CO-DETERMINATION: THE GERMAN EXPERIENCE

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Reprinted from

THE INDUSTRIAL LAW JOURNAL

December 1975

SWEET & MAXWELL LTD.

11 NEW FETTER LANE, LONDON E.C.4

Law Publishers

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By Wolfgang Däubler *

The notion of co-determination

The attempt to influence events occurring in an enterprise is as old as the trade union movement itself: any improvement of working conditions implies a limitation on the unilateral power of the employer to alter the state of affairs. Strikes or—more generally—refusal to co-operate, and collective agreements, are in a general sense forms of co-determination. They have the advantage of allowing employees and their organisations a clear determination of their own position and own interests; the fundamental antagonism between labour and capital becomes evident in actual disputes and is only transitorily suspended by the collective agreement: a " temporary cease-fire."

This " non-institutionalised " form of co-determination, as practised in nearly all West European countries, has, in the past, excluded all questions of company policy. The determination of the production programme and prices, the establishment and closing of plants, the investment of capital and the transfer of production into a foreign country, have been, and still are, subjects which are exclusively determined by the owners and their representatives in management. The " co-determination " by collective agreement and strike therefore limits itself to relatively secondary questions, which are already to a great extent pre-empted by the dispositions of management. Hence the fight for better working conditions, for example, turns out to be in vain if the owner of the business closes down the factory or transfers production, and wage raises can no longer be achieved, if because of faulty investment the enterprise has reached the verge of bankruptcy.

The trade union movements of the different Western European countries have tried to tackle this state of affairs in quite different ways. In Italy and in France, for instance, trade unionists aimed at extending the traditional means of collective agreement and of strike to these spheres; *e.g.* the collective agreement at Fiat, by which the management was obliged to invest in Southern Italy, or the factory occupations at Lip,[1]

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1 From the German literature, Morawe, *Aktiver Streik in Frankreich oder Klassenkampf bei Lip* (Reinbeck, 1974).

Enka-Glanzstoff [2] and in Great Britain.[3] The extension of union bargaining rights to all entrepreneurial decisions is nowadays claimed in the common programme of the French leftist parties,[4] as well as by the Swedish Social-Democrats [5]; the most important historical parallel can be found in the time just after the Russian Revolution of 1917 when the factory owners could only act with the consent of worker representatives.[6] In the end such a " balance " tends towards a non-capitalist, socialist economy which, on the basis of the common ownership of the most important means of production, transfers the decisions which now are made by private top management to democratically elected and controlled bodies.

The German approach is basically different from this. Since the end of World War II the trade unions have been trying hard to gain influence within management; employees and employers are to be represented—if possible—in equal proportions. In this context, co-determination does not mean confrontation in respect of technical problems which specially burden the employees, but co-operation in an " institutionalised " form by the appointment of worker representatives to organs of the enterprise whose functions have remained totally unchanged. Differences of opinion between capital and labour are to be settled within these bodies by means of discussion and vote.

This German form of co-determination deserves a certain degree of attention, because its basic idea can also be found outside the Federal Republic; thus, according to the Austrian Works Constitution Act (*Arbeitsverfassungsgesetz*) the workers elect a third of the members of the so-called " *Aufsichtsrat* " (supervisory board).[7] The same legal situation has existed for many years in Norway,[8] and in the Netherlands a considerable influence on the composition of company organs has been

2 See Teulings, *Gewerkschaften und Arbeitskämpfe in den Niederlanden*, in Jacobi-Müller/Jentsch-Eberhard Schmidt, *Gewerkschaften und Klassenkampf* (Frankfurt/Main, 1973) pp. 242 *et seq.*

3 See from the German literature, Müller-Jentsch, *Gewerkschaftskämpfe in Grossbritannien*, in Jacobi-Müller/Jentsch-Eberhard Schmidt, *Gewerkschaften und Klassenkampf*, pp. 215 *et seq.*

4 Common programme of the French Communist Party and the Socialist Party, June 27, 1972, German translation (Frankfurt/Main 1972) pp. 36 *et seq.*

5 Stig Gustafsson, *Die geplante schwedische Gesetzgebung zu den Arbeitsbeziehungen*, manuscript (Stockholm, 1974); Däubler, *Der Gewerkschafter*, Heft 8/1975, p. 5 *et seq.*

6 Decree of November 27, 1917, which described its aim in s. 1 as follows: " In the interest of planned national economy there shall be introduced in all enterprises which employ labourers or homeworkers the control of workers over production, buying and selling of products and raw material, its stockpiling as well as over questions of finance." See from the literature in German, Deppe- v. Freyberg-Kievenheim *et al.*, *Kritik der Mitbestimmung* (Frankfurt/Main 1969) pp. 258 *et seq.* and Reich, *Sozialismus und Zivilrecht* (Frankfurt/Main 1972) pp. 89 *et seq.*

7 S. 110 *Arbeitsverfassungsgesetz* of December 14, 1973, *Federal Law Gazette* (BGBl) No. 22 of January 15, 1974.

8 Law of May 12, 1972, to amend the Stock Corporation Law, *loc. cit.* Grasmann, *Zeitschrift für Gesellschaftsrecht* (ZGR) 1973, p. 326.

accorded to the employee representatives.[9] Finally, the Commission of the EEC has suggested the adoption of the German solution for the European joint-stock company,[10] a fact which is sometimes considered as a sign of the great " attraction " of the German model. What rights does it accord then to the employees? How does it function in practice? To answer this we have to distinguish between the one-third representation under the Works Constitution Act 1952 (*Betriebsverfassungsgesetz*) and the parity under the Co-determination Law for the Coal and Steel Industries (*Montanmitbestimmungsgesetz*).

Co-determination according to the Works Constitution Act 1952

According to section 76 (1) of the Works Constitution Act 1952, the supervisory board of a company limited by shares has to consist as to one-third of representatives of the employees, who are delegated by the staff of the factories belonging to the company in general, by equal, secret and direct ballot. The same rule applies to limited companies, mutual insurance associations and co-operative societies, as long as they employ more than 500 employees. Excepted, however, are foundations and partnerships such as the " open partnership " (OHG—*Offene Handelsgesellschaft*) and the " limited partnership " (KG—*Kommanditgesellschaft*), which do not have a supervisory board.[11]

According to German Company Law the supervisory board elects the board of directors, who direct the business of the company and represent it. Besides, it has the right and the duty to control the activities of the board of directors and can therefore make certain kinds of transaction depend upon its consent.[12] Important basic problems of the company's policy are, however, left to the general meeting, *i.e.* to the shareholders, who decide on alterations to the memorandum as well as increases and reductions of the share capital, and elect those members who are not representatives of the employees, *i.e.* two-thirds of the members of the supervisory board.[13]

In practice the representation of employees is reduced to a mere right to be heard. As the majority formed by the shareholders almost always votes unanimously there is no chance whatsoever to carry through staff interests in the supervisory board.[14] Also, in the election of the board of directors, the staff representatives do not have significant influence; up to now not a single case is known where they have succeeded in

9 Law of 1971, German translation in *Zeitschrift für Gesellschaftsrecht* 1974, pp. 125 *et seq.*

10 Ss. 137–145 of the proposal, as quoted in *Recht der Arbeit* 1971, pp. 40 *et seq.*

11 The same is true according to s. 76 (6) for family companies limited by shares which employ less than 500 workers.

12 S. 111 (4) Stock Company Law (AktG).

13 Their duties are described in s. 119 (AktG).

14 Boettcher-Hax-Kunze *et al.*, *Unternehmensverfassung als gesellschaftspolitische Forderung* (Berlin 1968) s. 39.

getting a man of their choice on the board of directors against the vote of—be it only a part of—the " majority group." [15] Consequently many employee members of the supervisory board, interviewed during an empirical study, claimed that their activities on the supervisory board were less important than the representation of interests in the works' council [16]—and this was true even though the works' council, according to the law of that time,[17] had only very restricted possibilities for co-determination in social matters.

Co-determination in coal and steel industries

The institutional framework. Of much greater interest is the parity co-determination established by law as early as 1951 in enterprises of the mining industries and the iron and steel producing industries.[18] In all corporations and limited companies in this economic sector, a supervisory board has to be formed consisting of five representatives of the shareholders, five representatives of the employees and one " neutral " member, on whom both sides have to agree.[19] The five workers' representatives are indeed elected, in the same way as the other members of the supervisory board, by a general meeting, but the latter is bound by the nominations; three members of this group are nominated by the executive of the trade unions; the two others, one manual worker and one white-collar employee by the works' council.

The supervisory board elects the board of directors by a simple majority. Among the members of the board of directors must be one so-called labour director, who cannot be appointed against the vote of the majority of workers' representatives on the supervisory board. As the delegate of the staff he is to represent their interests in the management itself, although he is, in the same way as the rest of the members on the board of directors, legally bound to administer the company with the " care of an orderly and conscientious business manager." [20] There are no further organs of co-determination; the general meeting consists exclusively of shareholders, and it has kept its power to decide on the increase of capital and alterations to the memorandum. Thus,

15 Blume, *Normen und Wirklichkeit einer Betriebsverfassung* (Tübingen 1964) pp. 201 *et seq.*

16 Kliemt, *Die Praxis des Betriebsverfassungsgesetzes im Dienstleistungsbereich. Aus der Sicht der Betriebsratsvorsitzenden* (Tübingen 1971) p. 201.

17 Works Constitution Act (BetrVG) of October 11, 1952, BGBl 1, p. 681. As to the new legal situation see Ramm, " Co-determination and the German Works Constitution Act of 1972 " (1974) 3 I.L.J. 20.

18 Gesetz über die Mitbestimmung der Arbeitnehmer in den Aufsichtsräten und Vorständen der Unternehmen des Bergbaus und der Eisen und Stahl erzeugenden Industrie of May 21, 1951 (BGBl 1 p. 347), with the latest amendments by Einführungsgesetz zum Aktiengesetz of September 6, 1965 (BGBl 1 p. 1185).

19 S. 4 of this Law.

20 S. 93 (1) (AktG).

in respect of the legal structure, full parity does not prevail, as the shareholders keep their option to prevent new investment and they have the power, moreover, to transform the company from one limited by shares by means of changing the memorandum, into a "limited partnership," and by so doing escape all co-determination. This is a loophole which up to now, however, has not been used to any considerable extent, but which can, by its mere existence, inhibit the activities of the workers' representatives.

The practice of co-determination in the coal and steel industries

The most frequent question, which is especially asked by workers, is the following: what has co-determination given us in actual fact? Has representation, on equal terms, of workers on the supervisory board, and indirectly also on the board of directors, changed everyday work; has freedom replaced bondage? Industrial sociology has examined these problems with the help of empirical research projects and reached the following conclusions, which are mainly unchallenged:

(1) The parity on the supervisory board does not continue on the board of directors. The employees content themselves with nominating the labour director and renounce entirely their influence on the choice of the other directors.[21] The reasons for this self-restraint have never been completely discovered. One reason seems to be the lack of specialists, who would be ready to uphold union interests. Another, more important one, is the reality of power within society, which make it appear not very advisable to get into confrontation with employers. Whichever interpretation may be the most plausible, there is no doubt that the most pervasive influence on the board of directors is that of the representatives of capital. This is underlined by the fact that the labour director usually administers the department for social and staff matters, while the commercial and technical questions, which are far more important for the development of the enterprise, fall under the competence of the other, management-orientated members on the board of directors.[22]

(2) On the supervisory board itself a "distribution of roles" has developed in the way that the shareholders propose the chairman, whilst the employees exercise decisive influence on the choice of the

21 Blume in Potthoff-Blume-Duvernell, *Zwischenbilanz der Mitbestimmung* (Tübingen 1962) p. 266; Brinkmann-Herz, *Entscheidungsprozesse in den Aufsichtsräten der Montanindustrie. Eine empirische Untersuchung über die Eignung des Aufsichtrats als Instrument der Arbeitnehmermitbestimmung* (Berlin 1972) pp. 109 *et seq.*; Brock-Hindrichs-Hoffmann *et al.*, *Die Interessenvertretung der Arbeitnehmer im Betrieb* (Frankfurt/Main 1969) p. 49; Report of the Committee on Co-Determination (*Mitbestimmungskommission*—appointed by the Federal Government), Bundestags-Drucksache VI/334 p. 49; Voigt, in Voigt-Weddingen, *Zur Theorie und Praxis der Mitbestimmung*, Vol. I (Berlin, 1962) pp. 357 *et seq.*

22 Blume in Potthoff-Blume-Duvernell, *op. cit.*, p. 101; v. Oertzen, *Analyse der Mitbestimmung—ein Diskussionsbeitrag* (Hanover 1965) p. 53.

vice-chairman.[23] Because of this, an advantage, not to be underestimated, for capital develops, as the chairman can strongly influence the process of decision-making through the information gap and by the handling of the agenda. A similar tendency becomes evident in the appointment of the supervisory board committees, which are extremely important for actual decision-making and, while the labour representatives are mainly engaged in bodies which are competent for social and staff questions, the shareholders reserve the majority of positions in finance and investment committees for themselves.[24]

From this there follows, almost automatically, a higher chance of success in the full supervisory board for questions central for the future of the enterprise, while the "workers' side" concentrates on the "consequences," *i.e.* on the social and staff sector. This is confirmed by studies of the actual conduct of decision-making by the workers' representatives on the supervisory board. They are usually not opposed to the investment projects of the board of directors,[25] the majority of which is formed by the opposite side; and this is the case even with relatively high-risk proposals as in the steel industries, the dubiousness of which have become evident after several years.[26] Nor can effects of price policies, *e.g.* on the consumers' interests or on the stability of the national economy as a whole, be ascertained.[27] The dividends proposed by the board of directors have been accepted because, according to the Report of the 1969 Committee on Co-determination appointed by the Federal Government, the workers' representatives showed "understanding" for the requirements of the capital market.[28] Even with the mergers of companies and other economic concentrations there were no "difficulties" so long as it was ensured that the supervisory boards and boards of directors of the "incorporated" companies were maintained as advisory councils and directorates so that the individual members did not lose office.[29] In spite of parity co-determination, the management's concepts of company policy could always be put into practice [30]; the orientation of the company towards the principle of a profit-making enterprise, remained untouched.

(3) The merits of co-determination lie in the social field, where the

23 Blume in Potthoff-Blume-Duvernell, *op. cit.*, p. 71; Brinkmann-Herz, p. 108.

24 v. Oertzen, *op. cit.*, p. 56; Thomssen, *Wirtschaftliche Mitbestimmung und sozialer Konflikt* (Neuwied und Berlin 1970) pp. 40 *et seq.*; see also Brock-Hindrichs-Hoffmann *et al.*, *op. cit.*, p. 49.

25 Commission on Co-determination (*Mitbestimmungskommission*), Bundestags-Drucksache VI/334, p. 44.

26 Thomssen, *op. cit.*, p. 45.

27 Thomssen, p. 46.

28 Bundestags-Drucksache VI/334, p. 47.

29 Brinkmann-Herz *op. cit.*, p. 149; *Mitbestimmungskommission*, Bundestags-Drucksache VI/334 p. 45; Thomssen, p. 47.

30 Brinkmann-Herz, pp. 146 *et seq.* on the ineffectiveness of control of the board of directors.

accents have been shifted considerably. Thus in the coal industry and in the iron and steel producing sectors a so-called social plan (*Sozialplan*) has been developed, which provides, in particular, compensation and rehabilitation courses if a plant is closed down or if technical changes make jobs superfluous.[31] The emphasis on the representation of interests of the workforce rested upon overcoming actual emergencies; grievances and defective developments could not be prevented. The effects on employees could, however, be reduced.[32] The integrationist character of co-determination becomes evident with this very result: without really being able to co-determine the essential questions in the enterprise, corrections in marginal matters are made possible which avoid excessive friction between capital's interest in more profitable production and labour's interest in the protection of jobs. This prevents the workers from developing a critique of the whole system. That, on the other hand, nothing essential has changed in the life of the individual, that parity co-determination did not bring about democracy which could be practised in everyday life, is underlined by the fact that, according to a survey, only just about half of the " co-determining " workers knew about the existence of co-determination in their own enterprise.[33]

Reasons for this development

The reasons for this relative failure of parity co-determination may be found in various factors.

(1) First, union members frequently hint at the high salaries of supervisory board members from the labour side, which may slightly alter their " perspective." Rumours of this kind can be based on the fact that although, according to decisions of union congresses, a large proportion of their income should be given to the Co-determination Foundation (*Stiftung Mitbestimmung*) in order to finance higher education of working-class children, many worker representatives have disregarded these decisions and kept the money (which amounted to DM.3,000 (£500) per month).[34] On the other hand one cannot neglect the fact that the allegation of corruption is much too superficial because in most of the cases it would be wrong to presume a *subjective* transition to the other side or to believe that the financial contributions had an absolutely decisive influence on attitude and line of conduct. A certain " open-mindedness " towards the capitalist world can however easily occur, especially because the working-load involved (about one session per month) is not very heavy.

31 See Radke, *Die Praxis der " qualifizierten Mitbestimmung "* (Frankfurter Hefte 1969) p. 324.
32 *Mitbestimmungskommission*, Bundestags-Drucksache VI/334 p. 43.
33 As shown by Thomssen, p. 56.
34 On the difficulties of making the union representatives pay their share see Deppe-v. Freygerg-Kievenheim *et al., op. cit., pp.* 119 *et seq.*

(2) The legal framework in which the supervisory board and the managing board act has more value as an explanation. Every member of the supervisory board or the managing board is obliged by law to maintain the care of an orderly and conscientious business manager, which means, under the conditions of the present economic system, that they have to go all out for the highest possible profit for the company. *De lege lata* the labour representatives are accordingly not in a position to represent the staff interest consistently,[35] all the more since they are met with the fact that they carry the burden of proof for non-liability if by their action the company suffers a loss, *e.g.* a loss of orders or favourable credits.[36]

Furthermore the law has provided that worker representatives are not allowed, even on controversial questions, to mobilise the workforce, but have to make decisions isolated from their base. Not only does the co-determination law not admit an obligation to report to the employees, but, by taking over the bulk of the prescriptions of company law, prevents voluntary information to those who " co-determine." According to section 93 (1) of the Stock Company Law (*Aktiengesetz*) supervisory board members have to keep silent on confidential information and secrets of the company, and the wording makes it evident that it is not just secrets but also mere " confidential information " which must not be reported to the staff.[37] As any breach of secrets leads to an obligation to pay damages (and consequently the risk of losing a privileged standard of living) the secrets are in practice well kept; sometimes—because of the risk involved—even those facts which could, according to the law, be reported to the employees, remain secret. The consequence of this law is that staff, works councillors and unions are largely lacking in information, which makes any effective control impossible. If, for example, a plant is to be closed down or a company is to merge in another, the workers concerned get to know this usually at a time when the shareholders' representatives agree with such a " publication " so that it is no longer a secret.

If in spite of this " screening " the work of the labour representatives is criticised, it is normally without consequences. Although the body who proposed the person for the job (union or works council) can ask for his dismissal, such a dismissal needs a three-quarters majority of the general assembly,[38] which is quite unlikely in cases when a member of the supervisory board has not acted in the interest of the workers.

35 Deppe-v.Freyberg-Kievenheim *et. al.*, pp. 114 *et seq.*
36 S. 93 (2) AktG.
37 Detailed analysis of the legal aspect by Kittner, *Unternehmensverfassung und Information–Die Schweigepflicht von Aufsichtsratsmitgliedern*, ZHR (Zeitschrift für Handelsrecht) 136 (1972), pp. 208–251, who tries to define the " interests of the company " in the context of pluralism and thus also includes the interest of the workers.
38 S. 11 Co-determination Law (*Mitbestimmungsgesetz*).

The only sanction remains, therefore, the refusal to elect the representative for the next term, which is seldom an effective means of control considering that the term of office is usually four years.

Assessment and ideas for reform

Parity co-determination—a way to integrate workers into the existing society? The practice I have tried to explain above is astonishing in view of the fact that parity co-determination has been, since World War II, merely one claim in the union programme for socialisation of production. In order to avoid bureaucratisation in the sense of the administration of companies by the state apparatus, the employees and their unions should have an influential say in the decision-making process.[39] Co-determination was originally linked with the idea of a general democratisation of the economy, an idea which could not come into practice because the Western Allies exercised their entire influence to destroy the movement towards a new economic order which was then quite strong among the German people.[40] The only " achievement " was the introduction of supervisory board parity in the British Zone (Ruhr) in the years 1947–48. But even this modest success was seriously in danger when, in 1950, the Adenauer Government proposed a law which was intended to get the co-determination industries again exclusively under German Stock Company Law (*Aktiengesetz*) of 1937, so as to get rid of any participation by workers. As an answer, the union had two ballots, in which 96 per cent. of the steelworkers and 92 per cent. of the miners decided on an unlimited strike. The result of the negotiations brought a clear victory for the workers; the Government withdrew the proposal and introduced a new Bill, which continued to guarantee the former rights and which was accepted by Parliament almost without alteration.[41]

Undoubtedly the original aim of co-determination was not to reconcile workers and employees to the capitalist order of society. In reality, however, exactly this has happened. This is apparent in the fact that up till 1969 there was not a single strike in the iron and steel industries, and even afterwards only wild-cat strikes; no official strikes backed by the unions were organised. The mechanism of separating the labour representatives from the staff led to a decrease of activity and political awareness of the base, despite the fact that these sectors of the working-

39 See for example the North Rhine Westphalian law on the nationalisation of coal industry (which failed because of a veto of the Western Allies), published in *Gewerkschaften und Nationalisierung in der BRD. Neudrucke zur sozialistischen Theorie und Gewerkschaftspraxis*, edited by Institut für marxistische Studien und Forschungen (Frankfurt/Main 1973), p. 30 *et seq.*

40 For more detail see Eberhard Schmidt, *Die verhinderte Neuordnung 1945–52*, 2nd ed. (Frankfurt/Main 1971) Ute Schmidt-T. Fichter, *Der erzwungene Kapitalismus. Klassenkämpfe in den Westzonen 1945–48* (Berlin, 1971).

41 See Eberhard Schmidt, *op. cit.*, pp. 182 *et seq.*

class had had a long militant tradition. Knowing that management decisions were also supported by their own men obviously facilitated their undisputed acceptance. Even in cases where the staff had to suffer a great deal, confidence in labour representatives was still strong enough to cope with the disappointments which necessarily occurred. This correlates exactly with an attitude of total submission under existing conditions, marginal improvements aside, which could as well have been achieved by collective bargaining.[42] The actual attitude of enterprises did not change; the pseudo-participation, however, led to appeasement, and to acceptance by workers of the economic and social *status quo*. Those who want this will consequently back the idea of exporting co-determination of the German kind. A similar thought might have been the impulse for a Spanish law of 1962, which provides for representation of workers in the managing organs of large enterprises,[43] and there were certainly no revolutionary intentions involved in the only law which has ever decreed full co-determination on all levels of enterprise: a law passed in Mussolini's short-lived republic by Salo,[44] a last attempt to attach the working class to the fascist régime.

Proposals for a reform

The Government of the German Federal Republic has introduced a Bill which extends " co-determination " to all big enterprises with more than 2,000 employees, which are not organised as partnerships or foundations.[45] The Bill has the same implications as co-determination in the coal and steel industries in making labour representatives " normal " members of the supervisory board with all the rights and duties of the previous law (while omitting the labour director). In addition to this defect there are others: to make sure that the capital side prevails on the managing board, the general meeting—a pure organ of shareholders—has the last word in disputes between labour and capital. This case is, however, quite hypothetical because parity between capital and labour on the supervisory board is fictitious; a representative of the middle management counts as a member of the labour side although this group exercises, according to the Federal Labour Court, " essential management functions " and is therefore neither according to social position nor to its class consciousness able to represent workers'

42 Hensche, *Mitbestimmungsgespräch 1974*, p. 165 mentions the special protection against dismissal for older workers, which has been put into practice to a much greater extent in the non-codeterminating metal industries in Baden-Württemberg by collective agreement (s. 9 Manteltarifvertrag of October 20, 1973, *Recht der Arbeit* (RdA) 1974, p. 176).

43 Ley núm. 41 de 21 de julio 1962, desarrollada por decreto de 15 de julio de 1965 (B.O.E. de 12-VIII-65).

44 In the French translation in Garcin, *Cogestion et participation dans les enterprises des pays du marché commun* (Paris, 1968).

45 Bundestags-Drucksache 7/2172.

interests.[46] If this Bill becomes law, its only beneficial effect will be to increase the total number of labour representatives on supervisory boards and equally the prospect of well-paid positions.

The official policies of the unions have by no means been based on a critical assessment of the experiences of co-determination in the coal and steel industries, and they advocate the extension of this model to all major industries. It would be too easy to qualify this as a blunder by some union leaders; in reality it is the majority of leading representatives of the trade union movement who want industrial peace and de-politicalisation, because English, French, Italian or Portuguese conditions would endanger their own positions and bring disorder into their well-established and perfectly equipped organisations.

The minority have difficulty in articulating their position, but they usually advocate that—

- The worker representatives should be absolved from the obligation to keep secrets, except in special cases.
- Not the "care of an orderly and conscientious business manager" but solely the interests of the workers should be their guideline.
- If they do not act according to these duties they should be discharged by majority vote of the workforce.

With these and only these decisive alterations, co-determination in company organs could effectively contribute to the emancipation of the working-class. A concept like this would have the additional advantage, at least, of facilitating a united strategy of West European trade unions, because the development and enforcement of claims would by no means be restricted to the involvement of labour representatives in the existing structure of companies, as we can already see in the "non-institutionalised" co-determination with collective bargaining and strikes. But at the moment there is no indication as to when such a concept will become reality in the Federal Republic.[47]

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[46] For more detailed critique see Däubler, *Frankfurter Rundschau* December 14, 1974, p. 10, and *Frankfurter Allgemeine Zeitung* March 1, 1975, p. 12.

[47] See Däubler, *Das Grundrecht auf Mitbestimmung* (Frankfurt/Main 1974) pp. 329 *et seq.*