

Codetermination and German Politics **Co-détermination et politique allemande**

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Article abstract

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Codetermination and German Politics

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Codetermination has been called just about everything, from "Germany's move toward a new economy"¹ to "the worst thing that ever happened to German labor."² While codetermination as an institution is both novel and unique, its significance is certainly not caught by either of the foregoing labels. The economic effects of codetermination — insofar as they can be isolated at all — have been of slight importance. And while its consequences for the German labor movement have been such that they could hardly be overestimated, codetermination could be judged "the worst thing" only by someone who applies to it the irrelevant standards of labor in, say, North America. As a matter of fact, however, codetermination is very much native to Germany and, more particularly, to the Germany of the decade after the Second World War. It is an institution of rather uncertain ideological ancestry, which was brought into being by people, most of whom expected it to yield fruits quite different from those which it has actually produced. Within less than a decade after the first experiments with it, codetermination has become not only one of the persistent issues of German politics, but an institution firmly established in its own right, which may be expected to endure. In the long run, its main contribution to German

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- (1) William H. McPherson, "Codetermination: Germany's Move toward a New Economy", *Industrial and Labor Relations Review*, October 1951.
- (2) Comment by a representative of a United States labor union.

life may well be a lessening of ideological thinking as a result of the experience with the procedures of constitutional politics which it is giving to many Germans.

I

Three Forms of Codetermination

At present, codetermination in the Federal Republic of Germany appears in three different forms, under as many different laws. The oldest of these gives labor the most far-reaching rights to participate in the management of privately owned industrial corporations. Under the provisions of "special codetermination," labor has as many seats as the stockholders on the supervisory board of directors of the corporation, and is represented by a union-nominated managing director on the managing board, which normally consists of three members. (Under German corporation law, the supervisory board is elected by the annual stockholders' meeting and controls the company's long-range financial policy. The supervisory board appoints the members of the managing board, which runs the day-to-day affairs of the corporation. Membership on these two boards is mutually exclusive.)³ This form of special codetermination, the model for all the rest, was first introduced in four — and eventually twenty-four — steel-producing companies in the Ruhr area in 1946-47, on German initiative and sanctioned by the British North German Iron and Steel Control. The NGISC was an agency of British Military Government, whose main task was to decartelize the steel industry and to get it back into production. With the return of increasing measures of self-government to the Germans, and especially after the founding of the Federal Republic in 1949, it became necessary to replace these Occupation arrangements with home-made German legislation. The needed law was passed by the West German parliament on May 21, 1951, after the Metal Workers and Mine Workers Unions had voted overwhelmingly in favor of a strike to back up their demands.⁴ It made special codetermination applicable to all corporations engaged in the primary production of iron, steel, and coal.

(3) *Aktiengesetz*, January 30, 1937.

(4) *Gesetz über die Mitbestimmung der Arbeitnehmer in den Aufsichtsräten und Vorständen der Unternehmen des Bergbaus und der Eisen und Stahl Erzeugenden Industrie*. On the strike vote, see Ludwig Rosenberg, *The Codetermination Rights of Workers in Germany*, Düsseldorf: International Department of the Federal Executive of the German Trade Union Federation, no date.

By this time, the extension of codetermination to the rest of the economy had become a primary plank in the platform of the newly founded German Trade Union Federation (*Deutscher Gewerkschaftsbund* or DGB). Although the DGB's membership is made up of both Social Democrats and Christian Democrats, and is officially neutral in partisan politics, its demand to have full codetermination extended to the rest of the West German economy, both private and public, was backed in parliament only by the Social Democratic Party (SPD). Chancellor Adenauer's governing Christian Democratic Union (CDU) came out in favor of a much milder version for the private sector of the economy, and postponed legislation governing the public sector until 1955. The CDU's bill regulating "general codetermination" was passed on October 11, 1952, as the law on the "Constitution of the Enterprise" (*Betriebsverfassungsgesetz*). Under its provisions, labor furnishes one-third of the members of the supervisory board of directors, but is not represented on the managing board at all. General codetermination also governs in great detail the rights and functions of the works councils elected in practically all private German enterprises, whether they are corporations or not.

The Personnel Representation Law (*Personalvertretungsgesetz*), finally, was passed in July 1955. It gives an even more limited degree of codetermination than the general law to some 2,000,000 wage earners, salaried employees, and officials, in the public services of the different levels of government, including the Federal Railroads and Postal Department.

Whence Codetermination?

How did codetermination, in its contemporary form, come into being? Most Germans would answer this question in terms of a long and detailed ideological genealogy. Roman Catholics would go back at least to the ideas of Bishop von Ketteler of Mainz and to *Rerum Novarum*. Social Democratic trade unionists would trace their advocacy of codetermination to the Works Council Law of the Weimar Republic, passed in 1920, and to the theory of economic democracy, which was first elaborated in the late 1920's. Actually, however, the beginnings of the institution, as it exists today, must be looked for not in abstract theories — no matter how ancient and honorable — but in the concrete conditions existing after Germany's colossal defeat in 1945.⁵ When the

(5) The labor side of this story is told by Erich Potthoff in three articles in the March, April and May 1955 issues of *Gewerkschaftliche Monatshefte*.

head of the British Steel Control, in the summer of 1946, started out on his task of busting the Ruhr trusts and getting the factories to work once more, he needed the help of Germans who could execute the job for him. But most German industrial managers were at that time either in Allied internment camps in accordance with the denazification policy, or otherwise *personæ non gratæ* with the Occupation Powers. The only non-suspect organization which was both able and willing to cooperate with the NGISC in its undertaking was the slowly reviving trade union movement. The Steel Controller therefore saw to it that his German managerial aides got together with the trade union leadership. The unionists insisted that they be given a share in the management of the steel corporations which were about to be re-organized. This demand was based largely on the fact that the employees of many companies had already taken over some managerial functions on their own initiative, simply because the regular managers were not around. Some of the old managers had asked members of the works councils which, in a revival of pre-Nazi practices, had been elected by the employees, to join their supervisory boards. In most of the companies, someone was put in charge of looking after the welfare of the workers. In those days, this meant, among other things, going into the black market in order to procure food and other necessities for them. Everyone, however, on both sides of the labor-management fence, was very hesitant about all of these informal arrangements, because there was no legal authority on which they could be uniformly based.

The British Steel Control could provide such authority. Its appearance on the scene was generally welcomed for this reason, though the Germans generally had little sympathy with its main mission, decartellization. In any event, a series of conferences between industrialist and union representatives, held under the auspices of the NGISC, finally produced the arrangements which later became the model for the entire codetermination program. These arrangements were first introduced in four newly re-organized steel companies, and later expanded to twenty others. Under them, the supervisory board of directors consisted of eleven members. Five of these were trustees representing the interests of the stockholders. Five other represented labor. Two of these five were elected by the company's works council — one each representing the wage-earning and salaried employees. A third was nominated by the Metal Workers Union, a fourth by the forerunner of the DGB, and the fifth was also nominated by labor, though he was neither a company employee nor a union officer. The eleventh member of the supervisory board, finally, also served as its chairman and at the same time re-

presented the NGISC's German subsidiary, the German Steel Trusteeship Administration.

On the whole, these arrangements worked out very well between 1947 and 1950. Insofar as they were seriously criticized at all, this was done not by actual participants in codetermination, but by outsiders, and usually less for practical than for ideological reasons. By 1950, when German legislation was needed in order to retain or extend the scheme, codetermination had become the unions' main goal. More than that, it was advocated also by some very heterogeneous other bed-fellows: the Social Democrats, most of the Christian Democrats, and the Roman Catholic Church. The bill which extended special codetermination to the coal mining industry was passed by a very unusual coalition of SPD — normally the opposition party — and CDU, against the votes of most of the other members in Adenauer's "bourgeois" coalition government, i.e., the Free Democratic Party and the German Party. What was it that elicited for codetermination this oddly assorted, yet wide support?

Much Unity From Much Divergence

This question is made more than usually perplexing by the fact that one would expect most of these groups to be naturally opposed to the scheme. The Social Democrats were mainly interested in bringing about the socialization of basic industries. For ideological reasons, they should have refused to support codetermination, because it fell far short of their traditional goal and enforced practical cooperation between the "class enemies," thereby tending to lull class-consciousness. The Christian Democrats might have denied it their support, precisely because the SPD was using codetermination as a bait for the working class and the union membership. And the unions should initially have been as anti-codetermination as the SPD, because most of their members supported the SPD, and only about one-fifth of them were followers of the CDU. Actually, the DGB made codetermination its principal rallying point as a result of its make-up. In the Weimar Republic, separate Socialist, Christian, and Liberal trade unions existed alongside one another. After the Second World War, the leaders of the German labor movement did not want to commit the same error again. Under the leadership of Hans Böckler they founded one unified German Trade Union Federation, which was to include members of both Socialist and Christian backgrounds and to stay out of partisan politics. If the Socialist majority in the new DGB had tried to force a program of socialization on the Christian minority, that would only have alienated the

latter. But while the "Christians" could not have stomached socialism, they could easily accept codetermination.

Codetermination seemed clearly to go counter to socialist aims and to be in keeping with a partnership conception of labor relations. It also seemed attractive in terms of their fair share of positions on supervisory and managing boards, which the DGB would have to allot to its Christian wing. Some Roman Catholic employers felt that they should support the scheme, in order to emulate those few among their Protestant colleagues who had informally introduced degrees of codetermination and profit-sharing in their companies. All of these factors combined to produce a resolution passed by the annual Congress of German Catholics, held at Bochum in 1949, which called the right of co-determination in social, personnel, and economic questions "a natural right in the divinely willed order." This resolution set in motion a controversy, described earlier in this *Review*, which has not been settled yet.⁶ By 1950, however, it was possible for the most influential contemporary German Catholic social theorist, Professor Oswald von Nell-Breuning, S.J., to publish a little book in which he derived the right to codetermination indirectly from natural law.⁷ It is doubtful whether Chancellor Adenauer would or could have gotten the then predominantly Catholic CDU to vote for the special codetermination bill in 1951, if this doctrinal rationale had not previously been provided.

The SPD's support of the scheme remains to be accounted for. In part, it was due to the Socialists' awareness that codetermination was the best thing short of socialization that they could get at the time. They had hoped that the British Occupation authorities, as representatives of the Labour Government, would sympathize with their own goals. Some of the British probably did, but in the end they deferred to United States wishes to the effect that any such fundamental changes as socialization of industry should be postponed until the Germans had regained self-government and would be able to make up their own minds about these matters. Many of the Social Democrats hoped then — and some of them still hope — that the transition from codetermination to socialization would be easy to make. Many others exchanged their previously optimistic and Utopian socialism for a much more pessimistic variety. This made them less interested in seeking to bring

(6) Rev. Gérard Dion, "The Social Doctrine of the Church and the Economic Management of Enterprises", *Industrial Relations*, September 1951.

(7) Oswald von Nell-Breuning, *Mitbestimmung*, Landshut: Alois Girnthner Verlag, 1950.

about abundance and happiness through establishment of the classless society, than in giving some responsibility for their fate to individual human beings, regardless of whether that fate would be pleasant or otherwise. On this score, they were in agreement with all the other advocates of codetermination, one of whose main slogans asserts that "the human being must be brought into the center" (*"Der Mensch muss in den Mittelpunkt gebracht werden"*).

The DGB, through its espousal of codetermination, picked up what turned out to be the strongest cement counteracting several centrifugal forces working in and on it. It enabled its Social Democratic and Christian Democratic wings to stick together despite their other ideological antagonisms. It has frustrated more than one attempt to split off the Christian union members for purposes of founding their own organization. Codetermination has more than satisfied the usual hunger for patronage. And it has in part relegated partisan political controversies from the level of the DGB and the industrial unions to that of individual plants, where these controversies play a role in works council elections. Codetermination has also enabled the DGB to continue the ideological tradition of economic democracy, which was started by its Marxist forerunner in the 1920's. In those years, the advocates of economic democracy largely concentrated their demands on the establishment of a series of economic councils below the level of the ineffective National Economic Council (*Reichswirtschaftsrat*), provided for by the Weimar Constitution. None of them even dreamed of actual labor participation in management.⁸ Now that the unions have achieved this kind of participation in the basic units of the economy, i.e., in individual enterprises, the DGB is still pushing for economic councils at the local, state, and federal levels, on which labor and employers would have equal representation. So far, however, these demands have not gotten beyond the discussion stage.

Codetermination thus grew in a rather haphazard, unplanned way out of the concrete circumstances prevailing in West Germany at the end of the War, and out of the immediate interests of the many diverse groups which contributed to its growth. Hardly anyone got just what he expected out of codetermination, and this mainly because it was so novel, that no one could really know just what to expect of it. Five and

(8) See "Zur Begriffsabgrenzung im Bereich der Mitbestimmung", *Das Mitbestimmungsgespräch*, Düsseldorf: Hans-Böckler-Gesellschaft, September 1955. This monthly publication is devoted exclusively to the subject of codetermination and contains much valuable historical and current information.

nine years later, however, and with that much hindsight, most Germans tend to forget the conditions which originally produced codetermination. Some of them pretend that they foresaw its "monstrous outgrowths" from the outset, when actually they were among its most prominent early proponents. Others have elaborated something resembling an ideology of codetermination and claim that they have always had the same favorable attitude toward it, when actually they were more than skeptical about it in the beginning. These changed stands and attempts at self-justification are due to the operation of codetermination, and to its practical effects.

II

Codetermination: How it Works

How does codetermination work in the iron, steel, and coal industries? To find out, we have to look at the people who work it. In each company, the burden of the practical operation of codetermination is carried by three committees: works council, managing board, and supervisory board of directors. How do their members get on these committees and how do they stay there? How do the committees operate and cooperate with one another?

a) The Works Council

In most of the steel producing and coal mining companies, the works council has somewhere between seventeen and twenty-seven members. These are elected by the employees of the company in biennial elections.⁹ Proportional to the make-up of the personnel, they represent the wage-earning and salaried employees. According to the Constitution of the Enterprise, which governs its election and functions, these two groups elect their works councillors separately, unless they vote in favor of joint elections in previously held "primaries." In that case, a majority electoral system may be used, with a single list containing at least twice as many candidates as can be elected. Otherwise, a proportional system is used, with several lists, the votes being computed according to the d'Hondt method. Nominations are usually made by the unions represented in the plant or by workers affiliated with one of the political parties. As a result, many works councils are fairly good mirrors for the political composition of the personnel of the company.

(9) *Erste Rechtsverordnung zur Durchführung des Betriebsverfassungsgesetzes (Wahlordnung).*

Partisan considerations, however, seem to play a negligible role in the work of the council, except in the election of its officers and the allotment of committee assignments. The chairman is usually an elderly wage earner, who has worked for his company for two decades or more and joined a union in his early youth. The vice chairman has to represent the other group, i.e., in this case the salaried employees. Both these men are members of the executive committee of the council, and relieved as such of the ordinary duties of their jobs.

Among the other committees of the works council, the following can usually be found: economic, social benefits, personnel, housing, wages, accident prevention, welfare, disabled workers, minors, female employees. Each of them looks after its special sphere of interest and holds regular meetings with representatives of its management counterpart. The works council itself holds regular consultation hours in offices, which are put at its disposal by the company. The employees there get the advice and help of the council member who happens to be on duty. But the council deals not only with individual problems and grievances. It also makes suggestions about long-range policies to the company management. Since two members of the works council — usually its chairman and vice chairman — represent the employees on the company's supervisory board of directors, the council is usually well informed about matters of general policy and can speak with a fair amount of authority in its dealings with management. The council itself keeps up contact with its constituents through so-called "men of confidence" elected in the various shops, and by means of quarterly meetings for all the personnel of the company, at which it reports on its activities, which are then subjected to a general critical debate from the floor.

b) The Managing Board

The works council has its most important dealings with the labor manager, whose position is crucial to the entire scheme. He is a member of the managing board of the company. Before the introduction of codetermination, this board normally consisted of two or three members of equal legal rights and responsibilities, who were in charge of business and production matters, respectively. Special codetermination added the labor manager as an equal to these incumbent managers, and put him in charge of personnel, "social" and other fringe benefits, and related matters. The labor managers are nominated by the industrial union. Many of them came into their present position from the chairmanship of the works council in another company. In the steel corporations,

where codetermination was introduced beginning in 1947, most of them have been quite successful. In the mining corporations, for which the Mine Workers Union suddenly had to furnish more than seventy labor managers in 1952, some have been failures and most have encountered a good deal of opposition from their managerial colleagues. Relations between labor manager and works council are generally as good as their common union background would lead one to expect, though they by no means always agree on all the questions with which they have to deal. The works council often asks for higher fringe benefits than the labor manager considers supportable. Most of the labor managers make a special point of judging such demands in terms of the efficiency and profitability of the business rather than their own popularity with the employees. As a result, they get along well with their colleagues, the business and production managers, who were often glad to have someone take off their shoulders the responsibility for looking after the workers' welfare and dealing with their demands. In some cases, they also try to shift responsibility for unpopular decisions to the labor manager. In those steel corporations where codetermination has been most successful, this sort of thing is rarely necessary, because the workers are often so well informed about the economic condition of the company that they are not as resentful as they would have been formerly when, e.g., dismissals occur because of a throttling of production. On the contrary, when such lay-offs had to be made in the steel industry during the slight recession of the winter of 1953-54, some workers apparently appreciated the policy of dismissing employees in order of their capacity to support themselves by other means, such as pensions. In general, litigation in the labor courts seems to be lower for codetermined companies in the steel industry than for similar companies in other industries.

c) The Supervisory Board of Directors

The supervisory board of directors usually consists of eleven members. Five of these are elected by the annual stockholders' meeting. One of these five is not himself a stockholder, but an outsider who is known to sympathize with the owners. Similarly, the fifth of the five labor members of the board must be an outsider who is known to sympathize with labor. Two of the remaining four labor representatives are nominated by the works council, while the other two are nominated by the Metal Workers Union and the DGB, respectively. The eleventh man is supposed to be a "neutral" individual, on whom the other ten can agree. In case of failure to agree, the law provides for an elaborate arbitration procedure, but this has not been invoked so far. Split votes

of the supervisory board occur very rarely. When they have taken place, the split has not always been along the employer-employee cleavage. In one instance, for example, the union representatives voted against a high Christmas bonus for the employees, which was favored by the works council's representatives on the board, supported by some of the stockholders' representatives, who hoped thereby to pave the way for the payment of higher dividends. In this case, the union representatives, who were backing up a unanimous managing board, won out in the end. Usually, however, when the supervisory board cannot reach agreement on some issue, the chairman will postpone the decision until a true "sense of the meeting" does emerge.

One reason for the predominantly smooth operation of codetermination at the level of the supervisory boards, until 1953, was the fact that the original stockholders were still represented on the boards by trustees. By now, the real owners are back in control, and there is often more friction as a result. For the most part, however, this friction has been transferred into the arena of politics. This transfer occurred as a consequence of the recartellization of heavy industry. The special codetermination law of 1951 contains no provision governing holding companies in the iron, steel, and coal industries — simply because the Occupation Powers at that time would not permit the reorganization of trusts. By 1953, new trusts began to appear. By that time, too, the general codetermination law, the "Constitution of the Enterprise," had been passed, to apply to the rest of the private economy. Some stockholders consequently brought a test case into the courts, in which they challenged the applicability of the special codetermination law to the holding companies. They argued that the Constitution of the Enterprise, under which labor gets only one-third of the supervisory board seats and no labor manager at all, should govern the holding companies, since these are not themselves engaged in the primary production of iron, steel, or coal. The unions, on the other hand, asserted that this would mean a complete circumvention of parity codetermination, because the most important decisions are made by the holding corporations, not the producing companies dependent on them. But the stockholders won the suit, whereupon the unions started a campaign to have parliament extend special codetermination to the holding corporations in these industries as well. Today, two and a half years later, several different drafts of bills to legalize this extension are pending before the Bundestag, but no action on them has been taken yet. Once again, the SPD is acting as the parliamentary spearhead of the DGB, while the CDU is not of one mind about the legislation.

The situation was somewhat similar during the debates on the Constitution of the Enterprise. The SPD supported all of the demands of the DGB. The chairman of the labor affairs committee of the Bundestag, who is a "Christian" trade unionist and a member of the CDU, brought in a milder bill, while the federal minister of labor, whose background resembles that of the committee chairman, submitted an even tamer version, which served as the basis for the bill which was finally passed in 1952. This bill was solidly opposed by the SPD, but supported by all but seven of the CDU deputies, the seven abstainers being men of trade union background. The CDU's coalition partners, the German Party and the Free Democratic Party also voted for the bill, except for some deputies of the last-mentioned party, who felt that it gave too much to labor.

Much of the most vocal opposition to codetermination comes from industrialists of the unreconstructed private-free-enterprise persuasion, who are often close to the Free Democrats and their neo-liberal economic doctrine. One such man, Dr. Hermann Reusch of the Gutehoffnungshütte Corporation, who had supported codetermination in 1947, denounced the unions in January 1955, for having obtained it by means of "brutal blackmail." His statement set off an immediate protest strike of one day by the employees of his own company in Oberhausen, who were soon followed with a similar one-day strike by the steel and coal workers in the other codetermined plants in the Ruhr area. Chancellor Adenauer later called Reusch's allegation false, but at the same time criticized the unions for calling a strike on those grounds alone. The significance of the strike lies in the symbolic reconfirmation which it provided of the unions' firm intention to retain codetermination and to fight for its retention if necessary.

III

Economic Evaluation of Codetermination

Does this mean that the workers think, contrary to one of the opinions quoted at the outset, that codetermination is the best thing that ever happened to German labor? Some protagonists of codetermination have sought to interpret the strike in this way, but they are undoubtedly exaggerating things a bit. Others have tried to prove the same point by means of elaborate opinion surveys of employees in codetermined plants, but most of these "sociological" studies testify to

little but the questionable methods used by the men who conducted them.¹⁰ The same is true of other surveys conducted to prove the opposite point, financed in this second case by employers instead of unions, as in the first. The trouble with codetermination is that it is still such a controversial issue in German politics, that few Germans seem capable of evaluating it with anything approaching objectivity.

But even without this difficulty, it would still be very hard to gauge the effects of the scheme, because so many other "causes" have been at work, that one can never be quite sure as to what can be attributed to codetermination, and what to something else. Only in the economic sphere can one speak with a fair degree of self-assurance. Here the effects of codetermination seem to be insignificant. Employees of co-determined companies may be enjoying somewhat higher fringe-benefits than those in the rest of the economy, though the fact that this comparison would probably not apply to such highly solvent and "progressive" industries as chemicals casts doubt on codetermination as the cause. Wages in the steel and coal-mining industries are the highest in German industry, but they always have been. Wage strikes have not so far occurred in the industries under special codetermination, though strike votes have been taken and overwhelmingly carried. The steel workers in the Ruhr were ready to strike in December 1955, when they demanded a wage raise proportional to that just previously won by lower paid metal workers in other states of the Federal Republic. Collective bargaining in Germany is carried on by industries and states,¹¹ and it so happened that other contracts expired before that of the Metal Workers Union with the Employers' Association of the codetermined steel-producing companies. The labor managers themselves in these companies do not conduct collective bargaining. During the negotiations of December 1955, however, they were reported to have backed un-animously the rejection by their Employers' Association of the Union's demands, as well as the lower raise with which the companies eventually undercut the Union just before Christmas, when the Union was in a tactically disadvantageous position for a strike. In general, the incidence of strikes has been quite low in West Germany since 1945, but neither special nor general codetermination appears to have had any influence on this, because the first major strike wave took place in 1954, after

(10) Theo Pirker et al., *Arbeiter-Management-Mitbestimmung*, Stuttgart and Düsseldorf: Ring Verlag, 1955.

(11) Clark Kerr, "Collective Bargaining in Postwar Germany", *Industrial and Labor Relations Review*, April 1952.

general codetermination had gone into effect. The economic effects of codetermination can safely be dismissed as negligible.

Sociological Evaluation of Codetermination

The same cannot be said of its sociological and political effects. As a consequence of the introduction of codetermination, thousands of members of the working class have been brought into regular contact with representatives of the "capitalist" class — for these are the terms in which class-conscious people think of each other. In the beginning, these contacts were virtually forced on them, and they were therefore made in a highly formal manner, often in strict observance of the letter of the relevant laws. Gradually, however, works councillors and managers got to know one another and began to realize that their stereotypes about the other fellow were unrealistic in many respects. The employers were not necessarily out to exploit the employees. Some of the less pleasant decisions which they made were not due to hostility to the workers, but dictated by the economic situation. The managers, on the other hand, recognized that union officers were not necessarily revolutionary agitators who wanted the class war to break out into violence just as soon as possible. Quite to the contrary, most of them were rather solid citizens who, moreover, often possessed considerable business knowledge based on long experience and good common sense. Many of the labor managers were found to be useful by their industrialist colleagues, and this not only for their ability to deal with personnel problems, but also because of the business or technical knowledge which many of them turned out to have.

Participants in codetermination with the most diverse ideological backgrounds also often discovered that their ideologies were of little practical use. For the many among them who started out with very strong ideological convictions, this was a discovery of great importance. Previously, they used literally to turn to their particular closed, comprehensive, and consistent system of knowledge for answers to all questions and solutions to all problems. Two parties might be in complete agreement about the desirability of some concrete reform, but unwilling to go through with it because of distrust of each other's ideological motives and intentions. Cooperation with adherents of an opposing ideology would cast doubt on one's own *Weltanschauung* and thereby shake the roots of his existence. Now, they began to see that the ideology, whether Marxist or otherwise, did not really fit the facts and that, because of the persistent limits set to all human knowledge, none of

these systems was as total or as fool-proof as had been pretended. They paid less attention to fundamental ideological disagreements, as for example between Marxists and Liberals, Roman Catholics and Protestants, and more attention to the concrete problems which they mutually faced and could mutually solve in a way which would redound to everybody's benefit. This did not necessarily make them less class-conscious than they had been, but it did reduce antagonism between people who have traditionally thought in terms of class struggle.

In this connection, the use of words can be most revealing. The German equivalent of the word "relations" (*Beziehungen*) is used very rarely in Germany, where as in North America we commonly use it in many different contexts — labor relations, human relations, social relations, industrial relations, public relations, to mention only some. The practice and the academic disciplines of human relations and public relations have almost become popular fads in post war Germany, and the Germans commonly use the English terms when they speak of them.¹² One of the official German equivalents for our "labor relations" in general, and collective bargaining in particular, is — by way of contrast "labor struggle (*Arbeitskampf*)."¹³ For most Germans, the same phenomena, which North Americans look on as "relations" between employers and employees, appear as skirmishes in the class struggle. The popularity of something like "human relations" indicates that these people want to move away from the "labor struggle" and toward something which could better be described as "labor relations", even so far as their own consciousness of it is concerned. The practice of codetermination seems to be contributing as much as anything else toward facilitating this move.

Political Evaluation of Codetermination

For this reason, codetermination has had important political effects as well. For one thing, it has more than any other factor made possible the continued cohesion of the DGB, despite the religious, ideological, and political heterogeneity of its membership. The leaders and members of the DGB have become so much attached to their new institution, that they would think long and hard before they did any-

(12) See Helmut Schelsky, "Aufgaben und Grenzen der Betriebssoziologie", *Wege zum sozialen Frieden*, H.D. Ortlieb and H. Schelsky, editors, Stuttgart and Düsseldorf, Ring Verlag, 1954, p. 211.

(13) See *Betriebsverfassungsgesetz*, § 49 (2), for an example in which this term is used.

thing which would tend to endanger codetermination — and then they decide not to do it. Nothing would be more likely to endanger it than disunity in the DGB or, worse, an open split. Moreover, the trade unionists have now learned from experience that there is great strength in their new unity and that cooperation between Social Democrats and Christian Democrats is quite feasible. This has, in turn, affected these two biggest parties of the Federal Republic. Those elements in each, which are closely associated with the trade unions, have repeatedly urged SPD and CDU to join in governmental coalitions, and some have actually been formed in state parliaments. Some of the most prominent younger politicians in both parties have taken this position, partly as a result of their trade union experience. The full significance of this consequence of codetermination may not become evident before one or the other of two events: If and when the two parts of the divided country are re-united, politicians with such sentiments will be able to play a great role in reintegrating the Sovietized society with that of the Federal Republic, just as men with experience as labor managers may be expected to be more acceptable than any one else as managers of the Sovietized industries in the Eastern part of the country. And when Chancellor Adenauer departs from the political scene, the realignment of the often divergent groups of the CDU, which are now united around his personality, may well be strongly influenced by these younger politicians with the strand of codetermination — thought in their union background and affiliation.

Another political consequence of the practice of codetermination may, in the long run, turn out to be much more important than the ones which have been suggested so far. It has very little to do with the policies of parties or governments, but a great deal with the way in which these policies are made. Codetermination is giving a lot of people experience with the procedures of constitutional and democratic politics — experience which they cannot get anywhere else, for reasons of German history and educational methods. In Canada and the United States, we are barely aware of the early training in parliamentary procedure which we get when, for example, we elect class officers in the first grade of grammar school or appoint a committee to organize a school picnic. This education in the methods of democratic politics is so effective, precisely because neither teachers nor students are usually conscious of the fact that it is being provided. "Education for citizenship" in German schools is often confined to unimaginative memorization of constitutional documents. Students only rarely have opportunities to arrive at concrete decisions affecting their common

life. This has the result of making them awkward in adult situations which call for "collective reasoning". Many works councillors, on first assuming office, follow the letter of the relevant law in an almost pathetic way, simply because they have no other guide of conduct due to their lack of experience with political procedures. The practice of codetermination is, however giving them such experience, and gradually they grow away from these formal habits and acquire greater self-confidence about their ability to carry on discussions and negotiations. Both workers and employers are slowly weened away from their stiff reliance on the formal legal provisions and their tendency to let all disputes be settled by the impersonal "machinery" of justice. They begin to appreciate the merits of resolving their disputes in an informal manner by means of face-to-face talks. They thus build up a basis of procedural agreement, a consensus about ways of arriving at compromises, which is particularly necessary for the smooth functioning of any constitutional democracy in which it will take a long time to overcome deeply ingrained ideological disagreements. Moreover, the experience with political procedures gained through the practice of codetermination will be applied in other fields as well, and may therefore redound to the benefit of the society as a whole.

This was hardly what the founding fathers of codetermination had in mind. Most of them wanted to use the new institution as means to some other end. But codetermination established itself in its own right and turned out to promote ends which were no part of its authors' intentions. German labor may be expected to defend it, though neither the workers nor the rest of society may ever become aware of the lesson which they are learning from codetermination as a school of politics. Perhaps, indeed, we should hope that they will not become aware of it, because the benefits derived will decrease with every increase in selfconsciousness.

(*) A comprehensive bibliography on codetermination, listing 7,000 items, has been compiled by A. Hockstein-Rasch, *Bibliographie zur Mitbestimmung und Betriebsverfassung*, Köln: Deutscher-Industrie-Verlag, 1955. See also Clark Kerr, "The Trade Union Movement and the Redistribution of Power in Post-war Germany", *Quarterly Journal of Economics*, November 1954; William H. McPherson, "Codetermination in Practice", *ibid.*, July 1955; Edwin F. Beal, "Origins of Codetermination", *loc. cit.*; T.E.M. McKitterick and R.D.V. Roberts, *Workers and Management — The German Co-determination Experiment*, Fabian Research Series No. 160, London: Victor Gollancz, 1953; Herbert J. Spiro, "Co-Determination in Germany", *American Political Science Review*, December 1954.

SOMMAIRE

CO-DÉTERMINATION ET POLITIQUE ALLEMANDE

La co-détermination a été qualifiée comme étant « la pire des choses qui soit arrivée aux travailleurs allemands, et aussi la marche de l'Allemagne vers une économie nouvelle »! Comme question de fait, la co-détermination sous sa forme présente, est propre à l'Allemagne et plus particulièrement à l'Allemagne d'après la Seconde Guerre mondiale. C'est une institution dont les antécédents idéologiques sont plutôt incertains. Dans moins d'une décennie, après la première expérience, elle est devenue non seulement un fait persistant de la politique allemande, mais une institution fermement établie sur ses assises propres.

TROIS FORMES DE CO-DÉTERMINATION

A l'heure actuelle, la co-détermination allemande apparaît sous trois formes différentes et est régie par autant de lois différentes. Selon les stipulations de la « co-détermination spéciale », les travailleurs ont autant de sièges que les actionnaires au conseil de surveillance des directeurs de corporations et ils sont représentés par un directeur-gérant, choisi par l'union, au conseil de direction qui est formé normalement de trois membres.

La loi fut votée par le parlement de l'Allemagne de l'Ouest en mai, 1951. Ainsi, la co-détermination fut applicable à toutes les compagnies engagées dans la production primaire du fer, de l'acier et du charbon. Bien que la « German Trade Union Federation » soit constituée de Démocrates sociaux et de Démocrates chrétiens et qu'elle soit officiellement neutre en politique, sa demande pour que la co-détermination soit appliquée au reste de l'économie allemande de l'Ouest, autant dans le secteur public que privé, a été appuyée au parlement seulement par le parti des démocrates sociaux.

Le chancelier Adenauer, à la tête de l'Union Démocratique chrétienne, proposa une version mitigée pour le secteur privé de l'économie et retarda la législation jusqu'en 1955 pour le secteur public de l'économie. La loi régissant la co-détermination générale fut votée le 11 octobre 1955 comme étant la loi sur la constitution de l'entreprise. Sous l'empire de cette loi, les ouvriers fournissent un tiers des membres au conseil de surveillance des directeurs, mais aucun au conseil de gérance. La co-détermination générale voit en détail aux droits et fonctions des conseils du travail élus dans la majorité des entreprises privées allemandes.

La loi de la représentation du personnel fut finalement votée en juillet 1955. Elle donne un degré encore moindre de co-détermination que la loi générale et cela à quelque 2.000.000 de salariés, fonctionnaires, dans les services publics, aux différents paliers du gouvernement, incluant les chemins de fer fédéraux et le Département des postes.

D'OÙ VIENT LA CO-DÉTERMINATION ?

La plupart des Allemands répondraient à cette question par une genèse idéologique longue et détaillée. De leur côté, les catholiques remonteraient aux idées de l'évêque de Mainz, Von Ketteler, et à l'Encyclique *Rerum Novarum* de Léon XIII. Les syndiqués démocrates sociaux, eux, retourneraient en arrière jusqu'à la Loi des Conseils du travail de la République de Weimar et aussi à la théorie de la démocratie économique. Les débuts de cette institution, telle qu'elle existe aujourd'hui, doivent être retrouvés, cependant, dans les conditions concrètes qui ont suivi la défaite allemande de 1945. En 1950, la co-détermination était devenue le but principal des unions, des démocrates sociaux et de la plupart des démocrates chrétiens et des catholiques romains.

BEAUCOUP D'UNITÉ ET BEAUCOUP DE DIVERGENCE

Les démocrates sociaux étaient principalement intéressés par la socialisation des industries de base. Pour des raisons idéologiques, ils auraient dû refuser de supporter la co-détermination. Les démocrates chrétiens auraient pu ne pas la supporter précisément parce que les démocrates sociaux s'en servaient comme appât vis-à-vis la classe ouvrière pour les accrocher au syndicalisme. Les unions auraient dû être aussi anti-codéterminationnistes que les démocrates sociaux parce que la majorité de leurs membres supportaient le parti démocrate social et seulement un sur cinq appuyait l'Union démocrate chrétienne (C.D.U.).

La co-détermination semblait aller contre les fins du socialisme et être en accord avec une conception plus « coopérative » des relations ouvrières. De plus, cette théorie semblait attrayante par le fait qu'elle permettait aux démocrates de jouer de leur quote part de fonctions sur les conseils de surveillance et de gérance.

Quelques employeurs catholiques romains sentaient qu'ils devaient supporter la théorie pour stimuler quelques-uns de leurs collègues protestants qui, de façon non officielle, avaient établi dans leurs compagnies des formes de participation aux bénéfices et de co-détermination. Tous ces facteurs furent combinés en vue d'une résolution qui fut passée par le Congrès annuel des Catholiques allemands en 1949 et qui décrétait que le droit à la co-détermination dans les questions sociales, économiques et de personnel « est un droit naturel voulu dans l'ordre divin ».

Le support de la théorie par les démocrates sociaux doit être pris en considération; il était en grande partie dû à la prise de conscience par les socialistes du fait que la co-détermination était la meilleure chose qu'ils pouvaient espérer à ce temps-là à défaut de socialisation. Plusieurs démocrates sociaux espèrent alors et quelques-uns espèrent encore aujourd'hui que la transition entre la co-détermination et la socialisation serait facile à faire. Cette prise de position a permis aux partis démocratiques sociaux et chrétiens de faire bloc en dépit de leur antagonisme idéologique. Maintenant que les unions ont acquis cette forme de participation dans les entreprises privées, le D.G.B. demande encore la formation de conseils économiques au niveau local, provincial, fédéral dans lesquels conseils, les employeurs et les employés auraient une représentation égale.

LA CO-DÉTERMINATION: COMMENT FONCTIONNE-T-ELLE ?

Dans chaque compagnie (fer, acier ou charbon), le fonctionnement pratique de la co-détermination est partagé par trois comités: les conseils du travail, le conseil de direction et, finalement, le conseil de surveillance des directeurs.

a) *Conseils du travail*

Ces conseils sont formés de 17 à 20 membres et sont élus par les employés de la compagnie au cours d'une élection biennale. Ils représentent les ouvriers (de production) et les employés proportionnellement au nombre d'entre eux. Ces deux groupes élisent leurs conseillers séparément à moins qu'ils ne votent en faveur d'une élection conjointe.

Parmi les autres comités des conseils du travail, on peut généralement rencontrer les suivants: comités économiques, du personnel, de bénéfices sociaux, de logement, de salaire, de prévention des accidents, de bien-être, des ouvriers frappés d'incapacités, des mineurs, et des employés féminins. Le conseil du travail ne s'occupe pas seulement des problèmes individuels et des griefs. Il fait également des suggestions sur les règles à long terme concernant la politique de la compagnie et de la gérance.

b) *Le conseil de direction*

Avant l'introduction de la co-détermination, le conseil de direction était formé de deux ou trois membres dont les droits et responsabilités étaient égaux. La co-

détermination spéciale a ajouté le gérant des travailleurs sur un pied d'égalité avec les directeurs et l'a placé en charge du personnel, du côté « social » et des bénéfices marginaux.

Les conseils du travail demandent souvent des bénéfices marginaux supérieurs à ceux que les gérants de travailleurs considèrent acceptables. La plupart des gérants de travailleurs se font un devoir de juger les demandes du point de vue de l'efficacité et du rendement de l'industrie plutôt que de leur propre popularité auprès des employés. Comme résultat, ils s'entendent bien avec les gérants de la production et des affaires.

c) *Le conseil de surveillance des directeurs*

Ce conseil comprend en général onze membres; cinq de ceux-ci sont élus par l'assemblée annuelle des actionnaires. Un de ces cinq n'est lui-même pas un actionnaire mais un étranger qui sympathise avec les propriétaires; de la même façon le cinquième des cinq travailleurs membres du conseil doit être pris en dehors du groupe; mais sa sympathie pour les travailleurs doit être reconnue. Deux des quatre représentants ouvriers restants sont nommés par les conseils du travail, alors que les deux autres sont nommés respectivement par l'Union des Métallos et le D.G.B. Le onzième membre est censé être « neutre » et les dix autres doivent être d'accord sur son choix. A défaut d'entente, la loi prévoit une procédure élaborée d'arbitrage.

EVALUATION ÉCONOMIQUE DE LA CO-DÉTERMINATION

Les employés des compagnies où existe la co-détermination peuvent jouir d'avantages marginaux légèrement supérieurs à ceux du reste de l'économie; cette comparaison ne pourrait probablement pas s'appliquer à des industries « solvables » et « progressives » comme celle des produits chimiques. Les salaires dans les industries des mines de charbon et de l'acier sont les plus élevés de toute l'Allemagne, mais ils l'ont toujours été. Des grèves au sujet des salaires n'ont pas, jusqu'ici, eu lieu dans les industries où existe une co-détermination spéciale. La négociation collective en Allemagne est effectuée par les industries et les Etats; il arriva que certains contrats expirèrent avant ceux des compagnies de l'acier là où cette institution est en vigueur. De façon générale, les effets économiques de la co-détermination peuvent donc être considérés comme négligeables.

EVALUATION SOCIOLOGIQUE DE LA CO-DÉTERMINATION

Toutefois, on ne peut dire la même chose des effets sociologiques et politiques. L'avènement de la co-détermination eut pour conséquence de mettre en contact régulier des milliers de membres de la classe ouvrière avec les représentants de la classe « capitaliste ». Au début, ces contacts furent forcés, mais graduellement les conseillers du travail et les directeurs finirent par se connaître; les gérants reconnaurent que les officiers de l'union ne sont pas nécessairement des agitateurs révolutionnaires et les gérants du travail ont été trouvés utiles par leurs collègues industriels. De plus, certains de ceux qui participèrent à la co-détermination et qui avaient des antécédents idéologiques variés découvrirent que leurs idéologies étaient de peu d'utilité pratique. Ils attachèrent moins d'importance aux désaccords idéologiques fondamentaux et accordèrent plus d'attention aux problèmes concrets auxquels ils avaient mutuellement à faire face. Ceci eut pour conséquence de réduire l'antagonisme entre des gens qui, par tradition, avaient toujours pensé en terme de lutte de classe. Ainsi, par exemple, un des équivalents allemands de « relations ouvrières » et négociation collective est « lutte de classe ».

EVALUATION POLITIQUE DE LA CO-DÉTERMINATION

La co-détermination a eu d'importants effets politiques. Les dirigeants et les membres du D.G.B. sont devenus de plus en plus attachés à leur nouvelle institution. De plus, les syndiqués ont maintenant appris par expérience que leur nouvelle

unité est une source de force et que la collaboration entre les démocrates sociaux et les démocrates chrétiens est chose possible.

Une autre conséquence politique de la mise en pratique de la co-détermination pourrait s'avérer de plus en plus importante sur une longue période; elle concernerait très peu les politiques des partis ou des gouvernements, mais beaucoup la manière dont ces politiques sont établies. La co-détermination confère à beaucoup de gens une expérience des procédures de politique constitutionnelle et démocratique — une expérience qu'ils ne peuvent acquérir autrement à cause du passé allemand et des méthodes d'éducation dans ce pays. Et les travailleurs et les employeurs commencent à pouvoir apprécier les bienfaits qu'ils en retirent en résolvant leurs différends d'une manière peu conventionnelle et face-à-face. De plus, la pratique de cette méthode s'appliquera dans d'autres domaines et ainsi bénéficiera à la société tout entière.
