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THE ORIGINS OF THE LAW ON THE ORGANIZATION OF NATIONAL LABOUR OF 20 JANUARY 1934. AN INVESTIGATION INTO THE RELATIONSHIP BETWEEN 'ARCHAIC' AND 'MODERN' ELEMENTS IN RECENT GERMAN HISTORY[1]

INTRODUCTION

SCHOLARLY DEBATE and research into National Socialism has made use of various more or less clearly defined models, such as totalitarianism theory, marxist interpretations, or the application of social and psychological concepts. More recently another approach has emerged which, while by no means new, has been attracting renewed attention. It starts from the assumption that the rise and dominance of National Socialism was a *specifically German crisis within a general process of modernization*, and it emphasizes those aspects of the movement and of the policies of its leaders which originated in 'pre-modern' structures, or which give an impression of hostility to modernization, or else were simply archaic. Certain economic interests and class-specific (particularly middle-class) values and behaviour; certain ideological slogans (*Gemeinschaft* or community), together with some important aspects of the practical politics of the Nazi regime (such as the persecution of the Jews) all fall easily in with this line. Thus the twin polarities of 'modernity' and 'archaism' seem to offer a useful tool for the analysis of recent German history.

One aim of this study is to challenge that assumption, though it is an aim that can be only partially accomplished here. A thorough examination of the question would require a more detailed theoretical discussion and a more precise definition of the diverse sensitive and complex concepts

This chapter was translated by Rosemary Morris.

[1] This study emerged largely in the course of many years of dialogue with David Schoenbaum, one of the few colleagues with whom disagreement is both pleasant and profitable.

involved than I can undertake here. What I offer here is therefore more like an interim report, which points to some still open questions of theory and research. My objection to the application of 'modernization' theory to German history in the last century is broad and simple, and can be best explained with reference to a notable example of National Socialist policy. To highlight this example I have kept my initial theoretical claims to a minimum, and my conceptual definitions fairly broad.

Modernization theory almost always lays stress on the progressive, positive side of modernization itself – in which it diverges notably from the ideas of Max Weber, often considered the father of this particular sociological approach. In modernization theory, economic growth, the pursuit of ever more clearly defined aims, and an ever clearer differentiation of economic and social roles, are paradigmatically opposed to attitudes and structures which are seen as obstructive and restrictive, and can be described as irrational, traditional, backward-looking or – in their more aggressive form – archaic. The appropriateness of these categories (borrowed from the sociological school of structural functionalism) to the analysis of today's so-called developing countries is not the question here; but with regard to European history they are a source of confusion. Our present example, which in 1934 laid the legislative basis for labour policy in Nazi Germany, shows that the apparently retrograde intention of this measure was indeed only apparent. It is simply not true that the roots of Nazi policy in this area are to be found in a revolt against modernization; on the contrary, they sprang from essential, if latent, directions being taken within 'modernity' itself. And it is still an open question whether other sectors of public life, such as the civil service and the military, which have been classified as equally antiquated, did not also in the 1920s contain some positively forward-looking and direction-setting structural elements.

Such confusions spring initially from the fact that the evidence for modernization theory is usually sought in phenomenological descriptions and the history and critique of ideas: behavioural patterns and social structures are derived principally, if not exclusively, from ideology. This approach is unsatisfactory for three reasons. First, we must always ask who is speaking, for whom and about whom: to take an example from Parsons and Dahrendorf, it is not possible to derive the fundamental attitudes of the imperial political leadership towards private property from Bismarck's speech on the nationalization of the railways (see note 8 below). In dealing with National Socialism we cannot assume that remarks by political leaders always reflected the current ideology, nor that they always derived closely from Nazi ideology itself. The ideological components of labour law after 1934 certainly agreed with basic Nazi thinking, but (as will be shown later) their roots lay in a quite different

context. Second, and consequently, we must always ask about the purpose and function of ideological principles; an interpretation of ideology drawn from the texts alone, which infers their meaning *directly* from an implied social totality, leaves no room at all for Horkheimer's '*cui bono?*' Third, we must be aware of possible shifts in the content of key ideological concepts: the mere fact that some special interest group sings the praises of community values as an ordering principle of society does not mean that it must immediately be identified as 'anti-modern'. For notions of community (*Gemeinschaft*) in the Germany of the 1920s and 1930s differed widely from one another, and the verbal homogeneity disguised fundamentally incompatible socio-political and politico-economic tendencies. The example of labour law again indicates that the community slogan was manipulated by interests whose real ideas of the social order were radically and consciously pro-modern. Nonetheless, it was much more than a verbal ruse aiming to imply some sort of fundamental common ground between industry and the middle classes where none existed: it implied a redefinition, grounded in some sort of reality, of the concept of community itself. It is irrelevant to observe that both the modern and the retrogressive ideas of community were authoritarian, because it is wrong to postulate a pluralistic and democratic welfare state as the inevitable outcome of the process of modernization in Germany. For modernization itself has the face of Janus. A complacently teleological view, angled on the present, can only be harmful to historical research.

In the discussion that follows I shall continue to make use of this sociological vocabulary, in order to highlight how the evidence might affect a historiography derived from modernization theory. This is a deliberately critical strategy, and is intended to expose the limits of this theory as an analytical tool. I am sceptical about it, first, because it leads to over-hasty generalizations; second (and these two points are closely related), because there seems to me to be a circular relationship between theory and proof, so that descriptive elements are immediately pressed into service as analyses.

However, the term 'archaism' does seem to be an irreplaceable heuristic concept, always provided that it is accurately defined. If we meet with a spontaneous recrudescence of specific and clearly identifiable patterns of behaviour typical of a past social order, then its manifestations can scarcely be described otherwise than as 'archaic'. The political and racist pogroms which sprang out of the National Socialist movement in early 1933 are a typical example, and also had great political significance: a collective lapse into a type of behaviour which was fundamentally anachronistic. (Even the party leadership found it to be so, and this was one of the reasons for the mass killings of 30 June 1934.) At times it may also be appropriate to describe as archaic certain schools of social theory

that deliberately turn their backs on modern methods and approaches. In other respects, however, the term should be treated with caution.

I

We must attempt to awaken the power of the worker's inner commitment to his firm, which has hitherto been absent, extinct or destroyed. He must stop thinking that it does not matter to him how his plant is doing so long as he can do his work and get his pay; he should have a strong feeling that he is bound to his plant for better and for worse, that he is, as it were, working in his own undertaking. This goal can be reached only through participation and shared responsibility. (Ernst Francke, 1921)[2]

We must all share in the workplace where we are employed. Share in every stone, every machine, everything. Yes, my friend: if you work there, it belongs to you! In law it may be the property of another, but that means nothing. The workplace is yours, and you must learn to love the machine like a bride. (Robert Ley, at the Siemens Jubilee in Berlin, October 1933)[3]

The Law on the Organization of National Labour (Arbeitsordnungsgesetz, or AOG) was one of the most all-embracing and rigorous legislative products of National Socialism, and few enactments bore a clearer stamp of Nazi ideology. In terms of both labour law and ideology, it was the 'factory community' (*Betriebsgemeinschaft*) that was the crux of the new order. It replaced all previous institutions of industrial labour relations: associations, state arbitration authorities and mass organizations.[4]

At the head of the workforce was the employer, the *Betriebsführer* (factory leader). His workers, now called his *Gefolgschaft* (followers or 'retinue'), had to swear 'fealty and obedience' (*Treue und Gehorsam*) to him: 'The factory leader makes decisions on the followers' behalf in all factory affairs... He shall look after the well-being of the followers.' The factory leader was backed by a 'council of trust' (*Vertrauensrat*) whose duty was to 'deepen the mutual trust within the factory community'. It was to discuss all measures 'pertaining to the improvement of efficiency, the establishment and supervision of working conditions in general...the strengthening of the bonds of factory members with one another and with

[2] Quoted in Ludwig Preller, *Sozialpolitik in der Weimarer Republik* (Stuttgart 1949), p. 206.

[3] *Siemens-Mitteilungen*, 12 October 1933.

[4] *Reichsgesetzblatt* (*RGBl*) (1934), I, p. 45. All quotations in the next three paragraphs are from the text of the law. The first commentary was written by the draftsmen themselves, Werner Mansfield, Wolfgang Pohl, G. Steinmann and A. B. Krause: *Die Ordnung der nationalen Arbeit* (Berlin/Leipzig/Mannheim/Munich 1934). This work represents the intentions of the legislators. The most comprehensive commentary is by Alfred Hueck, Hans Carl Nipperdey and Rolf Dietz, *Gesetz zur Ordnung der Nationalen Arbeit*, 3rd edn (Munich/Berlin 1939). A brief analysis of the problems is in the article by Thilo Ramm, 'Nationalsozialismus und Arbeitsrecht', *Kritische Justiz*, no. 2 (1969), pp. 108–20.

the factory, and the welfare of all members of the community'. This council was 'elected' by the workforce from a slate previously drawn up by the factory leader together with the representative of the German Labour Front. The council had no authority in the absence of the plant leader, so that it was prevented by law from acting as an independent representative of workers' interests. All aspects of labour relations which had not already been regulated by law (as had maximum working hours, minimum wage-rates, health and safety, etc.) had to be regulated by a 'factory code of rules' (*Betriebsordnung*): this was discussed by the council of trust and by the Trustee of Labour, but its content was decided substantially by the factory leader himself; similarly, pay scales above the legal minimum were now the affair of this new disciplinary authority in private industry.

The state's provisional oversight over industrial class conflict, which had been instituted in May 1933 with the appointment of the Trustees of Labour,[5] was confirmed and given more precise expression in January 1934. The Trustees were state employees subject to the Reich Minister of Labour, who fixed their general responsibilities in collaboration with the Minister of Economics. Their task was to 'maintain industrial peace' in individual industries, and later in entire branches of economic activity. In accordance with the spirit of the AOG this task required a certain deliberate restraint on the part of the Trustees, rather than a broad involvement in organizational and supervisory activity. A genuine, lasting solution to class conflict – which for the Nazis meant an ideological solution – could be achieved only if responsibility for day-to-day problems was assigned to cells of the social organism itself. The Trustees' function was to protect the interests of the state by a cautious application of its wide-ranging authority in labour relations, so that class conflict would not be reignited by brutal economic repression (and if such conflict did break out among the workers there were other means of control to hand – the Gestapo and the concentration camp). The Trustees were thus supposed to interfere as little as possible in the internal affairs of the industrial community; and the Labour Front could not interfere at all. The office of Trustee was thought of as a sort of last instance in social and labour policy, and its legally constituted duties were confined to checking the need for any proposed mass redundancies; ensuring that minimum working conditions conformed to the existing agreements, which had been taken over by the regime and imposed on the employers, and gradually transforming these into a new type of 'wage code'; monitoring the constitution and activities of the councils of trust; and keeping the Reich government informed of developments on the social policy front.

[5] Law on the Trustees of Labour (Gesetz über die Treuhänder der Arbeit), 29 May 1933, *RGBl* (1933), I, p. 285.

The drafters of the new law knew that it would take a long time before class conflict could be eliminated by the closer relations that were being established between management and workforce through indoctrination, increased trust, and so on. They did not, however, take the obvious route of giving the Labour Front the necessary powers to force this process through. Instead, they decided to deal with incorrigibles through a new system of 'social honour courts': 'Gross violations of the social duties laid down by the factory community will be penalized by the courts as offences against social honour.' Thus it was an 'offence' for the factory leader to maliciously exploit his labour force, and, similarly, for individual members of the workforce to endanger industrial peace by maliciously sowing sedition among them. Only the Trustees could institute legal proceedings. The social honour courts were initially conceived as a means of education, and their sanctions were correspondingly mild and more or less symbolic in character. The new law omitted virtually any reference to the Labour Front.

There seems little disagreement among historians about how this law worked in practice, or about its role in the political and economic preparations for the Second World War. The lengthy educational stipulations remained a dead letter: councils of trust and social honour courts led a miserable existence on the fringes of the most important developments in social and labour policy, which were determined on the one hand by the instability of the labour market, and on the other by the institutional imperialism of the Labour Front. The chief beneficiaries of this new regulation of socio-political institutions were the big enterprises which, for the first time since the world war, were entering on a phase of vast and solidly based expansion with increased profit margins.[6]

The origins of this legislation are, however, another story, and here there is neither clarity nor agreement. The mere fact that the declared intentions of the legislator largely remained unrealized should serve to warn us against assuming that the chief beneficiaries of the law were also responsible for its genesis. Here it is worth remembering Ernst Fraenkel's observation that the history of a statute 'does not conclude with its legislative enactment: that is merely the first decisive step'.[7] At first glance its wording looks much like a typical product of the petty bourgeois (*mittelständisch*) attitudes which the NSDAP succeeded in

[6] See Franz Neumann, *Behemoth. The Structure and Practice of National Socialism* (New York 1972); Hans-Gerd Schumann, *Nationalsozialismus und Gewerkschaftsbewegung* (Hanover/Frankfurt am Main 1958). The social policy of the National Socialist state and the role of the Labour Front can also be studied in my collection of documents, *Arbeiterklasse und Volksgemeinschaft. Dokumente und Materialien zur deutschen Arbeiterpolitik 1936–39* (Opladen 1975).

[7] See Thilo Ramm (ed.), *Arbeitsrecht und Politik. Quellentexte 1918–1933* (Neuwied 1966), p. 948 note.

mobilizing between 1930 and 1933. In this sense David Schoenbaum categorizes the AOG as 'a kind of countermanagerial revolution': an attempt to shape the whole economy on the model of the independently responsible owner and factory leader.[8] At the 1934 Berlin exhibition 'German People – German Labour', the AOG was represented in the following way: a vast mural depicting a handful of craftsmen and labourers who were putting together a small housing estate in a harmony undisturbed by either class conflict or noisy machinery.[9] It would be easy to find similar examples from the propaganda of the time; but an interpretation of the AOG which stresses only the archaic traits in its provisions and language cannot hope to give adequate answers to all the questions about its origins.

First, it is notable that the overwhelming majority of handicraft workshops were exempted from the legislation: only employers of over twenty workers were obliged to issue a factory code of rules and establish a council of trust. Doubtless this must be seen as a concession to what was then still a powerful interest group; in itself, however, it tells us nothing about the origins of these provisions. By contrast, the law pays detailed attention to the particular situation of large concerns comprising several plants. Second, it must be emphasized that the AOG established a 'duty of care' on the part of the employer, but without giving any further details. The earliest statements of the new rulers after 2 May 1933 already make it clear that the regime was going to take this point seriously, for obvious reasons of its own. And yet it was precisely the handicraft firms and small enterprises that were ruthlessly exploiting their workers. It was they, and not the big industrialists, who saw the Nazi seizure of power as a welcome opportunity to depress the condition of wage-earners directly and decisively – and this brought them up against the implacable opposition of the factory inspectorate, the Labour Front, the Reich

[8] David Schoenbaum, *Hitler's Social Revolution. Class and Status in Nazi Germany 1933–1939* (New York 1966), p. 91. Basically similar, but undialectic, are the interpretations of National Socialism by Ralf Dahrendorf, *Gesellschaft und Demokratie in Deutschland* (Munich 1965) and Henry Ashby Turner Jr, *Faschismus und Kapitalismus in Deutschland* (Göttingen, 1973), Chapter 6. This direction in recent research largely goes back to two 1942 articles by Talcott Parsons, republished in his collected *Essays in Social Theory* (Glencoe 1964), pp. 104–41. For a critique of Parsons' method see especially Alvin W. Gouldner, *The Coming Crisis of Western Sociology* (London 1971). The most effective attempt to link Parsons' theory to empirical historical research is Neil J. Smelser, *Social Change in the Industrial Revolution. An Application of Theory to the Lancashire Cotton Industry, 1770–1840* (London 1959). Recently, however, Smelser's results have been fundamentally challenged on both the theoretical and empirical levels: I owe ideas on this subject to unpublished critical material by Michael Anderson (Edinburgh) and Michael Pickering (Cambridge).

[9] Abundant documentary evidence on this notable exhibition is to be found in Deutsches Zentralarchiv (DZA) Potsdam, Reichsarbeitsministerium (RAM) vol. 7247.

Ministry of Labour and occasionally even the Gestapo.[10] In these circumstances we can scarcely talk about a successful attempt by the *Mittelstand* to influence government policies. On the contrary, small employers soon made up the majority of those condemned by the social honour courts.[11]

Third, it has yet to be proved that the specific ideology exhibited in the AOG had already been fully developed in the National Socialist Party by the end of 1933. The question needs further investigation; but to all appearances the party leadership had hardly even considered the form that any new socio-political institutions ought to take; in fact it was still in thrall to various concepts of corporatism which were quite alien to the text of the law. Certainly the AOG stood out among Nazi legislative measures for its exceptional ideological stringency; but there is no proof that the ideology that it expressed was, in any precise sense, of National Socialist origin.

This criticism of the petty bourgeois interpretation is highly speculative, for the very good reason that all the Reich Ministry of Labour's documentation on the AOG was destroyed during a bombing raid on Berlin towards the end of the war. Scholarly discussion thus remains on an uncertain footing of circumstantial evidence. One of the most important pieces of evidence is the author of the AOG himself. Other records show that it was Dr Werner Mansfeld, ministerial director and head of a division in the Ministry of Labour from 1933 to 1942, who drafted the essential proposals. Mansfeld (b. 1893), a lawyer who had been an officer on the Western Front, a member of the Freikorps and probably of the Stahlhelm, was counsel to the Association of Mining Interests in Essen from 1924 to 1933. He specialized in labour law, and represented the Association in wage negotiations with the unions. He did not join the Nazi Party until early 1933. Mansfeld's closest colleague in the autumn of 1933 was Dr Wolfgang Pohl, an official in the Ministry of Economics since 1927 who had been seconded to the Ministry of Labour in July 1933; Pohl had previously worked in the social policy department of the Allgemeine Elektrizitätsgemeinschaft (AEG), and later as an editor of the *Deutsche Allgemeine Zeitung*.[12] It was, however, Mansfeld who was the decisive influence in the Reich government.

From the viewpoint of social policy the Ruhr mining industry, in which Mansfeld had gained his experience, was by no means typical of

[10] The annual reports of the factory inspectorate (*Jahresberichte der Gewerbeaufsichtsbehörden*) 1933–4, contain much material on this theme. See von der Goltz's memorandum on the Labour Front of October 1934, Bundesarchiv Koblenz, R43II, vol. 530.

[11] See Nathan A. Pelcovits, 'The Social Honor Courts of Nazi Germany', *Political Science Quarterly*, vol. 53 (1938), pp. 350–71.

[12] Mansfeld's personal papers: Geheimes Preussisches Staatsarchiv (GPSA) Berlin, Rep. 318 PA, vol. 213.

German industry as a whole. The mines, as a Siemens manager once remarked, had to make do with 'very inferior human material'.[13] Even in the 1920s most mine managers were still looking back to the rigid patriarchal authoritarianism of their founding fathers as a model for their relations with factory councils and unions – and even today they are still commonly referred to as 'factory leaders' by their workforce. The wording of the AOG expressed this nostalgic desire to be masters in their own house again: even the biggest industries were not free of ideological archaism. H.-A. Winkler has rightly drawn attention to the fundamental similarity in the social policy views of both heavy industry and handicrafts in the last years of the Weimar Republic. But even here certain reservations seem in order.[14] As will be explained later, this attitude represented above all a compelling, comprehensive aim of economic 'rationalization' which was not restricted to one industry alone. It would also be quite wrong to dismiss Mansfeld as simply the stereotypical agent and mouthpiece of west German heavy industry. He evidently had broader interests: he was academically qualified, and was a part-time university lecturer in Münster after 1930.[15]

It should also be noted that the basic principles of the AOG were by no means peculiar to heavy industry. In the surviving archives of the Ministry of Economics there is a no-nonsense memorandum by Goerdeler, dated 7 September 1933, in which he unreservedly approves the destruction of the trade unions and describes both the eight-hour day and wage settlements through negotiation and strikes as 'unnatural'. This advice was obviously unsolicited and may well have had no influence on the decisions which were shortly to follow. However, it is probably not insignificant that his positive suggestions agree on every essential point with the institutional regulations of the AOG: the aim was to reduce the working classes to total impotence and give the factory leadership the greatest possible autonomy in setting working conditions. The industrialist Fritz Thyssen's much less down-to-earth suggestions boiled down to exactly the same conclusions.[16]

An exhaustive study of the printed sources would surely help to fill the gaps in our evidence and clarify our picture of how the AOG emerged during the autumn of 1933. It is, however, unlikely that we would come across any single personality or special interest that could be said to have played a key part in the process. At most, Goerdeler, Thyssen and Mansfeld shared a deep hostility to the labour movement and all its

[13] In conversation with the author.

[14] Heinrich-August Winkler, *Mittelstand, Demokratie und Nationalsozialismus. Die politische Entwicklung von Handwerk und Kleinhandel in der Weimarer Republik* (Cologne 1972), p. 130.

[15] See note 12, above, and Section III below.

[16] DZA Potsdam, Reichswirtschaftsministerium (RWM), vol. 9931, pp. 119–34; cf. also Arthur Schweitzer, *Big Business in the Third Reich* (Bloomington, IN 1964), p. 361.

works, and a resolve to re-establish Germany as a great power. But in 1933 even this somewhat narrow basis of agreement proved quite adequate for drafting a new social contract. For the AOG was concerned not with the success of any particular industry or segment of the German ruling class, but with providing statutory anchorage for domestic political aims which had become the common property of almost all conservative elements.

Significant, from this viewpoint, are the cabinet meetings in which the draft law was adopted. Not a single word was wasted on the fundamental principles of this radical reconstruction of industrial labour relations; the file did not even include the usual explanatory memorandum to the law (*Begründung*). The only debate was over the public services, with the largest administrative ministries stubbornly insisting that they should retain completely unrestricted authority and sole responsibility in their own administrations and quasi-industrial enterprises.[17] Given this broad and secure consensus among all leading groups, it seems appropriate to expand our search for the origins of the AOG considerably, and turn to the general historical background and the relevant long-term trends in the German economy which contributed to the formulation of this 'solution' to industrial class conflict. In so doing I shall confine my remarks to four themes which seem likely to prove fertile ground for further research into the question, though here they can be treated only briefly and theoretically: the effects of the world economic crisis on class relationships in industry (Section II of this essay); the consequences of rationalization for the leadership structure of the plant (Section III); the role of the Reich labour court from 1927 to 1932 (Section IV); and the activity of the National Socialist Workers' Cell Organization (NSBO) and the German Labour Front (DAF) in summer and autumn 1933 (Section V).

II

The world economic crisis contributed decisively to the exacerbation of political class conflict and the rise of the German Communist Party (KPD) between 1928 and 1932: so much is undeniable. Less well known, but not less interesting, is a counter-tendency which made itself particularly felt on the shop-floor, but to some extent affected the stance of the trade unions too. Mass unemployment destroyed the power of the working class on the labour market. Workers, whether as individuals or as union members, were at the mercy of the laws of economic contraction, subject to the inexorable decisions of employers regarding both job opportunities

[17] Bundesarchiv Koblenz, R43II, vol. 531.

and wages. Fear of unemployment, combined with extraordinarily strong disciplinary pressures, gave a sharp edge to their collective and personal subordination within the plant. Whole paragraphs from the reports of the health and safety inspectorate at this time already read like an anticipation of the conditions that the authors of the AOG planned to enshrine in law. One example among many must suffice:

> Generally it can be said that for the most part the representatives of the workforce and the workers' organizations showed full understanding of the difficult situation of the plants and had put off many justified claims until better times... In the Rhineland it was observed in many plants that the workers were doing their best to work harder and better to improve the business standing of the company and so safeguard their own jobs. But the diligence of the workers could not prevent a general decline in wages . . . especially as many workers were prepared to work for less than the minimum wage.[18]

Needless to say, it was the less 'understanding' workers who were the first to face redundancy. So strong was the compulsion of the labour market that output per head and per shift in the coal industry during the crisis years was higher than at any other time between the two world wars.[19]

To be sure, such conditions were at best a frail basis for the class harmony and plant unity that the AOG prescribed: gratitude for simply being in work was tempered with a considerable resentment at the constant wage cuts and fear of ever greater demands. Insofar as industry could spread the impression that the crisis was a sort of natural catastrophe whose consequences bore equally on workers, employers and the nation as a whole, mass unemployment may have been of even wider socio-political significance. The Communist Party did take up a critical attitude towards such propaganda; but the Social Democrats (SPD) and the free trade unions did not. And those who were prepared to blame the crisis on the capitalist economic order rather than on blind fate often found it cost them their jobs. To paraphrase Brecht, it was food first, theory second. Moreover, the propaganda from the ruling classes did not stop at slogans. Despite their undeniably difficult circumstances, employers were far from being uniformly merciless and inhuman: the bitter disputes at the level of the national organizations about issues such as the distribution of work should not blind us to the fact that many firms were troubled by the desperate straits of their workers, or at any rate acted as if they were – this was the basis for a number of purely charitable initiatives. More interesting, and more promising (because they were prompted by the aim of economic rationalization), were the equally frequent attempts

[18] *Jahresberichte der Gewerbeaufsichtsbeamten* (Prussia), 1931–2, pp. 11, 24

[19] See my *Arbeiterklasse und Volksgemeinschaft*, Document Section, Chapter xi.

by big firms to retain their skilled workers through planned reductions in working hours. Not infrequently this kind of redistribution of work was used as an alternative to a total loss of wages,[20] and it was thus a way to reconcile the workers' needs with the interests of the plant. Workers could have rejected such arrangements only on blatantly partisan political grounds.

This should not give the impression that German industry behaved through the crisis like some kind of conscientious welfare system. Firms that protected at least some of their workers from the worst consequences of the crisis, either out of charity or in their own interests, must have been in the minority. In some industries, such as the building trade, they simply did not exist. But, as regards the phenomenology of class relations, it seems possible that the crisis created two short-term trends which did something to pave the way for the National Socialist legislation. First, it further aroused and sharpened the employers' appetite for unlimited power over their workers: it opened vistas which in the 1920s had been blocked by the strong position of the unions. Second, there are indications that as the crisis dragged on, many workers began to lose confidence in a class identity that was opposed to the economic system, since their organizations could no longer effectively represent them. This hypothesis is supported by the fact that the working class put up no determined resistance after March 1933. There was a wave of opportunism among those who hoped that political conformism would get them or keep them in work.[21] The first point must remain tentative for two reasons: first, because our knowledge of the sources is still insufficient for further proof, and second because the very grounds for the argument, i.e. the contradictory experiences and shifting and indirect reactions of those concerned, allow no more precise pronouncement.[22] However, the ambitions of the ruling class, as they unfolded through the crisis, were much more than a momentary reaction to the extreme conditions of mass unemployment. The intensification and extension of the system of internal factory authority was integral to the 1920s rationalization movement.

[20] See inter alia Friedrich Syrup, *Hundert Jahre staatlicher Sozialpolitik*, ed. Julius Scheuble; rev. Otto Neuloh (Stuttgart 1957), p. 283.

[21] See my *Arbeiterklasse und Volksgemeinschaft*. The introduction deals briefly with this question.

[22] See Rudolf Vierhaus, 'Auswirkungen der Krise um 1930 in Deutschland. Beiträge zu einer historisch-psychologischen Analyse', in W. Conze and H. Raupach (eds.), *Die Staats- und Wirtschaftskrise des Deutschen Reiches* (Stuttgart 1967). The fact that the German sociologists of the 1920s never did any empirical or descriptive research whatsoever into the mass unemployment of those years speaks volumes for the way they saw themselves at the time; compare the contemporary research in the USA, England and Austria.

III

Labour relations before the war were...still strongly influenced by the more easy-going and 'cosy' way of working that had come down from the old handicraft days. This changed fundamentally with the rationalization process after the war...Work became subject to the calculations of factory management. And this attitude was no longer confined to the larger firms.[23]

This abrupt and radical transformation of the character of work in industry – minute division of labour, all-embracing surveillance of behaviour in the workplace, psychological and technical aptitude testing, prescriptions for improved productivity which affected even the smallest procedures, etc. – has already been described in detail by a number of authors.[24] The following grotesquely exaggerated examples of this pressure for increased productivity may not be entirely typical, but they show very clearly the fundamental tendency for the worker to become ever more subordinate to management. Thus, a large Berlin office instituted an optimal procedure for the opening of envelopes, and also attempted to pay its shorthand typists by the syllable. Because order in the workplace was not only aesthetically satisfying (one wonders for whom), but was also conducive to efficiency, the Siemens-Schuckert switch-gear factory introduced a tool box whose drawers would close only if the workers had put every tool back in its correct place. The psychological and technical aptitude test for prospective post-bus drivers was so tough that it soon became notorious as the 'torture chamber' and eventually had to be toned down. Many new production processes demanded (for safety reasons) interference in workers' clothing and even their hair-styles; it was even thought that productivity improved if people assigned to particularly mindless tasks were subjected to incessant light music.[25]

In terms of political economy, this wave of rationalization broke on two opposing shores. On one side it promised to mitigate the struggle for fairer distribution of the social product by improving productivity throughout the economy as a whole: this would be of material advantage

[23] See Preller, *Sozialpolitik*, p. 130.

[24] Ibid.; also, and especially, Robert A. Brady, *The Rationalization Movement in German Industry* (Berkeley, CA 1933). In my opinion these two contemporary studies are still superior to all the more recent work on the political economy of the Weimar Republic. However, there is also a very rewarding comparative perspective in Charles Maier, 'Between Taylorism and Technocracy', *Journal of Contemporary History*, vol. 5, no. 2 (1970), pp. 27–61. It is perhaps not quite out of place here to draw attention to Hitler's repeated declarations that under National Socialism everyone would have 'his own' work to go to – a primitive version of this same notion of productivity.

[25] Preller, *Sozialpolitik*, p. 136; Brady, *Rationalization Movement*, pp. 255, 261–2; see also Hans Dominik, *Das Schaltwerk der Siemens-Schuckertwerke AG Berlin* (Berlin 1929), pp. 21–2.

both to capital and to labour and would make them into partners in technical progress. On the other, it gave some impetus to trade union militancy, which drew some of its strength from the demand for monetary compensation for increased pressure of work. As human workers were treated more and more like machines, this created new impulses and expressions of class struggle in industry. Preller has made this twofold development quite clear:

> Throughout the labour process . . . a tendency to objectify and depersonalize labour relations . . . was discernible. The regulation of production techniques brought the human side of labour more directly into managerial calculations: to the advantage of labour insofar as both performance at work and its effect on people were considered and investigated, but to its disadvantage insofar as the purely arithmetical standards of business were extensively applied to the activities of both blue- and white-collar workers. This development was of only limited help in labour relations. As labour relations in private industry came under closer scrutiny, and as they became ever more regulated by [labour] law, it became less easy to represent all physical and mental work as a collaborative effort for the good of the company and thus of the economy as a whole: instead, the dependency of the workers and the divide between workers and employers became ever more prominent.[26]

It was axiomatic in industrial circles that if the capitalist economic order was to be preserved, it had to be shown in practice that 'all physical and mental work was a collaborative effort'. Albert Vögler put it with characteristic directness at an association meeting:

> What good is it if you [employers] put your newly acquired knowledge into practice straight away, if a factor as powerful as the workforce isn't fully involved in your work?...and acts like a stranger, or even an enemy, to the works and what goes on there?[27]

It was Vögler again who made one of the most significant attempts to bind the workers closely to the firm in these radically changed circumstances. In Carl Arnhold's German Institute for Technical Training (DINTA), which soon earned itself an extraordinarily high reputation, not just in heavy industry, apprentices were given training in a skilled trade that not only imparted technical proficiency but also nurtured submissiveness and nationalism. The schools were organized on quasi-military principles. In February 1934 Hess took over the Institute as a National Socialist organization, rechristened it as the 'Office for Technical Education and Plant Leadership (Amt für Berufserziehung und Betriebsführung), and incorporated it into the Labour Front. During the war Arnhold was

[26] Preller, *Sozialpolitik*, pp. 137–8. [27] Quoted in ibid., p. 202.

appointed to a high position in the Ministry of Economics.[28] The Institute and the 'yellow' (pro-employer) unions constituted only the most striking and extreme manifestation of a new class conflict waged from above. In virtually every industry a whole series of attempts was made to confirm and increase the power of employers through an ostensibly scientific industrial social policy. The aim was 'to grasp the worker as a whole person and reincorporate him as such in the organism of the plant'.[29]

The big capital-intensive companies in the chemical and electrical industries went to considerable expense to implement this strategy of social gratification and improved productivity, not least because the increased costs scarcely affected their overall balance sheet. Thus by the end of the 1920s IG-Farben was spending over 8 per cent of its salary budget on its social policy, but this represented only a vanishingly small proportion of its total production costs, and the outlay was tax-free.[30] (We may note in passing that the frequent complaints from employers about the supposedly intolerable financial burden of the state's new social policies at this time went hand in hand with a growing readiness to devote considerable resources of their own to specific social welfare policies that served their own interests.) Almost everything that the Labour Front trumpeted in the 1930s as the proud achievements of the Third Reich – 'Beauty of Labour', 'Strength through Joy' and so on – had already been tried and tested in the late 1920s. Rest homes for workers, relaxation rooms in the plant, subsidized hot meals in the works canteen, green spaces round factories, industrial nurses, supplementary insurance, edifying factory news-sheets, propaganda for caring and sympathetic treatment of the workforce, evening events for employees and their families – all these were part of an industrial social policy which in the 1930s became the highly stylized cornerstone of an allegedly unprecedented and unshakable class harmony within the factory community, yet all had already been spreading rapidly before 1930. All that was new after 1933 was the attempt to replace clocking-in with a roll-call, and the organized mass tourism of the Strength through Joy movement. Even the characteristic vocabulary of Nazi rhetoric, with its 'human factor', 'work in its totality as a social institution', 'community thinking', 'leadership quality', the 'joy of work' and the 'factory leader's sense of responsibility' to his workforce, can be found throughout the writings of those who

[28] See Robert A. Brady, *The Spirit and Structure of German Fascism* (London 1937); Wolfgang Schlicker, 'Arbeitsdienstbestrebungen des deutschen Monopolkapitals in der Weimarer Republik unter besonderer Berücksichtigung des Deutschen Instituts für technische Arbeitsschulung', *Jahrbuch für Wirtschaftsgeschichte*, 1971, Part III, esp. pp. 102–4; DZA Potsdam, RWM, vol. 10249.

[29] Preller, *Sozialpolitik*, p. 131. [30] Brady, *Rationalization Movement*, pp. 239–40.

originally advocated this new course in social policy: Goetz Briefs and his school, for example. The really original traits of the system established by the AOG sprang mainly from the dictatorial monopoly which the new philosophy and its attendant institutions could now claim, which also explains in part (though only in part) its astonishingly rapid spread from 1935 onwards.

It seems important to emphasize that the evolution of this industrial social policy into a quasi-scientific and comprehensive method of social control went hand in hand with rationalization. The various forms of this process represented industry's response to the self-inflicted perils of persistent economic class conflict. To its supporters it was the only effective way to endow industry with the peaceful, submissive workforce which the new methods of production required. A powerful impulse in this direction was given by the greatly increased participation of women in industry during the war. Partly owing to the wave of rationalization, this development was not reversed in Germany in the 1920s to the same extent as in England. The prevailing anti-feminist opinion was that women were constitutionally easier to influence than men, and better adapted to boring working procedures; moreover, they were paid less. If women were believed to need special help and protection, this was an even more important argument in this context for it made them into both an appropriate object and a rewarding challenge for a modern approach to management.[31]

As Briefs, Schwenger and others clearly recognized, this approach had very little in common with the archaic paternalism of heavy industry before 1914. The latter had chiefly been concerned with welfare, principally in order to control fluctuations in the workforce. Both the aims and the means of the new industrial social policy were far more extensive: taken together, they constituted a potential programme for stabilizing the social order, and their attention to productivity seemed dynamic and future-oriented. The indispensable prerequisite for this, as both theorists and practitioners were well aware, was a decisive increase in the power of the factory leadership. This was not the defensive make-and-mend of Bismarck's social policy: it was a vision of a new technocratic capitalism, legitimized by its own efficiency, in which the capacity to satisfy the workers by scientifically tested welfare measures and a steady, performance-related improvement in their income played the decisive role.

This vision remained on the far horizon until the world economic

[31] See Judith Grünfeld, 'Rationalization and the Employment and Wages of Women in Germany', *International Labour Review*, vol. 29, no. 5 (May 1934), pp. 605–32. The textile industry, which employed many women, was in fact hardly rationalized at all, with the notable exception of Nordwolle AG. See Brady, *Rationalization Movement*, pp. 263 ff.

crisis, but it was also this consciously progressive tendency that found expression in the AOG. And after 1935/6 it became the prime impulse behind National Socialist labour policy. It all came together in a formula whose etymology encapsulates the main argument of this essay: the *Leistungsgemeinschaft* or 'performance-oriented community', which was the ideal of the later 1930s. This community had little room for small farmers, tradesmen or artisans. And it was not Krupp or the Steel Association, and certainly not the artisan trades, that designed and tested the Strength through Joy programme, but Siemens in Berlin. Early in 1934 Siemens asked all its workers to complete a questionnaire on how they spent their free time. The results showed a large unfulfilled demand for holidays away.[32] Vacation programmes were then based on the notion that relaxation would increase production.

We must end this section by raising another difficult set of questions. Practitioners and theorists of industrial social policy both took the view that the problem of immanent social conflict could best be grasped and solved at the point of its sharpest expression, i.e. in the factory. After 1933 this led to the revealing and typically Nazi way of referring to the factory community (*Betriebsgemeinschaft*) as the 'cell' of the national community (*Volksgemeinschaft*), and thus to turns of phrase which, insofar as they were not merely cynical, undeniably had a certain archaic flavour. This could not be said of developments in the 1920s. These later efforts derived from a social vision that was more or less deliberately narrowed to the industrial production process alone, a limited perspective that made it possible to imply that everyone involved belonged to the same community of interests. To promote this, industry's sphere of influence was expanded to take in every aspect of social life that seemed relevant to the production process, and the former was subordinated to the latter. In principle, then, the new industrial social policy claimed a total ascendancy over the worker; his own autonomous impulses, and indeed any undirected or unplanned behaviour, were considered a disruptive factor.

At the same time, it is important to note a radical dichotomy between theory and practice in 1920s social policy, which is being analysed here as an ideal type. In view of the identical development of industrial social policies in the larger American and British industries both before and after the Second World War, it is scarcely appropriate to label the new management techniques of German industrialists before 1933 as a specifically German archaism, as if they were a modern means of manipulation serving a romantic nostalgia for a healthily hierarchical national community. Even if such irrational motives were a personal inspiration to the Thyssens or Kirdorfs, the adoption of these forms of

[32] *Siemens-Mitteilungen*, February and July 1934.

industrial social policy was nonetheless a sober, rational and hence compelling way, given the rationalization imposed by economic crisis, to increase the profitability of industry and to tame the militancy of the labour movement. Similarly, the related social ideology, which represents the capitalist enterprise as the heart of the social order, is necessarily shared by any industrialist in an economic system geared to the accumulation of private wealth, whatever his own ideas on the extent to which the social system is relevant to the production process. But even from this viewpoint we can scarcely say that German industry in the 1920s was more narrow-minded, old-fashioned or ruthless in the promotion of its own interests than that of Britain the USA.[33] Things look rather different if we turn from industry to the social sciences or propaganda – areas which cannot clearly be separated from each other in this context. Here the narrow emphasis on shop-floor working conditions as the arena in which class conflict arose and had to be dealt with bears witness to an academic outlook which even then was making a mockery of every tendency in modern social science. The intellectual horizon of most authors can be defined without further qualification as reactionary, and even as specifically German, for it scarcely reached beyond the world imagined by the German romantics, even if this inheritance was enriched by occasional slogans from Catholic social teaching or (more seldom) solid empirical research. As an example we may take Goetz Briefs' great work *The Proletariat. A Challenge to Western Civilization*, published after he went into exile: it is a systematic study of class relations in which he manages to neglect every question of real economic importance (notably growth) and leaves such vital issues as educational opportunity and social mobility entirely out of account.[34] This extremely narrow and static perspective, which is perhaps particularly characteristic of Briefs' work, reduced the whole problematic of class conflict to a question of attitudes, and this left the door wide open for every kind of manipulation. The missionary element in his work wholly outweighed the analysis. His concepts of the joy of work, faithfulness, community and plant unity are admittedly somewhat different from the National Socialists', though it is not easy to show exactly how and why; certainly they were less realistic, because they failed to acknowledge any need for compulsion.[35] But here

[33] For a brilliant introduction to the American question see Loren Baritz, *The Servants of Power. A History of the Use of Social Science in American Industry*, 2nd edn (New York 1965). See also Sheldon Wolin, *Politics and Vision* (New York 1960), Chapter 10. On Britain see B. Seebohm Rowntree, *The Human Factor in Business*, 3rd edn (London 1938).

[34] Goetz Briefs, *The Proletariat. A Challenge to Western Civilization* (New York/London 1937).

[35] On this see the remarks by Rene König, *Die Zeit ohne Eigenschaften*, ed. L. Reinisch (Stuttgart 1961) and the devastating methodological criticism by L. von Friedeburg in *Betriebsklima. Eine industriesoziologische Untersuchung aus dem Ruhrgebiet*, ed. T. W. Adorno and W. Dirks, Frankfurter Beiträge zur Soziologie (Frankfurt am Main, 1955), vol. III, p. 14.

again some reservations seem necessary. Although this did not become entirely clear until the years of the Nazi hegemony, a superficially archaic vocabulary could actually disguise thoroughly modern concepts; even if these were only limited in scope, they were solidly built on new techniques of manipulation that were heavy with significance for the future. The language of social ideology alone is not a wholly reliable index of the character of the corresponding social processes; indeed, it is often not even a clue to the intentions of the writers concerned.[36] The complacent and fatal aim of contributing through applied social science to the reconciliation of the German people produced a theory of industrial social policy which inevitably contained a doctrine of political salvation. This outcome could have been prevented only if social scientists had taken the whole phenomenon of class antagonism as their field and investigated the real status of fringe benefits and the 'psychology of labour'. Even reputable social scientists were unable to resist the temptation of trying to resolve class conflict in a solo flight of literary fancy: and a perspective that confined itself to the factory alone was unlikely to question the dubious methodology of the enterprise. Thus, for example, in 1932 Rudolf Schwenger was still writing relatively sensibly about the limits of industrial social policy, but one can already hear the cadences of the technocratic salvationist and his overweening political agenda:

These assumptions suggest a number of positive tasks which arise from the social and human needs of the workplace in the twofold sense we have already mentioned: namely, the careful treatment of the individual in the factory – his effective incorporation into its social order – and the methodical supervision of all interpersonal relations.

Alongside these positive tasks and demands that face each industrial plant, we must also draw attention to the need for defence against any disturbing influences that might put at risk the survival of social order within it. These social disruptions are the main cause of the phenomenon of social unrest. On the one hand, they arise within the plant, from e.g. the deficiencies of labour regulations or factory organization, the inadequate adaption of individuals to the demands of the plant, and interpersonal frictions. Besides these internal disruptions there are

[36] To further discussion on the meaning of pre-industrial or archaic elements in recent German history, we urgently need an analysis of political language which would include both a historical and a comparative dimension. Why do people in Britain and the USA not start nervously when they hear the words 'community' or 'leadership'? These and similar terms were frequently bandied about among English and American industrial sociologists at the time. In spite of its fragmentary character and occasionally awkward methodology, I consider that the book by Victor Klemperer, *LTI. Notzibuch eines Philogen* (Berlin 1947), is still the best work in this field. See also Lutz Winkler, *Studie zur gesellschaftliche Funktion faschistischer Sprache* (Frankfurt am Main 1970), and the literature survey by G. Voigt, 'Zur sprache des Faschismus', in *Das Argument*, no. 43 (July 1967), pp. 154–65.

also elements of social disturbance that enter the factory from the outside. These additional entanglements can be understood if we bear in mind that the people in the plant also belong to groups and institutions of other kinds: the worker may be a member of a union, a party or a church. Thus people meet as representatives of organizations and powers alien to the plant and in this way also bring their external social interests and motives with them into the workplace. This gives rise to every conceivable kind of tension, since it means that the struggle between competing spheres of interest is also being fought out within the plant. Today, more than ever, we can speak of a front hostile to the factory that is trying to restrict the latter's autonomy and bring it under the influence of the state or of collective labour law. These influences, internal and external, all tend to alienate the worker further from his workplace. In the interests of self-preservation, therefore, every effort must be made to reduce social disorder in the plant. Alongside its positive tasks, then, the plant is also faced with the defensive task of resisting influences which are alien or hostile to it.[37]

The author's frustration at the disruptive influence of hostile factors and organizations is clearly audible here: without them, he seems to be saying, the plant would become a paradise of peaceful and mutually beneficial co-operation. In 1933 these hostile influences were in fact destroyed, and the worthy Schwenger went on to his next study, industrial social policy in the large industries of western Germany. The results were published in 1934. Schwenger again warned that the limited scope of industrial social policy must be borne in mind, but the words sound like an empty, half-remembered formula, a foreign body in an account which had gained a good deal in frankness and confidence and lost much of its frustration:

Until recently, industrial social policy was not an officially recognized policy with a clearly defined position within social policy as a whole; it was merely tolerated. It was marginal, unobtrusive; sometimes it was even expressly rejected. The marxist parties denied it altogether on principle. The aims of industrial social policy – to pacify the workforce, eliminate disputes, remove the objective grounds for social tension, encourage the worker towards self-help; to stress leadership and productivity, safeguard the existence of the plant, try to turn the worker into a property owner, through industrial housing estates and the allotments movement; to foster national ideas and reject class conflict – all these practical aims of industrial social policy, which are now in the course of being widely realized by the national state, met with determined resistance from that side and also from a section of the trade unions. The living multiplicity of industrial social policies, which arose from specific local and plant conditions, contradicted the ideology and the socio-political concepts of this circle.[38]

[37] 'Die betriebliche Sozialpolitik im Ruhrkohlenbergbau', *Schriften des Vereins für Sozialpolitik*, vol. 186, no. 1 (1932), p. 4.

[38] 'Die betriebliche Sozialpolitik in der westdeutsche Grosseisenindustrie', *Schriften des Vereins für Sozialpolitik*, vol. 186, no. 2 (1934), p. 1. The openness of Briefs and his school to the aggressive radicalism of the right in industrial social policy was clearly revealed by Peter C. Bäumer as early as 1933, in his study 'Das Deutsche Institut für

Schwenger was certainly no Nazi, and his comments on political economy in his second book witness to a conservative reserve *vis-à-vis* those now in power (he himself was more interested in corporatist ideas). But he could feel quite at home in the world of the AOG.

IV

It is probably safe to assume that the pseudo-scientific archaisms of industrial sociology had a good deal less political influence than the tried and tested measures taken by the managers who became factory leaders in January 1934 – men with a sound technical training who were well aware of their duty to look after their employees. A second group of intellectuals demands more attention in this respect, however. The judges in the Reich Labour Court (Reichsarbeitsgericht) probably had far greater influence on the directors of the employers' associations and on the civil service. Their contribution to the AOG needs no very detailed attention here, since Thilo Ramm has recently published a new edition of the outstanding contemporary analysis of their juridical activities by Otto Kahn-Freund.[39] The parallelism between the guiding principles of the Reich Labour Court and the overt aims of the technical innovators in industrial social policy is astonishing. The judges had obviously taken it upon themselves to abolish all the positive rights of individual workers, works councils and unions in every area in which they clashed with the economic interests of the plant. In 1931 Kahn-Freund summed up this tendency as follows:

> The Reich Labour Court has licensed an enormous extension of the dictatorial power of the employer: as the court itself has repeatedly emphasized, its object here was to establish the discipline necessary for productivity, which is closely associated with the idea of unity within the plant. This idea is linked to that of the plant as an organism, of the productive community as a collectivity organized on almost romantic, military lines. Employers and employees [are] united in a single organism, as a working community, in which the voluntary subjugation of the one to the command of the other arises in the interests of the common goal of productivity.[40]

One would like to put a question mark, however, after the words 'romantic' and 'military'. We do not yet have adequate research into what aspects of German thought were in fact the source for the social policy

technische Arbeitsschulung (DINTA)', *Schriften des Vereins für Sozialpolitik*, vol. 181 (Munich/Leipzig 1930). Bäumer saw the aims of Arnhold's institute as a form of Taylorism suited to the German character.

[39] Otto Kahn-Freund, 'Das soziale Ideal des Reichsarbeitsgerichts', in T. Ramm (ed.), *Arbeitsrecht und Politik. Quellentexte 1918–1933* (Neuwied 1966).

[40] Ibid., p. 187.

norms of the Labour Court judges.[41] It is at least questionable whether we can isolate their decisions and reasons from the fundamental transformation of industrial relations which was then taking place, and attribute them simply to nostalgia for a healthy *Volksgemeinschaft*. In fact the judges, as Kahn-Freund himself pointed out, showed a very precise understanding of modern factory relations, and were in tune with the times in their readiness to acknowledge, and even reinforce, the formal juridical bases of union organization. But, while the pronouncements of the Labour Court did not challenge the actual existence of the unions, it nonetheless presumed to subject their activities to a rigorous juristic examination: only if they confined themselves to keeping order and supporting the employer could they escape the restrictive and repressive judgements of the court. This massive emphasis on the criteria of economic performance in the pronouncements of the Labour Court casts some doubt on its description as 'romantic' and 'military'.

The economic profitability of the plant was also the chief criterion when the court deliberated on the rights of individual workers, and it was the former that took priority. What was in question was no longer personal freedom, but the economic imperative of modern production methods, the efficiency of which might be seriously damaged by a single unruly worker stubbornly insisting on his rights – not to be required to do overtime, for example. As Kahn-Freund concluded, the Reich Labour Court had

> gone a long way towards assuming that the employer has disciplinary powers over the employee; it saw the employee *vis-à-vis* the employer no longer as a party to a contract on equal terms, but as a subordinate under his power. It has replaced the specific obligation to perform labour, which is an essential part of the contractual relationship, by a general subordination.[42]

This finds an echo in Mansfeld's 1941 commentary on the AOG:

> Individual labour contracts had hitherto been understood in materialist terms and established only a contractual relation between 'employer' and 'workforce'. This has been replaced by the 'loyalty relationship' [*Treueverhältnis*] between leader and followers which is the foundation of their common activity, and has (along with the employer's welfare responsibilities) to a large extent become the

[41] An essential influence was civil service law, with which the judges were surely familiar. At several points in the judgements cited by Kahn-Freund we get the impression of an attempt to apply current aspects of civil service law to industrial relations: see Jane Caplan, 'The Civil Servant in the Third Reich' (D. Phil. thesis, Oxford, 1974). This tradition was not particularly 'romantic' or 'military', and how far it was 'pre-modern' or 'archaic' in the sense I am using here has still to be investigated in detail. The special position of the civil service is often cited as an important example of the specifically German survival of pre-industrial structures, but in fact any modern industrial concern demands a similarly comprehensive, and privileged, subjection of its managers.

[42] Kahn-Freund, 'Das soziale Ideal', pp. 188–9.

juridical foundation of the rights and duties that derive from labour relations. Of course, the contract remains indispensable as the basis for labour relations, and certain material details must be regulated by it. But the contractual relationship with mutual and interdependent rights and duties has been eliminated from the relationship between the entrepreneur and his followers. Their relationship is governed and stipulated by mutual loyalty, loyalty which is, moreover, protected by the precepts of social honour, which for the first time has become the subject of statutory regulation.[43]

Eight years after the Nazi seizure of power, this account was pure wishful thinking, for the state had assumed comprehensive powers over the allocation of labour. However, it faithfully reflected the *intentions* of the legislators, intentions which the Academy of German Law undertook to specify further in 1938, when it proposed a statute intended to remove the contractual element altogether and put the whole of labour law on the basis of a 'community relationship in personal law' (*personenrechtliches Gemeinschaftsverhältnis*).[44] The draft subjected workers to the absolute power of the employer, a power backed up by police terror; and, as became unmistakably clear during the Second World War, this represented one (though certainly not the only one) of the latent tendencies of *modern* capitalism. The economic system, backed up by law, was moving closer to this aim, and there was no opposing power to prevent it.

V

This brings us to the fourth theme of this study. Why did the AOG allow no workers' representation, even a system under strict National Socialist control? A brief answer will suffice here, since Broszat and Sauer have already analysed some of the relevant documentary material.[45] After the destruction of the trade unions the NSBO and the Labour Front quickly grew into a rabidly populist movement which threatened to escape all control, unleashed strikes, tried to enforce wage demands by main force, and insulted respectable industrialists or threatened them with political persecution. For months it remained quite unclear what functions the Labour Front (founded in May 1933) was to have in this field. To prevent the threatened general strike, the Labour Front leader Ley was forced to acknowledge the organization publicly as the unified trade union and to

[43] *Die Ordnung der nationalen Arbeit. Handausgabe mit Erläuterungen* (Berlin 1941), p. 3.

[44] The draft can be found for example in W. Siebert, *Das Recht der Arbeit* (Berlin/Leipzig/Vienna 1941).

[45] Martin Broszat, *Der Staat Hitlers. Grundlegung und Entwicklung seiner innerer Verfassung* (Stuttgart 1969), Chapter 5; Wolfgang Sauer, Gerhard Schulz and Karl Dietrich Bracher, *Die nationalsozialistische Machtergreifung* (Cologne/Opladen 1960), Chapter 3, Sections 2 and 3 (Sauer) and Chapter 5, Section 3 (Schulz). My dissertation goes into the following problems in detail.

distance himself sharply from the 'yellow' unions. He cannot have been greatly surprised if his (perfectly sincere) disclaimers to the General German Economic Council (Generalat der deutschen Wirtschaft) on 20 September 1933 met with complete scepticism.[46] For the chief anxiety of the council in summer and autumn of that year was precisely the future of this peculiar and chaotic mass organization, including its immensely swollen and unpredictable wing on the shop-floor, the NSBO. The documentation is extremely patchy and leaves important aspects of industry's defensive fightback unexplained. However, the latter's success was apparent by 27 November when Ley, completely isolated between the NSBO and the industrial associations, was forced to subscribe to an agreement whereby the Labour Front renounced anything resembling union activity and confined itself to education and training. In compensation, and to distract public attention, the agreement was made known at the same rally at which Ley was to announce the foundation of Strength through Joy. Only after that was the minister in a position to open discussions on the final text of the AOG. Amidst the political manoeuvrings of those months the strong emphasis on the factory community represented, above all, a rejection of the indistinct, but radically formulated ambitions of the Nazi mass organizations.[47] Together, the agreement and the Act constituted an important stage in the taming process which turned the Nazi labour movement into a servant of the political and economic elites; and this was an important precursor of the events of 30 June 1934.

If the foregoing remarks have conveyed the impression that the AOG, and the solution it prescribed to social conflict, were a necessary stage in the development of German capitalism, let us end by testing this thesis against a wider background of political and economic history. Without the economic slump and the Nazi seizure of power, the principles of the AOG would surely have remained wishful thinking on the part of the big industrialists and technocrats. The crisis forced German industry to aspire to a solution of this kind, but only the seizure of power made it possible.

If the economic boom had continued, surely no rationalization or innovations in industrial social policy would ever have brought about a fundamental revolution in labour and social policy. If sales had continued to increase, the high investment costs would have been largely covered, and this would have given the industrialists enough room to rein in the unions via concessions on wage policy and legal pressures. This was indeed how German industry – especially the electrical and chemical industries – envisaged the future up to 1929. But the crisis – which is attributable in no small measure to those same large investments – created

[46] A verbal report of this important speech is in Bundesarchiv Koblenz, R43II, vol. 321, no. 1.

[47] There is fresh material on the radicalism of the NSBO in Max Kele, *Nazis and Workers. National Socialist Appeals to German Labor 1919–1945* (Chapel Hill, NC 1972).

a completely new situation in which it became a life-and-death matter for German industry to break the power of the labour movement and pass the costs of the previous increase in capacity on to the working class. As the crisis deepened and widened, this aim extended to the creation of a completely new basis for any future economic upswing: never again should the competitiveness of German industry, and the profitability of individual firms, be endangered by union wage demands backed up by the state. The titanic struggle waged in 1930/2 by the industrial associations against the existing collective wage legislation needs no further description here. In general it was aimed not at the complete destruction of the unions, but at cutting back their functions so drastically that – if industry had had its way – they would scarcely have had the right to call themselves unions at all. This, like the undermining of trade union power by mass unemployment, mentioned above, inevitably set up some of the important preconditions for the events of 2 May 1933.

One aspect of the anti-union struggle deserves special emphasis here: the question of industry-wide settlements. The demand for a return to the 'organic', 'natural', or 'flexible' and 'elastic' system of wage-structuring within each plant was perhaps the spearpoint of the attack on the unions. It united almost all branches of the German economy – handicrafts, heavy industry and farming – in their attack on the labour movement: it was the bond of common political interest which held together their otherwise divergent, and often flatly opposing, political and economic demands. In the economic crisis, the binding nature of wage agreements and the declaration of generally binding agreements by the Ministry of Labour seemed even more totally incompatible with the capitalist economic order. No matter whether this demand was expressed in quaintly old-fashioned or in technocratic terms – it sprang from the laws of urgent economic necessity. The remorseless rise in prices made the question of production costs one of life and death for every single plant; and except for the few industries which were thoroughly cartellized or monopolistic, production costs in the German economy were in fact still very variable.

Preller's argument, that this campaign against standardized wage costs shows some archaic traits, and that the modern sectors of German industry actually found, in the course of von Papen's experiment, that it was in their own interests to maintain the binding nature of wage agreements, has not yet been thoroughly verified. His justification, which is borrowed from the modern theory of market regulation by private industry, is logically convincing, and the argument seems to be supported by the wage policy of the Ministry of Labour after 1934.[48] But we must then ask why the AOG laid so much stress on the individual plant, why

[48] Preller, *Sozialpolitik*, pp. 399 ff.

Reich Minister of Economics Schmitt emphasized just this aspect of the new regulation when he presented the draft to the cabinet.[49] One explanation might invoke the political danger of labour unrest, to which the regime was still exposed in the second half of 1933. In May, to avert the universally feared general strike, the government had decided that the wage levels obtaining at the time of the destruction of the unions could be undercut only in extreme and exceptional circumstances; in general they remained in force, under the supervision of the newly appointed Trustees of Labour. To rescind this concession immediately, at the end of 1933, would have been an act of political suicide. Moreover, the employers discovered that state supervision of wage policy and working conditions, which they had generally regarded with such suspicion, offered in summer and autumn of 1933 a very welcome protection against the incursions of the NSBO. Finally, we must point out that the imposition of obligatory minimum wage levels seemed less intolerable to industry as a whole as the levels themselves were reduced: by May 1933 the cutback in standard wage-rates had already been very considerable. The AOG then empowered employers to structure wages as they saw fit on the basis of the current minimums; to this was added in October 1935 an executive order by which the Trustees could authorize the minimum wage to be undercut in exceptional circumstances.[50] In this admittedly somewhat milder form, the principle of plant autonomy seems to have been most beneficial to all of German industry, at least until the time when labour shortages began to demand an altogether different approach.

These observations tend to confirm the idea that the origins of the AOG are to be sought in historical necessity: the law appears as an inevitable consequence of industrial, economic and technical progress, of the appropriate representation of interests and the unbridled pace of economic development peculiar to industrial capitalism. One important question still remains untouched, however. Without the ruthless destruction of the unions and the works councils, the dream of total managerial control of industry would have remained just a dream; the rationalization and refinement of labour and social policy would have remained without any real direct influence on political and economic class relationships. So long as the mass basis and independence of the trade unions had been assured, the plant leadership's aspiration to total power could never develop beyond a latent potential. The unions were an opposing power capable of limiting and controlling it. The one fundamental political prerequisite for the AOG was not realized until early in 1933.

While during March and April the functionaries in the Ministry of Labour chiselled away at draft regulations to give wage-bargaining

[49] See note 17 above.

[50] Fourteenth executive order to the AOG, 15 October 1935 *RGBl* (1935), I, p. 1240.

powers to the 'yellow' unions and suppress the communist works councils, the labour movement was being destroyed root and branch. Although the Reich government itself had obviously decided on a war of attrition against the unions and works councils, bands of fanatical SA men were already ranging through industrial areas of Germany, smashing up trade union offices, killing and torturing innumerable officials, destroying all documents and ransacking safes. At the same time works councils of every union persuasion were being thrown out. When on 16 April 1933 the Nazi leaders resolved to bring the unions to heel and then liquidate them, the German Trade Union Federation (ADGB) had long been reduced to a set of generals without footsoldiers. These leaders had difficulty keeping in step with their own followers. A good many of the trade union offices that were dramatically occupied on 2 May had been under the supervision of NSBO officials for weeks past. The Reich government and the party leadership had certainly taken no effective steps to stem the terror, but there is no convincing evidence that they deliberately planned and unleashed it. The 'brown terror' was the last decisive manifestation of a truly archaic political culture. As soon as it had done its first political service, it immediately became a danger to both the old and the new power elites.

Meanwhile, however, not a single voice was raised among the employers to protest against the destruction of the unions. This turn of events could scarcely have been foreseen in entrepreneurial circles, but nor did it seem particularly ominous to them. As early as 10 March the representatives of German nationalist industrialists had asked the Ministry of Labour whether there was any point in starting wage negotiations in the building industry, since the new agreement might well outlive the partner with which it was made. And on 22 March the employers' association of the German chemical industry was encouraging its members to dismiss any workers who were kept away from work because they had been arrested. The way to the far from archaic utopia of 20 January 1934 was recognizable even in its beginnings.[51]

The basic principle of the new regulation was surely most accurately formulated by Speer: 'Idealism is the best economics [*Wirtschaftlichkeit*].' At that time he was still head of the office for the 'Beauty of Labour'.[52]

[51] DZA Potsdam, RAM, vol. 2185, pp. 90–3; Orwo-Wolfen film factory, company archive, vol. A 3713, fol. 410.

[52] *Die Gemeinschaft*, ed. Gauverwaltung of the Labour Front in Düsseldorf, April 1937.