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COLLECTIVE BARGAINING OR LEGAL ENACTMENT? THE AUSTRIAN DEVELOPMENT [1]

In the final years of the Nineteenth Century, when Sidney and Beatrice Webb crystallized parts of their research and of current thought in the terms "Method of Collective Bargaining" and "Method of Legal Enactment", the ideas embodied in those terms were the foci of hot debates among working people and their leaders in the greater part of the western world. Gompers and his lieutenants in the adolescent American Federation of Labor (AFL) had convinced themselves that the federal character of the government of the United States plus the power of the judiciary to declare laws unconstitutional formed an insurmountable roadblock to comprehensive, effective use of legal enactment; but the dissenting voices were by no means muted. The leaders of the burgeoning "New Unionism" in England sought to combine more militant collective bargaining with more emphasis on attempts to secure protective legislation – to the evident displeasure of adherents of the aging "New Model". In France, the infant General Confederation of Labor (CGT) scornfully rejected both of the Webbs' methods in favor of revolutionary syndicalism. And in Germany the workers' movements strode forward uncowed by the stick of Bismarck's anti-Socialist law and unseduced by the carrot of his social legislation.

The situation just sketched is, of course, well known. Even among specialists, however, there is much less knowledge about such matters in the Austro-Hungarian Empire or in the "successor state" which had the name Austria forced upon it. Worse, some of the published generalizations concerning the character and extent of collective

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bargaining and collective agreements in the last two decades of the Habsburg era are little better than "harmless and graceful misinformation". It is, consequently, one purpose of this essay to make more available certain facts from documents that have become relatively rare. A second purpose is to examine, in the specific instance of Austria, the current generalization that, particularly since 1945, the "European" and "American" types of trade unionism have borrowed so much from each other that, in Supreme Court Justice Sutherland's phrase, the differences between them "have now come almost, if not quite, to the vanishing point". Incidental to this will be an indication of the relative effectiveness of the Austrian and American methods of organizing a labor movement. But the major purpose is to trace the changes in the way Austrian workers evaluated and used the Methods of Collective Bargaining and Legal Enactment.

The changes just mentioned are reflected in official statements of labor leaders, in actions taken by various working-class organizations, and in the terms of collective agreements. Through the courtesy of Herr Anton Proksch, Austrian Minister for Social Administration, formerly General Secretary of the Austrian Federation of Trade Unions (ÖGB), I have been supplied with the texts of the collective contracts applicable at the end of 1955 to about 75 per cent of those members of the ÖGB for whom such contracts are concluded.[1] Descriptions and analyses of these contracts, with special reference to the relation of numerous clauses in them to statutory provisions, will constitute a major section of the latter part of this article.

In no bona fide labor movement have the Methods of Collective Bargaining and Legal Enactment been viewed as mutually exclusive. The debates have centered on their relative importance and usefulness as means toward general and particular objectives.

STATE, UNIONS, AND PARTY

Basic to their evalutions of the Methods are the workers' conception of the nature and role of the state. Only slightly less important are their ideas about a labor party and its relations to the trade unions. The fact is that for generations millions of European workers viewed the state as an instrument of oppression and suppression. Throughout a major part of the second half of the Nineteenth Century the bitterest conflicts within the Austrian working class were those between Anarchists who sought to abolish the state and orthodox Socialists who wished to take it over with the expectation that it would wither

[1] For some members conditions of employment are established by laws, ordinances, and service regulations which are not negotiated in the usual sense.

away. Subsequently, these ideas gave place to others that visualized it as an instrument for the promotion of the interests of a rather narrowly conceived working class or, more recently, for the promotion of the general welfare. Equally clear is the early record on the other basic concepts. "Party and union are to us Siamese twins... to sever them would be an operation perilous to the life of both." Thus, on his authority as a physician, did Viktor Adler, unifier of the Social Democratic Workers party of Austria, phrase a *Parole* for the working class of his country. Long before it was read to the "free" (Socialist) trade union congress in 1923 as his "testamentary legacy" it had been a holy principle to the overwhelming majority of that class.[1] Since 1945, however, the ÖGB has been officially a "supra-party" organization encompassing self-styled "fractions" representing each of the political parties. Especially the spokesmen for the Socialists insist that the Federation is by no means apolitical. Labor adherents of the re-christened Christian Social (Roman Catholic) party, the Austrian People's Party (ÖVP), and of the numerically less significant Communist (KPÖ) and Liberal (FPÖ) parties agree that the trade unions do not and should not "steer clear of politics". In a country where until 1907 workers were fourth-class citizens, or less, this attitude is scarcely surprising. It was not and is not the result of the pernicious teachings of middleclass "intellectuals".

Other factors that constitute both background and framework for the pattern of industrial relations in Austria are her relatively late industrialization and the character of her entrepreneurial and managerial classes. Modern technology and modern capitalism took firm roots and began to grow vigorously only in the last third of the 1800's. The new entrepreneurs, products of systems of temporal and ecclesiastical absolutism which had freed their peasants from forced labor and feudal payments in money and kind only as recently as 1848, became fundamentalists of *laissez-faire*. Sections of the industrial code of 1859 faithfully reproduced the prohibitions of the British Combination Acts of 1799-1800 and like them were enforced only against the workers. Associations, educational, political, or economic, formed by laboring people under the permissive law of 1867, were soon dissolved wholesale for scanty or no reason. Vienna and its environs were placed under martial law for more than seven years (January, 1884 - June, 1891) in an attempt to crush the rising labor movement. Under such circumstances, and with the attitudes that developed from them, it would appear to be as nearly "inevitable" as anything can be that the

[1] Deutschösterreichischer Gewerkschaftskongress, 1923, Protokoll, p. 238. With the passage of years the popular "quotation" frequently became "... to sever them means death for both."

Austrians would develop a working-class movement in which collective bargaining and trade agreements would be shoved into a relatively insignificant role.

COLLECTIVE AGREEMENTS IN THE EMPIRE

Events prior to about 1900 validate the foregoing forecast despite the fact that as early as January, 1882, the labor paper Wahrheit included collective agreements in a list of goals worth striving for.[1] As in other countries the pioneers of such agreements were the printing trades workers. In the 1880's they concluded numerous contracts that established minimum wage scales; nevertheless, the earliest ones had only local significance. Later, a few provincial associations of printers' unions secured agreements for their areas and then, after a general wage movement in 1895, there came the "first standard wage agreement for all the skilled and qualified printers and type-caster journeymen of the Austrian Crown Lands"; that is, for the entire empire except Hungary. Further details from the report of the imperial Bureau of Labor Statistics show that this accord was much more than a "wage agreement". In addition to the classification of the localities or areas containing printing establishments into six wage categories in accordance with the costs of living and the establishment of general weekly minimum wages and of special rates for piecework type-setters, there was the recognition of the nine-hour day, a rule permitting only one apprentice to three journeymen, and the institution of arbitration courts in each province with a central court of appeal. From the report it is also clear that there were various other, unspecified, items of agreement, but that the printers' example was not followed.[2]

The fact is that for a long time after the rise of unions even collective negotiations were rare. Employers refused to deal with representatives of their own work people, not to speak of those of a union. The greater part of the working class "wanted to know nothing" of a contract that would bind its members for a lengthy period; they preferred freedom to make demands at any time.[3] As previously

[1] Julius Deutsch, Geschichte der österreichischen Gewerkschaftsbewegung, vol. I, Wien 1929, p. 165. Deutsch, an outstanding historian of Austrian labor, notes that to the best of his knowledge this was the first time the collective contract appeared in a list of trade-union objectives.

[2] Arbeitsstatistisches Amt im Handelsministerium, Die kollektiven Arbeits- und Lohnverträge in Österreich im Jahre 1906, Wien 1908, pp. 1-2.

[3] Hans Fehlinger and Fritz Klenner, Die österreichische Gewerkschaftsbewegung, Wien 1948, p. 112. In a later publication, Die österreichischen Gewerkschaften, vol. I, Wien 1951, p. 274, Klenner wrote that differences of opinion "on principle" about the purpose-

indicated, these attitudes apparently persisted until the late 1890's; at any rate, no record could be found of any discussion at the first and second trade union congresses, 1893 and 1896, of the desirability of collective contracts. The situation was even more sharply etched in Germany where the conclusion of the first such contract on a nation-wide basis, also by the printers, in 1896 stirred up a hornets' nest. Such agreements were to many German Socialists and trade unionists nothing short of high treason to the best interests of the working class and to the dogma of the class struggle. By the time of the third trade union congress in Austria, 1900, a contrary view had gained ground in both countries; the delegates at Vienna adopted a resolution that approved the principle of trade agreements but included the proviso that the indispensable pre-condition for them was a strong union. Furthermore, the delegates instructed the *Kommission*, a body closely similar in function to the Junta of the 1860's in England, to make a thorough investigation of the "question of collective contracts" and put the matter on the agenda for the next congress.[1] The upshot, in 1903, was another resolution almost identical with that of 1900 except that it stressed the need for strong employer organizations also so that agreements could be enforced. The duration and scope of the contracts were to be left to the discretion – and bargaining strength – of the parties.[2]

Meanwhile, that is, by the beginning of the Twentieth Century, trade agreements had ceased to be "uncommon", but were still far from "customary". In 1905, one of the first years for which even half-way-reliable and detailed data are available, some 94 contracts were concluded. They were concentrated in the metal and machine industry (32) and the building trades (25). As might be expected the chief items in them were concerned with hours and wages in general. Other items included: rest periods, closing time on Saturdays and on days before holidays, overtime pay, holiday work, work outside the shop or the locality, recognition of the union and its stewards (*Vertrauensmänner*), and May 1 as a holiday. The coverage remained narrow, usually only one firm. The most frequent duration (30 instances) was for two years; it ranged from one to eight. During the next year, 1906, there was a rash of agreements – 448 or 517 depending upon the source one accepts. From the details available on the smaller total it can be seen that workers in the clothing industry were conspicuously suc-

fulness of collective labor agreements "never existed in the Austrian trade union movement". Evidence from other sources, such as the proceedings of trade union conferences and the histories of individual unions, demonstrates that the later statement is too sweeping.

[1] Deutsch, op. cit., vol. I, p. 383.

[2] Klenner, op. cit., vol. I, p. 274; Fehlinger and Klenner, op. cit., p. 112.

cessful in securing contracts; namely, 77 comprehending 5,541 concerns with 38,262 employees. The construction industry shows 59 agreements covering 2,294 concerns and 70,270 workers. The metal and machine sector has the greatest number of contracts, 110, but much smaller numbers of concerns and workers – 869 and 21,261 respectively. Thus, almost exactly 60 per cent of the work people brought under agreements in 1906 were in the trio of industries just indicated. Even more significant is the fact that of the 448 agreements only 20 provided for a workday of ten hours or more although the legal maximum remained eleven. With or without benefit of knowledge of the Webbs' Industrial Democracy, Austrian workers were faithfully following one of the precepts laid down in that classic volume; namely, utilize the Method of Collective Bargaining to improve the standards established by statute.

During 1907 the flood of collective agreements continued to rise – to a total of 727 – but the significance of this increase of 62 per cent from the preceding year shrinks drastically when one notes that the number of workers benefited rose only 2,031 or a trifle more than one per cent. What is meaningful is that in the years 1904 to 1907, both inclusive, 883 contracts brought decreases in hours up to four a day for more than a third of a million working people and that in the same period 63.9 per cent of the grand total of 1,598 agreements included recognition of the union.

In other respects the development was not so rosy as might be concluded from the foregoing. At the fifth congress in 1907, Anton Hueber, as sturdy an old trade-union war horse as any in the history of the international movement, registered his intense irritation with the prevalent excessive enthusiasm for trade agreements. The colleagues, he said, had contracted a case of "collective blind staggers" and consequently had covenanted quite a lot of "nonsensical rubbish" that was fraught with great danger for the workers.[1]

EMPLOYER ATTITUDES

Even if Hueber's explanation of irrational enthusiasm be accepted for one set of partners, a question remains. Why did a substantial number of employers almost precipitously abandon their obstinate resistance to the recognition of unions and to the conclusion of signed agreements with them? As usual there is no single answer. Certainly important was the economic upswing that began in a few branches of industry and trade in 1903 and accelerated and broadened in 1904. Likewise

[1] Klenner, op. cit., vol. I, pp. 298 ff. Unfortunately, no source available to me specifies what Hueber meant by "nonsensical rubbish."

important, and partly a result of the increase in business activity, was the great rise in union membership from about 165,000 in 1903 to almost 450,000 at the end of 1906. Impossible to measure with any degree of precision but beyond doubt of some significance was the delayed, and partial, acceptance of the teaching of Pope Leo XIII that it was "greatly to be desired that [trade unions] should become more numerous and more efficient".[1] More generally, the rigid Liberalism of the Manchester variety that had dominated the thinking of businessmen in earlier decades was less prevalent. Finally, the years 1903-1907 witnessed the successful culmination of the first stage of the generations-long fight of the workers for manhood suffrage. This success in the political arena, because of the close connections between the party and the unions, encouraged more intensive activity in the economic field and, at least for a time, made numerous employers more willing to grant concessions there.

To varying degrees, however, these public concessions were what Austrian workers impolitely but accurately dub a "*Schwindel*". Although no record could be found of the use of the notorious trick of the American steel industry in this decade and earlier – sign for only a part of its mills and operate only the others – such time-honored devices as discharge for union activity, blacklist, yellow-dog contract, and yellow union flourished. No insignificant number of employers took exactly the opposite view of the struggle for the vote from that previously indicated and tried to use the workers' preoccupation with it as a time in which unions might be weakened or smashed. For this purpose the Lower Austrian Association of Master Joiners and Cabinet Makers locked out their employees in January, 1905, and again in February, 1909. In May of 1906, some 30,000 building trades workers in Vienna were given the same treatment. None of these efforts succeeded; in fact, the earlier ones prompted the fifth trade union congress, October, 1907, to go much further than it had before to increase the central strike fund and to establish more precise regulations for its use.

Behind such anti-union activities were a number of employer associations. As early as April, 1893, one group of them formed the Central Association of Austrian Industrialists; in November, 1897, another organized the Federation of Austrian Industrialists. Finally, in 1906, these two and numerous minor groups consolidated their forces in the Central Alliance of Industrial Employers Organizations.

[1] In the encyclical Rerum Novarum of May 15, 1891, as translated and published by the Catholic Social Guild of Oxford under the title The Workers' Charter in 1933. See pp. 42, 12, and the general discussion of associations.

Shortly before the outbreak of World War I this Central Alliance had a membership of 4,203 firms which employed 902,500 persons. Alongside it was the relatively insignificant Central Association of Austrian Employers (in small businesses).[1] Thus the wish of trade union leaders for strong employer associations had been fulfilled; but, as usual, centralized employer strength and power led for a time to intensified efforts to cripple or destroy the unions. The working-class movement, stimulated by its political successes, was quite prepared to do battle and so the remaining years before August, 1914, witnessed a sharpening of class antagonisms.

Under these circumstances it is rather surprising that collective agreements continued to be signed or renewed in relatively large numbers. For the last five years prior to the war the Bureau of Labor Statistics reported the following data:

Year	*Agreements*	*Establishments*	*Workers*
1909	570	9,714	127,016
1910	696	8,508	118,103
1911	726	17,301	115,226
1912	822	13,336	180,382
1913	500	10,986	142,682

Even more significant are certain summary figures. At the end of 1913 there were in force 1,601 agreements covering 39,519 establishments and 419,372 persons; that is, about 17 per cent of all those working for wages or salaries. These 1913 data, quoted in a secondary source, reflect a drop from those in the last prewar report of the Bureau of Labor Statistics available to me. In 1912 there were 1,766 contracts in effect; they covered 42,556 establishments and 450,225 workers. Throughout the years 1906-1912 the range of the items covenanted expanded slowly. Wages and hours continued to be the most common subjects, but it is interesting to observe that even in 1912 the former did not appear in 1 per cent of the contracts concluded or renewed and the latter did not in 19 per cent. The most frequent schedules were from nine to ten hours a day. Between 1906 and 1912 the percentage of the agreements setting those schedules dropped from 86 to 77. Contrary to a not illogical inference from this drop, the percentage of the contracts providing a day of less than nine hours remained very small, only 3.4, and the percentage of the workers so benefited even smaller, only 1.5. Most significant, however, is the fact that with a general legal maximum of eleven hours a day almost 78 per cent of the work people covered by agreements had a schedule of ten or less.

[1] No reliable figures on the number of firms or handicraftsmen in this group could be found; its members employed "about 47,000" work people.

Wage clauses in the 1912 contracts show that 38 per cent of them for 23 per cent of the workers stipulated time wages only; that 9 per cent for 4 per cent of the workers provided for piece wages only; and that 47 per cent applicable to 64 per cent of those covered provided for both. In the remaining 6 per cent, concluded for 9 per cent of the individuals, the agreement was for a wage increase.

CLAUSES OTHER THAN WAGES AND HOURS

Examination of the section "Content of the Agreements other [than Wages and Hours]" in the reports of the Bureau of Labor Statistics provides insights into what additional objectives were considered important and could be attained. In 1906, for example, the "most important" were those that dealt with the "protection and safeguarding" of the agreed upon working conditions. Most frequently this was accomplished by the creation of joint committees of three "masters" and three workers. Their tasks, in addition to that just indicated, were to adjust grievances, make preparations for the renewal of the agreement, and assist in the determination of piece rates. Only rarely was anyone outside the occupational relationship appointed specifically as a conciliator or arbitrator but many contracts provided that such persons had to be brought in as committee chairmen. Next in importance were clauses that recognized the union *and/or* its stewards and those that stipulated May 1 as a holiday. Less frequent, though still significant, were others on matters of sanitation and health and on the use by employers of the unions' employment offices. Curiously, because of the totally inadequate statutory regulations, only 15 of the 478 agreements contained a clause concerning apprentices.

During the years 1907, 1908, and 1909 the picture remained essentially the same. A few contracts provided for paid vacations in 1908 and 10 per cent of them did in 1909. Likewise in 1909, preference in hiring was given "frequently" to Austrian or organized workers, and discharge in reverse order from that of engagement "not rarely". A conspicuous feature of the 1909 agreements was the number with long duration, up to seven years; almost 35 per cent ran for either two or three years and 16 per cent for more than three. In 1910, the "control" (supervisory) committees became less common, arbitration courts more so. Contracts in which the unions *and* their stewards were recognized increased to 49 per cent of the total; those in which strikes, boycotts, passive resistance, and lockouts were prohibited for the duration of the agreement to 10 per cent. Other prohibitions, of disciplinary measures against workers for participation in wage movements and for union membership, were included in 17 and 5

per cent respectively of the pacts. Significant, although it appeared in only 2 per cent of the documents, was the agreement to try to bring nonunion establishments under coverage.

In the remaining three and a half years before the outbreak of war, clauses of the foregoing types appeared in an increasing percentage of the agreements and different ones were added. Of the latter probably the most important were those that regulated wages and hours in more detail. For example, of 822 contracts concluded in 1912 no less than 370 included supplementary wage payments for dangerous, unhealthy, extra heavy, and generally disagreeable work; for tram or other fares; for food and lodging; for attendance on two machines; and for numerous other reasons. The more one examines the data the more clearly its appears that the Austrians' interest in "working rules" prior to World War I was not so far behind that of the Americans as some labor historians have indicated.

Always of interest in a study of industrial relations is the extent to which collective agreements can be reached without preliminary conflict. In 1906 a trifle less and in 1912 a trifle more than 50 per cent of the settlements came peacefully; in 1909, 74 per cent; in the other years of this period the percentage ranged from 60 to 67.[1]

To this point nothing has been said concerning the "Christian", in Austria actually Roman Catholic, unions. The reason is best stated in the words of their chief historian, Dr. Franz Hemala: "From the year 1870 on the Social Democrats indisputably ruled the Austrian labor movement". Membership figures show that these "Christian" unions never included more than 13.4 per cent of the organized workers – in 1931 when their Socialist counterparts had 75.2. Moreover, the Roman Catholic associations had a high percentage of nonindustrial workers such as clerks, teachers, and – in the last years of the First Republic – soldiers. They and the splinter groups usually had to follow the lead of the Socialists. With respect to the principle of collective agreements, Hemala notes that the "Christian" unions were vigorously promoting it at a time when a major section of the Socialist ones were opposing it; nevertheless, one searches his book in vain for any information on the nature and extent of such agreements.[2]

[1] Except for 1911 when no data are available. Cf. Klenner, op. cit., vol. I, pp. 283, 284, 374-380; Deutsch, op. cit., vol. I, pp. 305, 439 ff.; Arbeitsstatistisches Amt im Handelsministerium, Die kollektiven Arbeits- und Lohnverträge in Österreich, 1906, pp. 1-28; ibid., 1907, pp. 1-26; ibid., 1908, pp. 1-25; ibid., 1909, pp. 1-45; ibid., 1910, pp. 1-49; ibid., 1912, pp. 1-18.

[2] Franz Hemala, Geschichte der Gewerkschaften (2d. ed.), Wien 1930, pp. 142, 306, passim.

Although Hemala and the most important leader of the Roman Catholic unions, Leopold Kunschak, told me in 1937 that their model was the American Federation of Labor, the fact is that those unions were almost as completely immersed in political activities as were their stronger rivals. Thus it came about that, true to their faith in the Method of Legal Enactment, both groups, during the first year and a half of the new republic, joined in the passage of a comprehensive set of social and labor laws.

LEGAL ENACTMENT

Among these laws the most immediately relevant are the Works Councils Act of May 15, 1919, and the Conciliation Boards and Collective Agreements Act of December 18, 1919. To the works councils were assigned three main groups of functions. The first of them, which may be termed the "managerial agenda", varied in some respects with the nature of the business and the size of the work force; but a key section of the statute, applicable to all types of concerns, stated that "the owner is authorized, and, upon the demand of the works council, required, to hold joint conferences each month on the improvement of the works and on the general principles of management". This and less comprehensive provisions concerning access to balance sheets and profit-and-loss accounts, participation in meetings of boards of directors and so on were intended to facilitate some degree of production control and to prepare the works councillors for the day of socialization. Second, the councils had general social functions concerned primarily with the observance of social legislation and the administration of such institutions as factory housing and shop cooperatives.

A third group comprised trade-union activities. Because there had been serious concern for at least two years about the tendency of works councils to usurp such functions in wholesale fashion, the union leaders strove tirelessly, and successfully, to delimit precisely the areas of competence. Thus, the law gave the councils comprehensive powers to supervise and help enforce collective agreements but not to conclude them. When it proved possible to supplement the general contract, the councils were authorized to enter into agreements to do so "with the cooperation of the organizations of workers and salaried employees... in those points of the collective agreement... where special regulation had been provided for in the latter itself". Once worked out, however, such supplements acquired "the character of a collective agreement". In enterprises where no agreements existed, the works councils "should prepare the way" for them "in

agreement with" the trade unions. The law also gave to the councils varying degrees of authority in such matters as the determination of piece wages, the dismissal of workers, shop discipline, and shop rules in general. In sum, the legal prescriptions were a major encroachment on the prerogatives of management – limited by the more moderate views of the trade union as contrasted with the works councils leaders.

The substantial development of collective agreements in the empire had been accomplished in spite of the legal anomaly, not to say monstrosity, that permitted an employer after he had signed one to pressure workers into individual contracts that contained disadvantageous provisions; consequently, the law on conciliation boards and collective agreements included a section stating that special understandings, to the extent they were not excluded by the general contract, were valid only if they were more favorable to the manual or white-collar employee concerned or if they covered points not regulated by that contract. In the interest of additional clarity, another section contained a general definition of the term collective agreement. Copies of all existing and subsequent agreements were to be deposited in the appropriate conciliation office within stated time periods. After deposition and public notice thereof; that is, after a maximum of eight days, the provisions of the pacts were "deemed to be an integral part of every agreement concluded between an employer and a wage-earning or salaried employee".

Conciliation Boards were constituted from an equal representation of employers and employees and a president and vice-president "nominated by the Secretary of State for Justice in agreement with the Secretary of State for Social Administration". Practically speaking, the appointments were made by the latter. In addition, to the customary functions these Boards had the power, on motion of either of the parties or of an authorized public official, to extend a collective agreement or portions of it to "outsiders", with or without their consent, on proof that it or they had acquired "predominant importance". The avowed purpose was to protect firms that had signed from the unfair competition of those that had not. It must be emphasized that the legislators had no wish to replace free collective understandings by official directives or "determinations" (*Satzungen*); employers and workers could always withdraw from them by the establishment of a new compact. Also worthy of emphasis is the fact that in their advocacy of this section of the law the free trade unions demonstrated their confidence in their own strength; the system of

regulations rendered it possible for individual workers to reap the benefits of collective agreements without joining a union.[1]

COLLECTIVE AGREEMENTS IN THE FIRST REPUBLIC

Summary data on membership in the Socialist unions and on collective agreements concluded during most of the history of the First Republic would appear to justify the confidence just noted. In 1913, membership in what became the republican area was only 253,137; in 1919 it was 772,146; in 1921 and 1922 well over 1,000,000; from 1923 to 1929 it remained above 700,000. For the period 1921 to 1930, both inclusive, something between 2,200 and 3,000 contracts covering 800,000 to more than 1,000,000 wage and salaries employees were in effect on any given day. From 1929 on membership and agreements in force dropped sharply. Depression and the rising determination of the Clerical Fascists to destroy not only the working-class movement but also democracy in general provide the explanations.

Among the numerous shortcomings of the Christian Social party that with other conservative or reactionary groups misruled Austria after the summer of 1920 was its failure to publish adequate detailed data on collective agreements. It is, consequently, impossible to ascertain to any satisfactory extent how many of them came into being without previous strikes or lockouts, the scope of their applicability, whether they were signed by free or other unions, the time for which they ran, or the precise nature of their provisions, and so to make comparisons with the developments in the last years of the empire. Through 1930 official publications of the Federation of Free Trade Unions of Austria continued to assert that the contracts secured by its member organizations embodied more and more gains "far above the legal prescriptions"; in its yearbooks for 1931 and 1932 this claim is absent. Scattered evidence from a wide variety of sources, including antiunion ones, indicates that at least from 1919 through 1928 the Socialist unions maintained a higher degree of job-control and established more working-rules than would appear possible in the light of the unemployment figures.[2]

[1] For the texts of the laws see Staatsgesetzblatt, 1919, Nr. 283, and ibid., 1920, Nr. 16. In the immediately preceding discussion I have borrowed from my previous publication, Austria from Habsburg to Hitler, University of California Press, Berkeley and Los Angeles 1948, vol. I, esp. pp. 202-214; 219-222. Additional material, particularly on the importance of the works councils, their relation to the unions, and the steps by which they became primarily the instruments of the unions, will be found there.

[2] Pertinax [Otto Leichter], Österreich 1934, Zürich 1935, p. 28; Jahrbuch 1928 des Bundes der freien Gewerkschaften Österreichs (cited hereafter as Gewerkschaftsbund, Jahrbuch), p. 65; ibid., 1929, pp. 193 ff., esp. p. 197; ibid., 1930, pp. 162 ff.; ibid., 1931, pp. 157 ff.; ibid., 1932, pp. 66 ff.

Important to the pattern of industrial relations in any country is, of course, the dominant structural form of its unions. Because of the late industrialization of Austria and the persistence even in the First Republic of thousands of small enterprises that were little if any past the handicraft stage, it might be expected that craft consciousness and craft unionism would prevail. On the contrary, Austrian workers from the days of '48 yielded place to no others in their militant class consciousness and at least from the time of their first trade union congress in 1893 proclaimed industrial unionism as their ideal. From then until the destruction of the free unions by one of the illegal decrees of the Clerical Fascism of Dollfuss and Schuschnigg persistent efforts were made to realize that ideal. Except for a few fusions and amalgamations they failed. The stumbling blocks were craft and personal egoism and, more important a good part of the time, inability to agree on a pragmatic definition of the concept "industrial union".[1]

NEW UNION FEDERATION

Liberation and the revival of unions brought with it at least formal attainment of the goal. Although the original plan in the new trade union federation (the previously mentioned ÖGB) was for 14 comprehensive organizations with sections and sub-sections, it became necessary to organize 16. These were the unions of:

1. Salaried employees in private economy.
2. Public employees.
3. Municipal employees.
4. Salaried employees in "free vocations".
5. Construction and wood workers.
6. Chemical industry workers.
7. Railway personnel.
8. Workers in graphic and paper manufacturing trades.
9. Employees in commerce, transport, and communication.
10. Workers in hotel and inn trades.
11. Workers in agriculture and forestry.
12. Food and "luxury" food and drink workers.
13. Metal workers and miners.
14. Textile, clothing, and leather workers.
15. Post and telegraph workers.
16. Workers providing personal services and in entertainment establishments.

But after sixty years trade union organization in Austria presents "no completely unified structure". The manual and white-collar

[1] For details see my previously cited publication, esp. vol. I, pp. 272-290.

employees are drawn together in accordance with four different principles: (1) in most of the unions of manualists by industry groups; (2) in the unions of salaried employees by vocation or social position (*Stand*); (3) in the unions of public servants in conformity to the service law; (4) in the union of municipal employees according to the employer for the different occupational groups without consideration of the corresponding service law.[1]

The reconstituted unions were, of course, anxious to restore the process of collective bargaining and the institution of collective agreements. For more than two years they had no satisfactory legal foundation upon which to do so; the Nazis had abolished the act of 1919 and introduced an authoritarian system for the determination of wages and working conditions. Immediately after Hitler's troops were forced out, however, Austrian workers began to elect works councillors who with or without the guidance of the new unions began to come to understandings with employers about various matters. The most pressing problem was the elemental one of food. In May, 1945, the official calorie ration equalled one and one-sixth peanut butter sandwiches, or (not and) a trifle more than one pint of whole milk per day. The rigidity, not to say criminal stupidity, from their own point of view, with which the occupying powers maintained their zonal demarcation barriers for months grievously aggravated this problem.

In October the ÖGB was informed that the Interallied Commission had created a Wage Control Board which intended to freeze wages at the level of April 1; that is, according to the scale set by the Nazis. Promptly its executive committee protested the injustice of this intention to the Commission and stated bluntly that the Nazi schema had to be abolished and replaced by collective agreements. A joint resolution of the ÖGB and the Chambers of Labor of November 21 repeated the demand for a return to collective agreements. Conferences of various unions, especially those of textile, clothing and leather workers, food workers, and wood workers, made the same demand.[2] Progress was slow. Because of this, and even more because of general inflationary developments, a Central Wage Commission was established by the Austrian government in late January, 1946, as a transitional institution. Composed of two representatives each of work people and

[1] Klenner, op. cit., vol. II, Wien 1953, pp. 1601-1611.

[2] Der österreichische Arbeiter und Angestellte, Nov. 12, 1945, pp. 1, 3; Dec. 12, 1945, p. 3; Jan. 12, 1946, pp. 2,3. Because of the paper shortage this ÖGB publication appeared irregularly. From later generalized reports it is clear that almost all the unions were urging the use of joint contracts from the first days of liberation.

employers with a representative of the Ministry of Social Administration as chairman, it had only a "wage-approval" as distinguished from a "wage-formation" function. Furthermore, for some time, its actions had to be sanctioned by the Interallied Wage Control Board. Since controls over prices proved totally inadequate, employers were under little compulsion to resist demands for money wage increases. These generally maintained pace with official prices; but, because of the need to resort to the black markets, real wages declined. Thus it came to the first wage-price agreement, worked out by the chief officials of the Chambers of Labor, the Chamber of Trade, the Chamber of Agriculture, and the ÖGB, and approved by the cabinet on July 25, 1947.[1] The import of the agreement here is that it was the product of collective bargaining of a sort, but that it provided employers with another pretext to throw up roadblocks in the negotiation and conclusion of collective agreements in the customary sense – and this in spite of the new statute thereon of February 26, 1947, effective August 6. On the other hand, the report of the executive committee on ÖGB activities during the period 1945-1947 admitted that "In Austria we have frequently forgotten how to conclude agreements."

LAW ON COLLECTIVE AGREEMENTS

Various passages in the law of 1947 are similar to or almost identical with those of 1919. The cardinal differences define generally two categories of organizations that have "collective-agreement competency" and give the Supreme Conciliation Board the authority to certify specific organizations in the second category as competent. The first group is made up of the statutorily established "representatives of the interests" of employers or work people; that is, of the Chambers of Trade, Agriculture, and Labor respectively. The second is comprised of those voluntary-membership, occupational associations of employers or work people that (a) include in their constitutions as one of their functions the regulation of labor conditions; (b) extend their scope of operations over a large occupational and geographical area; (c) possess in terms of membership and range of activity a decisive significance economically; and (d) are independent of each other. If an occupational association secures recognition as competent to conclude an agreement and does so, the legal representative of the interests of its members loses its contract-making competency for the duration of said agreement.

The obvious, and to an American trade union leader probably the

[1] For a highly interesting and informative analysis of this and the four subsequent wage-price agreements see Murray Edelman, National Economic Planning by Collective Bargaining, Institute of Labor and Industrial Relations, University of Illinois, 1954.

most striking, inference from the stipulations just summarized is that on their face they make impossible a collective compact with an individual employer or firm. And as the law defines "collective agreements" and "competency" that inference is correct. The employing units just specified have to operate through a legal representative of interests or an employers' association. If, however, an agreement reserves stated matters for regulation at the individual employer or works level, an "arrangement" (*Betriebsvereinbarung* as distinguished from *Kollektivvertrag*) about those matters becomes a part of the collective agreement proper. The parties to such arrangements are the employing unit and the local "works representation". A further qualification relative to the general categories of organizations that are competent to sign agreements appears in the law. If a public-law body or an undertaking, works, foundation, fund, and the like (publicly-owned power plant, or hospital association, for examples) operated by it does not belong to a statutory representative of interests or to a certified occupational organization, it is itself competent to conclude collective contracts. More generally, the sections of the law on collective agreements and certain powers of the Conciliation Boards apply neither to employment conditions in units of government (or any undertaking, foundation, and so on administered by them) nor to those in certain private-law contracts of labor, if such conditions are regulated by binding statutory prescriptions.

A somewhat less significant difference in the law of 1947 is that under it an agreement or portions of it that have acquired predominant importance can be extended by Conciliation Boards to essentially similar "service relationships" which were not originally included only on the initiative of a party to the basic agreement; that is, a public official cannot propose such extension to other employers and employees. Again the obvious purpose is to limit further the chances that free collective bargaining will be replaced by governmental directives – a development that became notorious elsewhere – for example, in France after the Matignon Agreement in 1936.

As previously indicated, the statute of 1947 closely followed or duplicated that of 1919 with respect to the deposit of agreements with Conciliation Boards, public notice thereof, prohibition of special understandings unless they were more favorable to the work people, and so on. Various matters were regulated more precisely. But neither law required employer groups or unions to "bargain in good faith". There is adequate evidence that the former did not do so for long periods of time.

Although the ÖGB was generally well satisfied with the new law,

it was thoroughly irritated by the provision that excluded agricultural and forestry workers from its benefits. Even more irritating, if possible, was the establishment of Agricultural and Forestry Workers Leagues. These were condemned by the ÖGB as dual unions, organized with the support of employers, and consequently a violation not only of the three-party agreement to maintain a unified trade union federation but also of the legal requirement that bargaining groups had to be independent of each other. The upshot of years of conflict, legislation, and judicial and administrative rulings is at present that in some of the *Länder* both the ÖGB and the Leagues are competent to sign collective agreements for agricultural and forestry workers; that in other *Länder* only one of them is; but that, in general, contracts for agricultural workers in a strict sense of the term are concluded by the Chambers of Labor in the respective *Länder*.[1]

OBJECTIVES OF COLLECTIVE BARGAINING

For the purposes at hand there is no need to describe in detail, much less analyze, the Works Councils Act of March 28, 1947. In general purposes, scope, and delimitation of rights and duties it is closely similar to the law of May 15, 1919, discussed previously. On the other hand, there is every evidence that the protagonists of the new statute, including the leaders of the Roman Catholic fraction in the ÖGB, were determined that the "managerial agenda" of the councils should become a thing of solid bone and robust muscle. They believed that their experiences in the First Republic had proved that "co-determination", at times used as the equivalent of collective bargaining, had to comprehend more than wages, hours, protection against arbitrary discharge, observance of collective agreements and social legislation, and similar traditional matters. The objectives remained "revolutionary": a "social state" and a "just economic and social order". Although opponents of an economy which was only the shuttlecock of the "free play of forces", these protagonists rejected the "subjugation of private enterprise by a totalitarian planned economy". The solution to the (in large measure, pharisaical) problem of "free" versus "planned" economy lay in the middle: "a directed [*gelenkte*] economy as a synthesis between freedom and compulsion". The works councils were to aid in the direction. Their members, as past or prospective victims of Fascism, were to do as much as in them lay to prevent Austrian big business from financing a third variety.

In the early months of 1947 the "spectre of Communism" was no

[1] Bundesgesetzblatt, 1947, Nr. 76 (cited hereafter as BGBl.); ÖGB, Tätigkeitsbericht, 1945-1947, pp. 1/28, 1/70, 1/71; ibid., 1951, p. 508; ibid., 1952, pp. 105-106; letter from Anton Proksch, at the time General Secretary of the ÖGB, to me, October 10, 1955.

ectoplasmic manifestation, no phrase from the first sentence of the Communist Manifesto. It walked the streets and patrolled the highways of eastern and northern Austria in the uniform of the Soviet army. Almost as real in the minds of her citizens was the wraith of inflation, the memories of those grim days in 1922 when the paper crown dropped to one-fourteen-thousandth of its 1913 gold predecessor. To be sure, the ratio of black market to official prices for food in Vienna during the first quarter of 1947 was only 35 or 40 to one instead of the 255 to one it had been in August, 1945, or the average of over 100 to one it had been throughout 1946; nevertheless, as Edelman demonstrates with reference to the existing system, "A control device less likely to curb inflation would have been difficult to devise." [1] There was no central authority; especially in the instance of industrial prices there was no control except by the Chamber of Trade through its members and friends in the ÖVP. Otherwise stated, the "control" was a figleaf for extortion.

Labor leaders were, of course, under tremendous pressure to secure wage increases; but, as previously observed, managed only those that kept up with official prices so that real wages fell. Under the circumstances of catastrophic shortages despite foreign aid, with resort to the black market as the only alternative to starvation, and because of their faith in a "directed" economy, the ÖGB and the Chambers of Labor became more and more convinced that, in addition to increased production, an improvement in the workers' conditions of existence must come more from the price than from the wage side. This conviction was reinforced by the realization that Austrian prices, generally at about one-fifth to one-third of those in the international markets, had to be adjusted; but, if possible, at a pace that would not cause a price-wage spiral of inflation. With this change from the customary objective of wage increases under almost any conditions, the nature of trade-union activities and methods was basically altered. Thus it came about that the ÖGB helped to engineer the series of wage-price agreements and the currency-reform law that accompanied the first of them. Subsequently, the experience and the lessons derived from the relatively high degree of success of these measures, as contrasted with the wild inflation after World War I, led to the generalizations that wage movements could not be carried on sectionally as they had been in the past, that wages were one factor in the "direction" of the economy, that only through-the-looking-glass logic could permit the advocacy of a planned and directed economy contemporaneously with the demand for complete freedom in bargaining for wages, and that in their concern to protect workers' interests the

[1] Op. cit., p. 21; see also pp. 59, 63, 71.

unions could not overlook the general welfare of the economy and of the state.[1]

The new law on collective agreements, the new structure of the ÖGB, and the type of contracts it sought were more appropriate than their predecessors for the realization of the ideas and objectives just outlined. With the exception of the Agricultural and Forestry Workers Leagues, the law and its interpretation eliminated the competition of splinter and/or "yellow" unions. The unified and, generally speaking, industrial structure of the ÖGB not only barred the possibility of misuse by employers of the former Roman Catholic union group but also facilitated the attainment of nation-wide agreements. Furthermore, it could operate to prevent the relatively weak occupational groups from lagging behind on the way to more statisfactory standards of work and of life, or the stronger ones from pressing wage demands that would have undesirable effects on price relationships. All of this would require an appreciable amount of educational activity among work people to bring them to the point where they could understand economic relationships and act in accordance with their knowledge. Regretfully, spokesmen for the unions admit that they do not have the time, the money, or the trained personnel in adequate supply to do a proper job of education.

Nation-wide collective agreements! The hobgoblin of economic royalists! Perhaps it will place the matter in better perspective to note that Austria is approximately two-thirds the size of Pennsylvania in population and area. However that may be, there were in force at the end of 1954 no less than 87 nation-wide contracts in the strict legal sense of collective agreements and 102 supplements to them also applicable to the entire federal territory. Of the former, 69 covered manual workers and 18 white-collar employees. Of the latter, the sub-totals were 67 and 35 respectively. Furthermore, there were according to strict legal definition 62 collective contracts and 248 supplements thereto valid in one or more of the *Länder*. But, contrary to countless statements in the literature that explain the legal meaning of the term, the Austrian Central Statistical Office includes in its tabulation of the "grand total" 60 "collective agreements" and 161 supplements to them signed by "firms and groups of firms". Confusing as this is, it permits one highly interesting comparison. At the end of 1937, two-thirds of all the valid collective contracts were with individual concerns; seventeen years later, 70 per cent were applicable throughout Austria or in one or more of the *Länder*. Summarized

[1] For one of several summaries of such ideas see Klenner, op. cit., vol. II, pp. 1731 ff.

differently, the "grand total" of agreements was 209; of supplements, 511. Of these 162 and 375, respectively, applied to manualists.[1]

Broadly speaking, the federal or *Länder* agreements are "basic", or "blanket", or "framework" contracts. This does not mean that they consist primarily of generalizations or that they mean little until the frame is filled in. Before details are analyzed, however, a few more generalizations are in order.

By the end of 1946 membership in the ÖGB was 925,000. Nine years later it was 1,350,000. The two largest unions, those of Metal and Mine Workers and of Construction and Wood Workers, have provided approximately 30 per cent of the members. The third, of Salaried Employees in Private Economy, accounts for some 12 per cent. Membership in the next three, Railroaders, Public Employees (except in the post and telegraph group), and Municipal Employees, amounts to roughly 26 per cent; but for them, laws, ordinances, and service regulations replace collective agreements. Next in numerical strength are the unions of Textile, Clothing, and Leather Workers and of Agricultural and Forestry Workers with about 8 and 5 per cent respectively. Because the postal and telegraph employees are also covered by service regulations and because their union includes around 3 per cent of the membership of the ÖGB, there remain only some 70 per cent of that membership for which collective agreements can be negotiated.

SPECIFICS OF THE CONTRACTS

In recent years, consequently, metal and mine; construction and wood; textile, clothing, and leather; agricultural and forestry workers; plus salaried employees in the private sector of the economy, have constituted between 75 and 80 per cent of the individuals represented in the negotiation and conclusion of such agreements. A survey of representative examples of their contracts will provide an adequate basis for generalizations and conclusions. Furthermore, this survey is presented in considerable detail in order (1) to demonstrate the inaccuracy of the common notion that it is almost exclusively American and British workers who are interested in spelling out "working rules", and (2) to show the relation of contract to statutory clauses.

(*To be continued in the next issue*).

[1] Österreichisches Statistisches Zentralamt, Statistische Nachrichten, vol. 10, n.s. (June, 1955), p. 233. Cited hereafter by title only. In 1955 the ÖGB decided to urge the amendment of the law to permit unions to make contracts with individual enterprises. The purposes were to check the tendencies of the works councils toward autonomous actions and to improve the status and prestige of the unions among the workers. ÖGB Kongress, 1955, Protokoll, p. 276; letters to me from union officials.