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Industrial democracy and
industrial control
in West Germany,
France and Great Britain

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Introduction

Over the past century or so the regulation of industrial relations has been a matter of continuing concern to governments and others in most industrial societies. Discussion in this area has often involved comparisons between the working of apparently similar arrangements in different countries. Comparison between strike records is a common-place example. Another well known case is the enthusiasm for conciliation and arbitration arrangements which developed in this country around the turn of the century out of an examination of the special arbitral bodies which had been created in Australia and New Zealand. But for present purposes the most pressing example must arise from the debate over ways of enhancing 'industrial democracy' in Britain which has centred around the work of the Bullock Committee. In this case it may be noted that the authors of the report went so far as to commission special surveys of the literature relating to European experience as an aid to the development of their thinking.

Running through almost all of the many arguments based on the use of international comparisons, however, there runs a crucial vagueness. For it is plain to everyone who makes use of such arguments that there must be limits to the usefulness and validity of comparisons drawn from different industrial cultures. Yet what these limits are is rarely, if ever, spelled out in a convincing and detailed way.

The paper which follows is in part an attempt to remedy this omission. It has two major objectives: first to consider the structure and functions of a range of key industrial relations institutions and procedures in three countries – West Germany, France and Great Britain; and second to consider the basis on which these arrangements can be legitimately compared.

Part A is therefore concerned to suggest a way of organizing the reader's thinking about the methods through which control over work organization and other matters can be shared between managers, trade unions and others. With this framework in mind, Part B describes a number of arrangements in the three countries under consideration. In the final part a number of more general issues is explored, and some more direct implications for policy are discussed.

Characters in the text refer to the notes at the end of the paper.

Part A

A framework for analysis

‘... it is the supreme paradox of democracy that every man is a servant in respect of matters of which he possesses the most intimate knowledge, and for which he shows the most proficiency, namely, the professional craft to which he devotes his working hours; and he is master over that on which he knows no more than anybody else, namely the general interests of the community as a whole . . .’ (Sydney and Beatrice Webb, *Industrial democracy* p 844 1914 edn).

‘The Collectivist (by which is meant the Webbs) is prepared to recognize Trade Unionism under a Collectivist regime. But he is not prepared to trust Trade Unionism, or to entrust it with the conduct of industry. He does not believe in industrial self-government; his “industrial democracy” embodies only the right of workers to manage their Trade Unions, and not their right to control industry’. (G D H Cole, *Self-government in industry* 1917)

Two approaches to industrial democracy

Recent British writing on industrial relations has tended to neglect the relationship between trade union activity and control over the purposes for which work is undertaken. It has followed the intellectual current which flowed from the Webbs,¹ who saw trade union functions as properly being restricted to the establishment and administration of the ‘common rates’ and ‘common rules’ which were to apply in the working environment. For the Webbs the only realistic alternative to collective bargaining was individual bargaining between the worker and his employer. This emphasis has been maintained by most major British writers on industrial relations and lives on in the work of Allan Flanders² and Alan Fox.³ But this type of analysis is in marked contrast to the views expressed by G D H Cole⁴ and Carter Goodrich⁵ between the two world wars in this country and by a number of more recent influential continental writers – notably Sellier⁶ – who have placed much greater stress in their work on the concept of ‘control’, and who have sought to understand the impact and importance of trade unions more in terms of a movement away from unilateral employer control in a wider arena.

This difference of emphasis – which is of considerable academic interest – is explored in more detail in Appendix 1. We introduce it here, however, to emphasize the point that the stress on shifts in control over a wide range of matters of the kind developed by these later writers is central to the analysis of industrial democracy developed in this paper. The concept of ‘control’ however, like that of ‘power’, is at once both obvious and elusive. To clarify its use in this paper it is worth casting an eye back over the changes which have come about in the development of modern capitalism in Western Europe. It seems there have been two major areas over which the question of ‘control’ has been raised. The first is that of the ‘work process’ at the level of the individual workshop, and the second has been the wider organization of industry.

Control over work processes

To simplify one might say that work has undergone two major types of change over the last one hundred and fifty years. The first was the introduction of new standards and forms of work discipline in the nineteenth century, and the second was, and still is, the technical rationalization of work. The major elements of the new work discipline involved the imposition of strict work hours which had not really been known before on any scale, and the introduction of much closer forms of supervision. The removal of the worker's discretion over his hours, the overall rhythm he worked at and the quality of the final product were among the first steps in the transfer of 'control' from workers to their employers.

The second aspect of control over the work process concerns what has often been called 'rationalization'. Rationalization has generally meant the introduction of new methods on the initiative of management which have had among their consequences a reduction in scope for the exercise of workers' skill and the degree of discretion workers can employ in carrying out their work.

Rationalization affects workers in two main ways: through its effect upon their individual work tasks and through its effect upon the work group. Decisions about the way work is done, what is considered to be a normal rhythm, or the way incidental problems are solved can be both the province of the individual and of the work group.

Control at industry and company level

This is the second issue which has been of great historical importance. One part of this is the collective control over the process of wage determination which in this country and elsewhere often takes place at industry level. The second element, however, is control over an industry in the sense of its 'administration'. It is important to bear this in mind because of its relationship to the thinking behind much of the theorizing on industrial democracy in the formative period in Europe during and just after the First World War, and behind much of the legislation and government action of that period. Thus the issue of 'industrial control' in the form of a more general 'joint control' at industry level underlay much of the thinking of the Whitley Council report on 'joint industrial councils' and the German trade unionists and employers who were responsible for setting up the Work Communities or 'Arbeitsgemeinschaften' in the political vacuum of the years 1918 and 1919.

The question of 'control' underlying that of 'industrial democracy' is therefore potentially very wide-ranging, and the stakes very great. The remainder of this section therefore examines in greater detail some of the issues over which 'control' can be exercised and goes on to consider how institutional arrangements can be devised to exercise responsibility over them.

Division of control

The distinction between 'control over the work process' and 'industrial control' is, of course, an analytical one, and as such is only useful if it corresponds in some way to the distinctions made in society. Just as there is nothing inherently separable in the powers of the 'executive', the 'legislature' and the 'judiciary' in political constitutions, so there is nothing which renders a particular pattern of the division of control in industry inherently necessary. Many medieval monarchs combined what we now call the functions of the executive, the legislature and of the judiciary, and today the distinctions made in the British Constitution do not coincide with those of the American,

the French or the German constitutions. The logic behind the categories of powers defined and the separation established between them does not lie in any abstract political or constitutional principle but in the societies that create them. Similarly, the distinctions between different kinds of 'control' and the different issues covered by them lie not so much in the internal logic of the issues as in the relationship between the different parties involved, including employers, trade unions and government.

Table 1 Clustering of industrial relations issues

Category of issue	Cluster of issues
Labour market questions.	Wage rates. Earnings. Employment (individual)
Internal market. Organization and allocation of work.	Work organization. Work allocation. Skill grading, promotion etc.
Supply of effort. Staff and personnel questions.	Hours of work, duration and flexibility. Working conditions. Health and safety. Social and sports facilities.
Product market. Managerial questions.	Production levels. Technical innovation. Control over work process. Redundancy, for economic reasons. Investment, etc.

To illustrate this we might draw up a list of types of issue that are frequently raised in the normal course of industrial relations. Such a list would contain all the usual areas including wages, work organization, hours, conditions, redundancy, investment and so on. These might be grouped under broader headings, perhaps following their relation to particular markets regulating, say, the supply of workers; the co-ordination of work activity and its combination into the right structure for the purpose in hand; the level of 'morale' as it affects the supply of individual effort; and finally matters more directly affected by the state of the product market and its future development. We might then find ourselves with a breakdown similar to Table 1.

Closer inspection raises the immediate question as to how the individual issues are defined, and why they do not appear under several headings. Thus it might be asked what makes 'health and safety' distinct from 'working conditions', or 'promotion' distinct from 'skill grading' and 'work allocation'. Alternatively what is it that distinguishes the regulation of earnings from that of skill-grading, or from production levels or technical innovation? In the second instance it might be asked why earnings, say, should not appear under all four headings as an incentive to be flexible in work organizations, as compensation for poor conditions, dangerous work or bad hours, or as a cost and a constraint on flexibility in the product market.

In other words all these issues are to a varying extent interdependent, this

being due to their common core which is provided by the productive system. Because of this interdependence, one issue, for example work allocation, can be manipulated in order to affect the others. Work allocation affects pay, for example, but can also be used as a source of 'patronage', or as a way of rewarding certain workers. It might also be the key to future promotion as some tasks bring more of the relevant experience required for this than others. Alternatively, workers may succeed in gaining control of one of these issues – for example they may establish a seniority rule for promotion, or a set of rules for the allocation of overtime or a certain earnings' structure. In order to introduce a measure of technical innovation which disrupts these, the employer may have to 'buy them out', either by paying more, or giving a compensating measure of control of allocation under the new process.

The possibilities are endless, and in some parts of industry the introduction of change in the production process can be quite as complicated as the navigation of a controversial bill through a parliamentary or congressional committee. This process of trading improvements on particular topics against each other might be more general if it were not for the way in which different issues can be separated by institutional means. Underlying the main argument of this paper is the belief that such a division can be brought about by the definition of issues in a particular way and by their channeling through different institutional bodies. As we shall see, in West Germany worker representatives have a voice in deciding their company's investment strategy as well as being able to thrash out questions of work allocation and earnings. The two sets of issues could quite easily be regarded as overlapping to a considerable extent and could give room for a 'trade off'. In fact, this does not happen because they are defined as separate issues and channelled through separate bodies constructed in such a way that any kind of 'trade off' would be extremely difficult to achieve.

Frontier of control

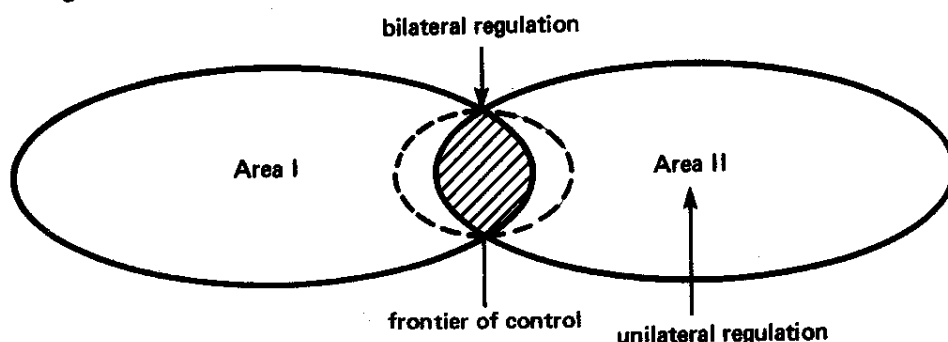
So far the concept of control has been used intuitively, although an indication of the range of objects to which it might be applied has been given. It is time for a more explicit set of definitions to be proposed.

The nature of the object of control is such that it is a hindrance to think of control as being like power which is often defined as the ability to get one's way in the face of opposition. This is a hindrance because many of the objects of control are subject to control shared between employers and unions. The concept of control must be broad enough to embrace both *undivided* and *shared* control. The concept must also be able to take account of the 'interdependence' we have mentioned earlier which might leave management with undivided control of investment decisions and consequent work reorganization, but with shared control over the determination of the rates for the new jobs in the form of bargaining. The inadequacy of a parallel with the concept of power shows up with the breakdown of any attempt to say that management has the power to make investment decisions and to reorganize work where the workers have no power, while unions have countervailing power when it comes to the determination of the new rates. Power is probably best thought of as underlying a particular distribution of control.

Some of these difficulties can be overcome by the use of the concept of the 'frontier of control' first developed by Goodrich⁷ in analysing the experience of workshop regulation during the First World War. The use he made of the

concept was largely intuitive, and if it is to be employed in this context it needs to be taken a little further. The best point from which to start is that of the concept of an 'area of control' which may be defined as the area over which a given actor (in this case the work-force or management) can exercise *unilateral regulation*. The 'frontier of control' is formed by the meeting of two 'areas of unilateral regulation'. A simple idea of this can be obtained from Figure 1 below.

Figure 1 The 'frontier of control'

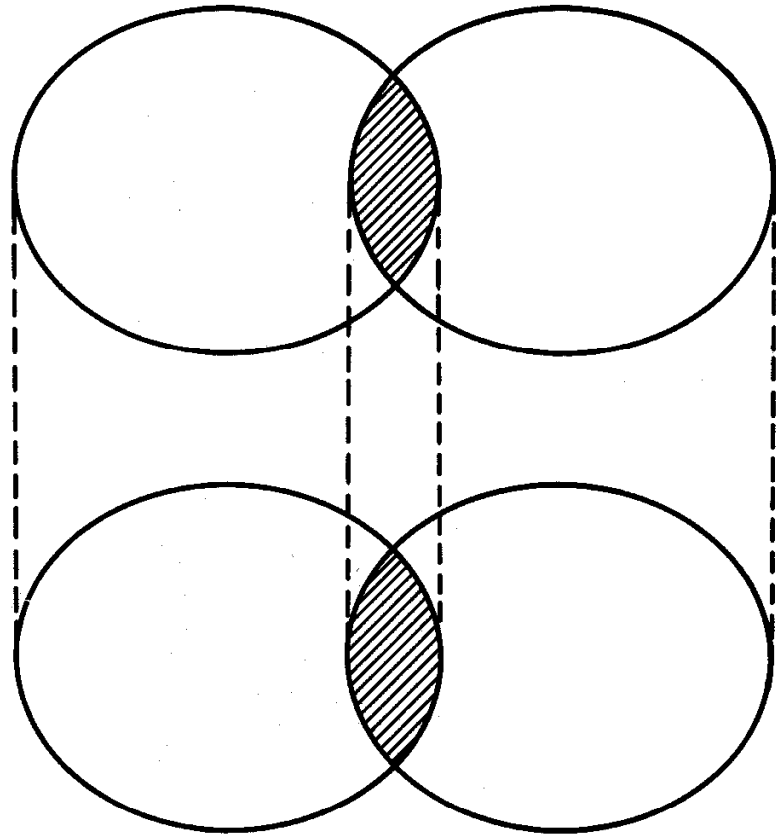


The frontier of control represented by the overlap of the two areas of unilateral regulation can be either very narrow, the limiting case being that of perfect demarcation between the two areas, or it can be very broad, the limiting case being that of complete bilateral or joint regulation.

We come now to the question of the dividing up of the frontier of control. Essentially this consists in the separation of issues or parts of issues which fall in the area of bilateral regulation because of the way they are channelled through separate institutions. A hypothetical example will help to illustrate the kind of process underlying the movement from the single frontier which appeared in the previous example to a divided one.

Thus it might be felt desirable to 'chip off' some of the issues handled in this way and to mark them off as separate. For example, the work group might retain control over work methods used on existing machines, but management might wish to establish its right to introduce new ones which use a different kind of labour. It might be desired to keep the introduction of such new machinery as part of investment strategy and to remove control of new equipment from the existing work group. If the decision could be taken somewhere else by means of some other procedure than that used in the shop then management might find its job easier. It might also find that the craftsmen were strong in their workshop but less influential in the whole factory which contained a large number of unskilled or semi-skilled. Perhaps the principle of worker participation could be maintained while at the same time allowing management to improve its position in the workshop. It might thus seek the creation of two separate areas of bilateral control in the place of the original one, and do this by dividing the issues handled on the old one into two categories and arrange for decisions to be reached on them at two separate levels. A diagrammatic representation of this process might look like Figure 2. The difficulty is that any coherent representation in this light seems to imply that 'areas of unilateral control' are also separated as the frontier is divided, which would imply that the kind of control exercised in the unilaterally regulated area is altered. In a sense this is helpful because it provides a prediction which is capable of being falsified; but it remains an uncorroborated part of the analysis.

Figure 2 The division of areas of bilateral control



Conclusion

This section has argued that it is possible to discern a range of matters over which control can be exercised by one or more parties in industry. With the help of a particular view of control processes derived from the notion of the 'frontier' of control and its division, it has been suggested that it is often possible for the parties to separate groups of issues from each other via different forms of negotiating and consultative machinery, so that changes in one will be less likely to affect the situation in others. It is suggested that this analytical framework may provide a useful way of ordering one's thoughts when considering cross-national comparisons in the employment area. In the light of this the next section of the paper goes on to look in some detail at industrial relations behaviour in West Germany, France and Great Britain .

Part B

Industrial democracy and industrial relations in the three countries.

The Federal Republic of Germany

Introduction

The importance of law and the constitution in the operation of German society and the relatively close conformity of much institutional behaviour with the obligations set out in legislation, is both remarkable and misleading. It is misleading because it may give the impression that the industrial relations institutions with which we are concerned conform to a rational ideal instead of being patched together as they appear to be in other countries. Social conflict, however, is by no means absent from Germany, and there is no reason to believe that its potential force is any less than in other European countries. The creation of participatory institutions in German industry is no exception to this. Each of the four major phases of labour legislation since the Second World War, setting up the 'qualified' system of codetermination in the coal and steel industry in 1951, the extension of the more limited 'simple' form to the rest of German industry in 1952, the changes in the 1952 Works Constitution Act in 1972, and the changes in the composition of supervisory boards outside the coal and steel industry in 1976 have been surrounded by bitter controversy. According to a recent article in the German weekly news magazine *Der Spiegel* the bargaining has been so hard over the latest piece of legislation that the election of members to the new supervisory boards may take so long as to make the Act virtually unworkable. For previous examples of disagreement we need only look back at union resistance to attempts to dismantle the coal and steel codetermination before 1951 and the strikes which accompanied the debates over the 1952 Works Constitution Act.

In view of the importance and the extent of the conflict surrounding the design of this legislation, there is little justification for regarding the system of works councils and supervisory boards as the result of some guiding principle of reason rather than as the fruit of a series of historical compromises.

These compromises concern the amount of control over the company and the industry conceded by the employers to workers and their unions, the kind of 'checks and balances' set up to restrict the amount of control workers or their unions might exercise through the new institutions, and the degree to which it is possible for workers' representatives to go against management policy, or to oblige management to change its plans.

In Part A, 'A framework for analysis', it was argued that the kind of 'checks and balances' in existence in the industrial world were not entirely analogous to those of political constitutions, as they were concerned not just with relationships between the different institutions making up the constitution (for example the executive, the legislature and the judiciary) but with the relationship between the two major groups participating in these institutions. The function of separation was less that of the constitutional separation of powers designed to curb the ambitions of an overweening executive and more that of dividing up pressure from one side of industry and of preventing the bargaining away of advantages at one level in return for concessions at another.

The 'frontier of control' between workers and management in the Federal Republic is stabilized by means of the separation of three types of decision-making process. These are distinguished by three types of right: the right of negotiation; of 'codecision'; and that of 'co-operative' joint decision-making. Each of these types of right is embodied in a different institutional body: negotiation rights, which are accompanied by the right to strike are the province of the trade union and the employers' association; 'codecision' rights, which are accompanied by the 'peace obligation' and compulsory arbitration, are the province of the works council (the Betriebsrat); and 'co-operative' joint decision-making rights are the province of the supervisory board (the Aufsichtsrat).

Under each of these types of decision-making right fall clusters of issues which are to be covered more or less exclusively by one of the institutions we have noted. The pattern these fall into is shown in Table 2. The most interesting insights to be drawn from this are not to be obtained by an examination of each cluster in turn, but by an analysis of the processes through which they have come to be separated.

Table 2 The clustering of issues in West Germany

Clusters of issues	Types of right	Institutional body
<i>Labour market issues.</i>	<i>Negotiating rights.</i>	
Wage rates. Conditions of employment.	Right to resort to measures of 'social warfare'.	Trade union and employers association.
<i>Social economic issues.</i>	<i>'Co-decision rights'.</i>	
Translation of rates into earnings. Job evaluation criteria. Dismissals. Redundancy for economic reasons. Health and welfare. Works social facilities.	Peace obligation and co-operation.	Works council and the employer represented by the management board.
<i>Managerial issues</i>		
Day-to-day running of business and control over the work process. Limited technical innovation. Work allocation. Work organization.		The management board (Vorstand).
Strategic planning and decisions. Long term investment. Employment levels and redundancy. Election of management board (Vorstand).	Co-operative joint decision-making.	The supervisory board (Aufsichtsrat).
Economic conditions of the market and the position of the firm.	Information.	Economic committee (Wirtschaftsausschuss).

To study the dynamics of this separation of different parts of the 'frontier of control' it is proposed to look first at the separation of the determination of wage rates from that of earnings; second at the separation of the 'social-economic' issues covered by 'codecision' rights from the cluster of managerial issues; and finally at the separation of the determination of wage rates from the managerial issues against which they might have been traded.

These institutions are, however, being presented as the temporary result of a moving historical compromise, and as a result it is necessary to give thought to the forces making for their dissolution. We shall therefore focus afterwards on some of the measures adopted by the main unions in an attempt to overcome some of the disadvantages imposed on them by this separation of issues. One of the key weaknesses lies in the 'neutralization' of the workplace through the exclusion from it of the union as a collective institution. We shall thus look particularly at the setting up of a union-based shop steward system (the Vertrauensleute), the development of the 'Betriebsnahe Tariffpolitik' (the inclusion in union negotiated 'cloak agreements' of clauses relating to the way in which the rates shall be applied at the works level), and the 'wildcat strikes', by which the unions are seeking to break down their isolation from the shop floor.

Separation of rates and earnings – 'negotiation' and 'codecision'

At first sight a division of labour between the determination of wage rates and of earnings might appear very reasonable. Wage rates are negotiated between the industry trade union and the equivalent employers' association at the regional level for the whole of the industry in question. The result takes the form of a general agreement on the minimum rates to apply and on the conditions of employment. This 'Manteltarif Vertrag' is then applied to each firm and the questions relevant to the translation of the general agreement on minimum rates into the effective earnings of workers in the firm are settled between the works council (Betriebsrat) and local management (at the level of the management board, the 'Vorstand'). Some of the disadvantages from the trade union point of view begin to appear when we consider the radically different nature of the institutions affected by this division.

The difference between these two levels of bargaining shows up in two main ways: in the first place the legal conception of the two bodies involved is very different, and in the second, the kind of decision-making right each has attributed to it leaves them both with a very different margin for manoeuvre.

German industrial relations law recognizes two areas of action, one in which industrial conflict and measures of industrial 'warfare' are allowed, and another where there is supposed to reign an atmosphere of industrial peace and trustful co-operation from which any resort to measures of industrial 'warfare' is excluded. The attempt to separate out areas of conflict and of co-operation is one of the factors differentiating the two levels of bargaining.

The corollary of this distinction based on the possession of the right to resort to measures of 'social warfare' is the distinction between the forms of bargaining associated with the two levels. Following Sellier⁸ we shall call them 'negotiation' and 'codecision'. It is the trade union which 'negotiates', and the works council that 'codecides'. 'Codecision' rights cover substantial areas in which the two parties, council and management, are legally obliged to come to an agreement. In this sense 'codecision' differs both from 'negotiation' where agreement is not the exclusive result of legal pressures,

and from 'participation' in decision-making. In the case of wage bargaining therefore, in the place of unilateral determination of wages by the employer there is 'negotiation' on rates and 'co-decision' on their translation into earnings.

This, however, is not the end of the story as the two sets of labour institutions in conjunction with their managerial counterparts are bound to exercise exclusive competence over these two sets of rights. This means that legally the trade union has no right whatever to try to influence the outcome of the bargaining between the works council representatives and those of local management. In this area it is of little importance that the works council members are for the most part also members of the union. They are members on an individual basis, and the pressure the union can bring to bear has to be exercised on a collective level. The central issue here is that of the 'neutralization' of the work place and its institutions with respect to the influence of the trade union as a collective body. We shall see later that the same principle applies in France. This 'neutralization' of the work place is an important handicap to trade union activity as the body which is supposed to negotiate with the employers is excluded from the level which makes up the 'grit' of industrial relations.

The distinction between these two forms of bargaining is also reflected in the margin for manoeuvre of which the two sets of institutions dispose. It is of the essence of higher level wage bargaining that the range of the terms acceptable in the agreement is not pre-set. There are certain constraints, like that imposed by the product market and that imposed by the necessity the union faces to produce something for its members, but it is doubtful if these can be measured in any precise way. There is a number of reasons for this kind of indeterminacy of which the most important include: time – firms do not usually lose their market share overnight following the conclusion of a disadvantageous wage bargain as both customers and competitors have to adjust, and in any case the firm or industry might cancel out the advantage gained by the workers at the next round of negotiations; the scope of the bargain – if the negotiation covers a whole industry, or a significant portion of it, then the main dangers faced are from foreign competition; and substitution by customers of the product of another industry for that of the industry in question. The number of other factors which make for the indeterminacy of the limits to a given round of negotiations is great. They also apply to the trade union side, because even though membership fluctuates one failure is no more likely to result in mass resignations than it is in the employer losing his product market. Also, as the industry union has a monopoly of representation at this level it is hard to see where else the membership could move.

If the limits of the possible content of the agreement are indeterminate at the level of the negotiation of the 'Manteltarif Vertrag', they are very much hemmed in at the works council level. Here, in the absence of agreement, an elaborate system of arbitration comes into effect and the terms of reference given to the arbitrators are set by the general agreement. The limits to this level of bargaining are of an institutional nature.

This formal picture, however, needs some modification, arising out of the importance of payment by results methods in German industry. These increase the likelihood of the emergence of a gap between rates and earnings. Arbitration at the level of the firm is only resorted to if there is failure to reach agreement, and as industry rates are only minima, there is nothing to

stop management making concessions at this level. E Schmidt has argued that the difference between the power of the constitutionally similar Weimar works councils and those of the Federal Republic is due largely to this.⁹ The depression in Germany following the First World War left management little inclined to make such concessions and the depressed labour market left workers in no real position to demand them. The situation was different through the 1950s and 1960s during which a tight labour market enhanced the power of some works councils.

In what way is this disadvantageous to the trade union membership? The enhanced position of the works council relative to the trade union in wage bargaining brings an important handicap. If the gap between rates and earnings is such that a significant part of wage determination takes place through the council, then the council will develop into the main focus of the energies and support of the membership. However, the trade union, which is excluded from the work place as a collective institution, also needs to be able to mobilize support for its higher level wage negotiations. Separated from work-place wage determination, it has to be able to mobilize its members during negotiations, and then leave them to demobilize after their conclusion.¹⁰ This alternation between periods of activity and complete inactivity makes the machine a difficult one to maintain in a good state of repair. If increased influence of the works council is added to this, the capacity of the trade union to mobilize support is still further reduced.

The main consequence of this is likely to be the weakening of the institution that negotiates the rates which serve as the base for the works council deliberations. In the short run this may not have any major impact as there is no reason why some gap between rates and earnings should not be tolerated. In the long run, however, the division is likely to exercise a restraining influence not just on the levels attained by rates, but also on the level of earnings. As the gap between rates and earnings increases, the stronger becomes the case put by management to the arbitrators that the council's demands bear little relation to the industry agreement they are supposed to be translating.

There is an additional reason why a large gap between earnings and rates might become unacceptable and for this we need to return to the nature of the minimum rates. In any region the firms in the same industry are unlikely to be equally strong and in order to maintain employer unity in face of the trade unions, no employer's association is likely to allow rates to be set at such a level that the weaker firms are eliminated. This means that the minima will be heavily influenced by the conditions prevailing in the weakest firms. It is in these firms that the ability of the works council to lean on earnings will be the weakest, and this will tend to create a widening of differentials between firms within the same industry. It is likely that in a period of incomes policy and pay norms political limits will apply to the acceptability of such differentials. One reason for this is that trade union influence will be relatively stronger in these firms because of the relatively weaker position of the works council. In order to defend the interests of these workers, the union itself might be expected to question the increasing differential and raise it in government circles.

Bergmann, Jacobi and Muller-Jentsch have argued that the strategy followed by the unions since the war has led to the kind of lost opportunity on the wages front that we have suggested.¹¹

Most of the argument so far has attempted to show how the rigid separation between areas of 'industrial peace' and 'industrial warfare' and the concomitant neutralization of the trade union in the work place has resulted in material disadvantage to trade unions in representing the interests of their members. The argument has been mainly conducted in terms of the effect on wages. It is arguable however, that the disadvantage is not restricted to wages. Running through the whole discussion has been the question of the weakening of the capacity of the unions to mobilize support for their claims as they have formulated them. There are other areas in which the distance between the union and its members is prejudicial to its ability to develop their demands.

The neutralization of the trade union within the works means that in any set of issues subject to 'codecision' the union is powerless not only to put pressure on the council to go for a certain decision which would for example lead to the establishment of a 'common rule' across firms within an industry, but it is also quite unable to assist the works council as a collective organ in its dealings with management. This means that it is unable in codecision areas to help the works council to push back the frontier of control. As the ultimate sanction is legally enforced arbitration, this means that in practice the legally defined frontiers are unlikely to move a great deal.

Separation of 'works community issues' from 'managerial issues' – the works council and the supervisory board

Once again at first sight the distinction between the issues which concern the works community (the Belegschaft), and issues which require managerial type decision-making seems a sound basis for the division of labour between institutions. Indeed, if we follow the findings of the Biedenkopf report,¹² this arrangement works very well as it gives the workers some control over issues which concern them directly, affects the firms' capacity to respond to changes in market conditions only indirectly, and leaves management with a fairly free hand to manage.

On closer inspection, however, this division too reveals itself as a way of containing potential collective pressure from workers on the frontier of managerial control. To see why this is so it will be useful to look at the distinction between 'codecision' and joint decision-making.

The reader will remember, following Sellier's analysis, that 'codecision' involved an obligation to reach agreement on certain issues. Can such an arrangement serve as the basis for managerial decision making? The answer hinges on the way the area for agreement is defined. The logic of 'co-decision' is that failure to reach agreement should be covered by arbitration. The first weakness of arbitration as a means of reaching a managerial decision is that it is first and foremost associated with questions of distributive justice. Managerial decisions are first and foremost related to the choice of an effective course of action and are only secondarily related to questions of distributive justice through the possible consequences of the decision. Issues like closures are obviously in the grey area between questions concerning distributive justice as the workers' investment in their jobs is also at stake, and those requiring action oriented decisions.

There is, however, a second weakness in arbitration which makes it inappropriate for reaching decisions on managerial issues, and this is that arbitration is a process designed for choosing a compromise on a scale whose extremes have been set by the demands of two opposing parties, and that it can only work where the two limiting propositions are defined. On questions

of pay, fringe benefits, or even of the extent to which a new training scheme should be developed, it is possible to apply arbitration. On the other hand there are no such obvious limits on a programme of investment or for decisions on marketing strategy.

So far the argument has been conducted as if there were but one kind of managerial decision. In the industries covered by the 'qualified' and in those covered by the 'simple' forms of codetermination, two levels of managerial decision-making are recognized. In the 'simple' industries (those covered by the 1952 Works Constitution Act) until 1976, there has been only worker representation on the 'supervisory board' (Ausschussrat), and this was limited to one-third worker and two-thirds shareholder representation. The new Act passed in March 1976 and which came into force in July¹³ brings the strength of worker representation much closer to that of the 'qualified' (coal and steel) form of codetermination. There is to be equal numerical representation of shareholders and employees. The composition of the employee representation has, however, been carefully designed so as to prevent the numerical equality from becoming a qualitative one. The employee side is composed of representatives of the different classes of employee elected by separate colleges for wage earners, ordinary salaried staff and for senior management staff (the so-called 'leitende Angestellte'). Trade union employee representatives are introduced being elected by the combined employee electoral colleges. The 'parity' codetermination is first weighted in favour of the shareholders by the presence of senior management staff among the employee members. It is further weighted by the position of the chairman who is in the last resort elected from among the shareholders and who in the event of tied votes on the board can exercise his casting vote (that is he has two votes in cases of deadlock).

In the 'qualified' codetermination industries (those covered by the 1951 coal and steel Codetermination Act) there has been 'parity' representation on the supervisory board since 1951. In large firms there are five employee and five shareholder representatives, together with the famous 'eleventh man', the chairman, whose nomination lies in the hands of the shareholder representative, although his election requires the support of at least three of the members from each side.

In both types of codetermination we can see that the division results in a concentration of worker strength on issues covered by codecision rights with participation from a much greater distance at the level at which worker representatives might have a chance to influence decisions on managerial issues.

The distance from which workers participate is still greater when it comes to the activities of the management board (Vorstand). Since 1 July 1976 the system of 'labour' or personnel directors (Arbeitsdirektor) has been extended to the whole of German industry. The labour director sits on the management boards as a member with equal rights (except in some firms on questions of wage negotiations), but as a 'director' he forfeits all representative or delegate status. Moreover, what influence the worker representatives might have on managerial issues is further limited by the fact that their representation does not reach the kind of issue that would perhaps gain more active shop floor support. It is hard to maintain a high level of mobilization of support for particular investment issues whose effect on individual work groups is hard to predict and which may take a long time to come into effect. However, the areas of managerial decisions which might act as centres for

works mobilization, like the organization of the production process, the allocation of work, the introduction of limited scale technical innovation and other issues which affect work organization, are dealt with among the tactical managerial decisions by the management board on which the workers have no direct representation owing to the special status of the labour director. We have spoken of the 'neutralization' of the trade union within the place of work. We might also speak of the 'neutralization' of the works community or 'Belegschaft' in management.

How far is this borne out by the experience of the industries covered by the 1951 Codetermination Act? During the debates leading up to the recent legislation on the extension of codetermination, many trade unionists complained that the eleventh man on the supervisory board effectively gave the shareholders a built-in 6-5 majority. Against this, much of the testimony given to the Biedenkopf Commission, which was looking specifically into the question of the extension of qualified codetermination to the whole of German industry, suggested that most issues were not decided on a 6-5 basis, but that there was usually unanimous voting. As most issues dealt with at this level usually require some support from representatives from both sides, the Commission looked into the further question of block voting and of 'log-rolling' and package-deal practices by the worker representatives. The question behind their investigations was really whether or not these institutions were functioning in a spirit of 'social peace and trustful co-operation', or whether they were functioning more like an American senate committee. The answers they received suggested that the first rather than the second situation operated in practice. The fact that closures have been the thorniest issues is quite a good test to apply to the significance of this apparent co-operation on the supervisory board. In contrast to the rather diffuse and long term effect of changes in the level of investment, partial or total closures are issues on which shop-floor support can be fairly easily mobilized, and where the neutralization of the work-force in management decision-making has in practice been overcome. It is also true that on questions of redundancy (at least since the modifications to the role of the works council introduced in the 1972 Works Constitution Act) the works council is directly implicated as it must work out a 'social plan' (Sozialplan) in conjunction with management representatives which details the procedures to be followed and the compensation to be paid to individual workers. With a potentially permanent minority on the supervisory board and no real means of mobilizing support among a work-force already bound to 'social peace', it would be difficult for the worker representatives to conduct any systematic opposition to the shareholder representatives, and so one would expect voting not to take the form of a 6-5 majority, on the principle that no one engages in battles they cannot win, as successive defeats only bring discredit.

The changes newly introduced into the management structure of the 'simple' codetermination industries therefore appear to concede as much as possible to union demands for full equality of representation without actually altering the balance of power that was meant to be achieved through full parity. In both 'simple' and 'qualified' industries, employee representatives remain in a position in which it is impossible for them to win any direct confrontation with shareholder representatives because of the weighting of the voting procedure. It is thus possible for the employees' side to lead a successful co-operative strategy, but extremely difficult for them to develop one that might require any form of show-down.

The works council is similarly bound by its 'peace obligation', the use of arbitration and a clearly defined jurisdiction. Its jurisdiction is quite distinct from that of the management and the supervisory boards, and it is as ill-placed to exert pressure in support of employee representatives on the supervisory board as they are in their turn to support the works council. The structure of works councils also makes it difficult to 'redefine' issues in a way which may be more favourable to the employees.

Thus in both industries with simple and qualified codetermination the two principles of 'codecision' and of 'participation in decision making' are so constituted that they form separate frontiers of control between which there can be little *rapprochement*. Once again, worker representatives are obliged to work at a distance from the shop floor and are very much hampered in their ability to mobilize shop-floor support to help them press their side of the argument.

Separation of negotiation and decision-making

The third kind of separation of frontiers of control we shall look at applies mainly to the industries covered by the 1951 Codetermination Law. It will be remembered that in these industries there was parity representation on the supervisory board, usually giving the workers five representatives. Whereas the union was entitled to only one of the three worker representatives in the simple codetermination industries until the change in the law in 1976 it is now entitled to three of the five worker seats under qualified codetermination. Trade unions have taken good advantage of this possibility. In about 80 per cent of the relevant situations investigated by the Biedenkopf Commission, unions held at least two of the seats. This contrasts sharply with the situation in the industries covered by the Works Constitution Act (simple) in which about 90 per cent of the firms had no external trade union representative on the supervisory board, (in these industries most of the representatives were internal ones who may well have been individual trade union members).

One of the questions investigated by the Biedenkopf Commission was how far the organs of collective bargaining overlapped and 'interfered' with the management decision-making process. The Commission found that there was little ground for this fear expressed by the opponents of any extension of codetermination. It is not difficult to see why the trade unions were 'playing the game' so much according to the spirit of the rules. This is because once again the neutralization of the agency appropriate to one level at all the others permits it to act co-operatively but makes the pursuance of a combative strategy very difficult.

There are two directions in which a combative strategy might work for a trade union: it might use a withdrawal of co-operation on the supervisory board as a means of furthering a set of union wage negotiations; or it might use collective action as a means of putting pressure on the other supervisory board members in order to win concessions.

The first strategy is a very difficult one to co-ordinate. It would require that a sufficient number of important issues as coming before a sufficiently large number of supervisory boards for there to be a bargaining counter in the first place. Next the union would have to set about co-ordinating the action of each individual team it had on the board. Such action would be unconstitutional as the codetermination institutions are legally supposed to work in a spirit of 'social peace, and trustful co-operation'. The need to

co-ordinate such a large number of individual boards would mean that keeping the campaign a secret would be extremely difficult, and without the secrecy it is hard to imagine that counter measures would not be taken. In any case arbitration can also be used for collective bargaining, and the ultimate arbitrator is the state.

The second strategy is equally difficult though for a different reason. First of all, the demarcation between the various functions of the institutions is a legally established one, and as a result cannot be changed by straight forward collective bargaining. Might it be possible say for an industry to establish a collective agreement on some of the substantive issues covered by the supervisory board? The difference in levels of action would prevent the collective bargain applying to an individual case of disagreement on a supervisory board. On the other hand, issues which apply to a large number of firms within an industry, for example the long term run down of the coal industry and the associated problems of retraining are in any case better dealt with at an industry level.

Because the union cannot mobilize support in an individual works place in support of a claim, it is more or less condemned to confine its collective action to the industry-region level. Its presence on the supervisory board on the other hand is not a collective presence and its action is more that of a workers' agency than that of an instrument of conflict and collective demands. Its neutralization on the shop floor prevents it effectively from bringing extra pressure on the supervisory board.

Much the same kind of analysis can be made for the worker director who is also hemmed in and neutralized as regards the pursuance or the support of any kind of conflictual strategy.

Trade union policy and the neutralization of work-place action

In their study of trade union wage policy in the Federal Republic since the last war Bergmann, Jacobi and Muller-Jentsch outlined two alternative strategies open to trade unions operating in a modern capitalist society: the 'conflictual' or 'combative', and the 'co-operative' strategy.¹⁴ One might characterize them by saying that the conflictual strategy was aimed at improving members' situations relative to that of other sections of the community, notably those elements deriving their income from capital, while the co-operative strategy aimed at improving members' situations by pursuing economic reconstruction and growth. The first is best pursued by unrestricted collective bargaining and the maintenance of a high level of mobilization of the membership, while the second is best realized through a policy of co-operating with government economic plans, particularly in the counter-inflation and labour redirection areas. Given the overriding imperative of post-war reconstruction, followed by the onset of the Cold War, the situation of the trade unions was politically very delicate. The onset of the 'Cold War' wiped out much of the advantage that the labour movement had gained from the defeat of the Nazis and the flight of those owners of capital who had become too closely implicated with Hitler. For this reason the adoption of a co-operative strategy is not hard to understand. How far this is responsible for the development of 'top heavy', 'bureaucratic' unions, often accused of being out of touch with the rank and file, and inadequately defending members' interests is hard to say. The burden of the argument of the last few pages, however, points to an equally important factor, which is that the structure imposed upon the frontiers of control neutralizes collective action in the work-place and makes the pursuance of a combative strategy much

more difficult. There are signs that the unions are becoming aware of the problems (although their reaction to the study by Bergmann and his colleagues suggest that either they disagree that the co-operative strategy has gained less in recent years than the combative one, or that there is a sufficiently heavy accumulation of interests within the union bureaucracy closely tied to the type of strategy which has been pursued).¹⁵ These signs are the development of the 'Betriebsnahe Tarifpolitik', the growth of a system of union shop stewards, and the eruption of wildcat strikes. Each of these in their way can be seen as attempts to overcome the neutralization of the work place, and to break down the barriers separating the different frontiers of control.

'Betriebsnahe Tarifpolitik' The essence of this form of wage policy is to break down the gap between the level at which the union negotiates wage rates and the level at which the works council, bound by codecision rights, converts these into earnings. The policy was designed to take advantage of the way in which the law allows only the union to represent workers in wage bargaining, while employers can either be represented by their employers' association, or bargain on their own. The idea is that the union should bargain in the normal fashion with the employers' association over the terms of the cloak agreement (Mantel-tarifvertrag) but that this should include special clauses (Offnungsklauseln) specifying certain issues which are to be decided by bargaining at the company level. Such a procedure differs from the usual 'codecision' process, as it is the union rather than the works council which is party to these negotiations.

Such a system is held by its proponents to have a number of advantages. It would shift much of the work of bargaining down to a much lower level in the union structure, thus decentralizing the process. It would reduce the role of union 'experts' in determining wage policy, and make more room for pressures from the membership. Furthermore, being independent of the time-scale of the 'cloak agreement', local company agreements could, in theory, be more quickly revised, thus releasing some of the kinds of pressure that built up before the 1969 'wildcat strikes'. Finally, it is argued that such a policy would, by involving the membership more actively, lead to a more responsive form of representation, and to a strengthening of the union organization at the base. For the proponents of the policy, the union stewards (Vertrauensleute) and their organization (Vertrauensleutekörper), which will be discussed shortly, were to play a vital role in this form of 'articulated' union bargaining.

The policy was first developed in 1958 by Salm¹⁶ at the annual conference of I G Metall, although its history has since then been less than glorious. There have been two main sources of opposition: the employers, and the works councils. The employers saw the advantages the unions could derive from such a policy and so opposed it very strongly in the wage negotiations; and no doubt the opposition of the works councils to a shift of power back from themselves to the unions left the latter in a weak position to mobilize support to overcome the employers' resistance. There has been a limited development of this policy, but the problem remains. As the unions increase their hold on the council they may succeed in extending the policy, but they may also simply transform the problem from one of transfer of power between two organizations into one of transfer of power within the same organization. Luttringer, in a personal conversation, has assured me that the policy also still remains very much associated with the left wing of the unions.¹⁷

'Vertrauensleute', or
'union stewards'

The neutralization of the union in the work place has made the mobilization of support for union wage negotiations and the maintenance of the level of union membership more difficult than it might have been. With I G Metall taking the lead, the system of union stewards was set up, or rather revived in the 1950s. The stewards are closely tied to the union both by the fact that they are elected by union members within the company, usually according to their workshop, and by their dependence upon agreement between the union and the employers' association for the freedom to exercise their functions. As a rule, the union stewards are quite different from British shop stewards. For example, although I G Metall guidance for stewards, and the 1969 collective agreement for the metal working industry gives them the right to represent individual employees' grievances to management, their functions do not extend to bargaining. They are mainly restricted to a job of maintaining information flows between their work group and the union and works council, and of recruitment and propaganda.

However, if the general reason for the unions' decision to develop their steward organization was to strengthen their representation on the shop floor and to overcome their weakness in the pursuit of their wage policy caused by their distance from the shop floor, the precise nature and the urgency of the situation each one faced was different, and this has led to a number of different responses. Jacobi¹⁸ argues that I G Metall, faced with a long term problem of a high turnover and gradual decline of membership (which lasted from the late 1940s until the mid-1960s when their policy began to take effect), has given a much more restricted status to its stewards than I G Chemie, which was suddenly made aware of its weakness by the failure of the 1971 chemical workers' strike. The underlying weakness of I G Chemie was twofold. It was weak in the relatively new sections of the industry, and even weaker among the white collar section which made up nearly half of the work-force. It was also a victim of the earlier prosperity of the industry which had enabled the employers to pursue a policy of treating the works council as a privileged partner, creating a situation in which the gap between the minimum rates determined at the industry level and the effective earnings influenced by the works council was second only to that of mechanical engineering.¹⁹ Its response to this was to set up a more vigorous steward organization so that the stewards now form the intermediate echelon between the work place and the area conference, and are the people who elect the delegates to it. In I G Metall they have no such constitutional basis for influencing union policy. However, in neither union do stewards as such have any major say in wage policy which continues to be determined at a much higher level. What the unions needed was to counter the employers' strategy of driving a wedge between the frontiers of control, and thus to set up some instrument to prevent the whole work-force from deserting union activity in favour of the works council, bound as it is by the peace obligation.²⁰ Officially, stewards have not been given any more power than would enable them to fulfill this function. However, institutions rarely function in exactly the way they were designed, and whatever the intentions of the group responsible for setting them up, other groups are bound sooner or later to recognize their potential for the achievement of other ends.

Another aspect of the union steward's functions is reflected more in the debate over the extension of the system. Teigelkamp²¹ quotes the union leader Brenner²² who saw one path for development in terms of the areas now covered by the peace obligation for the works council. The stewards, with no legal status, would not be bound by the obligation in the same way, and so might further union demands within the work place which the council

itself would be unable to touch. This leads on to the third union strategy for breaking down its neutralization in the work place, that of the 'unconstitutional' or 'wildcat' strikes, in which the stewards have been quite active.

'Spontaneous' strikes and the peace obligation

What is the significance of the 'wildcat strikes'?* Do they, as Pierre Waline²³ maintained, arise from the actions of communist agitators who are disrupting an otherwise smooth working set of industrial relations institutions? Are they, as Michael Schumann²⁴ and his co-researchers asked, the sign of the beginning of the reconstruction as a class of the German working class weakened by the slump of the twenties and broken by Hitler? Are they a revolt against over-centralized and unresponsive trade unions or are they part of trade union strategy itself?

The main piece of empirical research in this area is that undertaken by Schumann *et al* which was mainly focused on the 'September strikes' of the autumn of 1969. However, a fair testimony to rely on is that of Markmann²⁵ of the Deutscher Gewerkschaftsbund who wrote that 'wildcat' strikes were both less dramatic and more widespread than usually recognized. They tend to go unrecorded because of their 'unconstitutional' nature, and because of their usual short duration. They are also quite varied in nature. Eberhardt Schmidt²⁶ gives a useful classification of them, supporting each with an example. They can come in support of a union wage claim (constitutional strikes are rather unwieldy); they can be against the union for an inadequate wage settlement, (as occurred in 1969); they can occur as part of a conflict within the place of work (the two cases Schmidt took bore on the support of works council negotiations with management and were 'organized' by the union stewards); they can occur over layoffs and closures, and in these the council can also be active; they can occur as protests by groups within the 'Belegschaft' – Schmidt gives examples of strikes by immigrant workers, and by apprentices, both which are heavily under-represented in the normal institutions; and finally they can be party political in origin, as were the strikes in 1972 in support of Brandt and Scheel²⁷ who faced a vote of no-confidence brought about by Strauss and Barzel.²⁸

In spite of the rather *ad hoc* nature of this classification something of the nature of the strikes can be seen. First of all, it is clear that they do not make sense if they are seen as the result of East German 'communist agitation'. They appear to be closely related rather to trade union policy, or to the inability of the representative institutions adequately to represent the interests of their electors. The importance of the union stewards also shows up. In the first case, support of union wage negotiations, the co-ordinating role is not hard to see. In the second, that of strikes against inadequate agreements, their role may seem less obvious at first. If we take, however, the case of the 1969 strikes, it begins to appear. The unions in the coal and steel industries had concluded an eighteen month agreement in the depths of the 1966-7 recession and the following boom had seen profits rise very rapidly while the union was bound by the unfavourable long agreements. The union was unable to act, and so pressure was released by spontaneous shop floor action organized by stewards, and in one of the firms examined by Schumann's team by the works council chairman.

* The terms 'unconstitutional', 'wildcat', and 'spontaneous', all of which are used in this context are not sociological concepts so much as concepts defined by the negation of the kind of strike allowed by German industrial relations law.

The unions reacted quickly, and the employers agreed to reopen negotiations.²⁹ The unions are unlikely to have reacted so quickly and so favourably had they not been at least to some extent implicated in the spontaneous action.

In support of issues arising within the place of work the union stewards reduce union neutralization in two ways; they link the union to the work place, and they link the union to the actions of the works council. It was in this area that Markmann saw much of the importance of the unrecorded 'Warnstreiks' or short sharp warning strikes.³⁰ They remain generally unrecorded, and according to Markmann the employers very seldom went as far as prosecution. The threat of this, however, must surely be a limitation on the effectiveness of this method.

In the case of spontaneous strikes by particular groups of workers within the firm, the situation is harder to assess. The stewards are 'union' stewards and not 'shop' stewards in that their relationship is not to the individual work group, or shop, but to the union in the work place. Their constituency is therefore more general, and their relationship to individual groups less organic than would be the case for example in this country. Immigrant workers, coming often from countries with a much 'lower' degree of institutionalization than is to be found in Western Europe may not in any case be prone to adopting institutionalized forms of conflict. Much the same might apply to apprentices who will also be 'apprentices' in trade union methods.

The conclusion to be drawn from this very brief outline of the question of spontaneous strikes is that they are not uniformly the result of a trade union policy to bring together the frontiers of control separated by the law, and the employers' measures to see to the enforcement of the law. It is, however, quite clear that without the penetration of the work place provided by the union stewards union involvement in such measures would be quite impossible.

Conclusion

To conclude this section, it seems clear that the system of codetermination found in Germany is only indirectly concerned with democracy in any representative sense, but in so far as 'control' and its distribution is at its heart, it is made of the very stuff of democracy. It has been argued that the institutional structure of codetermination is democratic in form, but that its reality is more concerned with the stabilization of the existing distribution of control between employers and employees and in particular with the binding of trade union strength so that it operates outside rather than inside the workplace. The imposition of this weakness on the union has the effect of enabling it to follow what might be called a strategy of 'co-operation' with management, while making the aggressive defence of its members interests more difficult. This has been lessened to a considerable extent by the success of the German economy since the war, but there is some evidence to suggest that the situation of the German worker varies more sharply over the fluctuations of the trade cycle than in a country in which the union is freer to make the employer bear more of the cost of the falling off of economic activity.

Consideration of the lessons to be drawn from this analysis will be left until after a discussion of the French and British experience.

France

'La législation est comme la monnaie. L'Etat ne peut la mettre efficacement en circulation si la société la refuse'. F Sellier (1961).

Introduction

In contrast to the situation in the Federal Republic, that in France is much further from the pattern laid down by the law. In the preface to one of the few recent pieces of empirical research undertaken on collective bargaining and work-place representation in France, Yves Delamotte³¹ wrote that the legal description of institutions was a very poor guide to the reality of work-place industrial relations. In the same vein, one of the most striking aspects of the Sudreau Report on company reform was that instead of producing proposals for new forms of worker representation, it recommended that the existing legislation should be applied more rigorously. It is just unimaginable that the Biedenkopf Commission should have come up with a similar proposal. Sellier's well known comparison of legislation with currency, which also needs to be accepted by society if it is to work, was occasioned by this state of affairs.³² As might be expected, therefore, the division of the frontier of control in France corresponds much less to particular kinds of decision-making right and more to the kind of actor recognized by the successive phases of legislation.

The nature of these phases also helps to explain why legal norms should offer a less accurate picture in France, or why, in other words, 'society' is less disposed to accept such laws in France as opposed to Germany. The three main phases were the Popular Front of 1936, the Liberation and the period of the late forties, and the months following the 'May events' of 1968. These periods led to the recognition in 1936 of the 'délégué du personnel' a sort of works steward, to the re-establishment in 1946 of the steward system and the setting up of a system of 'works committees' (comités d'entreprise), and in 1968 to the recognition of employees' right to set up a union branch within the work place (sections syndicales d'entreprise) and to the use of certain facilities to help its activities.

Each of these periods was accompanied by a major political crisis, and the legislation was the result of pressure from a temporarily highly mobilized labour movement. It is hard to say whether the exceptional nature of these periods of mobilization is due to the political pluralism of the labour movement in France which offers as an alternative to the united social-democratic movements of West Germany and Britain, a trinity of communists, socialists, and radical catholics.

It seems likely, however, that such pluralism is an obstacle to the kind of unity that allows the construction of more or less united institutions like the German Sozialdemokratische Partei Deutschlands (SPD) and the Deutscher Gewerkschaftsbund or their British equivalents, the Labour Party and the Trades Union Congress. French political scientists such as Maurice Duveger

have often lamented the failure of French political life to develop the system of two major parties which alternate between periods of government and opposition, and the apparent consequence that the opposition only reaches power in times of crisis.³³ The absence of a regular opposition and of a united trade union pressure group may go some way to explain both the building up of pressure leading to occasional 'explosions', and why the law is so unevenly enforced. If one social group concedes a law to another in a time of crisis, it is likely to be less insistent upon its enforcement, and to do less to sell it and to follow it up if the opposition coalition breaks up and loses its capacity to exert strong enough pressure. This seems even more likely if the change of law would cost very much to the group behind the governing party or coalition.

Conceded in a time of crisis these laws may have been, but this does not make them unconditional surrenders, and prevent their content from representing a subtle balance of forces, and most importantly from bearing the mark of the employers' determination not to give way too much. Right up to 1968 the presence of the union in its role as a collective institution (as opposed to its presence through its individual members) was bitterly opposed by nearly all employers who wanted to maintain the workplace as neutral territory in social conflict, or to put it more accurately, who wanted

Table 3 The clustering of issues in France

Cluster of issues	Type of actor	Body represented
<i>Labour market issues.</i> Industry minimum rates for each grade.	Trade union.	Workers on same labour market – ie same regional or grade basis in a particular industry.
<i>Job conditions.</i> Questions of individual job and skill classification, working conditions, individual earnings and related questions.	Délegue du personnel works steward.	Individual or group affected by a particular grievance.
<i>Socio-economic issues.</i> Social facilities. Welfare, health and safety. Examination of redundancy, training and work condition proposals for change.	Comité d'entreprise works committee.	Works collectivity, or community.
<i>Status of union representatives and union rights.</i> Representation, status of worker representatives and of TU delegates. TU activities, and TU defined group issues.	Section syndicale. Trade union works branch.	Workers as members of an external collectivity, the trade union.
<i>Managerial issues.</i> Mostly undefined and claimed as part of undivided managerial prerogative.	Management.	Employer and the rights of property.

to 'neutralize' the trade union in the work place. Essentially the main pre-occupation of the employers' side appears to have been to maintain this 'neutralization' of the union in the work place and to circumscribe the rights of each successive institution recognized, so that they each stand on a separate 'frontier of control'.

The main lines of the division are represented in Table 3 showing how the separate clusters of issues are related to different types of recognized actor, and to the type of body represented.

To study the operation of this incomplete system, or collection of super-imposed systems as Reynaud has called it,³⁴ we shall look first at the significance of the separation between the determination of wage rates and earnings in terms of the maintenance of the integrity of the employer's area of control. This will be followed by a consideration of the division between the representation of individual grievances and the interests of the works collectivity, and the problems of union support.³⁵ As in the case of Germany, it will be possible to look at the strategies pursued by the unions in their attempt to break down the division and in particular their attempt to establish the union works branch as the key representative institution in the work place.

The division between wage rates and earnings.

As in Germany, the main level of trade union wage negotiation is that of the industry by region, or the occupation by region. These agreements, as in Germany, cover minimum rates, and bind only those who are members of the unions which have signed. As in Germany, the employers have been generally unwilling to cede control over wages to trade unions, but have stood much more rigidly by the principle of the complete autonomy of the individual company in the determination of earnings. One might say that the French employer's firm is his castle.

The immediate post-war incomes policy in France produced much the same kind of wage gap between rates and earnings as existed in Germany. This had an inevitable impact on the relative importance of the processes of fixing rates and earnings. The question of union influence on earnings thus became a crucial issue in the struggle of the French employers to restrict union power within the firm. This showed up in two earnings related questions which came to be the subject of much debate, involving productivity bonuses and arbitration.³⁶

Productivity bonuses

The question of productivity bonuses came into importance partly because the government was keen to disengage itself from post-war wage controls, and partly because the encouragement of increased productivity was in line with the growth strategy outlined in national economic planning. The employers' position was an interesting one. They were not totally opposed to the principle of linking remuneration to productivity, although the logical implications of this led them effectively to oppose any policy based on this principle. The key to their attitude lay in the fact that any agreement on productivity-linked pay increases implied some form of monitoring control – the other party had to be content that the figures given were genuine. This would give worker representatives access to areas of management control which the employers found unacceptable. There remained the possibility of a unilaterally administered system of productivity bonuses (perhaps agreed

between employers). The problem then remained of which measures of productivity it should be linked to -- increases in gross national product or in the firm's output. Both of these levels of measure were seen as inappropriate to the levels at which 'agreements' were made or declared unilaterally. National productivity measures would be automatically unfavourable to certain regions and certain firms, and the adoption of firm based measures, given the exclusion of union or worker monitoring, would mean that there were no fixed or definable criteria in operation. All in all, moves to introduce productivity bonus schemes never succeeded because of the opposition of employers to any right of access being granted to worker representatives to their area of control.

Arbitration

The second issue was that of arbitration. There were two relevant laws on this subject, one passed in 1955, and another, revising the first, in 1957. The first law had proposed that arbitration could bear on earnings levels rather than just minimum pay scales. Again, the thorny question was that of the assessment of management's ability to pay and the different kinds of control implied if the award were to be based on earnings rather than rates. Earnings were as has been noted, a company phenomenon, and rates an industry-region one. To assess the ability to finance a certain level of earnings requires a monitoring system that extends into individual firms, while the ability to finance a set of minimum rates only requires monitoring at the level of the industry or region. The first law was vigorously opposed by the employers, while the second became a useful weapon in the face of an onslaught by the unions on the wages front. Arbitration became a way of breaking up the later union offensive and preventing particular set-backs from being generalized.

Many writers have commented on the passion of French employers for secrecy. It seems, however, that secrecy is not an end in itself so much as a means to another end, that of dividing up the frontiers of control on which the work-force have to act, and of keeping the unions weak by depriving them as far as possible of influence in the core of industrial relations -- the work place.³⁷

Company agreements

There have, however, been a number of company agreements, and it is worthwhile to look at one or two of these to see how they do *not* in fact contradict the general policy of the neutralization of the work place. The archetypal company agreement was that concluded by Renault in 1955 as part of a move to stem the considerable gains made by the unions earlier in that year at Nantes and St Nazaire. The agreement was aimed at maintaining and improving the buying power of the workers' wages and at linking wages to productivity, and in opposition to the earlier practice of Renault, the 'agreement' was not unilaterally imposed, but made bilaterally. Both parties were formally bound: the employers to follow the agreement and the unions to exhaust all possibilities before resorting to direct action.

The agreement broke down, however, because the unions came to see that the employer had in fact given away very little. The crucial element in any such agreement is the control of the link between the cost of living and productivity. On the cost of living a joint commission was set up, but decisions about when its recommendations should be implemented remained in the

company's hands alone. As for the productivity linking, there was no direct commitment by the employer to the application of this.

A wave of about fifty such agreements came in the twelve months that followed, these occurring mainly in the large companies. Peugeot concluded an agreement which was of a more bilateral nature in its administration than the Renault one, as the principle of joint monitoring did extend to the productivity clauses. In contrast, the 'agreement' at Dassault illustrates the unilateral principle pushed to the extreme. Dassault, after failing to reach agreement with the unions, decided to pass over their heads and propose its terms directly to its employees and to organize a postal referendum. The administration of the 'agreement' was to be completely unilateral and no provision of any kind was made for union representation. To call the terms an 'agreement' may therefore seem rather odd, but as Sellier explains, the use of this term hung on an ambiguity in the law which allowed the employer to conclude an 'agreement' with the collectivity of individual employees.³⁸

Sellier notes in addition that truly bilateral agreements of a less visible nature were made in a number of smaller firms, but the fact that only about fifty were concluded suggests that their extent was not very great. It remains true, however, that the existence of company agreements did not really threaten the area of control that French employers had been trying to maintain.

The fact that French employers have managed to maintain their position on the wages front is important for the understanding of the division of other frontiers of control. These concern the works stewards (*délégués du personnel*), the works committee (*comité d'entreprise*), and the trade union section (*section syndicale*).

Individual grievances and the works steward

To understand recent pressures developed by the trade unions, it is best to start by looking at the way the frontiers are divided when the union is effectively excluded from the work place. This is not unreasonable, as the existing laws governing union activity were not simple trade union creations, but rather compromise solutions reached under political conditions very unfavourable to the employers in 1938, 1945-6, and 1968. The recognition of works stewards and works committees were certainly retreats from the absolute principle of managerial prerogative, but a retreat from a very advantageous position is certainly not a rout. That the development of the steward and committee systems was not an unequivocal set-back for the employer, is borne out by the support which Bachy and his colleagues found for the hypothesis that employers often sought to activate these institutions in the face of threats of trade union penetration.³⁹ Like the German employers in the chemical industry who saw the development of the works council as a means of isolating the union, French employers have tried the same tactic. We therefore come to the question of knowing how it is that these institutions come to be considered a lesser evil, and how they can be used as an obstacle to the development of trade union representation.

Works stewards

From the workers' point of view the installation of a system of works stewards in 1945-6 was certainly an improvement on previous procedures for representing grievances which generally involved individual approaches to the foreman, or individual audiences with 'le patron'. According to the

law of 1946 the function of the steward was to 'represent to the employers all individual or collective grievances which have not been directly satisfied concerning the application of wage rates, job classifications, the labour 'code', and all other laws and regulations bearing on safety, hygiene [and] social security . . .'. The stewards are elected by one of two electoral colleges; one for manual and clerical staff, and one for managerial and technical staff. At first the system was not dissimilar from the British shop-steward system as stewards were chosen by a majority vote, and as one union usually had a clear majority in either college this allowed some kind of representation for the different workshops. This system, however, greatly favoured the strongest union confederation, the Confédération Générale du Travail (CGT), and the political tendency dominant in it. As a result, whatever the merits of the system in providing a means of linking the steward to his workshop, it was unpopular both with the minority unions (particularly Force Ouvrière after its secession from the CGT in 1947), and with the employers and other sections of French society who felt alarmed at the strength of the Communist Party on the shop floor at the onset of the 'Cold War'. As a result of these pressures, a system of proportional representation by list was installed. The link between the steward and his workshop was further weakened by the fact that although the unions maintained the right to present the lists in the first round, and the right to ask for the recall of any of the stewards they had proposed, the college remains the constituency, and thus the body which may exercise the sanction of recall. Moreover, this lack of an 'organic' contact with the work group has not been compensated by any special institutional provision facilitating contact between the stewards and those whose grievances they represent. Indeed, it has been argued that stewards frequently find it easier to see management representatives than their own constituents.⁴⁰

Such arrangements seem likely then to weaken the combativity of the workshop, as the organic link between the steward and his group is stretched. Two modes of action remain open to the steward depending on whether the grievance is an issue of law or of interpretation of an agreement. In the first case he can refer directly to the factory inspectorate. The second is a matter of continuous bargaining. If no action is taken by the employer then the steward has to wait until there is a sufficient accumulation of grievances in order to resort to some form of industrial action — although he is not hampered as in Germany by the presence of a peace obligation. The fact that he has to wait for an accumulation of unsettled grievances before any action can be taken, however, is perhaps a sign of an inability to mobilize support easily and to grade his responses to lack of satisfaction from management.

Works committee

The works committee expresses the philosophy of the works community and consists of a number of elected representatives brought together around the employer. It differs considerably from the German works council as the French employers have not conceded any form of codecision on questions affecting the determination of earnings. In this respect the committee does not act as a potential rival to trade unions, and does not really offer the danger of an alternative focus of loyalty. Reynaud⁴¹ attributed two main functions to it. The first is that of running the social and welfare facilities of the firm. Recent legislation on such subjects as training (*la formation continue*) has been designed so as to favour the development of the committee, as it was part of government policy in this area to promote a more stable system of industrial relations. (This first function of the committee

may at first seem unimportant, although this should not appear so if we remember the importance of 'paternalism' in many French companies. In their book on the Confédération Française Démocratique du Travail (CFDT), Maire and Julliard explain how hard the union federation had to fight at Michelin through the 1950s, using a mixture of collective and legal pressures, to get the company to hand to the works committee the administration of the considerable system of social benefits that it had set up in accordance with the law.⁴²) The second function is that of 'sorting' conflicts, picking out those that can be settled on the spot, and passing on any which seem to call for outside assistance to the relevant negotiating agency.⁴³

How then can the works committee act as an obstacle to trade union penetration and to the bringing together of the frontiers of control? Again, it seems that it acts as an obstacle to the union as a collective organization and not to its individual members. The unions after all have the exclusive right to propose the candidates for the first round both of the steward and the committee elections and there is a great deal of overlap between stewards and the union membership. To answer the question we need to turn to the third institution, the trade union works section.

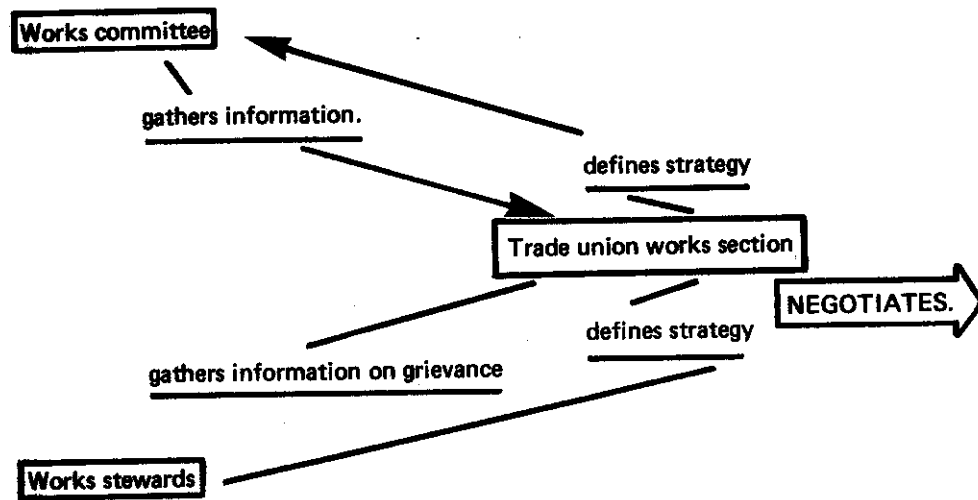
Union works section

This consists of a group of members of a union organized in the same works who may hold meetings, and elect up to four delegates (délégués syndicaux), who, like the works stewards (délégués du personnel), are allowed time off to present grievances to management. Before 1968 the existence of a union works section depended entirely upon the acquiescence of the employer. After 1968, this situation changed, but the change in the law imposed no obligation on the employer to take any notice of the union section. The relationship between the union and the comité d'entreprise remained undefined which has left a peculiar situation in which there coexist two different forms of representation, one of *elected*, and the other of *nominated* representatives. The relationship between these two forms, given the constitutional weakness of the union in the committee structure, might be thought likely to be the object of conflict between the two sides of industry.

It is the existence of just such conflict that Bachy, Dupuy and Martin sought to establish in their empirical study of work-place representation and negotiation.⁴⁴ For present purposes their work covers two important areas; that of the different positions of management and unions on the relationship of the elected to the nominated forms of representation; and that of the extent of plant-level negotiations.

Thus the position of the two main trade union confederations, the Confédération Générale du Travail (CGT) and the CFDT is very strongly in favour of the dominance of the union section over the other elected institutions. Bachy *et al* represent the ideal relationship between the various forms of representation as seen by the CGT in Figure 3.

Figure 3.



The Committee gathers information for the union section and the stewards do likewise with respect to grievances, and channel this to the union section which assumes the task of bargaining. In return, the union section defines the strategy to be followed by the other two institutions. This, however, is only a position of principle, just as the law is a position of principle, and is only of relevance in plants where sections exist, which in 1973 included about 40 per cent of all firms (94 per cent of firms with over 1,000 employees, and 28 per cent of those with less than 150).

Employers have not reacted favourably to suggestions for reform of this kind, and according to Bachy *et al* have sought to activate the elected institutions wherever a threat of union intervention arose.

On the basis of their sample Bachy *et al* sought to define the aims of the principle actors and they crossed three types of union section role with the four industrial sectors they covered. The three roles were:

- (a) the section dominates and co-ordinates the actions of the elected institutions;
- (b) the section gives way before them; and
- (c) there is confusion between the two kinds of representation.

They obtained the following results:

Table 4 Section roles by industry

The employers' aim				The unions' aim			
	(a)	(b)	(c)		(a)	(b)	(c)
Banks	7	4	1	Banks	9	4	0
Metal	4	4	2	Metal	9	1	0
Chemical	1	8	1	Chemical	8	1	1
Commerce	3	6	2	Commerce	6	4	1
Total	15	22	6	Total	32	10	2

On the basis of their sample it seems that clear opposition existed between the employers' and unions' aims.⁴⁵

In the remainder of this section of their study, the authors seek to show that the different situation in the various works is the result of trade union and employer combativity, and not simply the result of firm size or the degree of institutionalization. It is, therefore, an important step in their argument when they find that there is a 30 per cent threshold in the level of employee unionization for employer recognition of the union section. Above 30 per cent management recognize the union section as a useful partner. Below 30 per cent this is not the case. Whether the union section is recognized as a useful partner because it commands enough support to be effective, or whether it is recognized because it is strong enough to impose itself was a question they did not face directly. But the fact that employers tried to discourage the development of sections up to the threshold suggests that it is the latter proposition which applies.

In order to answer our question about the way in which elected institutions can constitute an obstacle to union representation, we need to look at the situation on either side of this threshold. Below the threshold we have to remember that the union is not in a position to represent effectively, and so the case for union representation is not so obvious to employees. Under these conditions the employer can seek to cut the ground from under the unions' feet by annexing as many grievance issues as possible to the elected institutions. In doing this he can chip away at the grounds on which the union would base its campaign for recognition and force the union to make recognition more a question of principle than of bread and butter. But questions of principle may form a weaker ground for two reasons: first it is not easy to mobilize non-members on such issues – the fact that they are not members itself suggests that they are unconvinced as to the general virtues of union activity; and second employees in the plant will probably have had little collective experience of the working of union sections. They will have known the union only through its work through the stewards and the committee, if the union controls a sufficient number of these.⁴⁶

For firms on the other side of the unionization threshold the activation of the elected institution makes less sense.

Recognition of the union section and the formalization of work-place relations

Informality in work-place relations is a double-edged weapon and the way it cuts depends very much on the conditions surrounding it. If we stop to compare the informality of agreements in British work-place relations with the informality associated with the paternalistic setting of the French works committee, it becomes clear that the crucial element is the background of prevailing bilateral or of unilateral control. In France, the background of

unilateral management regulation of work-place relations means that informality is a handicap for the union. It seems reasonable therefore to expect that in firms where the 30 per cent threshold has been passed, the union section will aim to secure the formalization of its dealings with management.

This indeed seems to be borne out by Bachy's research which found little evidence of formal 'agreements' in firms in which there was no union section. Does the development of formal negotiation between union sections and management lead to the kind of works autonomy that contributed to a weakening of trade union representation in the Federal Republic of Germany? And following up on that is a second question, relating to the extent to which the existence of formal agreements might tie the hands of union sections and so 'neutralize' them by drawing them away from the work-force.

The short answer to the first of these questions is that works based union organization is still limited in influence relative to the national level and that the extent of bilateral control is still very limited. In their analysis of company agreements Bachy *et al* found that many of the factors affecting earnings still remained the preserve of management, and so one of the sources of the autonomy of the German works council with regard to the union in wage negotiation remains very limited. In any case, it is still very much more difficult to provoke divisions between two levels in the same organization than it is to do the same between two very different institutions.

The answer to the second question lies in a distinction between general and partial agreements. On the whole the unions have been very reluctant to enter into general agreements precisely because of the dangers they would bring of isolation from the rank and file. They have therefore tended to opt out for partial agreements which cover particular issues negotiated as problems arise. This strategy assists the maintenance of a higher level of rank and file mobilization.

Conclusion

To conclude this section, it can be seen that although the situation in France is much more varied than in Germany, the same general conflict occurs over the separation of the issues over which the work force may exercise control. And the same central question is at stake that of the neutralization of collective worker organization in the work place. It is perhaps ironic that it is German employers who have been more successful in maintaining the neutralization of the work place, while French employers, less successful in this area, have managed to maintain a much larger area of unilateral control.

Introduction

During a visit to the 'Institut für Sozialforschung' in Frankfurt, I was asked why so many people in Britain were interested in 'codetermination' as practised in the Federal Republic of Germany. Surely, I was asked, industrial democracy has much more to do with lively shop-steward representation as is the pattern in large parts of British industry than with the German system of works councils? Similarly, the encouragement of collective bargaining on American or British lines is of much greater concern in France than the extension of the powers of the 'works committees'. Too close an identification of industrial democracy with various forms of council leads almost irresistibly to the peculiar situation in which Emery, Thorsrud and Trist⁴⁷ found themselves. Looking at the 'form and content' of industrial democracy in different countries they start with the formal arrangements in the Scandinavian countries and in Germany. When they come to Britain they deal almost exclusively with the experiments at Glacier Metal⁴⁸ with hardly a word for shop stewards and work-place bargaining, or for trade unions and collective bargaining. Even if the Glacier Metal experiments are to be seen as one of the best examples of the continuation of the war-time spirit of 'joint consultation', it is not easy to justify the neglect of work-place bargaining, especially when as Marsh and Coker have argued,⁴⁹ it has been responsible for the gradual phasing out of consultation in as extensive an industry as engineering. The privileged treatment of works councils and constitutions probably stems from an understanding of their radical ancestors, which sprung up in the first quarter of this century and which briefly reappeared in the period of managerial abdication that followed the Second World War with the disappearance of those French and German industrialists who had been in too close collaboration with Hitler. It has already been argued that there is a radical difference between the high degree of autonomy exercised by the councils of such periods and the very tightly restricted bilateral regulation in which their present-day successors participate, and that the difference has been brought about by political defeat. It is, however, possible to go too far in the other direction and to assume that work-place bargaining and control of the work place through 'custom and practice' is industrial democracy. A number of writers on industrial relations in this country refer to unilateral control of the shop floor by the work-force through the activities of shop stewards and the working of 'custom and practice'. This part of the paper therefore seeks to put these two views into perspective and to argue that such control as is exercised by the work-force and the union in Britain is heavily circumscribed to much the same extent as in France or West Germany. It is argued that, although greater inroads may have been made in some industries into the area of unilateral managerial control, the same kind of division between frontiers and of 'checks and balances' applies restraining the forces which were responsible for them and which maintain them. As the extent of shop-floor bargaining seems to be one of the most original characteristics of the development of industrial democracy in Britain, most of the attention of this section will be focused upon it, but 'joint consultation' is also briefly considered in the final paragraphs.

Work place bargaining

In general the scope of workshop bargaining in Britain is restricted in two directions: on the one hand by the principle of managerial functions; and on the other by the principle that issues settled on one level of collective bargaining should not be reintroduced at lower levels. The principle of 'managerial functions' is not just a bold assertion by management, but an agreement between the union and management as to the function of the latter. (I shall argue that 'managerial functions' in industrial relations (as opposed to their status in law) are important because disputes over 'recognition' are usually settled by mutual recognition, that is that recognition is only granted to the union in return for its agreement to recognize management. Thus, I shall argue that the principle of 'managerial functions' is upheld at the collective bargaining level, so that collective bargaining in fact contains workshop bargaining on both fronts. This is not because trade unions have designed things this way, but is the price of the employer's recognition of the trade union.)

Before discussing further the 'principles' underlying much of British industrial relations procedure, however, it will be necessary to look first of all at the nature of shop-floor bargaining and the kind of environment it needs if it is to develop. It will be argued that two basic conditions are essential for this, both of which hold in British industry. The first condition concerns the nature of 'work practices' and the importance of what might be called 'learning by doing'. Under such circumstances it is argued that the codification of a job is only possible to a limited extent and so the job is as much defined by the way the workers do it as by the way management might try to define it. Second, it will be argued that it is the peculiar structure of British unions which accounts largely for the autonomy of workshop level organization in this country.

Work-place bargaining is distinctive because of the nature of the issues it bears upon. Most of the work done on 'custom and practice' shows it to deal with questions bearing on the content of jobs and pay questions resulting from this. Unfortunately for the question of industrial democracy, this work has focused on the distributive aspects of the process. McCarthy for example has looked at the 'arguments stewards use for increasing their members' pay',⁵⁰ and Brown has examined work place bargaining from the point of view of wage drift.⁵¹ The aim in this paper is not to contest their conclusions on pay questions and wage drift, but to highlight another aspect which has been obscured by their point of departure. The present paper is concerned with 'control'. Because of the angle from which work-place bargaining has traditionally been approached, it will be necessary to undertake some reinterpretation of the process of work-place bargaining. We look first at the importance of work 'practices', next at the kinds of argument deemed appropriate for dealing with these in the bargaining situation, and finally at the question of why 'custom and practice' appears so much more important in Britain than in either France or Germany.

Employment contract and the importance of work practices

It has long been observed that one of the distinctive features of the employment contract is that its substantive content is almost never fully defined at the moment of engagement. The main reasons for this are that such an *ex ante* definition is usually difficult, even where one is concerned only with the specification of a set of tasks, and requires in addition the prediction of future requirements — which introduces the problem of uncertainty. For these reasons it is argued that employers generally prefer to adopt a method which allows a partial specification of the job at the moment of engagement,

while keeping a margin of flexibility to be governed by procedures so that complete definition could be achieved at the moment of execution. These procedures will also make up an important part of the work practices of a firm. It is likely that in situations in which 'on the job training' and 'learning by doing' are of any importance much of the substantive content of the job will be defined by current practice. For people who have not known work in a factory, learning to drive a car is probably as close an analogy as can be obtained. It is a skill that is neither particularly rare, nor particularly difficult to master, but one that can only be learned through practice on the roads, and for which no amount of verbal description can satisfactorily convey the basic components like 'clutch control'. Car controls are fairly universal, but even they have peculiarities. It is easy to imagine the situation that results from the control of machines, or more generally of equipment that is not very widely distributed, or which is even unique, and the consequent importance of virtually uncodifiable ways of working it. The work group will have, in these circumstances, a particular set of work practices and the task facing a new employee will be to fit in with these. Once he has mastered them the practices are just part of the job for which he has been engaged. Of course, conditions fluctuate and so work practices will contain a degree of flexibility, but it is easy to see how this flexibility can run into difficulties connected with the limits and the definition of the substantive content of the job.⁵²

It is possible to argue that flexibility in the substantive content of jobs is regulated by the use of different 'procedures'. However, the working of these procedures will also be affected by working practices. If the substantive content of the job itself escapes precise definition and is 'defined by practice', it is clear that precise definition of the scope of the procedures is impossible. They too will tend to be defined by practice, because practice has defined the only standard of measurement that is available. If someone is employed to do a particular job and there is a procedure that is used to regulate the completion of its substantive definition – for example, an authority relationship – the scope of this procedure is nevertheless limited. It may be generally understood, for example, that a foreman can give instructions to workers under his authority to fulfil certain tasks, and to move them on to others as he thinks necessary. But the line between movement between tasks within the same job and movement between jobs themselves is a very narrow one. At what point does a worker engaged and paid for one job cease to do that and start doing another? In a cement factory does a fitter's job include the removal of dust blocking access to the elevator shaft that he has to repair, or can the labourer remove a part of the elevator so that he can get at the rest of the dust? Has the fitter's job started from the moment the labourer has started to remove the dust, or is the repair job confined to direct repair work? Is it the foreman's job to supervise the whole operation or is it the craftsman's? This is only scratching the surface of possibility. In fact, the question is not simply that of discovering criteria, but rather that of who decides the criteria.

This might be regarded as the 'practice' side of 'custom and practice'. The situation is, however, highly propitious to the working of 'custom'. To see how this can be it is necessary to abandon the prejudice pervading the study of industrial relations that has been carried over from economists concerning the relationship between market and non-market processes.

Custom as a form of social regulation

If we approach 'custom and practice' *as a form of social regulation* rather than something passive and rigid, or as something arbitrary, then the continuity with 'contagious control' becomes apparent.⁵³ A recent monograph by William Brown⁵⁴ although heavily impregnated with the 'economist's paradigm', provides one or two cases which suggest that custom is not simply the sanctification of whatever 'is' but that it is a selective process. Brown explains how custom and practice 'grows' from odd managerial slips, concessions made on the spur of the moment without adequate reflection, failure to stop particular worker practices (like 'pilfering') before they become widespread and something that 'everybody does' and to which the foreman turns a blind eye and so on. Stewards pose as 'interpreters' of custom rather than initiators, which of course is only to be expected given the types of source from which custom can spring. Stewards, in their bargaining, play a crucial role, and it is here that the *selective* factor comes into play. Brown quotes a very interesting case in which a typical accidental advantage is conceded to the workers in one shop and which the workers want to press the next time as a precedent. The steward, however, warns the workers that they should not press that particular argument too hard as it would create an unacceptable differential with respect to other work groups. In another case, the steward tells a man that he 'would be skating on thin ice' if he pressed a similar claim against management. These examples are too dispersed to prove a firm basis for our argument, but they do illustrate quite well a process that might be at work.⁵⁵

Under what conditions can an existing state of affairs become a reason for continuing in the same way? The past does not serve as a precedent in every walk of life. Despite the frequent reference to questions of 'fairness' there are many areas of collective bargaining in which precedent is not accepted as justification. There are other social situations in which precedent is not an argument. If a man does something for a friend, the latter would be regarded as abusing his friendship if he argued that the first act had created a precedent requiring a second one. If anything, the friend is expected to reciprocate. On the other hand in law precedent can be vitally important. This is because laws are necessarily simpler than the reality to which they are applied, so that each application is in a sense an elaboration which can be regarded as clarifying the type of case to which it applies. These are two examples of social situations, in one of which everything is done on a 'one off' basis, while in the other every act creates a precedent. As it stands, the second situation is very absolute, and it would seem that the convention of doing something as a 'favour' makes it workable by providing a loophole. 'Favours' are done on a 'one off' basis and the granting of a favour does not constitute a precedent. Moreover, the social convention of doing something as a 'favour' would not exist if there were not in the background the convention of 'precedent'.

A system of work relationships based on uncodified practices is probably only workable if some kind of precedent rule applies. Indeed, precedent plays a vital role in the definition of the practices themselves. The collective 'ways things are done' constitute the practices.

If this argument is right, it is easy to see why the stewards Brown looked at saw themselves as 'interpreters' rather than 'creators' of 'custom and practice'. Indeed, it runs against the logic of custom that it should be consciously created.

Development of workshop bargaining in Britain

The 'works and union stewards', that are to be found in France and Germany are quite different from the 'shop stewards' to be found in Britain. While the German 'union stewards' are generally elected from the union and have tended to remain very much union errand boys, and in France works stewards have been more or less confined to the representation of grievances and have been elected on a works rather than a union or a shop basis, stewards in Britain have been in general much more closely tied to their work group. McCarthy has pointed out that they are mostly elected on a workshop basis.⁵⁶

As the strength of workshop organization has fluctuated over time in all three countries in much the same way, and it is only Britain that has this high degree of spontaneous shop-floor organization, it is worthwhile trying to tease out some of the differences between the situation here and that in France or Germany. All three countries witnessed the same kind of growth of work-shop power during the First World War and its rapid decline following the Armistice. By 1920 the engineering workers in Britain had met a severe defeat at the hands of the employers; the German 'Works Council Act' had been passed putting an end to the more radical hopes for industrial democracy; and in France there had been a similar collapse with splits in the main union federations and a steep decline in their membership. By the 1930s in Britain the union branch official was at the height of his influence, in Germany, the Nazis had put an end to the already weakened workshop and union organization, and in France, the decline continued until the period immediately preceding the Popular Front. The same kind of fluctuation in factors affecting work-place organization appears to have continued after the war, only this time the tight labour market experienced in each country has led to the enhanced power of the German works council, the formal recognition of the French 'union section', and the resurgence of shop steward bargaining in Britain. This resurgence although uneven, has been dramatic. In the British engineering industry for example the number of AEU stewards increased by over one half between 1947 and 1961,⁵⁷ and recent estimates have suggested an even higher rate of growth in industry as a whole since the mid-1960s.⁵⁸ A closer look at the differences between these three situations will help us to understand better the nature of workshop bargaining.

It was suggested earlier that trade union structure was radically different in the three countries. In Germany, there is a mainly 'industrial structure' at least for manual workers, and it is a structure that has survived many of the traditional objections to industrial unionism such as the classification of new industries, and the problems of inter-industry production relationships (are tyre manufacturers part of the car or the rubber-goods industry, or wellington boots part of the rubber or the footwear industry, for example?). In France, the main lines of division are a mixture of political and industrial, although within the realm of manual work the structure is mainly political. In Britain, outside the industries covered mainly by industrial unions like the railways or the mines, there is a mixture of general, and a much transformed craft unionism, with the result that in any work place there is likely to be a number of unions.

It can be argued that the reason why the increase in shop-floor-power, which is common to all three countries, has taken the form of steward bargaining in Britain is connected with union structure. In Britain, in an industry like engineering, it is unlikely that the same combination of unions will occur in factory after factory and this means co-ordination of representation at union level will be difficult. On the other hand, within the factory the members of different unions are in frequent contact and the unions themselves are likely

to be in a fairly stable relationship. The work place would thus appear to be the ideal level for co-ordinating dealings with individual managements. In Germany, there is no such problem as there is no 'multi-unionism', and the presence of the works council cuts much of the ground from under the feet of potential shop-floor bargainers. France, with its own form of multi-unionism, appears like Britain to favour a fair degree of spontaneous action from the shop floor, but unlike Britain, the unions do not have the same strength to act as 'underwriters' of work-place bargaining. To sum up then, we might say that the steward system of work-place bargaining has re-emerged in Britain because of the particular form of multi-unionism that exists, and because the unions have the strength to underwrite this process though they may be ill-adapted to take it on themselves.

Grievance procedures, and work procedures

As work practices evolve out of a mixture of unconscious change and managerial pressure it is not difficult to see the narrowness of the line dividing custom and practice bargaining from the 'contagious control' practiced by stewards during the First World War, and the potential challenge that both offer managerial control. At this point, however, it is suggested that grievance procedure is one of the ways through which management can defend its area of control against erosion. It will be argued that the design of grievance procedures can often allow management to assert its own definition of changes in work practices, and so to restrict the matters which can become the legitimate subject of bargaining.

In order to see how grievance procedure can work to achieve this end it seems best to take an example which comes as near to the 'employers' ideal' as possible. For the more procedure is the result of negotiation between equals, the less clear will be the main lines of force. What is needed is an example of a case which followed a 'victory' for the employers, but which has had to cope with increasing pressures from the shop floor. The best example according to these criteria would seem to be the old national engineering procedures.

The case of engineering

The case of the engineering industry is particularly relevant because the establishment and maintenance of managerial control over the work place was one of the central issues underlying the development of procedure. Marsh has argued, for example, that the statement of management's right to manage in the 1898 'Terms of Settlement' was a direct response to attempts by the craft unions to establish unilateral control over all aspects of craft work throughout the industry.⁵⁹ In 1922 the problem was rather different as the drain of skilled labour and the extension of mechanization for the war had weakened the craft structure considerably. However, if we are to follow the accounts given by Cole⁶⁰ and Goodrich⁶¹ the employers faced a different kind of workshop power in the form of 'unofficial' stewards and their committees, associated with 'industrial' rather than 'craft' unionism. It was in an attempt to slow this movement and to try to deprive it of the momentum it had gained during the war, that the engineering employers sought a forceful reassertion of their rights.

In the 1922 agreement between the Engineering Employers' Federation and the engineering unions three basic principles were therefore established by the management side which were to hold sway formally with only slight relaxations until the engineering unions finally withdrew from the procedure in 1971. These three principles were those of treating issues as grievances, of 'mutuality', and 'managerial functions'.

(a) *The principle of 'grievance'* The principle of treating issues as independent grievances has been presented, notably by Marsh,⁶² as a recognition that all disputes represented conflicts of interest rather than conflicts over the interpretation of rights. Although the underlying logic of treating issues as grievances in this way is that solutions should not have the status of precedent, it is clear that the outcome of a particular round of procedure is likely in practice to give sanction to more than one set of work practices. A joint statement at the end of procedure was bound to have this effect when taking place against a background of custom and practice. The principle did however, have the effect of reinforcing the domestic nature of procedure so that a settlement reached in one site did not in any way constitute a precedent for another, even though outside employers might appear on the conciliation panel.

(b) *The principal of 'mutuality'* The second principle, that of 'mutuality' was established at the end of the nineteenth century in the 1898 'Terms of Settlement' and reiterated in the 1907 'Carlisle Agreement'. It bore on payment by results and was essentially a compromise between workers and management. In return for management's freedom to introduce payment by results systems, the 'prices paid shall be fixed by mutual arrangement between the employer and the workman or workmen who are to perform the work'. This method of establishing piece rates reinforced the principle of treating issues as grievances and their handling on an individual basis, or at least at the level of the individual practice or set of practices.

(c) *The principle of 'managerial functions'* The principle of 'managerial functions' was also made explicit in the 1898 Terms of Settlement and reinforced in the 1922 agreement. It can read as simply asserting management's right to manage, to its own area of control, but this would be to neglect the fact that the unions were party to the agreement and that the principle of 'managerial functions' was in fact a joint statement. It was in reality not just an assertion of employers' dogma, but an expression on the part of the unions of their assent to it. The principle of 'managerial functions' covered management's right to unimpeded action within its own area of control. In 1898 the agreement was that 'the Federated Employers, while disavowing any intention of interfering with the proper functions of trade unions, will admit no interference with the management of their business . . .'. Although its content was usually associated with the question of *status quo*, that is the state of affairs which was to prevail during the working of procedure, there are grounds for arguing that it extended to include the right of management to dispose of its sources of 'patronage' over recruitment and promotion policy, work allocation and training, overtime working and indeed, most potential forms of reward apart from pay rates.

A final aspect worth mentioning is that the procedures set out in the agreements involved a system of 'employer' rather than 'joint conciliation'. Once grievances had passed through the conferences within the establishment they were brought before a panel of employers. From management's viewpoint the procedure provided a means through which an employer consensus could be established across the industry so that no individual employer was forced to concede more than fellow employers. The time taken to go through procedure was also a factor helping management as the journey to the top of the hierarchy of conferences could take about three months which left time enough for many disputes to fizzle out of their own accord.

The functioning of these principles of procedure taken as a whole, presented a formidable instrument for the limitation of the encroachments made by custom and practice bargaining. The first two principles meant that procedure was ideally designed to meet encroachments via 'creeping control'. They gave the employers a way of contesting certain work practices or of contesting the degree to which it might be claimed that they had been recognized. While 'mutuality' reached down to this level in the individual establishment, the 'principle of grievance, succeeded in restricting the practices and any recognition that might be granted to them to the establishment in which they had arisen. The refusal of conference panels to allow that any kind of precedent was being created by their decisions, it can be argued, also helped to confine encroachments to the establishments in which they had arisen. The principle of 'managerial functions' set out the questions which management regarded as outside the scope of bargaining and for which recognition was simply not extended to union agents.

One possible objection to this argument is that most studies of the working of formal procedure showed that the majority of questions raised concerned wages or conditions and holidays. Questions dealing explicitly with managerial rights appear to account for a relatively small part of the business of formal procedure. To some extent this was to be expected, as mutual agreement on a managerial functions clause, vague as it may be, makes this a less than favourable context for discussion. If such issues are to be discussed in a more favourable atmosphere, one might expect them to be raised informally. In this way neither side is too heavily committed to a particular position from the outset.

This indeed is what seems to have happened if we follow Hyman's study of disputes procedure in engineering in the Coventry area.⁶³ As a part of this study the content of informal works conferences was compared with that of the formal conferences. He produced the following table:

Table 5 Subjects of informal conferences and works conferences (in percentages)

	Informal	Formal
Wages	32	73
Conditions and holidays	6	11
Discipline and redundancy	12	5
Procedural matters	25	
Other	25	11
	100	100

Source: R. Hyman. *Disputes procedures in action*. 1972 p.40.

The difference in content is striking. 'Procedural' and 'other' questions took up half of the business of the informal conferences, while questions concerning wages and conditions took up over four-fifths of the business of the formal ones.

If we distinguish between the 'procedural' and the 'substantive' aspects of 'managerial functions' Hyman's findings suggest that about half of the procedural category of complaints handled informally dealt with procedural aspects of managerial functions, and the majority of the other category dealt with substantive aspects. Many of the questions raised

concerning the procedural aspects of managerial functions related to industrial relations problems concerning a whole shop or works, and covered such things as the degree of recognition actually extended to employee representatives or to union members. They were frequently expressed as managerial complaints that representatives had acted unconstitutionally. Had stewards the right for example to take up the grievances of certain groups of staff workers?

As for the substantive content of managerial prerogatives Hyman found that the procedure dealt with such questions as 'discussion of company employment prospects, and short time working; projected changes in work and production methods; issues of labour loading, manning, and labour mobility; and complaints at the behaviour of supervisory personnel'.

In general it can be said that 'informal' conferences under the old procedure provided a way in which it was possible to question the procedural legitimacy of certain actions or of certain substantive grievances. That many of the grievances of this kind should be raised by management should not be surprising, and indeed in only to be expected in the light of our general hypothesis about 'control'. On the formal side, it might be expected that some of the 'wage' category of issues bore on control. Given our hypothesis about the role of 'work practices' in the definition of the content of a job, and the problems that this creates for the task of the foreman we might expect to find that 'control' and 'wage' questions were not rigidly separable. This needs a little elaboration.

How much flexibility is built into the content of a job and when does a foreman's order take the worker beyond this margin and lead him into a new area? Clearly management is likely to favour a more flexible interpretation than the employee or his representative. From management's point of view, flexibility both increases managerial control over work organization and makes organization cheaper. It has the latter effect because management does not have to 'buy' flexibility through a complicated system of special payments. From the employee's point of view it is clearly to his advantage that as inflexible an interpretation of his job content as possible should prevail so that he can make management pay for his co-operation. We can see that where the employee has the power to enforce the narrow definition of his job content he can 'sell' his co-operation to management.⁶⁴ On the other hand, if management can enforce its flexible interpretation no such opportunity exists. Thus questions of managerial authority may well be tied up with wage questions, and it would seem likely that at least some questions of control would be resolved as wage questions – by 'control' here is meant the power to refuse to co-operate, so that agreeing to co-operate for a price does not entail any loss of 'control', because future co-operation will have to be bought at the same price.

Unfortunately, Hyman's detailed case studies of formal proceedings are not of much help in deciding how far this is an important factor.⁶⁵ Some of them lend themselves to this interpretation, but any support they might offer remains rather tentative. Unfortunately, too, Hyman's case studies are based exclusively upon formal procedure and do not extend to informal conferences so it is not possible to get behind the classificatory categories he offers to see how their content bears out, or fails to bear out the hypothesis

of this paper. However, in spite of this, there does seem to be evidence that the principle of 'managerial functions' was not a 'dead letter' and that questions which touched upon the boundary of control between management and workers did arise quite frequently and did constitute a part of the business of 'procedure', even if this tended to apply at the informal rather than the formal level.

Subsequent changes in engineering

The old engineering procedure softened on a number of points before its abandonment in 1971, particularly on the definition of the *status quo* that was to apply while disputes were being resolved. The 1955 amended procedure agreement set out certain cases in which the *status quo* was the situation existing before the change management had introduced while in other cases management had to go through procedure to obtain change, and in still others there was either to be consultation, or some delay in the introduction of changes. Further concessions were bitterly fought by the employers and this was one of the main reasons for the lapse of four years between the abandonment of the old and agreement on the new procedure. In the new agreement the question appears to have been skated round.⁶⁶ The *status quo* clause reads:

'Where any party wishes to raise a matter for resolution, there shall be discussion at domestic or national level, as appropriate. It is agreed that in the event of a difference arising which cannot immediately be disposed of, then whatever practice or agreement existed prior to the difference shall continue to operate pending a settlement, or until the agreed procedure has been exhausted'

Although the concession on the *status quo* clause is clear enough, the remaining elements in 'managerial functions' are left in the air. Reference is made to existing practice in clause IV:

'Consultation and collective bargaining in the engineering industry take place at different levels. Certain matters are reserved by agreement for determination at the national level, and any variation in such matters should be by negotiation and agreement nationally and not at domestic level. It is for the parties, nationally, to determine from time to time which matters shall be subject to negotiation and agreement at national level.'

There is also a tendency for management functions to be described in ordinary collective agreements, as can be seen in the 1964 'Package Deal Agreement' which contained such clauses as:

'The parties, recognizing the vital contribution of the engineering industry to the well-being and the prosperity of the country, reaffirm their support for measures intended to modernize and improve the productive efficiency of the industry. They recognize that the provisions of this agreement, particularly the reduction in normal weekly hours to 40, reinforce the need for the maximum utilization of all productive resources and the most effective deployment and use of manpower. They agree that restrictions on the economic utilization and transfer of labour which are not based on considerations of skill or ability to do the job are contrary to the well-being of the industry and should be eliminated'⁶⁷

Otherwise, since the breakdown of engineering procedure there has been a tendency for individual companies to make their own arrangements and there have been a number of cases in the car industry, for example, in which agreements influenced by the style of the 'package deal' have been reached. The British Leyland Motor Company introduced a draft procedure in 1972 in which it outlined an alternative philosophy to the *status quo* – the 'management of change' – in which it was agreed that management had the responsibility to manage, but that it had to initiate procedure in order to bring about change. British Leyland's introduction of new payment systems also embodied an agreement on the tasks of management. The procedure agreement at Phillips in 1973 is another example of a company going its own way.⁶⁸

Procedure and managerial functions outside engineering

So far our attention has been focused on the experience of the engineering industry and the gradual softening of the position claimed by the employers. As we have seen, however, this relaxation has not amounted to any abandonment of principle. It is worth looking briefly at this point at the problems of recognition and managerial functions as they have appeared in recent procedure-cum-recognition agreements covering other groups than manual engineering workers.

Although the situation is not uniform, one striking feature of recent white collar agreements, for example, is the strict insistence to be found in them on 'managerial functions' clauses.⁶⁹ Many recent agreements reported for example in Industrial Relations Review and Report have involved the National Union of Bank Employees or the Association of Supervisory, Technical and Management Staff on one side, and financial institutions like banks, building societies, or insurance companies on the other. In nearly all of these the list of negotiable and non-negotiable issues is clearly spelled out, and common among the latter category are issues like control of labour allocation, job definition and so on. In most cases, some form of consultative committee has been provided for by the agreement to deal with subsequent disputes concerning these non-negotiable questions.

Another group of interesting recent white collar agreements are those dealing with the unionization of supervisory staff and lower levels of management. It seems to be common in these cases for explicit agreement to be made on the loyalties of the new members, and on the union's abstinence from putting any pressure on such staff to act as anything other than members of management. Thus in the Imperial Chemical Industries agreement⁷⁰ it was stated that:

'works supervisors are members of management, and it is accepted that membership of a trades union on the part of a works supervisor does not confer any rights on a union or its members to give instructions or otherwise to exert pressure on him to act contrary to his responsibilities as a member of management'.

A similar agreement was reached between the Association of Supervisory, Technical and Managerial Staff and British Cellophane.⁷¹

Finally, it is worth mentioning a number of recent manual agreements including those at Hoover,⁷² Shepherd Neame Brewery,⁷³ and J C Bamford (agricultural machinery).⁷⁴ In all of these strong statements of managerial

functions appear in an explicit form. At Hoover, for example, the Joint Shop Stewards' Committee

'accepts that management has the right to manage and to expect all management decisions which are not in breach of local and domestic agreements or which concern the efficient operation of the establishment to be implemented immediately'

At J C Bamford the union accepted management's right to control over recruitment and selection of employees, and in the operation of shifts and overtime. Moreover, the company was accorded the right to vet the performance of shop stewards. Likewise, at Shepherd and Neame, management's right 'to engage, to discharge for just cause, to determine methods, processes and production programmes, to introduce new and modified plant equipment, and to specify standards of quality', is reaffirmed.

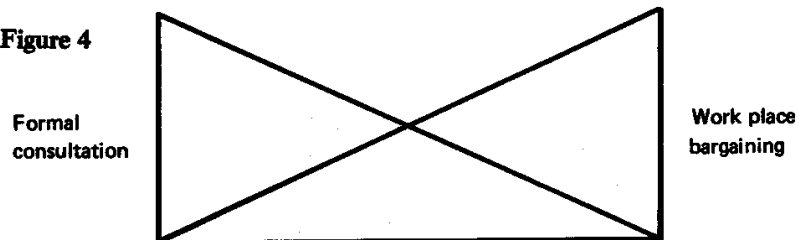
The agreements we have looked at in this section appear to conform generally to the basic model underlying the old engineering agreements. Here too the principles of procedure for plant-level grievances are determined outside the plant, beyond the reach of the evolution of work-place work practices, and they set the tone for the working of grievance procedure. Careful definitions of managerial functions are put forward as the 'amount of recognition' granted to the union is carefully weighed out. As with engineering, we can see that recognition is a mutual process; bargaining rights are accorded to the union in return for its recognition of management's rights. Once again a set of 'checks and balances' retaining pressures that might otherwise erode managerial authority has been created.

Joint consultation and industrial democracy

The remaining issue to be dealt with in this part of the paper is 'joint consultation', a procedure which met with a certain vogue at the time of the Whitley Reports and during and immediately after the Second World War. As an issue in industrial relations it appears to have gone very much out of fashion although the survey undertaken by Clarke, Fatchett and Roberts in 1972⁷⁵ shows that it is still far from extinct. While it may be true to say that in industries like engineering joint consultation has been very much eclipsed by the growth of work-place bargaining, the difference between bargaining and consultative institutions can be exaggerated. If one argues that workers exercise a great deal of control over the work place through bargaining, then consultation appears as little more than a useful adjunct. If, on the other hand, one argues that the amount of control exercised through work-place bargaining is quite severely hemmed in, then consultation may assume greater importance.

This situation might be illustrated by figure 4 in which formal consultation is represented on one of the vertical axes and fully developed work-place bargaining on the other. The diagram illustrates the complete eclipse of one process when the other is fully developed, but it also gives an idea of the possible combinations in the intermediate stages.

Figure 4



Stressing once again that we are concerned here with provisions for formal consultation, the change that has been taking place in engineering might be represented by movement along the horizontal axis showing the decline of formal joint consultation and the rise of work-place bargaining since the last war.⁷⁶ There has been a tendency to conclude from this that formal consultation cannot survive where bargaining exists nearby because there is no inherent difference between the issues dealt with by either process. There is no group of issues that belongs inherently to an area of co-operation and shared interests, in contrast to a group of issues on which interests conflict.

It is all very well maintaining that consultation cannot really be kept separate from bargaining and to offer this as the reason for the failure of consultation in industries like engineering. However, if the argument of this paper is right then to say the two processes are inseparable rather misses the point. The problem is that consultation is an attempt to extend information exchange without making concessions over control. The pursuit of consultation as opposed to bargaining should therefore be seen as a strategy which management may adopt and which may or may not be successful. In other words, if bargaining displaces consultation it is less the result of any inherent inseparability than the failure of one managerial strategy in face of another. It has been argued earlier that most of the issues dealt with by employers and employees are inseparable from each other, but what is important is whose definition of an issue prevails. Does an oft repeated practice concerning work allocation constitute a part of 'custom and practice' having received the implicit consent of management as they have not objected until now, or is it an unrecognized practice which management can alter claiming that it falls under the management's right to organize production in the most efficient way?

If formal consultation in the engineering industry has not been able to hold its own in the face of the development of workshop bargaining, however, this does not mean that informal consultation has not developed. Unlike formal consultation which can be a way of keeping certain issues out of the reach of bargaining, informal consultation can be an important adjunct to bargaining, simplifying the process and reducing the need to resort to confrontation. It can perhaps be regarded as a process of 'sounding out' the other side. It is of course much more economical to withdraw a proposal for change rather than to withdraw the change once it has been introduced and made unworkable by strong opposition.

In the recognition agreements outside engineering described above it is worth noting that formal consultation is commonly provided for and that it applies quite explicitly to those sets of issues that have been excluded from negotiation. In some cases separate machinery was set up; in others it was not, there being instead a joint bargaining and consultative committee consisting of employer and employee representatives. It is also interesting to observe that in some cases such committees serve as a form of internal conference where grievances can be sorted out in the way they were in local conferences in engineering.

The insulation of
'managerial functions'
from trade unions

As a general rule there is no equivalent in Britain to the forms of trade union involvement in management which exist in the Federal Republic, and so the problem of creating a set of 'checks and balances' to prevent further erosion of managerial prerogative does not arise at this level. On the other hand, the productivity bargaining at Fawley, and the engineering 'package deal'

agreement of 1964 might be regarded as a form of involvement through collective bargaining.⁷⁷ Productivity bargaining is an ambivalent phenomenon because it represents both an affirmation of the interpretation of the *status quo* that is most favourable to the unions together with union assent to the other managerial functions mentioned earlier. Perhaps the significant move at Fawley was the centralization of bargaining and control, and the consequent shift towards the official union organization and away from the shop floor. It will be remembered that it was at the shop-floor level that bargaining over work practices was at its most potent.

Conclusion

To conclude briefly, the difference between the state of 'industrial democracy' in Germany, France and Britain (in the sectors that have been looked at) is not that 'industrial democracy' does not exist because there are no 'works councils' or because there is no effective work-group representation. The form of the institutions involved cannot itself be a deciding factor in such a debate. Works councils in Germany are neither a 'total fraud' nor are they a panacea. In the same way, shop steward representation is neither a form of 'workers' control' nor is it wholly undemocratic. The differences in the extent of worker representation and the possibilities each approach brings for controlling work life are not so dramatically different as the presence or absence of certain institutions would suggest. The crucial differences, if we are to arrive at any kind of policy orientated comparison, would seem to lie rather in the way the 'frontier of control' between workers and management is established and maintained.

Part C Some comparisons and implications for policy

The main concern of this paper so far has been to examine the way in which control is distributed between employers, employees and their representatives, and how this distribution of control is 'stabilized' so as to ensure that the extension of bilateral influence in one area need not lead to further encroachments in others. If the account given above is sound it would appear that problems over control at the level of the work place and the industry arise in all three countries studied. Having said this, however, it is clear that the form of regulation applied to the 'frontier of control' is very different in each case. Before trying to sketch tentative policy conclusions it is therefore necessary to set out, in a more explicit way than has been attempted so far, the nature of the common basis on which the experience of the three countries can be evaluated. Only when the nature of the differences has been grasped is it possible to say whether some aspect of experience abroad is relevant or not. The argument of this section therefore falls into four parts. In the first two an attempt is made to draw out some of the differences in the form taken by different methods of regulation, with a view to categorizing these in an orderly way. The third considers the development of proposals for change in the three countries. In the light of these remarks the final section considers a number of policy implications which seem to arise from an examination of practice in the three countries.

Forms of regulation in the three countries

Our earlier discussion of the origins of the institutions associated with the frontier of control noted that the scope of the pressures brought to bear when these were established differed greatly between the three countries. In Germany there was pressure on the elected representatives in the Bundestag although no change of government; in France there were major social crises in 1936 and 1968 with a change of government in 1936 and new elections in 1968; and in Britain, the main changes although no less violent have tended to take place more directly between the parties and attempts to impose legally based procedures have failed.

It will also be remembered that compared with the situation in France, the law provided a fairly accurate description of the industrial democratic institutions in Germany. While the research undertaken by the Biedenkopf Commission found that the spirit of the law appeared to be followed even in such matters as the absence of an aggressive bargaining relationship on the supervisory board, the research undertaken by Bachy and his colleagues on representation and bargaining in France found that the law was very unevenly enforced, and in cases like that of Michelin⁷⁸ its enforcement could require very considerable pressure from the unions and other sources. Judging by the experience of the engineering industry, it would appear that in Britain the law plays a relatively minor part in the regulation of the distribution of control between employers and their employees, and that this derives rather from mutual agreement hammered out between the two groups.

The reason why the law provides a fairly accurate description of the situation in the Federal Republic of Germany would seem to lie in the fact that it serves as the principle basis for the regulation of industrial relations. It is to the law that the main groups look for the procedures which are to regulate their relations. This is not to say that the law is imposed from outside, but rather that the lawmaker acts as a kind of 'middleman'. One might say that the difference between the directly bargained procedural norms of British industrial relations and the German situation is that in Germany procedure is established by a form of 'indirect bargaining'. Whereas in ordinary direct bargaining pressure is brought to bear directly upon the other party in the form of a strike or a lock-out, in this 'indirect bargaining' pressure is brought to bear on the parliamentary groups representing the parties. This would explain the election campaign at the time of the 1952 'Works Constitution Act' in which the Deutscher Gewerkschaftsbund (DGB) urged the voters to 'elect a better Bundestag', and the very hard bargaining that went on in the government coalition of Social and Free Democrats (SPD and FDP) over the legislation passed in 1976 amending the Works Constitution Act. The importance of this form of 'indirect bargaining' at the national political level would also explain why the attempt by the Christian Democrats (CDU) under Adenauer at the political neutralization of the unions aroused so much ire within the DGB (this occurred after the strikes aimed at impressing the Bundestag with the strength of the union opposition to the Works Constitution Act).

The contrast with the British situation has led some to argue that a two-fold classification of industrial relations systems is possible according to whether 'procedural norms' are established through the national political process or whether they are the result of direct bargaining or of a customary nature. Kahn Freund for example has suggested that a distinction between 'static' and 'dynamic' methods of regulation might be made.⁷⁹ Underlying his distinction is a contrast between norms established on a legal basis and those established on an informal one. The problem is that such distinctions seem to be of little use in trying to understand the nature of industrial relations in France, and thus in trying to evaluate the French experience for the purposes of policy formation. On the one hand the law has laid down the categories of institution an employer is required to recognize, but on the other, the enforcement of the law appears to depend very much on the relationship existing between particular employers and their employees. Moreover, the development of the union works section and the struggle to establish its pre-eminence over the works committee smacks much more of British than German industrial relations. Does this mean that French industrial relations are in some sense situated between the poles of 'static' and 'dynamic' methods of regulation? The difficulty with such a suggestion is that it is an admission that one cannot make sense out of the French situation. While the 'static' and the 'dynamic' methods have a certain internal coherence we seem to be forced into the position of saying that French industrial relations are incoherent, at least at the procedural level. To say this, however, would seem to make any evaluation of the French experience as a guide to policy impossible. To understand the difference between French industrial relations on the one hand, and British and German industrial relations on the other we need to go back to the nature of the involvement of the national political level and to the peculiarities of French trade union structure.

The reader will remember that the main periods of legislation on industrial relations in France were also periods of great political and social ferment,

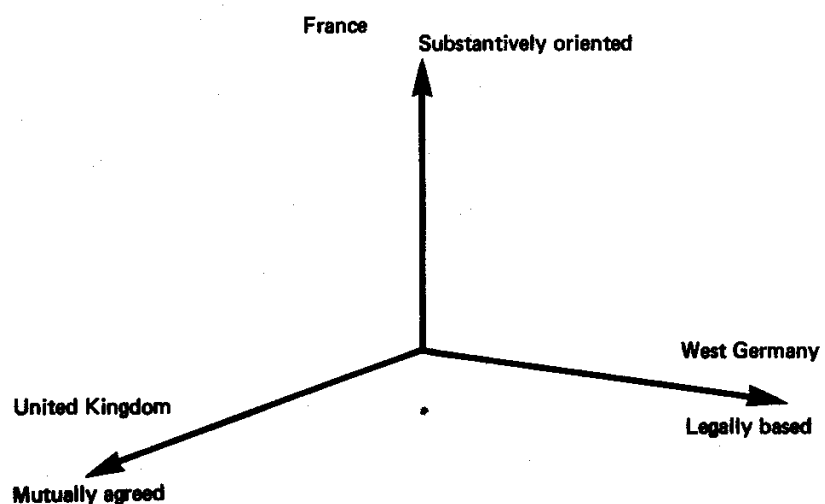
periods in which the achievement of major political and social goals was very much in people's minds. And it has been argued in this context that because the achievement of the longer term goals of trade unionism is given more importance by French unions they are more concerned with substantive than with procedural gains. Thus from both the union, and the employer's side there is pressure to concentrate on the settling of substantive issues without the development of an elaborate set of procedural norms. Indeed, it is the comparative under-development of such a set of procedural norms that has worried a number of French industrial relations experts who have been impressed by the experience of Germany and the United States. The French Government has also expressed concern, and its 'politique contractuelle' (policy of encouraging organized collective bargaining) has been aimed at this point.

Returning now to Kahn Freund's distinction between 'static' and 'dynamic' norms we can see clearly why the French situation fits so uneasily. It is because French industrial relations are characterized neither by a 'static' nor 'dynamic' set of norms. It is recognition of this that enables us to set about establishing a basis for comparison, and for evaluating French and German experience as a guide to policy in this country.

A categorization of methods of regulation

If we take the nature of the method of regulation as a starting point for setting the three countries in perspective, we can characterize the method each has for regulating the frontier of control. It has been argued that in Germany the method underlying the procedural consensus is of a legal nature. In Britain the basis of procedural consensus is that of more or less directly obtained mutual agreement. In France the method of regulation is 'substantively oriented' to the extent that the continuity of substantive goals is maintained at the expense of procedural continuity. These three methods appear to be to some extent incompatible one with another, and so can be represented as the separate axes in Figure 5.

Figure 5 Nature of the method of regulation



From the discussion so far it is easy to see that the 'substantively oriented' procedure is radically different from the other two, but the incompatibility between these is perhaps not so immediately evident. The distinction

between them can be established from an examination of the different type of sanction on which they rest. In the case in which procedures rest upon mutual agreement it is incumbent upon the parties who benefit directly to make them work. There is always the threat that one party will withdraw and that any mutual benefit derived from the procedure will be lost. Such a sanction however cuts both ways as the party withdrawing also loses. If the initial agreement rests on the expectation of mutual benefit, the motive for withdrawing is either that one side feels that it is giving more than it is receiving from the other, or that the conditions have changed since the initial agreement so that it would be advantageous to renegotiate the whole agreement. Something like this appears to have happened in the case of the procedure agreements in the British engineering industry. Adherence to a mutually agreed procedure therefore works through the threat that the other side will withdraw if it feels it is not getting enough out of it. Such is not the case if the procedure rests upon the law, even though the law may be the result of a form of 'indirect bargaining'. Here legal sanctions apply, and unilateral withdrawal is not accepted as legitimate. The procedure can be altered by a change in the law, but other social groups are involved in such a change on the same footing as the two parties directly concerned and this can dilute their influence upon the new form of procedure.

This three-fold distinction of methods of regulating the frontier of control based upon the analysis of the previous sections appears to be borne out by the different nature of government inspired proposals for change that have been submitted in recent years. Piecemeal change, if it is to be successful, must be applicable to the existing situation and so must conform to its 'internal logic'. As a full scale analysis would be out of place at this stage of the paper, we shall look at the nature of some recent proposals. For this purpose we shall take the German Biedenkopf Report on the extension of 'qualified' codetermination to the whole of German industry, the French Sudreau Report on company reform, and recent proposals developed in the context of the Bullock Inquiry by the TUC and CBI.

Some recent proposals for reform – the Biedenkopf Report in West Germany

To anyone familiar with British Royal Commission reports, the Biedenkopf Report is a quite remarkable document. This is not just because of the legalistic style in which it is written but because of the peculiar way it tries to overcome the problem of objectivity. Like the Donovan Commission it was given the task of evaluating previous experience, in this case of co-determination, and like Donovan, but unlike the Bullock Committee, it was given a very open brief. However, if Donovan appears to be based on a public consensus of what constitutes an 'objective' piece of research, Biedenkopf appears to have to start by establishing its objectivity and then to show that it has been maintained throughout. The authority of the facts presented stems less from their objectivity with respect to some external reality, than from the establishment of an area in which the various partners are prepared to agree on what the 'facts' are.

Briefly, the report commissioned by the Bundestag and published in 1970 was aimed at an assessment of the success of 'qualified' codetermination and at the question of the extent to which it might be extended to the industries covered by the Works Constitution Act. Its central preoccupation, therefore, was with the working of the employee representation on the supervisory and management boards, and the extent to which this participation had been effective. Superficially, the terms of reference were politically no more sensitive than those given to Donovan.

Another feature of the Commission's report is the way it derives the questions it proposed to investigate by searching through the debates of recent years in order to find out what fears and objections were held by the main participants and by informed public opinion. Formally, therefore, the Commission posed no new questions of its own.

These preliminaries, including the sifting of the debates, constitute the first quarter of the report; the actual empirical investigation the next quarter; after which comes the explanation of the grounds for the Commission's recommendations, followed by the recommendations themselves. The way the argument justifying the conclusions is developed is interesting. As a British observer might see it, an extension of codetermination can be argued for in a number of ways: for example as an extension of bargaining rights, as a question of liberal principles, or as a question of efficiency. Biedenkopf makes use of none of these, conducting its argument in terms of constitutionally enshrined individual rights, such as the right to satisfying work and self-expression. The problem area of codetermination is seen as being situated where individual liberties and self determination overlap with the equally fundamental principle of the right to private property, both of which are enshrined in the German Federal Constitution.

Once this is taken into account the presentation of the empirical part of the Commission's inquiry and its culling of questions appear less surprising. Although the Commission was not a court, the empirical findings were presented in a way one might present court evidence. The four institutional figures – chairmen of management boards, supervisory boards, works councils, and labour directors – corroborate each other's testimony, which is very different from comparing their opinions. Moreover, they are not speaking as experts in the way the experts gave testimony to Donovan (for example in the Donovan research papers) but as institutional role holders. Thus, for example, 29 labour directors told the Commission that the banks controlled one vote on their supervisory board, while 27 works council chairmen gave the same reply.

Why should such testimony have been so rigorously corroborated? The answer would seem to lie in the fact that the terms of reference were stated in terms of the possible extension of one law into an area covered by another. The position was one in which a legally defined situation was to be changed by recourse to legal methods, and the task of the Commission in this was to channel information in a form which was appropriate to its institutional environment.

The ponderous legalistic nature of the report suggests that the Commission was aware of its position in a process in which institutional change (for industrial relations) has generally to pass through the legislator, which in turn suggests that both he and the law play a central role in the regulation of social conflict in industrial relations. This suggests that once the frontiers of control are set by legislation, they tend to remain so until there is change which passes through this level.

It would appear then that the style in which the Biedenkopf Commission conducted its research and presented its findings and recommendations supports our general argument concerning the method of regulation of the distribution of industrial control in the Federal Republic. Indeed, the support it brings will appear even stronger when the Biedenkopf report is seen in comparison to the Sudreau report.

'The reform must be introduced progressively. A company is not a static, rigid entity, but a living being which is undergoing continuous change. As a result, the provisions of the reform must leave a great deal of freedom of choice and organization. Moreover, although it is necessary to transcend the respective positions of the unions and the employers, it must be realized that nothing can be done without a minimum of support and trust from those concerned, and that it would be a waste of time to put new laws which were too far in advance of the thinking and the behaviour of those concerned in the place of existing ones imperfect though they are.

Such is the reason behind the conception of this report, which without seeking to be exhaustive, *deliberately approaches the problems from a pluralistic standpoint.*⁸⁰ Report p. 41.

Such is the spirit in which the Sudreau Committee developed its proposals for reform. Towards the end of the report they write that negotiation is the best way of conducting industrial relations, and that this should apply at every level. Negotiation respects the autonomy of individual groups and safeguards personal dignity. The new role of the state should be that of fixing the direction of change, and laying down the procedural framework in which its implementation should be negotiated between the parties directly concerned. The traditional statist method of reform by legal intervention should be abandoned.

How different this is from the framework in which Biedenkopf was writing where the working out of a compromise between the parties concerned had to be effected *before* the government intervened through legislation.

The Sudreau Committee's report belongs to the post-1968 era, and it should be grouped with the Government initiated reform on the monthly payment of manual workers, and on the participation of workers through small shareholdings. Its style is indeed much closer to the process of debate and negotiation associated with the setting up of 'mensualisation' than to that of the legislation-oriented Biedenkopf Report. The committee was set up very shortly after Giscard d'Estaing's election in 1974 and had to produce its report within six months. The report was destined for mass circulation, appearing first in hardback, and later in paperback distributed by one of the largest publishers in France. The Biedenkopf Report was written for reading by the interested parties and the dedicated few. Sudreau played an important part in the establishment of Giscard d'Estaing's new style of government, which itself is part of a longer term strategy of repairing the legitimacy of the Fifth Republic after the May Events.

The originality of the report lies less in its advocacy of new forms of representative institution than in the procedure it proposes. Bargaining should form the keystone of industrial relations and government policy should set itself the goal of encouraging this. Two sections of the report are of great interest from this point of view: the one dealing with the proposals for the reform of work-place relations, and the other dealing with the proposals for 'cosupervision'.

The proposals for the reform of work-place relations begin from an examination of the effectiveness of the law on works committees, and suggest blandly that the law needs to be more strictly enforced. The main proposals, however, bear on the question of the recognition of the union as 'partner' in

the regulation of the work place. This requires leaving a greater area open to negotiation, and the according of better facilities to union representatives in the way of time credits and protection against dismissal.

The second proposal of interest was the way in which the system of 'co-supervision' should be introduced. This too was not to be the fruit of legislation but of direct negotiation. The role of the legislator should be limited to the removal of obstacles in present company law. Legislation should clear the way for change rather than impose it. Both of these proposals seem to lie in the general spirit of the reform of the status of manual workers, in that negotiation should replace direct legal enactment.

Legal enactment, we have suggested, was the chief method used before 1968 to promote permanent change in industrial relations. The introduction of the works stewards under the Popular Front and their reintroduction together with the establishment of works committees in 1945-46 are good examples of this. The Sudreau Report's recommendation thirty years later, that the law on committees needed to be better enforced is an apt comment on the effectiveness of the law in this area. The nature of this comment however deserves to be explained.

The years of the Popular Front and of the Liberation were periods of great activity and high mobilization of the French Labour Movement, and as such it was able to 'snatch' certain reforms. The problem is that the reforms were never fully accepted by those from whom they had been obtained, and as would be expected, once they had recovered from their defeat their opposition to the law could take effect. The link between the unions and the parties of the left produced the legal change in the political forum, but the spontaneous activity among the rank and file members and among unorganized workers did not lead to the setting up of the kind of institution that would create a permanent shift of power in the work place. These conditions were therefore very different from those prevailing in the munitions industries in Britain and Germany in the First World War. Spontaneous agitation could produce wildcat strikes but not a set of plant based negotiating procedures. Such was the weak foundation on which the method of legal enactment was based, and one of the chief reasons why the law of works committees has proved so difficult to enforce.

The Sudreau Committee would seem to be starting out from the premise that the law cannot fundamentally alter the balance of power between the parties and the method regulation governing the distribution of control, and that to attempt to do so would lead only to the non-application of the law. Active government encouragement of bargaining, on the other hand, should not alter this immediately, although it should help to stabilize the system by evening out the strength of the shop floor between its periods of intense political activity and relapse. This is fully consistent with the introductory chapters to the report in which the need for greater communication and greater mutual recognition between the two sides of industry is outlined. The authors talk dramatically of a crisis of 'confidence' between the two sides, of the 'defensive attitude' of the employers, of the difficulties of establishing a 'dialogue', and the tendency to generalize work conflicts into social conflicts very rapidly.

The Sudreau report belongs then to a context in which the government is trying to promote the development of institutionalized procedures, through the encouragement of frequent meetings between the representatives of

employers and employees to discuss the introduction substantive change in the framework of French industrial relations, like that of the extension of the benefits of staff status to manual workers, or the development of industrial training. It represents also a recognition by government that 'legal enactment' does not rest on the kind of consensus which exists in Germany and that because of this its effect tends to be uneven. It stems from the realization that much of French industrial relations is substantively oriented at the expense of the development of regular procedural norms. By pressing for agreement on substantive changes that are to be implemented throughout French industry, the Government's hope appears to be that this will activate bargaining at every level, and that this will lead to the experience of contact at every level and so help to unify bargaining practice.

The Bullock Report and the TUC and CBI proposals for change in Britain

The Bullock Committee faced many of the problems met by the Biedenkopf Commission and Sudreau Committee. Bullock's terms of reference were to consider how 'a radical extension of industrial democracy in the control of companies by means of re-representation on boards of directors . . . accepting the essential role of trade union organizations in this process' could be achieved. Thus by their very nature, they meant that Bullock, like Biedenkopf, would have to try and find some middle way, and to establish some agreement as to the relevant facts. As can be seen from the reception given to the majority report, the Committee was not successful in this aim. Like the Sudreau Report, it originally grew out of a government party manifesto, and so was rather more concerned with the elaboration of a viable set of policy proposals than the gathering of fresh evidence.

Because of the failure of the Committee to find a middle way, and thus an agreement as to how an 'extension of industrial democracy' should be achieved, it is perhaps best to consider the alternative proposals of the two main parties: the TUC and the CBI. It might be expected from what has been said earlier about the importance of mutually bargained agreements in British industrial relations that any proposals for a move in the direction of industrial democracy in this country would be related to this method of regulating the distribution of control. For this reason the views expressed in the paper on industrial democracy put out by the TUC in 1974 and reinforced by its supplementary evidence to Bullock in 1976 come as something of a surprise.⁸¹ One of its major proposals reads as follows:

'The TUC attitude to existing European experiments is that the system of two-tier boards is probably a desirable development in that the structure gives workers' representatives a degree of joint control over all the major decisions of the company: closures, redundancy, major technological changes, mergers etc. But appointments to supervisory boards are acceptable and desirable only if made through trade union machinery at company level (the precise manner might vary), and retaining a representative character and links with the trade union machinery'.

On first reading it would appear odd that the TUC, a long standing opponent the intervention of law in industrial relations, should be recommending the introduction of German style two-tier boards in British companies. However, by the time the Committee came to consider the various proposals before it, the TUC had altered its position, preferring instead representation on a single unitary board, and it was this idea that the majority of the Committee finally adopted. Nevertheless, the role ascribed to legislation must have appeared as a surprise to many.

The situation looks even more paradoxical when we take the alternative proposed by the CBI, many of whose members have long been advocates of the creation of a rigorous legal framework. At first sight their approach appears to be much more in line with British tradition and more consistent with the method of basing procedure on mutual agreement. Part of their submissions to Bullock read as follows:

'The CBI rejects the TUC proposals for compulsory worker representation on boards of directors and calls instead for a flexible approach which would leave the appropriate form of participation to employees, unions and management in particular companies.'⁸²

The CBI proposed for companies of over 2,000 employees, that a series of 'participation agreements' should be negotiated such that:

'The methods and techniques contained in the Agreement must be acceptable to employers, employees and, where appropriate, their representatives. Draft Participation Agreements may be prepared by agreement between representative officials of unions recognized in the plant and/or by other employee representatives and management'

If, however, we compare the proposals from the point of view of what is not said the paradox is resolved. The key issue not mentioned is the extension of the recognition of trade union bargaining. Marsh wrote in 1965 that the central question underlying procedure was that of 'how much recognition?'⁸³ Let us look at the implications of the two sets of proposals for this question.

The TUC proposal for employee representation at board level has two main implications. The first is that the presence of employee representatives at this level would constitute a useful extension of employee influence into management's area of control. Trade union supervision of the process of election would act as some guarantee of the genuineness of the influence thus gained by employees. The second implication, which is perhaps even more important, involves the extension of trade union recognition in companies where it does not yet exist. In companies where there exists no union organization the need to supervise elections would create it and yet it is hard to imagine that union presence could be confined to supervising elections. Furthermore, the extension of recognition is not always a question of penetrating new companies, but often one of reaching new strata of employees. The need to supervise elections for all ranks of employee would lead to increased contact with non-unionized groups.

The CBI's position on the other hand, appears to be aimed at avoiding such developments. In the negotiation of company based participation agreements there is no automatic trade union involvement, and the employer can bargain with any legitimate employee organization. Recognition is thus neither extended horizontally nor vertically. This is not surprising in the light of the previous argument in which recognition amounted to a concession of control, with management ceding part of its area of unilateral control to bilateral regulation in return for concessions from the union.

Another important feature, which is strongly related to the method of regulation prevailing in Britain, is the role both the TUC and the CBI attribute to bargaining in the establishment of any form of employee representation. The CBI quite explicitly argue for the introduction of representation through the negotiation of 'participation agreements'. At the same time,

even though the TUC saw the law as playing the main role in determining the form of board-level representation, the working of the process was seen as an extension of the current activities of the shop-steward organization. In other words, the 'substructure' of board-level representation should be the same as that established for normal plant level collective bargaining. Thus both sets of proposals are designed albeit in different ways to tie in with the normal method of establishing procedures by mutual agreement.

Seen in this light the TUC proposals would amount to a radical extension of industrial democracy in Britain, increasing the area of bilateral control both intensively, within firms where the union is recognized, and extensively, to firms where no union is as yet established. On the other hand, the CBI proposals would appear to be aimed at preventing such a radical change.

In conclusion, it can be seen that the different 'methods of regulation' of the frontier of control show up quite distinctly in the way in which proposals for change are constructed. The legally based method of West Germany shows up in the way the Biedenkopf Commission approached their problems, and sought to propose legal changes in order to reform a legally defined system, while the style and the content of the Sudreau Committee's report reflects both an acute awareness of the substantively oriented method of regulation in France, and a desire to change it by using substantive reforms as a bait to draw the parties into negotiation. In Britain the CBI proposals for 'participation agreements' were clearly in line with the method of regulation in France, and a desire to change it by using substantive reforms those of the majority of the Bullock Committee, although superficially at odds with this, in fact allow for it as much as those of the CBI. In each country the basic problem, that of the extension of the area of bilateral control is the same, although the form taken differs because of the different methods of regulation involved.

Conclusions

The main conclusion of this paper is that in order to interpret, and perhaps learn from, foreign experience in the field of 'industrial democracy' and industrial relations, two major factors need to be taken into account. The first is the way in which control is distributed between different institutions and, if we are to attempt to draw lessons for our own practice, how this distribution of control differs from that in Britain. The second is that account must be taken of differences in the method of regulation of the frontier of control between the country or countries studied, and our own. Unless this is done it is impossible to predict how any institutional 'transplant' will behave, and thus whether it will have the desired effect, or the exact opposite. In other words, in considering any such policy it is necessary to see how the institution fits in with the distribution of control in another country, and then how its introduction in Britain would affect the existing distribution of control here, and perhaps how it might be adapted in order to work here. The same needs to be done with respect to the method of regulation.

To illustrate this we might consider the extremely interesting switches of policy by the TUC and the CBI on the question of supervisory boards and the way these have implicitly taken these considerations into account. It has already been pointed out that the TUC originally supported the idea of parity representation on a supervisory board, and later switched to supporting a unitary board of the kind proposed by the majority of the Bullock

Committee. As the debate progressed, the CBI came round to the idea of employee participation on a supervisory board, or at least put it forward as a preferable alternative. This was the position of the minority report.

It was argued earlier that the scope for participation of the employee and union representatives on the German supervisory board has been designed in such a way that the representatives cannot easily pursue anything other than a 'cooperative' strategy, and that action is isolated from that of the trade union as a bargaining body, and of the works council as a 'codeciding' one. Had the TUC pressed for its original idea of parity representation on a supervisory board as part of its longer term strategy of influencing the future demand for labour by influencing investment policy, it would probably have found that it gained little more than the West German unions. It would be hard to relate discussions at this level to normal shop-steward bargaining because of the difference of time horizon, and lack of influence over the intermediate body, the management board, and it would be hard to relate participation at this level to normal collective bargaining outside the company, except perhaps in the case of very large companies. Although the legal restrictions which exist in West Germany may not apply, and stewards bargain rather than 'co-decide', a supervisory board would run the risk of much the same kind of isolation. This risk would be increased or diminished depending on the terms of reference of such a board and on the proportion and the status of the employee-elected directors (whether they should be responsible to those electing them, or like the other directors, be responsible to the shareholders).

On the other hand, participation on a unitary company board would offer the chance of sharing control over the whole range of investment decisions from the long term strategic ones, to the very short term ones. Moreover, giving access to shorter term factors, such a level of participation would link up more naturally with the existing 'substructure' of shop steward organizations. It is also likely that the division between long and short-term management decisions which would be fairly easily maintained with a two-tier system would not be so rigid with a unitary board. Thus one can see why some sections of the TUC found such a plan preferable.

Likewise, one can see why the CBI might prefer the supervisory system. Limited employee participation in long term planning would have the useful result of initiating the employee representatives to some of the long-term problems of company performance, and possibly encourage a longer-range attitude in normal bargaining. Furthermore representation on a supervisory board would then put employee participation above and below the management board, but not actually inside it. The positions adopted concerning board-level representation are also intimately related to those adopted on the 'substructure'. Representatives and employee elected directors must be related to some other body.

It has already been argued that most of the legislation on either the French works committees or the German works councils was based on the belief that the proper function of the union was that of bargaining outside the work place either with the company or the employers' association, and that work-place relations should be kept free from bargaining. It has also been suggested that French and German unions were very conscious of this, and concerned to break down the restrictions on work-place bargaining. The TUC and CBI proposals on the 'substructure' also appear to reflect different positions on this question. On the one hand, the TUC, a long-standing

opponent of any form of 'works council' for Britain, proposes to link board-level representation to the existing trade union machinery (or to union machinery yet to be established) which would reinforce and extend the presence of the union within the work place. On the other hand, the CBI seems to prefer a system of company councils which would fall half-way between the old joint consultation machinery, and the German works councils. Such company councils would represent the whole of the work-force, manual and non-manual, rather than just those organized within, or around a trade union. Moreover, the 'participation agreement' which would set it up need not be concluded with a union. Such councils would be independent of trade unions, although it is obvious that where unions are already well established they would also be well established on the council, and that where they were not, the council would reflect this also, as is the case in West Germany and France.

Furthermore, there is a certain interdependence between positions adopted on the 'substructure' and those adopted on board-level representation concerning the pressures to which board-level representation would have to respond.

There are two reasons why a trade union based 'substructure' should require some form of delegate, or representative status for employee elected directors. The first is simply that unions are naturally concerned not to lend active support and legitimacy to a body over which they have little control. The second is that in many respects trade unions and shop steward committees are like coalitions, and representative or delegate status together with frequent 'reporting back' are important in giving the different members of the coalition a chance to see that their interests are not being neglected. Without this the cohesion of such a coalition would be harder to maintain.

An institution like a 'company council', on the other hand, would be better adapted to support a system of directors elected to a supervisory board by the employees. Not being a bargaining body itself, it would have no reason to exert pressure on employee elected directors to seek to relate them to any bargaining strategy.

From the employer's point of view, union based employee participation may not appear independent enough to ensure that bargaining would not develop, applying additional short-term constraints to longer-term decision-making. On the other hand, from the union's point of view, company based participation may not appear sufficiently independent because of the danger of 'integration': that those involved might accept too readily the logic of the parameters under which the company was operating at the expense of the aspirations of those they represent. This fear has been frequently expressed with regard to West German works councils and even unions, and has been put forward as one reason for the 'wildcat strikes' of 1969 and 1973.

Both the TUC and CBI positions therefore have a certain internal consistency, although both pose problems related to the method of regulation by mutual agreement. A clean legislative sweep is possible in the Federal Republic of Germany because the reality to be changed has been legally defined, and has a degree of uniformity. British industrial relations, like those in France, are however characterized by a greater diversity in local arrangements. Where unions are well established, the machinery for Bullock-type representation exists, but where they are not, it is absent. Similarly, the CBI proposals would probably work well where company and work-place bargaining are not established, but where they are, it is hard to see the existing union organization encouraging the construction of a rival form of representation.

Appendix one

Two problems in making international comparisons in industrial relations

A The dangers of 'impressionistic induction'

Everyone knows that people of different nationalities will in similar situations behave differently. It is something that seems so obvious and so simple, but no matter how much you might protest that some of your best friends are French, or German, or for that matter British, there is still an unmistakably different atmosphere when one leaves the train at the 'Gare du Nord', or one arrives at the airport in Düsseldorf or in Frankfurt. The coffee is different. The banks are different. Perhaps before leaving Britain you have changed some money, a slightly hurried customer in a polite and well staffed bank. You perhaps want to change some more, so you enter 'la Société Générale' and you find to your horror a group of impatient customers milling about and waiting to be served by too few clerks, who on top of all this insist on taking their time. Or perhaps in Frankfurt you go into the Dresdener Bank and wait obediently like everyone else only to be told by the overtired cashier when your turn comes that you are in the wrong queue.

So you know the Germans are hard working, and you discover they are orderly when a private citizen tells you off for crossing at the wrong time at the regulated pedestrian crossing. From your first impressions you build up a picture of social order until you begin to notice that outside the regulated crossings people cross as they wish, and you notice that rather than wait at red, pedestrians will cross away from the crossings. Or in France you know that the people are lively, energetic, and take few tea breaks. What a stimulant their coffee is! Then as you wait among the disorderly mass of customers in 'la Société Générale' you notice that for the last twenty minutes the bank clerk has been standing with the same cheque in his hand. You had thought nothing of this at first, that is until you saw the clerk shake hands and say goodbye to his friend who had popped in for a chat.

All of these anecdotes are true, and although amusing, they point to a major obstacle to cross-national comparisons of an impressionistic nature. The problem with basing arguments on intuitively gained impressions is that for each 'fact' that can be quoted to support an impression there seems to exist a contradictory one which seems to be rather more than a simple exception to a well tried rule. The danger does not, however, stop here as much of the information we obtain on other countries and other societies is heavily tainted with impressionistic national characteristics.⁸⁴

It is probably true that 'national characteristics' are not so much objectively existing traits or ways a group of people commonly go about doing something, as the expression of a 'difference'. In other words, they express the difference between the observer's perception of himself, or his own national group and his impressions of the others. To the liberal minded Englishman the typical German is a Prussian. To the wine drinking republican Frenchman, the typical German is the hearty beer drinking conservative Bavarian.

B The dangers of being misled by different national industrial relations research ideologies

The first danger then in trying to pin down something which is as impressionistic as a 'method of regulation', derives from our habit of forming rough and ready impressions of national differences. There is, however, a second danger which is no less insidious, deriving from the prevailing ideologies in industrial relations research in the different countries. It is the danger that in relying heavily as we have done on research done by nationals of these countries the comparisons we have drawn will not deal so much with the different coherence of industrial relations in the three systems as with different approaches to analysis.

In the first part of this paper we mentioned that collective bargaining in France and Germany has tended to be contrasted in the continental literature with unilateral employer regulation, while in Britain, it has generally been contrasted with a situation in which there was individual bargaining.

The conception of collective bargaining as a collective form of individual bargaining is very widespread in the British literature. Let us start with the Webbs in their chapter on the method of collective bargaining, and on the 'higgling of the market'.

'The nature of the method of collective bargaining will be best understood by a series of examples.

'In unorganized trades the individual workman, applying for a job, accepts or refuses the terms offered by the employer, without communication with his fellow-workmen, and without any consideration than the exigences of his own position. For the sale of his labour he makes, with his employer, a strictly individual bargain. But if a group of workmen concert together, and send representatives to conduct bargaining on behalf of the whole body, the position is at once changed . . .'

' . . . We begin with the bargain between the workman and the capitalist employer . . . When the workman applies for the post to the employer's foreman, the two parties to the bargain differ considerably in strategic strength'⁸⁵

Writing about the Whitley Reports, Clay wrote:

' . . . For a century before the war the method of collective bargaining had been gradually superseding the settlement of wages and other conditions of employment by individual bargaining'⁸⁶

The reader will probably have recognized the first quotation from the Webbs as that which Flanders⁸⁷ used to criticize them, and which Fox⁸⁸ quoted in his subsequent defence of their position. In neither of these cases was the contrast between individual and collective bargaining questioned. One might make this clearer by summing up the positions of the respective participants in the debate with the aid of the following table.

	Wage negotiation	Job regulation
Individual	A	B
Collective	C	D

In his critique of the Webbs, Flanders had argued that they had seen the move from individual to collective bargaining in terms of a shift from square 'A' to square 'C', and he argued that they were mistaken in this because they neglected square 'D'. Flanders argued that this was a mistake because they had neglected the importance of 'job regulation' which became possible once there existed a collective worker organization. He went on to argue that there had been a qualitative change in that the significant move had been from a situation of individual wage bargaining to one of 'joint regulation' of work-place relationships. The Webbs had not compared like with like.

In a long article which contained a considerable proportion of textual analysis, Fox replied to his new orthodoxy, arguing that the Webbs had in fact been very conscious of the regulative aspect of trade union activities. From criticizing Flanders's interpretation, he went on to argue that there is also a regulative aspect in the negotiation of the individual labour contract as the framework of conditions needs to be agreed before the exchange takes place. A correct interpretation of the Webbs needs to take this into account, and given this we then have the quite legitimate passage from individual to collective bargaining as the passage from squares 'A' and 'B' taken together, to squares 'C' and 'D' also taken together.

What the tabular representation helps us to see is the central importance of square 'A' in British main stream thinking on the nature of collective bargaining.

If we cross the Channel to France we find a totally different conception of the nature of collective bargaining. The historical or paradigmatic alternative is not seen as individual bargaining, but as unilateral control by the employer. Sellier⁸⁹ who has probably had an influence as extensive in France as Flanders in Britain, has already figured largely in this paper. To save time perhaps we can take the liberty of referring the reader to Sellier's pages on the autonomy of the firm, on the refusal by employers to grant access to trade unions which blocked any form of productivity linked agreements, on the company agreements and their tendency to include large areas of unilateral control for the employers and so on. For Sellier, collective bargaining was seen very much more as a way of penetrating this kind of employer control than an alternative to individual bargaining.

Again, if we were to take the question in 'la politique contractuelle', of promoting work-place and wage regulation through collective agreements (whether legally binding or not), one would see that this has tended to take the form of an improvement on a system of unilateral concessions made by the employer which the unions may or may not regard as satisfactory.⁹⁰

Clearly there is a certain empirical convergence of these two conceptions, as an individual worker facing the strength of the employer – as the Webbs suggest in their two quotations – is virtually facing a set of wages and conditions offered by the employer on a take it or leave it basis. But this is not the point at issue. What is at issue is that in one industrial relations ‘culture’ this should be seen as an extreme case of bargaining, while in another it is seen as a case of unilateral control.

There is one further area which poses similar problems and which may be briefly mentioned. This is the importance and nature of ‘custom’ in workplace relations. The Webbs go to some length to give an account of some of the customs of trade and customary rates of remuneration. The passage in Clay in which he describes the way in which wage differentials had come to constitute a ‘system’ of fair rates before the First World War has at least on two occasions served as the fulcrum for reflections by Hicks on social pressures on the labour market.⁹¹ So much has been written on ‘custom and practice’ in engineering that it is hard to quantify it; and yet reference to custom seems to play a very small part in the industrial relations literature of France and Germany.

Indeed, the peculiar nature of the situation comes out when we compare William Brown’s book on piece-work bargaining⁹² with Crozier’s on the bureaucratic phenomenon.⁹³ Brown draws heavily on Crozier for his analysis of the kinds of force that might make for the maintenance and evolution of custom and practice, which suggests a certain empirical comparability of the work group related processes they were dealing with, and yet Crozier writes as though there were no such thing as custom and practice, or customary regulation.

Does this mean that customary regulation of the work place does not exist in France or Germany? Is it that custom is in some way related to individual bargaining? (From our previous argument it would certainly seem to be related to phenomena like ‘mutuality’). In the context of this paper we cannot demonstrate that the difference is purely cultural or ideological (and even if it were this would need to be explained) but there does seem to be sufficient ground for avoiding a consideration of ‘methods of regulation’, which would give some coherence to the processes dividing up the frontiers of control in the three countries, purely on the basis of the style of analysis of the different ‘cultures’.

Appendix two

Trade union structure in France

Trade union structure in France is quite different from that of either Britain or Germany. It takes a dual form, being based both on industrial lines and on inter-occupational lines. The union itself is usually quite small, so that the examples given by Maire, the leader of the Confédération Française Démocratique du Travail (CFDT), and Julliard⁹⁴ include the Trade Union of Railway Workers of Marseilles and the Engineering Workers Union of Railway Workers Marseilles and the Engineering Workers Union Saint-Nazaire. The trade union itself is in fact no more than a small industrial regional grouping of workers. On this foundation are built the industrial federations and the local and regional associations (the 'fédérations d'industrie' and the 'unions locales' and 'régionales' – the word 'association' has been used rather than 'union' to avoid confusion). Up until the beginning of this century these two forms of trade unionism were more or less in competition and it was not until the industrial federations and the movement of the 'Bourses du Travail' (which were not dissimilar to trade councils) came together in the Confédération Générale du Travail (CGT) in 1902 that the mould was set for modern trade union organization. There are now three major trade union confederations, the communist inspired CGT, the self-management oriented CFDT – formerly the Confédération Française des Travailleurs Chrétiens (CFTC) – and the 'reformist' Force Ouvrière which separated from the CGT after the Second World War. Each of these confederations is based on this dual structure of industrial and geographic organization.

It is the geographical organization which is particularly interesting. Maire and Julliard go so far as to see it as a key element in trade union democracy as workers come together in the 'union locale' to discuss problems which they all experience whatever their particular industry. It is therefore the sort of forum in which the broader aims of trade union action can be discussed; and this no doubt goes some of the way towards explaining the continued vitality of political discussion in the French trade union movement and the importance of the political orientation of the main confederations. This may appear rather surprising to students of British industrial relations who are familiar with the activities of local union branches in this country. As in France these bring together a number of industries, and discuss certain political questions. The 'union locales', however, play a relatively more important role and bring members from different industrial federations together on a rather more systematic basis. Their position also owes something to their being modelled on the old 'Bourses du Travail'.

This political activity is further helped by the fact that decentralization is an important feature, both from the confederation with respect to its constituent industrial federations and local associations, and from these with respect to their member unions. A stronger contrast with the orderly centralized and bureaucratic German trade unions is hard to imagine. As Professor Reynaud has noted in his book on French trade unions:

'The trade unions are economic actors, but they have the paradoxical trait of almost always being formed not so much to act upon the labour market as to protest against its very existence. Setting out from a marxist or an anarchist position, or basing themselves upon the social teaching of the Catholic Church or the fruit of meditation on the Gospel, or even claiming no other moral authority than the fate of the disinherited, the different currents of trade unionism at least share the same basic premise: that work is not, and should not be, a commodity.'⁹⁵

A final point worth making concerns the relatively low degree of unionization in France as compared with either West Germany or Britain. The differences in membership, however, greatly overestimate the differences in strength. Many French industrial relations experts contrast a 'syndicalisme de cotisants' (contributors) with a 'syndicalisme de militants' (activists), that is a form of union organization based on a large but passive membership, and one based on a small, but highly active one. If a way could be found of comparing the number of active members, the French would fare much better.

Notes

- 1 S and B Webb. *Industrial democracy*. Revised ed 1920 and *History of trade unionism*. Revised ed 1920.
- 2 A Flanders. *Management and unions*. 1970.
- 3 A Fox. Collective bargaining and the Webbs. *British Journal of Industrial Relations*. 1975.
- 4 G D H Cole. *Self government in industry*. 1917 and *Workshop organization*. 1923.
- 5 C Goodrich. *The frontier of control: a study in British workshop politics*. 1920. New ed 1975.
- 6 F Sellier. *Stratégie de la Lutte Sociale: France 1936-1960*. 1961.
- 7 C Goodrich. *The frontier of control* 1920. New ed 1975.
- 8 F Sellier. *La fonction de négociation dans la codécision simple en Allemagne Fédérale*. *Droit Social*. 1972.
- 9 E Schmidt. *Die Rolle der Betriebsräte in der Gewerkschaftsbewegung*, in O Jacobi *et al.* *Kritisches Jahrbuch* 1973.
- 10 According to Seyfarth *et al.* *Labour relations and the law in West Germany and the United States*. 1960. Strikes are only legal in Germany when:
 - (a) the parties (the union and the employers) are no longer bound to observe the pledge of industrial peace contained in any applicable collective agreement.
 - (b) the strike is organized by a union. Although wildcat strikes are illegal, the union can make them official.
 - (c) the aim of a strike is to improve working conditions and to apply economic pressure to improve the union's position in negotiating a collective agreement. Any other aim makes a strike illegal.
 - (d) all available procedure has been exhausted.
- 11 Bergmann, Jacobi and Müller-Jentsch. *Gewerkschaften in der Bundesrepublik: Gewerkschaftliche Lohnpolitik zwischen Mitgliederinteressen und ökonomischen Systemzwängen*. 1975.
- 12 Published as *Mitbestimmung im Unternehmen*. 1970.
- 13 European Industrial Relations Review No 28. 1976.

- 14 Op. cit.
- 15 Op. cit.
- 16 A senior official of I G Metall.
- 17 Dr J M Luttringer, now at the Centre National d'Information pour le Progrès Economique, Paris.
- 18 O Jacobi. *Die innerverbandliche Stellung der Vertrauensleute in der I G Chemie – Papier Keramik in Gewerkschaften und Klassenkampf*. Kritisches Jahrbuch. 1973.
- 19 During the expansionary period of the '50s and '60s the industry had been able to pursue a policy of 'buying' the works council by establishing a special relationship between councils and management at the expense of the union. The relative prosperity of the industry had also meant that both I G Chemie and I G Metall had been able to act as 'wage leaders' in the wage round. All this changed somewhat at the close of the '60s, and the decline in the industry's prosperity along with an increased rate of inflation meant that the union had to fight much harder to maintain the position of its members. After the 'fat years' during which the union had had little experience of an aggressive wages policy, it suddenly found itself forced to change, but without the necessary organizational means to lead such a policy. The result was the failure of the strike which took place in 1971. Since then the union has sought to play a more active role in the work council politics through its individual members, and to develop a corps of union stewards or 'Vertrauensleute'.
- 20 'An additional danger from the worker's point of view in developing a company-based wage policy is that the gains made by the works council can be revoked unilaterally by the employers. According to Jacobi *et al.* Kritisches Jahrbuch 1973, this in fact happened in a number of companies during the 1966-7 recession.
- 21 H J Teigelkamp. *Gerwerkschaften und Mitbestimmung am Arbeitsplatz*. Soziale Welt. 1973.
- 22 Otto Brenner, Secretary General of I G Metall.
- 23 P Waline. *Cinquante Ans de Rapports entre Patrons et Ouvrieres en Allemagne*. 1970.
- 24 M Schumann *et al.* *Am Beispiel der Septemberstreiks-Aufgang der Rekonstruktionsperiode der Arbeiterklasse?* Europäische Verlagsanstalt. 1971
- 25 H Markmann. *Les Grèves Spontanées de L'Automme 1969 dans La République Federale d'Allemagne* in G Spitaels (ed) *Les Conflits Sociaux en Europe*. 1972.
- 26 E Schmidt. *Spontane Streiks*. 1972. Also in O Jacobi – see note 18.

- 27 At the time Brandt was German Chancellor and Scheel leader of the Free Democrats.
- 28 Strauss was then leader of the CSU, Barzel leader of the CDU.
- 29 One additional factor enters the picture, and that is the importance of the rationalization of work methods undertaken by management during the depression. As in Italy which also experienced similar unrest in that period, the rationalization had gone ahead very much at the expense of working conditions, and thus of the shop floor. As in Italy, the union organization which tended to focus on wage rates had been less sensitive to these changes. This was also one of the factors making for a radicalization of the shop floor at least with respect to its attitude to spontaneous action.
- 30 Op. cit.
- 31 Y Delamotte. Introduction to J P Bachy, F Dupuy and D Martin's *Réprésentation et Négociation dans l'Entreprise*. 1968.
- 32 Op. cit.
- 33 M Duverger. *Le Monde*. 1974.
- 34 J Reynaud. *Les Syndicats en France*. 2nd ed. 1975.
- 35 The special group of issues here concerns the representation of individual grievances. Examples of these would be complaints about grading in the skill structure, of rating in a job evaluation scheme, complaints about supervisory action and so on. These could also stem from complaints from groups of individuals subject, for example, to the same working conditions. The range of such representation is wide, and although there are legally recognizable sets of grievances, they are usually of such a nature that they spread outside this minimum area. The consequence of this is that the ranges of grievances to be represented will depend in part upon the relationship between management and the work-force, and the ability of the latter to win recognition of the legitimacy of its grievances.

A further group of issues, as would be expected from the philosophy of the works collectivity, is oriented towards the management of the social facilities of the firm. The employing unit defines the collectivity, although the collectivity is deemed to have some life of its own. The control over the 'ouveres sociales' of the firm is quite extensive, and covers beyond the various social facilities and health and safety issues, the running of firms' schemes for provident and mutual aid and retirement schemes. Facilities like works canteens also come into this area. The main limitation on the extent of the running of these depends upon the budget allocated to these facilities by the firm. According to Reynaud's *Les Syndicats en France* this area has recently been extended as a result of legislation: in 1969 on provisions for unemployment in 1971, on provisions for industrial training (formation permanente), and in 1973 on provisions for the improvement of working conditions.

- 36 F Sellier. *Stratégie de la Lutte Sociale: France 1936-1960*. 1961.
- 37 Sellier. Op. cit.; J Reynaud. Op. cit.
- 38 Sellier. Op. cit. Chapter 12.
- 39 J P Bachy, F Dupuy and D Martin. *Representation et Negociation dans l'Entreprise*. 1974.
- 40 J D Reynaud, S Dassa, J Dassa, P Maclouf: Les Evénements de mai et juin 1968 et le système français des relations professionnelles 'I'. *Sociologie du Travail*. 1971, No 1.
- 41 J Reynaud. Op. cit. Chapter 8.
- 42 E Maire and J Julliard. *La CFDT d'Aujourd'hui*. 1975.
- 43 In the light of this, one wonders how far Sturmthal's description of the committees as 'bargaining councils' along with West German works councils stands up to scrutiny. See A Sturmthal. *Workers councils*. 1964.
- 44 Op. cit.
- 45 Banking is an anomaly.
- 46 There is another good reason why the employer should prefer the works committee system to that of the union section, deriving from the fact that the process of coming to an agreement is different. The employer is an automatic member of the works committee, and this can help to perpetuate informal and paternalistic forms of management worker relations. Recognition of the union section as a bargaining partner upsets both of these. On the one hand, the employer is faced with a move towards a greater degree of formalization of work-place relations, and on the other, it forces him to step down from his paternalism. In bargaining he is facing the union section representative as a formal equal and not as a 'father figure'. The preference of the union section for formalizing relations is not in contradiction with the aim of bringing the frontiers of control together. This is because the union is not seeking to establish a demarcation between the works committee and union section, but because it is trying to establish the pre-eminence of the section over the committee, and win the acceptance of bargaining based on the union as a means of settling work-place issues. In this respect, the employer's preference for the informality of works committee relations does not reflect a lack of concern for the division of the frontiers of control. On the contrary, it reflects his desire to exclude negotiations and negotiating agents.
- 47 F E Emery, E Thorsrud and E Trist. *Form and content in industrial democracy*. 1970.
- 48 See the series of books by W (later Lord) Brown and E Jaques.

- 49 A I March and E E Coker. Shop steward organization in the engineering industry. *British Journal of Industrial Relations*. 1963.
- 50 W E J McCarthy. *The role of shop stewards in British industrial relations*. 1968.
- 51 W Brown. *Piecework bargaining*. 1975.
- 52 It would be interesting to see how many cases of dismissal are related to conflicting views on this point.
- 53 'Contagious' or 'creeping' control differs from 'craft' control in that it is less formal and could develop out of work-place and local precedents.
- 54 Op. cit.
- 55 For the factors which apply in the selection Brown relies mainly on work by Crozier (*Le Phénomène Bureaucratique*. 1963) in France — a country not known for its 'customary regulation'. The factors Crozier cites for determining the constraints applied on groups in eroding or limiting managerial authority were the fact that the groups were condemned to live or work together, the fact that maintenance of the advantages of one group depends to some extent on the advantages other groups have, and the recognition by all groups of the need for a minimum level.
- 56 Op. cit.
- 57 A I Marsh and E E Coker. Shop steward organization in the engineering industry. *British Journal of Industrial Relations*. 1963.
- 58 The Donovan Commission estimated (Donovan Research Paper No 10 *Shop stewards and workplace relations*. HMSO. 1968) that there were about 175,000 stewards in industry as a whole. More recently the Commission on Industrial Relations (*Industrial relations at establishment level: a statistical survey*. HMSO. 1973) has argued that the figure is between 300,000 and 350,000.
- 59 See A I Marsh. *Industrial relations in engineering*. 1965.
- 60 G D H Cole. *Workshop organization*. 1923.
- 61 Op. cit.
- 62 A I Marsh. *Industrial relations in engineering*. 1965 and *Disputes procedures in Britain*. 1966.
- 63 R Hyman. *Disputes procedures in action*. 1972.
- 64 Cole. 1917. Op. cit.
- 65 Op. cit.

- 66 For details see *Industrial Relations Review and Report. No 124.* March 1976. The old hierarchy of local, district and central (or York) conferences has been abolished, and streamlined arrangements set in their place.
- 67 Preamble to the package deal agreement. Reprinted in Marsh. *Industrial relations in engineering.* 1965.
- 68 *Industrial Relations Review and Report No 124.* March 1976.
- 69 Any clause which sets out a general formula for distinguishing the functions of management and unions.
- 70 *Industrial Relations Review and Report No 98.* February 1975.
- 71 *Industrial Relations Review and Report No 44.* November 1972.
- 72 *Industrial Relations Review and Report No 45.* December 1972.
- 73 *Industrial Relations Review and Report No 126.* April 1976.
- 74 *Industrial Relations Review and Report No 90.* October 1974.
- 75 R O Clarke, D J Fatchett and B C Roberts. *Workers' participation in management in Britain.* 1972.
- 76 A I Marsh and E E Coker. Shop steward organization in the engineering industry. *British Journal of Industrial Relations.* 1963.
- 77 A Flanders. *The Fawley productivity agreements.* 1964.
- 78 E Maire and J Julliard. *La CFDT d'Aujourd'hui.* 1975.
- 79 O Kahn Freund. Intergroup conflicts and their settlement. *British Journal of Sociology.* 1954. Reprinted in Flanders ed. *Collective bargaining.* 1969.
- 80 The emphasis is the authors'.
- 81 Trades Union Congress. *Industrial democracy.* 1974.
- 82 *Industrial Relations Review and Report No 124.* March 1976.
- 83 Op. cit.
- 84 A recent article in the Harvard Business Review comparing participation and management in Sweden, the United States of America and Britain illustrates this rather well. See N Foy and H Gadon. Workers participation: contrasts in three countries. *Harvard Business Review.* 1976.
- 85 S and B Webb. *Industrial democracy.* 1902.
- 86 H Clay. *The problem of industrial relations.* 1928.

- 87 A Flanders. Collective bargaining: a theoretical analysis. *British Journal of Industrial Relations*. 1968.
- 88 A Fox. Collective bargaining: Flanders and the Webbs. *British Journal of Industrial Relations*. 1975.
- 89 F Sellier. *Stratégie de la Lutte Sociale: France 1936-60*. 1961.
- 90 J D Reynaud. *Les Syndicats en France*. 2nd ed. 1975.
- 91 J Hicks. *The theory of wages*. 2nd ed. 1963.
- 92 W Brown. *Piecework bargaining*. 1975.
- 93 M Crozier. *La Phénomène bureaucratique*. 1963.
- 94 Op. cit.
- 95 J D Reynaud. *Les Syndicats en France*. 2nd ed. 1975.

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