of the Central Industrial Alliance are:

The Central Management and

The Central Committee.

The Central Industrial Alliance is composed of the Federal Industrial Alliances of the branches of Industry and Trade as well as the groups into which the latter fall.

[1] Translation of text from Otto Leibrock, *Arbeitsgemeinschaft* (Leipzig, 1920), p. 150 *et seq.*

3

The organs of the Central Industrial Alliance and the members thereof (6) are constituted paritatically of employers and employed, who are elected on both sides in separate elections.

The presidents are to be elected from the members of the organisations.

The presidency is determined by agreement within each organisation.

4

With the combination of allied branches of industry and trade, the following Federal Industrial Alliances are constituted :

for German Iron and Metal Industry,
„ the Food Necessaries and Luxury Industry,
„ the Building Trade,
„ the Textile Industry,
„ Mining,
„ the Stone and Earth Industry,
„ German Wood Trade,
„ Paper Making,
„ Leather Industry,
„ Transport Trade,
„ Glass and Ceramic Industry,
„ Chemical Industry,
„ Oils and Fats,
„ Electricity, Gas and Water Works (June 24, 1920).

The tasks of the Federal Industrial Alliances consist in the independent settlement of the questions relating to their branches of industry and trade.

In matters which pass beyond the sphere of the branches of industry and trade united in the individual Federal Industrial Alliances, the Federal Industrial Alliances have the right to put motions to the Central Committee and the Central Management.

The Federal Industrial Alliances decide independently the size and composition of their Management and Committee as well as the regulation of business.

The representation of the Federal Industrial Alliances in the Central Committee is regulated by this agreement, and in so far as this is not accomplished, by resolution of the Central Management and Central Committee.

The Committee of the Federal Industrial Alliance is the common representative body of the employers and employed of the branch of industry and trade.

The Management to be elected from the Committee of the Federal Industrial Alliance carries out the resolutions of the Committee.

5

Within the Federal Industrial Alliances there can be constituted groups on an occupational, district, or local basis.

The duties of the Groups consist in the independent settlement of the occupational and local questions ; in general affairs of their branch of industry they have the right to submit motions to the Federal Industrial Alliances.

The Groups decide independently the size and composition of their Management and Committee as well as the regulation of business.

On the other hand the clauses and resolutions of the Federal Industrial Alliance decide the strength of representation of the group in the Federal Industrial Alliance.

The Committee of the Group is the common representative body of the employers and employed of the special branch of the industry and trade as the locally demarcated sphere of industry.

The resolutions of the Group Committee are executed by the Group Management to be elected from the Group Committee.

The Group is appointed to the interpretation of

collective agreements and arbitration on industrial disputes as far as these are provided for in the collective agreements.

Groups can combine district-wise or locally to form local industrial alliances.

6

The organs of the Federal Industrial Alliances and Groups are elected by the separate organisations of the employers and employed, and here care is to be had for the fair representation of the minority.

7

The duties of the Central Committee consist in the discussion and settlement of all those questions which are common to all the Federal Industrial Alliances, that is, the whole of German industry and German trade, as well as those questions which pass beyond the field of the individual Federal Industrial Alliances. The Central Committee decides finally upon disputes between the individual Federal Industrial Alliances.

The Central Committee can transfer some of its duties to the Central Management (8) or to the Committees it may set up.

The Central Committee is composed of representatives who are elected by the Federal Industrial Alliances from among their members, for two years at first. Further, 6 representatives are sent to the Central Committee by the Central authorities of the employers' and employed's associations respectively (8).

A permanent deputy is to be elected for every representative, who, however, is only to take over the representation in case of some cause incapacitating the representative.

One employer and one employed is to be elected by each group constituted within a Federal Industrial Alliance on an occupational basis, as well as by each

Federal Industrial Alliance without any division into groups, without any consideration to the number of the workers and salaried employees occupied.

If the number of workers and salaried employees occupied in any group or in a Federal Industrial Alliance with group formation amounts, however, to

150,000, then 2 employers and employed respectively,
250,000, then 3 employers and employed respectively,
350,000, then 4 employers and employed respectively,

and so on, can be elected.

The right of voting in the Central Committee takes place with voting by name according to number of occupied workers which each deputy represents. Voting by name must take place if at least 50 members ask for it.

For the original composition the number of the occupied workers in the individual branches of industry for 1913 hold good.

8

The Central Management consists of 21 representatives of employers and employed respectively. The representatives appointed for a period of two years by the suggestion and assent of the Federal Industrial Alliances on the side of the employers by the Federal Association of German Industry and the Union of German Employers' Associations, on the workers' side by the Management of the General German Trade Union Federation, the Management of the Ring of Christian Trade Unions of Germany, the Management of the Associations of Hirsch-Duncker Unions, and the Salaried Employees' Associations.

The right to raise the numbers of members on the Management by the co-option of 2 representatives for employers and employed respectively is reserved to the Central Management.

Every Federal Industrial Alliance has a claim to one representative for employers and employed respectively

in the Central Management. The other representatives are elected by the mentioned Central authorities of the employed and workers' associations.

A deputy is to be elected for each representative. And in this, so far as the representatives to be nominated by the Federal Industrial Alliances are concerned, bigger minorities are to be fairly allowed for.

The Central Management represents the Central Industrial Alliance in regard to outside affairs. It executes the resolutions of the Central Committee and is appointed to the interpretation of collective contracts and the arbitration on industrial disputes after fruitless action by the intermediate authorities, as far as this is provided for in the collective contracts. It administers the means of the Central Industrial Alliance and appoints its officials.

The Central Management establishes its own rules of procedure.

9

The resolutions of the Central Management and the Central Committee are passed by an ordinary majority; as far as they concern alterations of constitution or are binding upon the Federal Industrial Alliances, with a two-thirds majority.

The prescribed majority must be attained by each side —employers and employed—for the validity of every resolution.

10

The Expenses are divided into:

(*a*) The Expenses of the Central Committee. These are to be covered by equal contributions from the Federal Industrial Alliances.

(*b*) The Expenses of the Management and its Bureau. These are covered, a half each by the central authorities of the employers' and workers' organisations (8).

The salaries of the leading managing directors do not come into the expenses of the Central Industrial Alliance.

II

Amendments of the present constitution are subject to the power of resolution of the Central Committee.

APPENDIX III

ARTICLE 34*a*: THE GOVERNMENT PROJECT FOR THE COMPLETION OF ARTICLE 34 OF THE PROJECT FOR A CONSTITUTION

The workers (*and salaried employees* added in Committee) are called, with equal rights with the employers, to the regulation of conditions of wages and work as well as to co-operate in the joint economic development of productive forces. The organisation on both sides and their wages agreements will be recognised. The workers (*and salaried employees*) obtain representative bodies statutorily based upon factories and economic regions to promote their social and economic interests in Works and District Workers' Councils and a Federal Workers' Council.

The District Workers' Councils and the Federal Workers' Council meet together with the representative bodies of the employers (in Committee added: *and other classes of the population concerned*), in the District Economic Councils and a Federal Economic Council for the solution of common economic tasks and to co-operate in the carrying out of the socialisation laws.

Social-political and economic-political legislative measures of fundamental importance shall be laid before the Federal Economic Council by the Government for considered advice before introduction. The Federal Economic Council itself has the right to initiate such

laws in the Reichstag, and they are to be dealt with just as Government projects.

To the Workers' and Economic Councils can be transferred powers of control and administration in assigned spheres.

The structure and duties of the Workers' and Economic Councils (as well as their relationship to other social self-governing bodies) shall be regulated exclusively by Federal law.

APPENDIX IV

The Cohen-Kaliski Project as accepted by the Second Congress of Workers' and Soldiers' Councils, April 14, 1919[1]

1. The basis of the Socialistic Republic must be socialist democracy. Representative (citizen) democracy evaluates the population according to mere number. Socialistic democracy must produce the complement to this, by its attempts to represent the population on the basis of its occupational activity.

2. This can be accomplished best by the creation of Chambers of Labour, for the purpose of which all labouring German people, organised in occupations, are enfranchised.

3. To this end every profession, having regard to all the categories (including the manager of the enterprise) occupied in it, creates a Production Council, to which the individual categories send their representatives (councillors). Agriculture and the liberal professions establish corresponding representative bodies.

3*a*. The Councils are based on elections which take place in the individual enterprises or in the occupational associations composed of such enterprises.

3*b*. The Production Council of the individual branch of an occupation of the small locality is to be united with the Production Council of the same branch in a Central

[1] Translated from text in *Stenographisches Protokoll, II. Kongress der Arbeiter-Bauern- und Soldatenräte Deutschlands*, p. 269.

Production Council for District, Province, State and Commonwealth.

4. Every Production Council chooses delegates to the Chambers of Labour, which have their origin in the smallest industrial unit.

5. By small local authority is here meant a large commune (German *Gemeinde*, primary unit of local government); communes which constitute one industrial unit shall be combined.

6. The Production Councils of the Circles, Provinces and the whole Republic are dealt with similarly. Over all stands a general Popular Chamber and a Chamber of Labour.

7. Every law needs the agreement of both Chambers; yet a law which has been accepted unaltered in three consecutive years by the Popular Chamber (Communal Assembly, Circle Council, Provincial Assembly, State Parliament, Reichstag) attains statutory power.

8. Each of the two Chambers has the right to demand a Referendum.

9. As a rule, all legislative projects of an economic character (pre-eminently the laws on socialisation) go before the Chamber of Labour first. The latter may, too, take the initiative in this sphere. As a rule, the legislative projects of a general political and cultural character go before the National Chamber first. The distribution of delegates among the several occupations is regulated by a special law.

APPENDIX V

THE WISSELL SCHEME[1]

Basis of a Law on German Communal Economy

1. For the purpose of influencing in a communal-economic direction the economic processes, industrial self-governing bodies shall be established, grouped in part territorially and in part vocationally, and brought together in a Federal Economic Council.

Territorially Grouped Self-governing Bodies

2. Workers' Councils shall be established in larger works by secret direct proportional election among the workers; in smaller works a Steward shall be elected by a secret direct election by the workers.

These Councils and Stewards have the duty of taking care of the economic and socio-political interests of the workers and beneficially participate in the management through their own experience and technical knowledge.

3. In every economic district a District Workers' Council shall be set up by the workers by secret direct proportional election.

The District Workers' Councils supervise the Works Councils and Stewards of their District and, especially, decide disputes between various Works Councils and Stewards, as well as complaints against these officers. They shall safeguard the economic and socio-political interests of the workers of their District, especially shall

[1] Translation from text in Wissell, *Praktische Wirtschaftspolitik*, p. 113 *et seq.*

they help the authorities in the promotion of these interests by practical information, projects and advice, and shall, before the commencement of a strike, see to the taking of a secret ballot in accordance with statute or the conditions of the workers' unions.

4. Corresponding to the District Workers' Councils, there shall be set up unions (District Employers' Councils) of the Employers' Associations (Occupational Chambers) of the District; if no agreement is reached between the associations concerned on the constitution of this union, then the Federal Economic Council decrees the necessary rules.

The District Employers' Councils shall safeguard the economic and socio-political interests of the employers, and especially help the authorities in the promotion of these interests by practical information, projects and advice.

5. The District Workers' Council and the District Employers' Council send representatives in equal number to the District Economic Council to be established for each Economic District.

The District Economic Council shall

(*a*) Organise investigations into and statistical surveys of the economic situation of the District, especially in relation to conditions of wages and work, as well as the general conditions of life of the workers of the District (Housing, Health, Standard of Life, etc.), supervise the maintenance of wage-contracts, co-operate in the regulation of pay and other conditions of work in so far as wages-contracts do not exist.

(*b*) Promote industrial peace and take care of the joint occupational and economic interests of the workers and the employers of the District.

(*c*) Propose projects of economic and socio-political laws and decrees, and examine projects of laws laid before it for comment.

(*d*) Promote communal-economy within the District,

beneficially operate upon the economic value of the enterprises, and be active in questions of transport, town-planning, and duties specially assigned to it by law.

6. For the Commonwealth, the District Workers' Councils shall designate representatives to a Federal Workers' Council.

The Federal Workers' Council supervises the District Workers' Councils and can give the latter directions. It shall take care of the economic and socio-political interests of the workers and help the authorities in the promotion of these interests by practical information, project and advice.

7. Corresponding to the Commonwealth Workers' Council there shall be set up a union of District Employers' Councils (Federal Employers' Council). If there is no agreement reached between the District Employers' Council on the constitution of this union, then the Federal Government decrees the necessary rules.

The Federal Employers' Council supervises the District Employers' Councils and can give the latter directions. It shall take care of the economic and socio-political interests of the employers and help the authorities in the promotion of these interests by practical information, projects and advice.

Vocationally Grouped Self-governing Bodies

8. In accordance with more detailed regulation by the Federal Government (the Ministry for Economic Affairs), legally and administratively competent Industrial Federations shall be established for the industrial groups of Germany (agriculture, chemical industry, iron industry, paper industry, etc.) which shall be jointly conducted by the representatives of the employers and workers as well as by representatives of commerce and the consumers. The appointment of Federal Commissaries shall be provided for.

The representatives of the employers and the workers shall be designated by the Employers' and Workers' Associations of Germany.

The Industrial Federation shall conduct the management in their occupational spheres, especially

(*a*) The regulation of provision of raw material and the distribution to the industrial associations included therein, upon examination of the urgency of need and the effect upon the external debt. Import and export shall be regulated by special export offices included in the industrial federations.

(*b*) Decrease of price as far as possible by improvement of labour processes, especially by standardisation and prevention of destruction of production by foreign competition.

(*c*) Regulation of crises by elimination of unnecessary intermediate factors and by promotion of economically useful factors of distribution.

(*d*) Reconciliation of social antagonisms, in the labour process, by the establishment of Wage-contracts, by the right arrangement of conditions of work with the greatest possible utilisation of labour power and prevention of unemployment.

(*e*) Promotion of technical research and vocational training.

(*f*) Payment of public burdens.

9. Under the Industrial Federations the various branches of industry will be grouped as legally and administratively competent economic associations which will be jointly administered by the representatives of employers and employed of the branch of industry as well as by representatives of commerce and the consumers.

As far as the industrial occupational associations cannot be established by voluntary association, the works of the branch of industry can be constituted into industrial occupational associations without their consent.

The industrial occupational associations have the duty

of promoting the industry within the frame of the directions of the Industrial Federation, especially to provide and distribute raw material, to attempt to arrive at a sound settlement of prices, to enhance the economic value of the works.

Federal Economic Council

10. The Federal Economic Council shall be established from representatives of the Federal Workers' Council on the one side, and of the Industrial Federations on the other side. Further, the Federal Economic Council shall contain members representing the consumers, commerce and science, appointed by the Federal Government upon the suggestion of the groups concerned.

The Federal Economic Council has the supreme conduct of German industry in co-operation with the highest appointed Department of the Federation. It has the right of initiating economic and socio-political projects of law which are to be dealt with in the same way as Governmental projects. Laws of such a kind, which do not issue from its power of initiative, are to be laid before it for advice before their determination by the Reichstag. It is the special duty of the Federal Economic Council to promote communal-industry, the promotion of social peace and the increase of the total production of the Commonwealth.

11. As far as the employers and workers in agriculture shall limit themselves to a participation in the District Economic Council, the vocationally grouped self-governing bodies and the Federal Economic Council, the Government can exclude the competence of the territorially grouped Workers' Councils and Employers' Councils for this branch of industry, and regulate the manner and measure of the participation of the branch of industry in the District Economic Councils and the Federal Economic Council.

APPENDIX VI

Decree respecting the Provisional Economic Council of May 4, 1920[1]

On the basis of the law respecting a simplified form of legislation for the purpose of the Transition Economy of April 17, 1919 (*R.G.Bl.*, p. 394), the following is ordained by the Commonwealth Government with the assent of the Reichsrat and the Committee chosen by the Constituent German National Assembly.

ARTICLE 1

The Federal Government shall convene a Federal Economic Council within two months of the entry into force of this Decree.

The provisional Federal Economic Council sits in Berlin.

ARTICLE 2

The provisional Federal Economic Council consists of 326 members.

These are to be appointed as follows:

I. 68 Representatives of Agriculture and Forestry

(1) Agriculture:

22 Representatives of employers in Agriculture, including agricultural allied trades, to be appointed thus:

[1] *R.G.Bl.*, Nr. 99, p. 858.

11 by the German Agricultural Council with equal regard to large, medium and small estates.

11 by the agricultural organisms, and particularly 4 jointly by the Union of Farmers and the German Land Union, 4 by the Federation of German Peasants' Association, 3 by the German Peasants' Union.

22 Representatives of workers in agriculture, including agricultural allied trades, to be appointed thus:

13 by the German Agricultural Labourers' Associations.

5 by the Central Association of Forest, Agricultural and Vineyard Workers of Germany.

3 jointly by the Imperial Association of Agriculture and Forestry Technical and Corporation Officials (Imperial Association of German Estate Officials) and the Association of Agriculture and Forestry Employees; of the three, one for agricultural allied occupations.

1 by the Imperial Union of Academically Trained Farmers.

14 Representatives of agricultural small holdings (holdings where normally only the labour of people belonging to the family is employed and which form an independent cultivation), to be thus appointed by the members of this particular group:

7 jointly by the Imperial Association of the German Agricultural Societies, and the General Association of German Raiffeisen Societies, and

1 by the Societies of the Central Association of Peasants' Union organisations of Germany.

3 by the German Agricultural Labourers' Association.

3 by the Central Association of Forestry, Agriculture and Vineyard Workers of Germany.

4 Representatives of Agricultural Societies, to be

nominated jointly by the Imperial Association of German Agricultural Societies and the General Association of German Raiffeisen Societies.

(2) Forestry:

3 Representatives of employers, to be nominated by the German Imperial Forestry Council upon the proposition of the employers' group, with due regard to local and professional differences in forestry.

3 Representatives of the workers, to be nominated by the German Imperial Forestry Council, and in particular:

2 on the proposition of the forest and labourers' group.

1 on the proposition of all the employees and officials associated in the German Federal Forestry Council.

In the selection of representatives of the various groups appropriate regard is to be had to the different parts of the Commonwealth.

II. 6 Representatives of Horticulture and Fishery

(1) Horticulture:

1 employers' representative, to be appointed by the Association of German Horticultural Associations in Berlin and the Imperial Association for German Horticulture in Berlin.

1 workers' representative, to be appointed by the Association of Horticulturists and Horticultural Workers in Berlin, the German (National) Horticultural Association in Berlin, and the Association of German Private Horticulturists in Cologne-on-the-Rhine.

(2) Fishery:

2 employers' representatives, to be thus nominated:

1 jointly by the Economic Association of German High Sea Fisheries, the German Sea Fishing

Union and the Imperial Association of German Sea and Coast Fishermen.

1 by the German Fishery Associations.

2 workers' representatives, to be appointed thus:

1 by the German Transport Workers' Association, Seamen's Division.

1 by the German Professional Lake and River Fishers' Association.

III. 68 Representatives of Industry

A. *Grouped according to Vocations.*

(1) 21 employers' representatives, and

21 workers' representatives, to be appointed by the Central Industrial Alliance of the Industrial and Trading Employers and Workers of Germany, regard being had here to their vocational groups. No representatives are to be appointed from the vocational group of Coal and Potash Mining. Of the workers' representatives, at least two must be representatives of the technical employees.

(2) 2 employers' representatives, and

2 workers' representatives, to be nominated by the Federal Coal Council.

(3) 1 employers' representative, and

1 workers' representative, to be nominated by the Federal Potash Council.

B. *Grouped Territorially.*

10 representatives of employers, to be nominated by the German Diet of Industry and Commerce from the official representative bodies of Industry and Commerce, with proper regard to the parts of the country not sufficiently allowed for in the vocational grouping.

10 representatives of workers, to be appointed by the workers' side of the Central Industrial Alliance of Industrial and Trade Employers and Employed of Germany.

At least two of these must be representatives of the technical employees.

IV. 44 Representatives of Commerce, Banking and Insurance

A. *Grouped according to Vocations.*

(1) Commerce:

10 representatives of employers, and

10 representatives of workers, to be appointed by an Industrial Alliance comprising small commerce, high commerce, export trade, and the great Purchasers' Society of German Consumers societies in Hamburg.

(2) Banking:

2 representatives of employers, to be appointed by the Central Association of German Banking and Bankers.

2 representatives of workers, to be appointed by the workers' side of the Industrial Alliance named in (1).

1 representative of the German Societies' Banks, to be appointed by the German Credit Societies' Association.

1 representative of the workers (employees) of the Credit Societies, to be appointed by the workers' side of the Industrial Alliance named in (1).

(3) Insurance:

1 representative of employers, to be nominated by the Imperial Association of private Insurance Companies.

1 representative of the workers, to be nominated by the workers' side of the Industrial Alliance named in (1).

B. *Grouped Territorially.*

8 representatives of employers, to be nominated by the German Diet of Industry and Commerce from the official representative bodies of Industry and Commerce, with appropriate regard to parts of the country not sufficiently allowed for in the vocational grouping; of

these, there must be one representative of the commercial agency calling (commercial travellers, commission agents and commercial brokers), and one representative of the Purchasing societies of small commerce.

8 representatives of workers, of which two at least must be representatives of commercial assistants, to be appointed by the workers' side of the Industrial Alliance named in (1), with appropriate regard to parts of the country not sufficiently allowed for in the vocational grouping.

V. 34 Representatives of Transport and Public Undertakings

(1) Shipping:

3 representatives of employers of sea-navigation and shipping-brokers, to be appointed by the Central Industrial Alliance of Transport and Communications Trades in alliance with the Association of German Shipping and Freight Brokers.

3 workers' representatives of sea-navigation, to be appointed by the Central Industrial Alliance of Transport and Communications Trades.

2 employers' representatives and 2 workers' representatives of inland navigation, to be appointed by the Central Industrial Alliance of Transport and Communications Trades.

(2) Transport Trades:

1 employers' representative and 1 workers' representative of the Delivery Trade, to be appointed by the Central Industrial Alliance of Transport and Communications Trades.

1 representative of employers and 1 representative of workers of the Passenger and Goods Carriage Trades, including Air and Motor Transport, to be appointed by the Central Industrial Alliance of Transport and Communications Trades.

(3) Post:

1 representative of the Imperial Postal Administration, to be appointed by the Imperial Postal Department from the Higher Federal Postal Officials.

1 representative of workers, to be appointed jointly by the Central Association of German Posts and Telegraph employees in Berlin, the German Transport Workers' Association, the Association of German Postal and Telegraph Workers and Handicraftsmen in Bochum, and the Imperial Association of German State Workers and Employees.

(4) Railways:

1 representative of the Prusso-Hessian Railway Administration;

1 representative of the other German Railway Administration Departments—both to be appointed by the Reichsrat from the higher officials of these Departments.

1 representative of light railways and tramways, to be appointed by the Central Industrial Alliance for Transport and Communications.

1 workers' representative, to be appointed by the German Railway Association.

1 workers' representative, to be appointed jointly by the Trade Union of German Railwaymen and State Officials and the General Association of Railwaymen.

1 workers' representative of light railways and tramways, to be appointed by the Central Industrial Alliance for Transport and Communication.

(5) Municipal Enterprises:

2 employers' representatives, to be appointed by the German Council of Great Municipalities.

2 representatives of workers, to be appointed jointly by the Association of Municipal and State workers, the German Transport Workers' Association and the Central

Association of Municipal Workers and Tramwaymen of Germany.

(6) Municipal Associations :

2 employers' representatives, to be nominated by the Reichsrat from representatives of the municipal associations.

2 workers' representatives, to be nominated jointly by the Association of Municipal and State workers, the German Transport Workers' Association and the Central Association of the Municipal Workers and Tramwaymen of Germany.

(7) Public Savings and Credit Institutions :

1 representative of the Public Savings Banks, to be appointed by the German Savings Banks Associations.

1 representative of public credit institutions, to be appointed by the Association of Public Credit Institutions in Berlin.

1 representative of workers from the officials of the specified institutions, to be appointed by the German Union of officials.

1 representative of workers, to be appointed jointly by the Industrial Alliance of free Employees' Association, Trade Union Association of Employees and the General Association of German Employees' Trade Unions.

VI. 36 Representatives of Handicrafts

16 representatives of independent handicrafts, who are to be nominated by the Imperial Association of German Handicrafts.

16 representatives of workers, to be appointed by the workers' side of the Central Industrial Alliance of Industry and Trade Employers and Workers of Germany. In the selection of the representatives of employers and workers the various branches of handi-

crafts, as well as the various parts of the country, are to be allowed for.

4 representatives of Handicrafts Societies, to be appointed by the German Societies Associations.

VII. 30 Representatives of Consumers

To be appointed thus :

6 by the German Council of Great Municipalities : among these must be two representatives of House-owners and House-renters respectively.

2 by the Imperial Association of Municipalities.

2 by the Association of Greater German Rural Communes ; of these there must be one representative of the South German Communes.

2 by the Reichsrat, from representatives of the smaller German Rural Communes ; of them one representative of South German Rural Communes.

8 by the Central Association of German Consumers' Societies in Hamburg.

3 by the Imperial Association of the German Consumers' Societies in Cologne-Mülheim.

1 by the General German Societies Association in Charlottenburg.

2 representatives of Housewives, to be appointed by the Association of German Housewives.

2 representatives of the domestic servants, of which one is to be nominated by the Central Association of the Domestic Servants of Germany and one by the Imperial Association of Female Domestic Servants.

1 employers' representative, to be appointed by the German Hosts' Association.

1 workers' representative, to be appointed by the Association of Hosts (Central Organisation of Hotel-restaurant and Café employees) in conjunction with the German Union of Waiters.

VIII. 16 Representatives of Officials and Free Professions

To be nominated thus :

5 by the German Officials' Union jointly with the German Officials' Industrial Union.

3 by the Imperial Union of German Technique.

1 by German Crafts Union.

1 by German Association of the German Press.

1 by German Solicitors' Society.

1 by German Physicians' Societies Union.

2 representatives of art and painting, one respectively to be appointed by the picture painters in Berlin and the Association of Picture Painters in Munich.

1 representative of the art of music, to be appointed by the Society of German Composers jointly with the Association of Concert Artists of Germany, E.B.

1 representative of German Authors, to be appointed by Association for Protection of German Authors.

IX

12 *persons especially entrusted with the economic life of the various parts of the country—*

To be appointed by the Reichsrat.

X

12 *persons, to be nominated by the Federal Government at its discretion.*

People who have promoted, through special services, the industry of the German nation in a pre-eminent measure, or who are capable thereof.

ARTICLE 3

Any person who is eligible for election to the Constituent German National Assembly can be appointed a member of the Federal Economic Council.

Membership of the National Assembly or the Reichstag does not exclude membership of the Federal Economic Council.

ARTICLE 4

The representatives of Groups I.-VIII. of Article 2, with the exception of the representatives to be nominated by the German Diet of Industry and Commerce (Article 2, Parts III. B, IV. B) are to be named to the Minister for Economic Affairs two weeks after the entry into force of this Decree. If the nomination is not sent in to the Minister for Economic Affairs within this period the Imperial Government has the right to fill the place remaining vacant at its own discretion from among those of the parties concerned.

The Federal Minister for Economic Affairs shall notify the German Diet of Industry and Commerce of the names of the representatives nominated to him. The Diet must within two weeks of receipt of the notification nominate to the Minister for Economic Affairs its representatives. If the nomination is not sent in to the Minister for Economic Affairs within this period, then the Reichsrat has the right to fill the seats remaining vacant at its own discretion from among the parties concerned.

Then follows the appointment of Groups IX.-X. of Article 2 by the Reichsrat and the Federal Government.

Membership of the Federal Economic Council is attained by declaration to the Minister for Economic Affairs of acceptance of the summons. If the declaration of acceptance is not made to the Minister for Economic Affairs within a week after presentment of the summons, or if it is only accepted with reservations or protest, the summons is to be deemed rejected. The bodies empowered to nomination are to be given cognisance of this and may nominate a representative afresh. The nomination must reach the Minister for Economic

Affairs within two weeks after the receipt of the information.

Membership ends with the dissolution of the Federal Economic Council, with the death of the member, with resignation of membership, or with the disappearance of those factors which are the conditions for summons.

In the case of representatives summoned on the basis of nomination (Groups I.-VIII. of Article 2) the summons can be recalled by the Imperial Government on the motion of the nominating body, or in case of the dissolution of the latter.

In the case of the withdrawal of a member, the member taking his place is summoned in the same way as the original member. The periods for nomination (clauses 1 and 2) count from the presentment of the request to make the nomination. If the nominating body does not yet exist, or does no longer exist, the Imperial Government specifies the authority competent to nominate.

ARTICLE 5

Members of the Federal Economic Council are representative of the economic interests of the whole nation. They are subject to their conscience and are not bound by mandates.

They may not be proceeded against legally or officially for their voting or for the actions done in exercise of their membership, or otherwise be made responsible outside the Assembly.

They have the right to refuse evidence about persons who entrust them with information in their capacity of members of the Federal Economic Council, or to whom they have entrusted such in this capacity, as well as about the actual information. Also in relation to the seizure of documents they are on an equal footing with those persons who have a statutory right to refuse testimony.

Members of the armed forces and officials need no

previous permission from the Federal Economic Council to participate in the proceedings.

The members of the Federal Economic Council receive a compensation and free travel according to more detailed conditions, which are to be ordered by the Minister for Economic Affairs jointly with the Federal Minister of Finance and the Federal Minister of Communications.

ARTICLE 6

Members of the Federal Economic Council are bound to refrain from making use of any information, measures and plans brought to their knowledge in consequence of their membership. As far as the president of the plenary assembly or a committee declare the proceedings confidential, secrecy is to be maintained.

ARTICLE 7

The Federal Economic Council elects its Bureau, its president, his deputies and the clerks. In the Bureau employers, workers and members of Groups VII.-X. of Article 2 must have one-third the representation respectively.

The Federal Economic Council settles its own rules of procedure.

The regulating of voting in the Federal Economic Council is left to the regulation of procedure. This must provide that in all questions not exclusively concerning the arrangement of business, along with the voting by heads, there shall be a voting by the Groups I.-X. of Article 2. At the request of an outvoted Group its attitude is to be notified to the Government. The same holds good with respect to the attitude of a minority outvoted within a group, which amounts to at least one-third of the members of the group, as well as in voting by heads with respect to the attitude of a minority amounting to at least one-fifth of those voting.

The examination of the title of members takes place in an electoral examination court. It gives judgement in courts of judgement composed of the President of the Imperial Industrial Court as President, two territorial Presidents of the Imperial Industrial Court, to be nominated by the Minister for Economic Affairs, and four members of the Federal Economic Council elected by the latter from among its members.

The Federal Economic Council decides its adjournment and the time of its reassembly.

The president must convene the Federal Economic Council before the appointed time of reassembly if the Government or one-third of the members of the Federal Economic Council demands it.

The Federal Economic Council can resolve that its Committees shall remain at work during its adjournment.

Each Committee must contain at least one representative of the Groups VII.-X. of Article 2. The total representation of the groups mentioned may not amount to less than one-third the members of the Committee.

ARTICLE 8

The Federal Economic Council and its Committees are empowered to call in persons who are not members of the Federal Economic Council as experts on account of their special knowledge of the questions being dealt with.

The principles of a possible compensation of the experts are to be settled by the Minister for Economic Affairs jointly with the Minister of Finance.

ARTICLE 9

The sittings of the Federal Economic Council are public. On the motion of 20 members publicity can be excluded by a two-thirds majority.

The Committee sittings are not public, unless the Committee resolves on publicity by a two-thirds majority.

The rules of procedure shall lay down in what measure the members of the Federal Economic Council not belonging to the Committee may be present at non-public sittings.

Faithful reports of the proceedings in public sessions of the Federal Economic Council and its Committees are free from all liability.

ARTICLE 10

The representatives commissioned by the Government have entry into all the sittings of the Federal Economic Council and its Committees at any time. They must be heard at any time.

The Federal Economic Council and its Committees can request the presence of representatives of the Government.

The States are equally empowered to send delegates, and through them to express the point of view of their Governments in relation to the subject of the proceedings.

ARTICLE 11

Socio-political and economic-political legislation projects of fundamental importance shall be laid before the Federal Economic Council by the Government, before their introduction, for advice. It has the right to initiate such legislative projects itself.

It co-operates in the establishment of the Workers' Councils, employers' representative bodies and economic councils envisaged in the Constitution.

The Federal Economic Council may set up permanent committees each to deal with economic-political and social-political questions respectively. These Committees

are to be consulted before important Decrees are issued, on the basis of the Decrees of November 7 and 27, 1918 (*R.G.Bl.*, pp. 1292, 1339), and the law relating to a simplified form of legislation for the purposes of management of transition of April 17, 1919 (*R.G.Bl.*, p. 394), or where the Rules made by the Bundesrat, the People's Commissaries, the Imperial Central Departments, including the Prussian Ministry for War, for the war and transition administration are repealed or modified in important points. If the Committee adopts a position in any fundamental question diverging from the standpoint of the Government, with less than three-quarters the votes cast, then the latter has the right to demand a resolution of the full assembly of the Federal Economic Council.

The Committee can, on its side, refer a question to be dealt with by the full Assembly by a majority of three-fourths the votes cast.

The number of members for each of these Committees shall not be more than 30. The election of deputies is permissible and is to be regulated by the rules of procedure. The representatives of the workers in the Groups I.-VI. of Article 2 must be represented on these Committees in as great a measure as the representation of the representatives of the employers.

ARTICLE 12

The Federal Economic Council and its Committees, for the elucidation of economic and socio-political questions, can demand that the Government, or an authority entrusted by the latter with this duty, shall make use of its rights to draw on information respecting economic conditions, and, as far as the law is not opposed to it, lay before the Federal Economic Council the results of these inquiries.

ARTICLE 13

As soon as the bodies requisite for the election of the definitive Federal Economic Council are created, the Government shall appoint the election and the time of assembly of the definitive Federal Economic Council. After the assembly of the latter the Government shall ordain the dissolution of the provisional Federal Economic Council.

ARTICLE 14

This Decree comes into force on the day of publication.

THE GOVERNMENT.
MÜLLER.

BERLIN, *May* 4, 1920.

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