

Confidential

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EUROPEAN SOCIAL CHARTER



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OF THE

"TRAVAUX PREPARATOIRES"

VOLUME II

1955

STRASBOURG

EUROPEAN SOCIAL CHARTER

COLLECTION OF THE "TRAVAUX PREPARATOIRES"

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- 1st PART - Documents of the Committee on Social Questions concerning the preparation of a Draft European Social Charter and the creation of a European Economic and Social Council - March-June 1955
- 2nd PART - 7th Ordinary Session of the Consultative Assembly of the Council of Europe - Documents concerning the preparation of a European Social Charter and the creation of a European Economic and Social Council - October 1955

VOLUME II : 1955

1st PART - Documents of the Committee on Social Questions concerning the preparation of a Draft European Social Charter and the creation of a European Economic and Social Council - March-June 1955

Section I - Views of the International Federation of Christian Trade Unions presented to the Committee on Social Questions - 1 March 1955 - AS/Soc(6) 22

A. On the memorandum of the Secretary General of the Council of Europe of 16 April 1953

B. On the preliminary report by the Committee on Social Questions

Section II - Preliminary Draft European Social Charter

§1 - Committee on Social Questions - Working Party for the preparation of a Draft European Social Charter - Preliminary draft of Social Charter submitted by the Secretariat of the Committee - 19 April 1955 - AS/Soc.I(6) 1

§2 - Memorandum by the European Regional Organisation of the International Confederation of Free Trade Unions on the Draft European Social Charter - 20 April 1955 - AS/Soc(6) 26

§3 - Supplementary memorandum by the International Federation of Christian Trade Unions concerning the Draft European Social Charter - 6 May 1955 - AS/Soc(6)27

§4 - Minutes of the meeting held on 29 and 30 April 1955: debate on the preliminary draft of a European Social Charter - AS/SocI(6) PVI

Section III - Preliminary Draft European Social Charter: revised text

§1 - Notes on amendments to the Preliminary Draft AS/SocI(6)1 by the Working Party for the preparation of a Draft European Social Charter - 20 May 1955 - AS/SocI(6) 2

§2 - Memorandum by the Secretariat of the Committee on the revised preliminary draft of a Social Charter drawn up by the Working Party - 23 May 1955 - AS/SocI(6) 3

§3 - Minutes of the meeting held on 4 June 1955: debate on the revised preliminary draft of a European Social Charter - AS/SocI(6) PV2

Section IV - 3rd preliminary Draft European Social Charter

- §1 - Preliminary Draft of Social Charter drawn up by the Working Party for the preparation of a Draft European Social Charter - 18 June 1955 - AS/Soc(6) 28
- §2 - Memorandum by the Secretariat of the Committee on the Preliminary Draft of the Social Charter prepared by the Working Party - 25 June 1955 - AS/Soc(6) 30 Revised
- §3 - Memorandum by the Secretariat of the International Federation of Christian Trade Unions on the preliminary Draft Social Charter embodied in document AS/Soc(6) 28 - 28 June 1955 - AS/Soc(6) 32
- §4 - Memorandum of the Secretariat of the International Federation of Christian Trade Unions on the Preliminary Draft for the Social and Economic Conference, contained in doc. AS/Soc(6)28 - 30 June 1955 - AS/Soc(6) 33
- §5 - Minutes of the meeting held on 10 September 1955 = debate on the preliminary Draft European Social Charter contained in doc. AS/Soc(6) 28 - AS/Soc(7) PV3 revised

2nd PART - 7th Ordinary Session of the Consultative Assembly of the Council of Europe. Documents concerning the preparation of a European Social Charter and the creation of a European Economic and Social Council - October 1955

Section V - Letter by Mr Per FEDERSPIEL, Chairman of the Committee on Economic Questions, to M. Guy MOLLET, President of the Assembly, on relation with the debate of the Assembly on the European Social Charter and on the creation of a European Economic and Social Council - 15 October 1955 - AS/Soc(7) 8 - Document 407

Section II - Draft Recommendation containing the draft European Social Charter - Document 403

- §1 - Draft Recommendation containing the Draft European Social Charter, presented by the Committee on Social Questions - 26 October 1955 - Document 403
 - A. Appendix: Draft European Social Charter
 - B. Explanatory Memorandum by MM. HEYMAN and DEHOUSSE
- §2 - Amendment n° 1 to the Draft Recommendation of the Committee on Social Questions submitted by MM. JAQUET and SILVANDRE - 17 October 1955 - Document 403 - Amendment N° 1

- Section III - Debates on the European Social Charter and on the European Economic and Social Council
- \$1 - Official Report of the 15th sitting: general debate on the Draft Recommendation presented by the Committee on Social Questions and on the communication from the Committee on Economic Questions - 18 October 1955
 - \$2 - Official Report of the 16th sitting: resumed general debate - 18 October 1955
 - \$3 - Official Report of the 26th sitting: European Social Charter and European Economic and Social Council. Debate on a draft Order presented by the Committee on Social Questions - 26 October 1955.
- Section IV - Letter from the Secretary General of the International Federation of Christian Trade Unions to the President of the Consultative Assembly - 24 October 1955 - AS/Soc(7)19

- 1st PART - Documents of the Committee on Social Questions concerning the preparation of a Draft European Social Charter and the creation of a European Economic and Social Council - March-June 1955

- Section I - Views of the International Federation of Christian Trade Unions - 1 March 1955 - AS/Soc (6) 22

- Section II - Preliminary Draft European Social Charter - April 1955 - AS/SocI(6) 1

- Section III - Preliminary Draft European Social Charter - revised text - AS/SocI(6) 2 - May-June 1955

- Section IV - 3rd preliminary Draft European Social Charter - AS/Soc (6) 28 - June 1955

Section I - Views of the International Federation of Christian Trade Unions presented to the Committee on Social Questions - 1 March 1955 - AS/Soc (6) 22

- A. On the memorandum of the Secretary General of the Council of Europe of 16 April 1953
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- 1st PART - Documents of the Committee on Social Questions concerning the preparation of a Draft European Social Charter and the creation of a European Economic and Social Council - March-June 1955

- Section I - Views of the International Federation of Christian Trade Unions - 1 March 1955 - AS/Soc (6) 22

- Section II - Preliminary Draft European Social Charter - April 1955 - AS/SocI(6) 1

- Section III - Preliminary Draft European Social Charter - revised text - AS/SocI(6) 2 - May-June 1955

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- A. On the memorandum of the Secretary General of the Council of Europe of 16 April 1953
- B. On the preliminary report by the Committee on Social Questions

Strasbourg, 1st March 1955.

Restricted
AS/Soc (6) 22

Or. Fr.

CONSULTATIVE ASSEMBLY

COMMITTEE ON SOCIAL QUESTIONS

Fourth Session

PREPARATION OF A DRAFT EUROPEAN SOCIAL CHARTER

Views of the International Federation of
Christian Trade Unions

A. Memorandum by the Secretary-General of the Council of Europe

The Federation has the following comments on the memorandum by the Secretary-General of the Council of Europe "concerning the activities which the Council of Europe could properly carry out in the social sphere" which was submitted to the Consultative Assembly by the Committee of Ministers in May 1953 (Doc.140 of 11th May 1953) and of which Chapter 1 deals with the Charter:

see para 19
of Doc 140

Point 6. "...Governments should declare their intention of regarding economic policy not as an end in itself, but as a means of achieving social objectives...."

The Federation has always emphasised the importance of the social as compared with the economic aspect, and is consequently delighted to find this fact, frequently ignored by Governments, so plainly stated in the Report. It would like to see this included either in the Charter itself or in the preamble.

see para 20
of Doc 140

Point 7. The Federation has the same comment on the following statement which expresses a conviction on which the Federation itself has always acted: "Social policy should be related to the spiritual and moral values which are the common heritage of the peoples of Europe."

see para 21
of Doc 140

Point 8. "The Governments should recognise the importance of the development of industrial relations tending to reconcile the interests of the workers and employers by the establishment of works councils and other organs through which workers may influence the administration of the industry in which they are employed and the management of their own work." If the European Social Charter is to receive the support of the workers in Europe it should offer a rational and carefully thought-out programme for the reform of the economic structure which will allow workers to take part in the management of industry and to benefit from the results of their own labour.

see para 24
of Doc 140

Point 11. The Federation wishes to draw attention to the following statement which not only answers the wishes constantly expressed by the trade unions, but also provides the essential condition without which it will be impossible to secure the co-operation of the workers for any European policy. This statement should also be included in the Charter. "In conformity with democratic principles, the Governments should recognise the importance of securing the participation of all suitable groups in the formulation of social policy. They should therefore declare their willingness to consult organised groups of society, such as the professional organisations and the Co-operative Movement, about the development of new social measures". At European level, this recommendation is to be interpreted as meaning that it is essential to allow the professional organisations to take part in drawing up any social policy for Europe and, a fortiori, in drawing up the principles on which that policy is to be based, in other words, to take part in the preparation of the European Social Charter.

B. Preliminary Report by the Committee on Social Questions.

The Federation has the following comments on the Preliminary Report on the preparation of a European Social Charter presented by M. Hayman on behalf of the Committee on Social Questions at the Sixth Ordinary Session of the Consultative Assembly of the Council of Europe in September 1954 (Doc. 312):

see para 3
Preliminary
Report

Point 3. "The Committee of Ministers has entrusted the task of considering the form and contents of the Charter to the Social Committee, which should also consider whether, in addition to general principles, the Charter should contain more definite provisions binding upon the signatories. The Committee on Social Questions considers that such provisions should be included."

The Federation agrees with the Committee on this point, as may be seen from the beginning of the present memorandum which insists that the Charter should be drafted in definite terms and be taken as a guide for domestic legislation.

see para 6 of Preliminary Report Point 6. The proposed division of the Charter into three parts (general principles, aims of social policy in specific fields, binding provisions) is in line with the suggestion made earlier in the present memorandum that the Charter should both set out the general principles to be followed and lay down specific aims which would entail the acceptance by Governments of effective obligations.

see para 7 Preliminary Report Point 7. Regarding the procedure for supervising the implementation of the Charter, the Federation entirely agrees with the rôle with which it is proposed to entrust the Consultative Assembly of the Council of Europe. In its view, however, the supervision would be even more effective if it could be carried out by an Economic and Social Council of the Council of Europe which it considers should be set up as soon as possible. A Council of this kind, specially concerned with the problems with which the Charter will deal, would be able to give greater time and attention to them without impinging on the time required for the debates on important political questions which must be held by the Consultative Assembly. This would mean that the latter would only be asked to take final decisions on the results of work carried out by the Economic and Social Council.

The Federation regards the proposal of entrusting the final preparation of the Charter "to a regional tripartite conference as provided for in the Agreement between the Council of Europe and I.L.O." not only as useful but as extremely desirable. It resembles a proposal made by Maurice Bouladoux, Chairman of the "Confédération française des travailleurs chrétiens" and a member of the Bureau of the I.F.C.T.U., at the European Regional Conference of the International Labour Office. The Resolution on European integration adopted at the 23rd session of the Council of the I.F.C.T.U. on 21st January 1955 also follows the same lines, as will be seen from the following extract from paragraph 11:

- "The Council expresses the following wishes:
- that the European States set up immediately on a tripartite basis, an Economic and Social Council of Europe or another body, with the mandate to study and solve the problems arising within the framework of Europe;
 - that as soon as possible the above mentioned governments engage in consultation with the national and international organisations of employers and workers who are interested in this problem, in order to lay down the status and the tasks of that new European body;
 - that the international Labour Organisation decide to set up a European Consultative Commission of a tripartite nature, which would enable it regularly to confront its programme of promoting social progress in Europe, with the point of view and the desiderata of the employers' and workers' organisations interested.

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Section II - Preliminary Draft European Social Charter

- \$1 - Committee on Social Questions - Working Party for the preparation of a Draft European Social Charter - Preliminary draft of Social Charter submitted by the Secretariat of the Committee - 19 April 1955 - AS/Soc I (6) 1**
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- \$3 - Supplementary memorandum by the International Federation of Christian Trade Unions concerning the Draft European Social Charter - 6 May 1955 - AS/Soc (6) 27**
- \$4 - Minutes of the meeting held on 29 and 30 April 1955: debate on the preliminary draft of a European Social Charter - AS/Soc I (6) PV1**

Strasbourg, 19th April 1955.

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AS/Soc I (6) 1
Or. Fr.

CONSULTATIVE ASSEMBLY

COMMITTEE ON SOCIAL QUESTIONS

Working Party for the
Preparation of a Draft European Social Charter
Preliminary Draft of Social Charter
submitted by the Secretariat of the Committee

PART I

General principles of a common social policy
of the signatory Governments

The object of the Governments in signing this Charter is to promote a progressive improvement in the wellbeing of their peoples by a continued rise in living standards and by the equitable sharing of resources and burdens.

Realising that standards of living depend on economic conditions and particularly on the sum of resources available, the signatory Governments undertake to maintain the highest possible levels of production, investment, employment and trade. They undertake likewise to pursue an economic, monetary and fiscal policy designed to ensure the fair distribution of resources and the equal sharing of burdens and to maintain the purchasing power of money.

The signatory Governments regard economic policy not as an end in itself, but as a means of attaining social objectives, which are defined in terms of the moral and spiritual values inherent in the common heritage of the European peoples.

In particular, in carrying out their economic and social policy, the Governments will adopt no measures incompatible with human dignity and the unity of the family. The supreme aim of their social policy will be to develop the human personality and to allow the individual the opportunity of exercising his natural gifts to the full with due regard for his duty to other individuals and to the community in which he lives.

This policy can therefore be carried into effect only with the free participation of the people concerned, and within the framework of their national and local communities and professional groups. The State should confine itself to co-ordinating and supplementing the activities of such communities and groups.

The first essential is that men must be given the opportunity to work. The maintenance of full employment in all the European countries must be the constant aim of the signatory Governments.

Nevertheless, work is not an end in itself. The signatory Governments recognise as essential for the development of the human personality the participation of workers in the management and in the profits of the undertaking by which they are employed.

The signatory Governments regard it as a duty arising from the most elementary principles of human solidarity that they should assist the less favoured sections of their populations.

The signatory Governments are opposed to all forms of discrimination on grounds of sex, race, colour, language, religion, property, political or other opinions, or national or social origin.

They will not exploit labour nor derive profit by maintaining in a condition of poverty the peoples politically or economically dependent on them. They recognise that they are

in a large measure responsible for the economic and social development of territories under their jurisdiction.

They also consider themselves jointly responsible for the economic expansion of their backward areas, and pledged to develop them by all means within their power, and more particularly to assist the adjustment of individuals to new circumstances, the decentralisation of industry, the modernisation of agricultural technique, rural development and the strengthening of the economic and financial powers of the local authorities.

The signatory Governments regard it as an important corollary to the principles of democracy that appropriate institutions should be created to enable employers', workers' and consumers' organisations to participate in the formulation of economic policy at all stages and in all sectors.

Although the planning and implementation of social policy are essentially the concern of national or regional authorities, its successful outcome depends, and will increasingly depend, on closer international unity, on a more extensive sharing of resources and experience and on the progressive lowering of barriers to the free circulation of manpower and commodities.

The signatory Governments consequently undertake further to develop their co-operation in economic and social matters, and in particular to harmonise their social legislation and practice at the highest level attainable.

The signatory Governments, being resolved to give effect to the foregoing principles, recognise the rights set forth in part II of this Charter, and undertake to introduce or authorise for that purpose all necessary measures on European, national, regional or professional levels.

PART II

Section A

Right to adequate standard of
living and social security

Article 1

Everyone shall have a right to a decent living, and in particular to adequate food, clothing and housing.

The signatories to this Charter undertake to secure the fulfilment of this right by the following measures:

- (a) They will ensure by effective controls an adequate supply of basic necessities at prices within the reach of all;
- (b) They will pursue a policy of town planning and rural habitation such as will provide adequate numbers of moderate priced dwellings complying with satisfactory standards of comfort and hygiene.

Article 2

Everyone shall have the right to a minimum standard of social security, and must be protected by social insurance or other means against loss or impairment of livelihood by reason of sickness, disability, widowhood, unemployment, old age or other cause beyond his control.

The measures by which the signatory Governments shall ensure the enjoyment of this right, supplementary to the action of individuals, of regional and professional bodies and of qualified organisations, shall be set forth in a European Code of Social Security. Such measures shall in particular guarantee the payment of the greater part of the expenditure incurred for medical or hospital treatment, maternity allowances, family allowances, unemployment allowances and those due as the result of temporary or permanent disablement, retirement pensions for elderly workers.

Article 3

Every person should have access to facilities for ensuring a high standard of health.

The measures to be taken by the signatory Governments to secure the enjoyment of this right, in cases where the private resources and initiatives of individuals or communities are inadequate, will include:

- (a) the reduction of infant mortality and provision for the healthy physical and moral development of the child; assistance to mentally defective children and those deserted or in distress; re-education of maladjusted children;
- (b) the improvement of nutrition, housing, education, recreation and other health factors connected with his surroundings;
- (c) the prevention, treatment and control of epidemic, endemic and other diseases;
- (d) the organisation of services and facilities to ensure for all effective medical attention in the event of sickness;
- (e) free basic medical care and treatment.

Article 4

The signatory Governments undertake to ensure protection against the consequences of monetary devaluation particularly with regard to savings, social benefits and allowances, pensions and the redemption of Governments stocks, life annuities and other similar bonds.

SECTION B

Rights pertaining to the family and to children

Article 1

Every man shall have the right to found a family.

The family is the foundation of society and as such entitled to the widest measure of protection.

It is based on a marriage freely entered into by the prospective husband and wife.

The unity of the family may not be impaired, save on the basis of respect for the natural rights of the individuals concerned.

The steps to be taken by the signatory Governments for the protection of the family shall include:

- (a) Payment of a supplementary allowance to the father of the family so that the mother may stay at home;
- (b) Assistance to large families, more particularly by the grant of allowances in proportion to the number of children;
- (c) Special protection accorded to mothers during reasonable periods before and after childbirth; the mother shall have the right to leave with pay for not less than six weeks before and six weeks after childbirth, the right to keep her job and to receive both medical attention for herself and her child and financial assistance during the nursing period.

Article 2

Children and young persons have a right:

- (a) To the welfare services and education necessary for their moral, intellectual and physical development, in accordance with the provisions of Section A, Article 3, and Section D of this Part of the Charter;
- (b) To protection from exploitation in their employment, in accordance with Section C, Article 3 of this Part of the Charter.

Article 3

Children born out of wedlock shall receive the necessary protection and shall enjoy the same rights to social assistance as those born in wedlock.

SECTION C

Rights pertaining to employment

Article 1

Every person should be enabled to earn his living by a freely accepted occupation.

The signatory Governments undertake to ensure the maintenance of the necessary volume of investments for keeping European workers in full employment and to make up any inadequacies by public investments; to assist, stimulate or create new economic activities to replace those in process of being scrapped; and to provide for the rehabilitation and resettlement of unemployed workers.

Article 2

Every person is entitled to fair, stable and satisfactory conditions of work.

The signatory Governments undertake to introduce measures for ensuring to each worker:

(a) safe and healthy working conditions;

(b) a wage

- which is commensurate with his knowledge and ability,
- which provides equal pay for equal work without distinction of sex,
- which ensures for himself and his family a decent existence, guaranteed more particularly by:

- the introduction of a minimum wage,
- the fixing of wages on the basis of this minimum level,
- the periodical adjustment of the wage to the cost of living;

(c) reasonable notice on termination of employment;

- (d) a 40-hour week with higher rates for overtime;
- (e) a minimum of two weeks' annual holiday with pay;
- (f) vocational training;
- (g) prospects of professional promotion;
- (h) retirement with adequate pension at the age of 65;

The signatory Governments shall draw up regulations concerning employment contracts both individual and collective.

Article 3

Children and young people shall be accorded special measures of protection in their work. They may not be employed in work likely to impede their normal development.

The signatory Governments undertake to ensure this protection and to take the necessary steps in order that :

- (a) The illegal use of child labour and the employment of young persons in work which is physically or morally injurious, shall be punishable by law.
- (b) Children of under 14 years of age and those, who having reached that age, are still subject to compulsory education laws, may be employed only in such work as will not deprive them of this education.
- (c) Persons of under 16 years of age may not be employed for more than 6 hours a day.
- (d) Young persons shall be entitled to not less than three weeks' annual holiday with pay.

Article 4

Every worker employed in an undertaking shall be entitled to share in the management according to his abilities and in the profits according to the work he contributes.

The steps to be taken by the signatory Governments to ensure exercise of this right shall include:

- (i) the establishment of joint managing boards

- enabling the workers to share in the management of the undertaking;
- (ii) the establishment of profit-sharing systems with the opportunity for the workers of progressing towards co-ownership.

Article 5

The signatory Governments undertake to supervise closely the enforcement of the measures taken in pursuance of Articles 2, 3 and 4 of this Section, in particular by the introduction of special labour inspections and tribunals.

Article 6

Everyone shall have the right to cease work in conjunction with his fellow workers, if he considers that his rights under Articles 2 and 3 of this Section are not respected and the arrangements laid down therein for securing his enjoyment of those rights have not been made or are not being carried out.

The signatory Governments undertake :

- (a) to establish conciliation and arbitration procedure to prevent Labour disputes or find a rapid solution to them;
- (b) in cases where the dispute cannot be settled by such procedure, to take steps to ensure and introduce regulations concerning the concomitant exercise of the right to strike and the right to work.

Article 7

All workers shall have the right, of their own free will, to form trade unions or to join trade unions of their choice whether regional, national or international, for the protection of their economic and social interests.

The conditions governing the exercise of this right shall be those set forth in Article 11 para. 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Article 8

In order that workers may in due course become the owners of real and personal property, particularly of their own homes, the signatory Governments undertake to protect savings and create favourable conditions for their encouragement.

Article 9

Every person shall be entitled to the protection of moral and material interests in any scientific, literary or artistic production of which he is the author.

SECTION D

Rights relating to social and cultural development

Article 1

Every person has the right to education in order that his personality may be developed and understanding, tolerance and friendship may be promoted among nations and racial, ethnic or religious groups. This education should thus be based on respect for the human values and traditions in which the European spirit resides.

The signatory Governments agree to take steps:

- (a) to make primary education compulsory and free to all;
- (b) to make secondary education, in its different forms, including technical and professional training, available to everyone up to the age of 18 years and to make it increasingly free;
- (c) to do all possible to ensure a basic education for those persons who have not received or have not completed their primary education;
- (d) to make university education accessible to all.

Article 2

In the exercise of any functions and duties which they assume in the field of education, the signatory Governments shall respect the right of parents to accord this education

to their children in conformity with their own religious and philosophic beliefs, as provided for under Article 2 of the Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms.

Article 3

Every person has the right:

- (a) to take part in cultural life;
- (b) to enjoy the benefits of scientific progress and its applications.

The signatory Governments undertake to respect the freedom necessary for scientific research and creative activity.

The signatory Governments shall also take appropriate steps for the diffusion and development of science and culture.

SECTION E

Final Provisions

Article 1

The signatory governments recognise that, in a democratic society, the exercise of the rights set out in this Charter may be subjected only to such limitations established by law as are compatible with the nature of these rights or are designed to promote the general well-being.

Article 2

The rights set out in this Charter shall be enjoyed by all without distinction of any kind as to sex, race, colour, language, property, religion, political or other opinion, or national or social origin.

Article 3

Nothing in this Charter may be interpreted as giving a State, a body or an individual the right to carry on any activity or to perform any action the object of which is either to abolish the rights recognised by the Charter or to limit them to an extent not provided for in it.

No restriction upon or derogation from the human social and economic rights recognised or existing in any of the States signatory to this Charter in virtue of law, conventions, regulations or customs shall be admitted on the pretext of the Charter does not recognise such rights or that it recognises them to a lesser extent.

Article 4

In case of war or of any other public danger threatening the life of the nation, each of the signatory Governments may take measures involving derogation from the obligations that it has assumed under this Charter, but only to the extent required by the situation and on condition that the measures taken are compatible with that Government's other obligations arising under international law.

Any signatory Government exercising the right of derogation provided for in the preceding paragraph shall keep the Secretary-General fully informed of the measures taken and the reasons therefor, and shall also inform him as soon as such measures cease to be in effect.

PART III

Implementation of the Charter

Article 1

The Governments signatory to this Charter undertake:

- (a) To present annual reports to the Secretary-General of the Council of Europe on the progress made towards achieving the observance of the rights and duties recognised in this Charter;
- (b) To submit to the Secretary-General of the Council of Europe any additional information on this subject that he may request;
- (c) To confer on the European Commission of Human Rights such powers as may be necessary to enable it to perform the task provided for under Article 3 of this Charter.

The reports and other information referred to in the pre-

ceding paragraph may indicate any difficulties or other factors which may have prevented the States concerned from carrying out fully their obligations under this Charter.

The Secretary-General shall refer such reports and information to the European Commission of Human Rights for information and examination, and shall also send copies of such reports and information to each of the Governments signatory to this Charter.

Article 2

At the request of any one of the signatory Governments, or any international non-governmental organisation possessing consultative status, category A, with the Council of Europe, the Secretary-General of the Council of Europe may bring to the attention of the European Commission of Human Rights any question connected with the observance of the rights and duties recognised in this Charter.

Article 3

The European Commission of Human Rights shall inform the Government of the State directly concerned of the request put to the Secretary-General, and shall invite it to submit its observations on the matter.

The Commission shall open an inquiry into the matter according to the procedure which it shall lay down in order to carry out the task entrusted to it in this Charter.

The Commission may ask any European or international organisation dealing with social and cultural questions to give an opinion on the matter. Agreements shall be concluded with these organisations to ensure that this consultation is duly carried out.

After completing its inquiry, the Commission may draw up a report, for transmission to the Secretary-General of the Council of Europe, which shall contain proposals that may assist the appropriate bodies of the Council of Europe in

deciding which are the proper measures to be taken to enable the Government directly concerned to implement the Charter and to fulfil its obligations under it.

Article 4

The Secretary-General of the Council of Europe shall forward to the Consultative Assembly the report drawn up by the European Commission of Human Rights, together with any other documents that may be necessary.

After receiving the report of its Committee on Social Questions, the Assembly may discuss the matter and either draw up recommendations to the Committee of Ministers or take any other decision with a view to concluding the inquiry carried out by the European Commission of Human Rights.

Article 5

On the recommendation of the Assembly, the Committee of Ministers may:

- (a) Make recommendations to the Governments signatory to this Charter and in particular to the Government directly concerned in the question which has caused the inquiry;
- (b) Convene a European conference composed of representatives of the signatory Governments as well as of any European or international organisations dealing with social questions;
- (c) Submit to the conference proposals for a convention providing either for amendments to this Charter or for measures to ensure its progressive implementation.

Strasbourg, 20th April 1955.

Restricted
AS/Soc (6) 26

Or. Fr.

CONSULTATIVE ASSEMBLY

COMMITTEE ON SOCIAL QUESTIONS

Fourth Session

PREPARATION OF A DRAFT EUROPEAN

SOCIAL CHARTER

Memorandum by the European Regional Organisation

of the International Confederation of Free

Trade Unions

MEMORANDUM BY THE SECRETARIAT OF THE E.R.O. ON

THE DRAFT EUROPEAN SOCIAL CHARTER

Preliminary remark

The E.R.O. approves the principle of this Social Charter and welcomes the bold and precise terms of the text proposed, which is in marked contrast to the mass of other documents of this kind.

This Charter however, requires not only to be adopted but also faithfully to be observed. The proposal of new standards of social rights too radical in the light of present conceptions should be avoided, or there will be the two fold danger either that the responsible organs, Governments or inter-governmental institutions will reject the Charter or, that having approved and signed it, they will regard it as a mere pious hope to be pigeon-holed together with many other such vague declarations.

If time and trouble are not to be wasted the social rights and principles implicit in the Charter must therefore be not only progressive but realistic.

We furthermore feel it to be essential:

- (a) that the Charter should be firmly and clearly based upon the notion of European social integration;
- (b) that its implementation should be made as practical and flexible as possible (by means of a tripartite control with well defined powers, such as a European Economic and Social Council);
- (c) that close co-ordination should be established with the parallel activities of I.L.O. (Committee on the application of Conventions and Recommendations)

Comments on the text

Part 1 - General Principles

The proposed text implies that social progress is reliant upon the economic policy of Governments; it is however, clear that not only do economic and social considerations often influence each other, but also that the alignment of social conditions in Europe is essential to any subsequent European economic progress, a point nowhere mentioned in the text. A clause should therefore be inserted in the preamble stating that in view of the close interdependence between economic and social integration, the Governments and Parliaments should ensure the close co-operation of their respective countries in both these spheres.

Part 2 - Social rights

Sections A and B do not call for any special comment except that the paragraph on housing is inadequate. Either some reference should be made to a future housing code (similar to the proposed social security code) or it should be specified in the present text:

- (a) that the building of houses for the lower income groups is the responsibility of the public authorities and that provision should be made for this purpose in the national budgets;
- (b) that the amount of rent charged should not depend solely on supply and demand;
- (c) that where owners are permitted to increase their rents on old houses, they should be obliged to reserve part of this increase for the upkeep and modernising of these houses.

Section C (labour rights) is very well worded and in keeping with the views of the free trade union organisations.

It would however, be preferable that the provisions on joint management and co-ownership be confined to the more general terms of Article 5, para (a) and (b) (i).

Para (b) (ii) refers to an economic principle which is too controversial in trade union circles. The formula adopted, moreover, appears to exclude any possibility of nationalisation, socialisation or co-operative organisation of the economy. It would therefore be better to omit this aspect of the problem.

On the other hand, Section D concerning the cultural development of human beings is too laconic. It is no longer enough merely to call for free and compulsory schooling. It should also be stipulated that the school-leaving age must be raised to 16 years, a more immediate possibility than certain other demands of the present Charter. It might even be added that for young people up to 18 years of age who lack secondary schooling a compulsory course of study should be instituted, part vocational and part general, of at least 8 hours per week deducted from the normal working hours.

The text nowhere mentions the question of university education which should also be gradually made free, and it would be desirable to recommend the introduction of a grant for students, an idea which is generally gaining ground.

Lastly, nothing is said in Section D about vocational training for apprentices and the protection to be accorded them.

Part 3 - Implementation of the Charter

This is the vaguest and least complete part of the text. At first sight the procedure suggested seems so slow and cumbersome that it can never achieve its purpose.

Consequently, it would be much more realistic to regard this Charter as a preamble to the Statute of a future Economic and Social Council and to leave the whole question of implementation to be laid down in this Statute.

In short, we propose that Part 3 be reduced to Article 1, paras. (a) and (b), and that a new para. (c) be added as follows:

"This Charter shall serve as a preamble to the Statute of the future Economic and Social Council, in which the procedure for implementation shall be laid down in detail."

Strasbourg, 6th May, 1955.

Restricted
AS/Soc (6) 27

Or.Fr.

CONSULTATIVE ASSEMBLY

COMMITTEE ON SOCIAL QUESTIONS

Fourth Session

Preparation of a draft European Social Charter

Supplementary Memorandum
by the International Federation of
Christian Trade Unions

SUPPLEMENTARY MEMORANDUM BY THE I.F.C.T.U. CONCERNING
THE DRAFT EUROPEAN SOCIAL CHARTER (Doc. AS/Soc (6) 25)

I. INTRODUCTION

On receiving the papers on the preparation of the European Social Charter, the Secretariat of the I.F.C.T.U. immediately proceeded to examine them and draw up a Memorandum which has been published by the Council of Europe as a working paper - AS/Soc (6) 22.

Document AS/Soc (6) 25⁽⁴⁾ containing the preliminary draft Charter submitted by the Secretariat of the Committee on Social Questions reached the Secretariat of the I.F.C.T.U. after it had already dispatched its own Memorandum.

For this reason, and in response to the wishes expressed by the Committee on Social Questions on 1st April, 1955, the Secretariat of the I.F.C.T.U. now presents to the Committee this Supplementary Memorandum on the draft Charter submitted by the Secretariat of the Committee.

First of all, we would reaffirm that the I.F.C.T.U. agrees with the principle of a European Social Charter - on condition, however, that it is both comprehensive and practical in character and that the workers' organisations are allowed to take part in its elaboration. The draft Charter submitted by the Committee's Secretariat has largely reassured us as regards its practical and comprehensive nature and reflects many of the ideas repeatedly put forward by the I.F.C.T.U. The invitation extended to the I.F.C.T.U. to take part in the discussions of the Working Party of the Committee on Social Questions responsible for preparing the draft Charter goes to show that the Committee genuinely intends to associate the workers' organisations with its efforts, a fact for which we are profoundly grateful.

The purpose of this Memorandum is to raise certain points of the preliminary draft which we regard as particularly worthy of support, and to draw the Committee's attention to those points which we feel should be made clearer or even amended.

II. MEMORANDUM BY THE SECRETARIAT OF THE COMMITTEE (Page 2 of the English text)

The I.F.C.T.U. fully agrees with inserting in Part II, for each of the rights listed and as a direct corollary thereto, the measures which the signatory Governments agree to take in order that each of these rights may be effectively exercised. We also agree in principle with Part III of the preliminary draft describing the procedure for implementing and ensuring the...

III. PRELIMINARY DRAFT CHARTER

Part I - General principles of a common social policy of the signatory Governments

Page 4: "...The signatory Governments regard economic policy not as an end in itself, but as a means of attaining social objectives, which are defined in terms of the moral and spiritual values inherent in the common heritage of the European peoples...." The real significance of the Charter lies in statements of principle such as this, which should be regarded as the basis for all social action in Europe. The I.F.C.T.U. has already expressed this idea in its first Memorandum.

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* *

The same remark applies to the declaration on page 5 to the effect that "...The supreme aim of their (the Governments') social policy will be to develop the human personality...." - it is this which fundamentally distinguishes the Charter from the social policy of the Communist bloc.

We would also emphasise the importance of two other statements on the same page: first, that "...The State should confine itself to co-ordinating and supplementing...." the activities of the national and local communities and professional groups; second, that "...the participation of workers in the management and in the profits of the undertaking by which they are employed...." is essential to the development of the human personality. With regard to this first statement, however, it should not be forgotten that it sometimes falls to the State to create the framework for the activities of these communities and groups and ensure the freedom of action of the organs elected by those concerned for the implementation of social policy. As for the right of workers to participate in the management and profits of their undertakings, this principle has been carefully studied and affirmed by the XIth Congress of the I.F.C.T.U. (the Hague, 2nd-5th July 1952) which was devoted to the question of co-management and one of whose Resolutions relates to the "participation of workers in the administration of the economy, profession and undertaking", thus going much further than co-management in the undertaking alone. The Charter also should establish the right of co-management in the widest possible measure.

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The condemnation of "all forms of discrimination on grounds of sex, race, colour, language, religion, property, political or other opinions, or national or social origin", on page 6 cannot but be strongly supported by an organisation such as the I.F.C.T.U., since this constitutes one of its basic principles. On the other hand, merely to enumerate such differing characteristics as sex or religion on the one hand and property or opinions on the other, without comment

and without distinction, may give rise to dangerous interpretations. While some of these characteristics are essential to the human personality and profoundly affect social behaviour, others are merely accessory. None of these differences, of course, should entail any discrimination in the strict sense of the word, but we must also eliminate interpretations leading to excessive uniformity and the refusal to recognise often highly important differences.

The attitude adopted by the draft Charter towards non-metropolitan territories is similar to that expressed by the Bureau of the I.F.C.T.U. during its session in Algiers on 16th and 17th March 1953. The declaration on economic and social policy in the non-metropolitan territories adopted at this meeting states among other things that a political liberation which did not entail the economic independence and social advancement of the inhabitants would be merely a farce, and that the development of the backward territories should be designed first and foremost to benefit the inhabitants of these territories.

The principle of the collective responsibility of the European countries for the economic expansion of their backward areas meets with our entire approval as forming part of a sound policy of European integration. If this principle is not to remain a dead letter, however, we must become fully aware of the significance and gravity of the legal concept of collective responsibility and all its consequences. We would draw the Committee's attention to the Resolution adopted at the 23rd session of the Council of the I.F.C.T.U. (Brussels, 19th-21st January 1955) on the establishment of a special fund for developing the backward areas of Free Europe. All the Resolutions of this session have been sent to the Council of Europe.

On the other hand, we feel that the mere consultation of workers', employers' and consumers' organisations in the formulation of social policy is not enough. These organisations already participate in the economic administration of their country - though to varying degrees - in nearly all European countries, and this principle of co-management should also be extended to the European economy and the elaboration of a European social policy. The I.F.C.T.U. would thus prefer the word "consultation" to be replaced by "participation" or some similar term.

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The last statement of principle in the preliminary draft to which we would draw the Committee's attention is that contained on page 7, to the effect that social legislation and practice should be harmonised "at the highest level attainable". Only thus, indeed, may we hope to achieve genuine social progress in Europe.

Part II - Section A: Right to adequate standard of living and social security

(1) With regard to town and country planning policy we feel it advisable to specify that in addition to comfort and hygiene, this policy should also take into account the harmonious development of family life. In this respect it would be preferable to build individual houses with their own gardens as far as possible rather than large blocks of flats.

(2) The I.F.C.T.U. is glad to note that the preliminary draft takes up the idea of a European Social Security Code, first conceived by M. P.J.S. Serrarens. It trusts that the European Social Charter will help to pave the way for the elaboration of this Code.

- Section B: Rights pertaining to the family and to children

(1) Among the rights mentioned in this Section, all of which are supported particularly strongly by the I.F.C.T.U., special importance should be attached to the granting of a family wage to heads of families as already mentioned in our first Memorandum. This is essential to any policy of genuine social progress and family protection and is, alas! still far from becoming reality. It might, however, be specified that this would be a composite family wage based on a really fair system of distribution of burdens and benefits according to the actual situation of the person concerned.

- Section C: Rights pertaining to employment

(1) (a)(ii) - The I.F.C.T.U., as already mentioned in our first Memorandum, has always taken a keen interest in the question of women workers and the establishment of the principle of equal pay for equal work regardless of sex. In the conclusions to its Memorandum on the principle of female labour and wages submitted to the Economic and Social Council of the United Nations and I.L.O. it is stated that wages should be based on economic and professional standards regardless of the sex of the worker. For the head of a family, man or woman, just and impartial payment for individual work should be supplemented by a family wage. Without prejudicing the right of women to work, society should be so organised that the right and duty of women to fulfil their family obligations should be fully safeguarded.

This Memorandum, published as a 57-page pamphlet, explains the views of the I.F.C.T.U. and the situation in various countries. It is followed by several pages of graphs and statistics on female labour.

It should be noted that although the principle of equal pay for equal work is recognised by several European Constitutions such as that of France, Italy, Germany and the Saar, it is not yet in force either in those countries or elsewhere.

(iv) - The 40-hour and five-day week recommended by the Christian trade union movement, more particularly by the Belgian Confederation which has presented the European Regional Conference of I.L.O. with a petition bearing over 500,000 signatures to this effect, should be inserted in the Charter as an important aim of European social policy. The five-day week, incidentally, is becoming more and more widespread.

(vi) - In our opinion the mention of the right to vocational training and re-adaptation should be preceded by that of vocational guidance, both at school and outside. This point, moreover, might well be further amplified since vocational training is all too often misunderstood and badly organised and leads to the exploitation of the apprentice.

(2) With regard to child labour, the following points should be recommended:

(a) Raising of the employable age to 16 years;

(b) Vocational training for young workers of between 16 and 18 years of age.

(3) -

(4) -

(5) This paragraph is worded in a confused way and may give rise to all kinds of interpretations widely deviating from the real meaning of the text. It needs to be re-drafted and perhaps reduced to a simple affirmation of the right of every worker to share in the management of his undertaking.

(6) The I.F.C.T.U. welcomes the fact that the Charter explicitly recognises the right to strike, which is vital to union workers as a means of exerting pressure and which, as we said in our first Memorandum, is only used with the greatest moderation in order to compel recognition of workers' claims. We should point out that the right to work, which is placed after the right to strike (only in French text - transl. note), cannot be inserted merely as a corollary to this latter right and in a context of conflict. It should on the contrary be affirmed as a right in itself, quite apart from other contingencies.

(7) The right to form trade unions and the right of such unions to freedom of action is rightly included in the preliminary draft and should be inserted in the Charter. Hitherto this right, although provided for in certain national Constitutions, has been omitted from most international agreements. The European Social Charter cannot afford to ignore it.

- Section D: Rights relating to social and cultural development

(1) -

(2) This paragraph deals with primary and secondary education and basic education for adults, but makes no mention of university training. This question should logically be inserted as point (c), the present point (c) becoming point (d). It should be specified that access to universities should depend solely on aptitude, regardless of practical considerations of wealth. Various systems of grants or scholarships might be recommended.

- Section E: Final provisions

(1) -

(2) -

(3) The second sentence is particularly important, and it should be stipulated that the Charter can in no event afford an excuse for retrograde measures.

Part III - Implementation of the Charter

Two general comments are called for:

(1) No mention is made about the entry into force of the Charter and the procedure leading up to it. This procedure should be specifically laid down, and should provide for the association of workers' organisations. This association could assume different forms applied separately or simultaneously, such as:

- (a) Close association of representatives of workers' organisations with the preparatory work for the Charter performed by the Council of Europe organs;
- (b) Convening of a Tripartite European Conference in accordance with Article 3 of the agreement between the Council of Europe and ILO, with the Social Charter included in the Agenda;
- (c) Speedy establishment of a European Economic and Social Council and examination of the draft Charter by this Council.

(2) In laying down the procedure concerning the reports and information on the application of the Charter presented by European Governments, the preliminary draft uses purely permissive formulae - thus:

- (a) "The reports and other information...may indicate any difficulties or other factors..." (page 20);
- (b) "The Secretary-General of the Council of Europe may bring to the attention of the European Commission of Human Rights..." (p.20);
- (c) "The Commission may ask any European or international organisation dealing with social questions to give an opinion..." (p.21);

- (d) "The Commission may draw up a report..." (p.21);
- (e) "The Assembly may discuss the matter and draw up recommendations..." (p.22);
- (f) "On the recommendation of the Assembly, the Committee of Ministers may..." (p.22).

The I.F.C.T.U. considers that these various stages in the implementation of the Charter should be made obligatory, at least in certain cases and under certain conditions. This procedure would thereby gain in force and the Charter could be implemented far more effectively.

IV. CONCLUSIONS

Throughout this Memorandum we have tried to confine ourselves to making an objective and concrete analysis of the various paragraphs of the preliminary draft Charter, and have avoided any vague and general declarations of principle or social policy. We followed the same method in drawing up the first Memorandum on the draft Charter (Doc.AS/Soc (6) 22).

The Secretariat of the I.F.C.T.U. feels that in presenting the Committee on Social Questions with these working papers of a limited but highly practical nature it may most fittingly observe the letter and spirit of the provisions governing relations between the Council of Europe and the I.F.C.T.U.

Brussels, 21st April, 1955.

Strasbourg, 16 May 1955

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CONSULTATIVE ASSEMBLY

COMMITTEE ON SOCIAL QUESTIONS

Working Party
for the preparation of a draft
European social Charter

MINUTES

of the Meeting held at the Château de la Muette
in Paris on 29. and 30. April 1955

There were present:

MM. HEYMAN, Chairman	(Belgium)
DEHOUSSE	(Belgium)
FENS	(Netherlands)
HAEKKERUP	(Denmark)
MUTTER	(France)
Mme. WEBER	(German Fed. Rep.)

Apologised for absence:

Miss BURTON	(United Kingdom)
M. MONTINI	(Italy)

International Organisations:

MM. KULAKOWSKI	International Federation of Christian Trade Unions
VANISTENDAEL	" " "
SCHEVENELS	International Confederation of Free Trade Unions

The meeting was opened at 10 a.m. with M. Heyman,
Chairman, in the Chair.

1. Agenda

The draft Agenda was adopted. Doc. AS/Soc I(6) OJ 17

2. Preparation of a preliminary draft European Social Charter /Doc. AS/Soc I(6) 1/

The Chairman recalled the Order whereby the Assembly instructed the Committee on Social Questions to submit the preliminary draft of a Social Charter during the Seventh Session, and also the terms of reference conferred upon the Working Party by the Committee itself.

At the request of M. Haekkerup, it was decided to instruct the Secretariat to prepare a Memorandum on the motives and principles by which it was guided in the preparation of the preliminary draft of the Social Charter.

At the request of the Chairman, it was decided that the initial meeting would be devoted to an exchange of views on the preliminary draft submitted by the Secretariat and that the Working Party would meet again to put the finishing touches to the text for submission to the Committee on Social Questions.

At the request of the Working Party, the Secretariat commented on the subject matter of the Preliminary Draft and gave reasons for differences which had been noted between the first text (Document AS/Soc (6) 25) and the new version (Document AS/Soc I (6) 1).

After a general exchange of views, it was decided to proceed to a detailed examination of the Preliminary Draft (AS/Soc I (6) 1).

The meeting was adjourned at 1 p.m. and resumed at 3 p.m.

The Working Party embarked upon an examination of the preliminary draft Article by Article, it being understood that, in cases of disagreement, it would try to reach agreement on the substance, but would leave the drafting to the Secretariat.

PART I

Paragraph 1

No comment.

Paragraph 2

M. Haekkerup called for a clearer drafting of this paragraph. He wished it to be specifically stated that the Governments were required to ensure full employment.

The Secretariat will redraft the paragraph on these lines.

Paragraph 3

A clarification of the English text was requested.

Paragraph 4

At the request of M. Haekkerup, it was decided that the English translation of the term "intégrité" should be revised.

Paragraph 5

At the request of M. Dehousse, it was decided to delete the words "confine itself" at the end of the paragraph.

Paragraph 6

At the request of M. Mutter, it was decided to redraft the text so as to introduce the expression "the right to work".

At the request of M. Haekkerup, the English translation of the word "souci" is to be revised.

Paragraph 7

Following a discussion in which MM. Dehousse, Haekkerup, Schevenels, Mutter and Vanistendael took part, it was decided to insert the words "particularly by" in the penultimate line, so that the end of the paragraph should read as follows: "...workers shall have a share in the fruits of their labours, and particularly in the management and profits of the undertaking by which they are employed."

Paragraph 8

At the request of M. Mutter, it was decided that the word "couches" in the French text should be deleted and the word "éléments" substituted.

Paragraph 9

No comment.

Paragraph 10

At the request of MM. Dehousse and Vanistendael, it was decided to delete the words "exploit labour nor derive profit by maintaining in a condition of poverty" and substitute the words "derive profit from exploitation of the living conditions of", and also to delete the words "in a large measure" and add the words "in collaboration with the native populations and, where appropriate, with qualified international organisation" at the end of the paragraph.

Paragraph 11

There was general discussion on the legal implications of the Charter, and particularly of Part I.

M. Haekkerup protested that his repeated requests for leave to speak had been ignored and insisted that his protest be recorded in the Minutes.

The Working Party agreed that:

1. The Charter should be regarded as an international Convention placing obligations upon the Parties, which would undertake to do everything required to ensure the exercise of the rights recognised in the Charter and, by and large, to obtain the objectives laid down therein;

2. Part I of the Charter should be regarded simply as a Preamble, that is to say a number of preliminary declarations without binding force from the strictly legal standpoint.

It was decided, throughout the Charter, to replace the term "the signatory Governments" by the term "the High Contracting Parties".

On the proposal of M. Dehousse, the last half of the sentence beginning with the words "and more particularly", was deleted and the word "jointly" was replaced by the word "collectively" in the first half.

Paragraph 12

At the request of M. Haekkerup, it was decided to clarify the text so as to rule out any possibility that it might be interpreted as favouring a corporative system.

A discussion followed in which Mme Weber, and MM. Haekkerup, Vanistendael and Schevenels took part.

The Chairman proposed that the beginning of the paragraph be worded as follows: "The High Contracting Parties regard it as an embodiment of the principles of democracy that appropriate institutions should be created..."

Paragraph 13

At the request of M. Dehousse, it was decided to replace the term "unity" by the term "organisation", and, in the French text only, the term, "entités" by the term "collectivités".

Following comment by M. Haekkerup, it was decided at the suggestion of M. Vanistendael to complete the paragraph with the words "and therefore of manpower and capital."

Paragraph 14

No comment.

Paragraph 15

At the request of M. Dehousse, it was decided to replace the words "all necessary measures" by the words "all measures acknowledged to be necessary," and to split the paragraph into two parts, the first ending with the words "this Charter" and the second being worded as follows: "with a view to guaranteeing the exercise of these rights, they will introduce or authorise all measures acknowledged to be necessary either at the international level, or at a European, national, regional or professional level."

Their examination of Part I being concluded, the Working Party proceeded to discuss the date of its next meeting.

It decided to resume its proceedings at 9.30 a.m. on the following day, 30th April. M. Haekkerup stated that he would be unable to attend this meeting and considered that it had not been pre-arranged. He protested against what he regarded as a discourteous decision, and requested that his protest be recorded in the Minutes.

The Working Party decided to propose to the Committee on Social Questions that M. Heyman and M. Dehousse be appointed Rapporteurs on the Social Charter and the Economic and Social Council respectively.

The Working Party decided to reassemble at Paris on 4th June and suggested that M. Heyman, Chairman of the Joint Sub-Committee which is to examine the study on the constitution of an Economic and Social Council might convene this Sub-Committee on 3rd June, also at Paris.

The Working Party resumed its examination of the preliminary draft.

PART II - Section A

Article 1

Following a general discussion, it was decided to delete the idea of "controls" and, at the suggestion of the Secretariat, to word the second paragraph as follows: "The High Contracting Parties undertake to secure the fulfilment of this right by whatever measures may be required to:

- a) keep the market adequately supplied with basic necessities at prices within the reach of all;
- b) promote a policy of town planning and rural habitation "

Article 2

Following comments by Mme. Weber, a proposal by M. Fens was adopted, replacing the words "a minimum standard of social security" in paragraph 1 by the words "social security".

On the proposal of M. Dehousse, it was decided to add the following words to the second paragraph: "which shall be drawn up with the minimum of delay".

A discussion followed as to whether the list embodied in paragraph 3 should be retained. It was decided to let it stand.

Following comments by M. Vanistendael, a proposal by the Chairman was adopted deleting the words "payment of the greater part of the expenditure incurred for" in the third paragraph, and inserting the words "benefits relating to".

Article 3

After some discussion, this Article was left unaltered, in view of the restrictions laid down in the opening passage of the second paragraph.

Article 4

A detailed discussion was held on the question whether this Article should be deleted or moderated in tone, M. Mutter being in favour of its retention.

MM. Schevenels and Haekkerup proposed that the protection referred to should be restricted to persons of limited means.

MM. Dehouso and Kulakowski and the Chairman proposed a clarification to the effect that the "utmost" protection would be afforded.

This Article was held in abeyance.

Proceedings were adjourned at 7 p.m. and resumed on 30th April at 9.30 a.m.

Section B

Article 1

The Working Party decided that paragraph 1 should be redrafted on the lines of Article 12 of the European Convention on Human Rights.

On the proposal of M. Dehouso, who took the view that the Charter proper should not contain justifications, it was decided to delete the words "the family is the foundation of Society and as such entitled" and reword as follows: "the family is entitled ..."

On the proposal of M. Dehouso, paragraph 4 was deleted.

On the proposal of MM. Fens and Kulakowski and the Chairman, sub-paragraphs (a) and (b) of paragraph 5 were redrafted as follows:

- "(a) The grant of allowances in proportion to the number of children;
- (b) A supplementary allowance to enable the mother to remain in the home."

After some discussion, the Working Party decided to retain sub-paragraph (c).

Article 2

No comment.

Article 3

On the proposal of M. Dehouso, it was decided to replace the words "enfant né hors mariage" in the French text by the words "enfant illégitime".

The Working Party rejected a proposal by M. Fens that the words "the same rights" be deleted.

Section C

On the proposal of M. Schevenels, it was decided to place Section C at the head of Part II, the former Section A thus becoming Section B and the former Section B, Section C.

Article 1

On the proposal of MM. Mutter and Dehousse, it was decided to redraft the first paragraph so that the right to work might be mentioned in specific terms. The paragraph now reads as follows: "every person shall have the right to work. In the exercise of this right, he should be enabled to earn his living by a freely accepted occupation".

On the proposal of M. Kulakowski, it was decided to insert the word "particularly" before the words "to replace".

Article 2

On the proposal of Mmo. Weber, the words "and satisfactory" were deleted from paragraph 1.

On the proposal of the Chairman, it was decided to replace the words "with his knowledge and ability" in sub-paragraph (b) by the words "with his professional capacities".

On the proposal of M. Kulakowski, it was decided to replace the words "distinction of sex" by the words "distinction on such grounds as sex".

M. Schevenels and the Chairman proposed that sub-paragraph (d) be redrafted to allow for the progressive introduction of a forty-hour week and to make a special exception for certain professions, in which it is impossible to lay down the exact length of the working week.

On the proposal of M. Kulakowski, it was decided to insert a reference to vocational guidance in sub-paragraph (f).

On the proposal of M. Schevenels, who wished to restrict the part played by the State in defining the terms of collective or individual employment contracts, it was decided to word the final paragraph as follows: "The High Contracting Parties undertake to ensure that the standards laid down in this Article are implemented in individual and collective employment contracts."

Article 3

At the request of M. Kulakowski, it was decided to redraft this Article in such a way as to prohibit the use of child labour of under 14 years of age.

On the proposal of M. Schevenels, the word "sanctionnés" in the French text of sub-paragraph (a) was replaced by the word "réprimés".

Article 4

At the request of M. Schevenels, who was opposed to the idea of workers becoming "co-owners" of the factories where they worked, it was decided to delete sub-paragraph (ii).

Article 5

Following comments by M. Schevenels, a proposal by M. Dehousse was adopted, replacing the word "special" by the word "joint".

Article 6

On the proposal of MM. Schevenels and Dehousse, it was decided to introduce the words "the right to strike" and to redraft the article on the lines of the corresponding text of the Bogota Charter.

Following comments by M. Schevenels, it was decided, at M. Dehousse's suggestion, to delete sub-paragraph (b) concerning steps to ensure "the concomitant exercise of the right to strike and the right to work".

Article 7

It was decided to provide a footnote quoting the terms of Article 11 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

Article 8

No comment.

Article 9

No comment.

Section D

Article 1

On the proposal of M. Dehousse, it was decided to delete the clause in paragraph 1 beginning with "in order that" and ending with "religious groups".

On the proposal of MM. Schevenels and Kulakowski, it was decided to add the following words to sub-paragraph (d): "all who are capable of benefiting by it".

Article 2

On the proposal of M. Mutter, it was decided to insert the words "and facilitate" after the words "undertake to respect".

Article 3

It was decided to let the text stand.

Section E

On the proposal of M. Dehousse, it was decided that Section E embodying the "Final Provisions" should become Part V.

Article 1

No comment.

Article 2

No comment.

Article 3

It was decided to delete the words "partie de la" in the French text.

On the proposal of M. Dehousse, it was decided to make a new article of paragraph 2.

Article 4

On the proposal of M. Mutter, it was decided to delete the word "mesure" in the French text and insert the word "limites".

PART III

In the light of comments by MM. Kulakowski and Schevenels, it was decided that the word "may" should generally be replaced by a verb expressing obligation.

On the proposal of M. Dehousse, it was decided to split the final paragraph of Article 1 into two sentences, the first ending with the words "for information and examination" and the second beginning with the words "He shall also send copies.."

There followed an exchange of views on the problem of the European Economic and Social Council.

On the proposal of MM. Dehousse, Schevenels and Kulakowski, the Working Party decided that its draft should envisage the European Economic and Social Council as the organ for giving effect to the Charter. Its task would be to define what measures should be taken by the Governments to achieve their declared objectives and to supervise the execution of such measures. A Part IV dealing with the establishment of the Economic and Social Council is to be prepared by the Secretariat, which will also reword Part III, in the light of the part to be played by the Economic and Social Council in the implementation of the Charter.

On the proposal of M. Dehousse, it was decided to cover the eventuality of the Economic and Social Council not being instituted by redrafting Article 2 as follows:
"The attention of the European Commission of Human Rights may be drawn to any question connected with the observance of the rights and obligations recognised in this Charter;

(a) at the request of any of the signatory Governments,

(b) at the request of any international non-governmental organisation possessing consultative status, category A, with the Council of Europe,

(c) at the initiative of the Secretary-General of the Council of Europe."

Should the Economic and Social Council be accepted, it has been made clear that the Commission of Human Rights would act as a commission of enquiry, with powers to investigate any matter brought before the Economic and Social Council.

The meeting was closed at 12 noon.

Section III - Preliminary Draft European Social Charter - revised text

- \$1 - Notes on amendments to the Preliminary Draft /AS/SocI(6)1/
by the Working Party for the preparation of a Draft
European Social Charter - 20 May 1955 - AS/SocI(6) 2
- \$2 - Memorandum by the Secretariat of the Committee on the
revised preliminary draft of a Social Charter drawn up
by the Working Party - 23 May 1955 - AS/SocI(6) 3
- \$3 - Minutes of the meeting held on 4 June 1955: debate on the
revised preliminary draft of a European Social Charter -
AS/SocI (6) PV2

Strasbourg, 20th May 1955

Restricted
AS/Soc I (6) 2

Or. Fr.

CONSULTATIVE ASSEMBLYCOMMITTEE ON SOCIAL QUESTIONSWorking Party for the
Preparation of a Draft European Social Charter

Preliminary Draft of Social Charter

Revised Text

Notes on amendments to the Preliminary Draft (AS/Soc I (6) 1)PART ITitle of Part I

Following comments by MM. Haekkerup, Dehousse and Schevenels, the Working Party decided that Part I should be regarded as the Preamble to the Charter. To avoid all misunderstanding concerning the legal implications of this Part, the drafting committee thought it necessary to place the word "Preamble" at the head of the text and to avoid all use of the words "the High Contracting Parties undertake".

Paragraph 2

Comments by M. Haekkerup led to the words "full employment" being inserted in line 6 of this paragraph.

Paragraph 3

The English translation of the term "en fonction de" has been reconsidered at the suggestion of M. Haekerrup.

Paragraph 4

The English translation of the term "intégrité" has been revised at the suggestion of M. Haekerrup.

PART I

P R E A M B L E

1. The object of the High Contracting Parties in signing this Charter is to promote a progressive improvement in the well-being of their peoples by a continued rise in living standards and by the equitable sharing of resources and burdens.
2. Realising that standards of living depend on economic conditions and particularly on the sum of resources available, the High Contracting Parties will seek to achieve adequate levels of production, investment and trade. They will pursue an economic, monetary and fiscal policy designed to ensure full employment, the fair distribution of resources and the equal sharing of burdens and to maintain the purchasing power of money.
3. The High Contracting Parties regard economic policy not as an end in itself, but as a means of attaining social objectives, which are defined in terms of the moral and spiritual values inherent in the common heritage of the European peoples.
4. In particular, in carrying out their economic and social policy, the Governments will adopt no measures incompatible with human dignity and the indivisibility of the family. The supreme aim of their social policy will be to develop the human personality and to allow the individual the opportunity of exercising his natural gifts to the full with due regard for his duty to other individuals and to the community in which he lives.

Paragraph 5

On the proposal of M. Dehousse, the final sentence was reworded so as to omit the words "confine itself".

Paragraph 6

On the proposal of M. Mutter, the text was redrafted in order to make specific mention of the term "the right to work".

The English translation of the word "souci" has been revised at the request of M. Haekerrup.

Paragraph 7

Following a discussion in which MM. Dehousse, Haekerrup and Vanistendael took part, it was decided to retain the original text but insert the words "particularly by" in the penultimate line.

Paragraph 8

On the proposal of M. Mutter, the term "couches" in the French text was deleted and the word "éléments" substituted.

Paragraph 10

On the proposal of MM. Vanistendael and Dehousse, two amendments were introduced in this paragraph. By the first, the words "exploit labour nor derive profit by maintaining in a condition of poverty" were deleted and the words "derive profit from exploitation of the living conditions of" were substituted. By the second, the words "in a large measure" were deleted and the words "in collaboration with the native populations and, where appropriate, with qualified international organisations" were added at the end.

5. This policy can therefore be carried into effect only with the free participation of the people concerned, and within the framework of their national and local communities and professional groups. The rôle of the State should be to co-ordinate and supplement the activities of such communities and groups.
6. The first essential is that exercise of the right to work should be ensured. The maintenance of full employment in all the European countries must be the constant preoccupation of the High Contracting Parties.
7. Nevertheless, work is not an end in itself. The High Contracting Parties recognise it as essential for the development of the human personality that workers should have a share in the fruits of their labours, particularly by participation in the management and in the profits of the undertaking by which they are employed.
8. The High Contracting Parties regard it as a duty arising from the most elementary principles of human solidarity that they should assist the less favoured sections of their populations.
9. The High Contracting Parties are opposed to all forms of discrimination on grounds of sex, race, colour, language, religion, property, political or other opinions, or national or social origin.
10. They will not derive profit from exploitation of the living conditions of the peoples politically or economically dependent on them. They recognise that they are responsible for the economic and social development of territories under their jurisdiction, in collaboration with the native populations and, where appropriate, with qualified international organisations.

Paragraph 11

On the proposal of M. Dehousse, the last half of the sentence was deleted and the word "jointly" was replaced by the word "collectively".

Paragraph 12

The text was reworded in the light of remarks by Mme. Weber and MM. Haekerrup, Heyman, Schevenels and Vanistendael.

Paragraph 13

At the request of M. Dehousse, the term "unity" was replaced by the term "organisation", and, in the French text only, the term "entités" by the term "collectivités".

On the proposal of MM. Haekerrup and Vanistendael, the text was amended to introduce the words: "and therefore of manpower and capital".

The Committee Secretary considers it advisable to adopt the following variant after the words "sharing of resources and experience":

"leading to the progressive lowering of barriers to the free circulation of manpower and capital, persons and property".

Paragraph 15

On the proposal of M. Dehousse, the Working Party agreed that the former text should be split into two sentences.

At the request of the Chairman, International Labour Conventions are explicitly mentioned as one of the means whereby the High Contracting Parties might implement the Charter.

11. They also consider themselves collectively responsible for the economic expansion of their backward areas, and pledged to develop them by all means within their power.

12. The High Contracting Parties regard it as an embodiment of the principles of democracy that appropriate institutions should be created to enable employers', workers' and consumers' organisations to participate in the formulation of economic policy at all stages and in all sectors.

13. Although the planning and implementation of social policy are essentially the concern of national or regional authorities, its successful outcome depends, and will increasingly depend, on closer international organisation, on a more extensive sharing of resources and experience leading to the progressive lowering of barriers to the free circulation of persons and property, and therefore of manpower and capital.

14. The High Contracting Parties will therefore further develop their co-operation in economic and social matters, and in particular will harmonise their social legislation and practice at the highest level attainable.

15. The High Contracting Parties, being resolved to give effect to the foregoing principles, recognise the rights set forth in Part II of this Charter. With a view to guaranteeing the exercise of these rights, they undertake to introduce or authorise all measures acknowledged to be necessary either at the international level, for instance by way of international labour conventions, or at a European, national, regional or professional level.

PART II

As decided by the Working Party, the former Section C becomes Section A, so that Section A now becomes Section B and Section B, Section C.

SECTION A
(formerly Section C)

Article 1

On the proposal of MM. Dehousse and Mutter, the first paragraph of this article was clarified.

On the proposal of M. Schevenels, the words "European workers" were deleted and the words "in Europe" were inserted, and the word "particularly" was inserted before the words ".....to replace."

Article 2

As decided by the Working Party, the words "and satisfactory" were deleted.

Sub-paragraph (b) was amended, the words "with his knowledge and ability...." being replaced by the words "with his professional capacities" and the words "distinction of sex" being replaced by the words "distinction on such grounds as sex."

Sub-paragraph (d) was redrafted.

Sub-paragraph (f) was expanded to include the idea of vocational guidance.

The final sub-paragraph was redrafted.

PART II

SECTION A.

Rights pertaining to employment

Article 1

Every person shall have the right to work. In the exercise of this right, he should be enabled to earn his living by a freely accepted occupation.

The High Contracting Parties undertake to ensure the maintenance of the volume of investments needed for full employment in Europe and to make up any inadequacies by public investments; to assist, stimulate or create new economic activities, particularly to replace those which are obsolescent; and to provide for the rehabilitation and resettlement of unemployed workers.

Article 2

Every person is entitled to fair and stable conditions of work.

The High Contracting Parties undertake to introduce measures for ensuring to each worker:

- a) safe and healthy working conditions;
- b) a wage
 - which is commensurate with his professional capacities,
 - which provides equal pay for equal work without distinction on such grounds as sex,
 - which ensures for himself and his family a decent existence, guaranteed more particularly by:
the introduction of a minimum wage,
the fixing of wages on this minimum basis,
the periodical adjustment of the wage to the cost of living;
- c) reasonable notice on termination of employment;

Article 2 (contd)

The drafting committee has met the proposal of some members of the Working Party and M. Schovenels that certain paragraphs should be drafted in such a way as to suggest the possibility of a progressive introduction of the proposed standards by inserting a new Article (Article I) in Part V. This is justified by the fact that the whole purpose of Part II is to define objectives, whereas an Economic and Social Council will be set up to decide such matters as the way in which these objectives should be progressively reached.

Article 3

As decided by the Working Party, following comments by MM. Kulakowski and Schovenels and the Chairman, the text of paragraphs (a) and (b) has been redrafted.

- d) reduction of work to a 40-hour week, subject to essential adjustments for certain professions, with higher rates for overtime;
- e) a minimum of two weeks annual holiday with pay;
- f) vocational guidance and training;
- g) prospects of professional promotion;
- h) retirement with adequate pension at the age of 65.

The High Contracting Parties undertake to ensure that the standards laid down in this Article are implemented in individual and collective employment contracts.

Article 3

Children and young people shall be accorded special measures of protection in their work. They may not be employed in work likely to impede their normal development.

The High Contracting Parties undertake to ensure this protection and to take the necessary steps in order that:

- a) the illegal use of child labour of under 14 years of age, and the employment of young persons in work which is physically or morally injurious, shall be punishable by law.
- b) Children of under 16 years of age and those, who having reached that age, are still subject to compulsory education laws, may be employed only in such work as will not deprive them of this education.
- c) Persons of under 16 years of age may not be employed for more than 6 hours a day.
- d) Young persons shall be entitled to not less than three weeks' annual holiday with pay.

Article 4

In accordance with M. Schevenels' amendment, which was accepted by the Working Party, paragraph (b) has been deleted.

Article 5

As decided by the Working Party at the instigation of M. Dehousse, the word "special" was deleted and the word "joint" substituted.

Article 6

In accordance with the instructions of the Working Party, this Article has been modelled on the corresponding text of the Bogota Charter and paragraph (b) has been deleted.

Article 7

At the request of the Working Party, the text of Article 11 of the European Convention on Human Rights, mentioned in paragraph 2, has been given as a footnote.

The second paragraph has been redrafted on the lines of other Articles in this Part.

Article 4

Every worker employed in an undertaking shall be entitled to share in the management according to his abilities and in the profits according to the work he contributes.

The steps to be taken by the High Contracting Parties to ensure exercise of this right shall include the establishment of joint managing boards enabling the workers to share in the management of the undertaking.

Article 5

The High Contracting Parties undertake to supervise closely the enforcement of the measures taken in pursuance of Articles 2, 3 and 4 of this Section, in particular by the introduction of joint labour inspections and tribunals.

Article 6

Every worker shall have the right to strike.

The High Contracting Parties undertake to introduce the necessary legislative measures to regulate the conditions and exercise of that right and, in particular, to establish conciliation and arbitration procedure to prevent Labour disputes or find a rapid solution to them.

Article 7

All workers shall have the right, of their own free will, to form trade unions or to join trade unions of their choice whether regional, national or international, for the protection of their economic and social interests.

The High Contracting Parties undertake to ensure the enjoyment of this right, having regard to the terms of Article 11,

SECTION B
(Formerly Section A)

Article 1

The Working Party decided to delete the words "they ensure by effective controls" in sub-paragraph (a) and left the first sentence of paragraph 2 as follows: "by other measures may be required to."

Sub-paragraph (a) now opens with the words: "keep the stock adequately supplied with.....".

paragraph of the European Convention for the Protection of Human Rights and Fundamental Freedoms. (1)

Article 8

In order that workers may in due course become the owners of real and personal property, particularly of their own homes, the High Contracting Parties undertake to protect savings and create favourable conditions for their encouragement.

Article 9

Every person shall be entitled to the protection of moral and material interests in any scientific, literary or artistic production of which he is the author.

SECTION B

Right to adequate standard of living and social security

Article 1

Everyone shall have a right to a decent living, and in particular to adequate food, clothing and housing.

The High Contracting Parties undertake to secure the fulfilment of this right by whatever measures may be required to:

- a) keep the market adequately supplied with basic necessities at prices within the reach of all;
- b) promote a policy of town planning and rural habitation such as will provide adequate numbers of moderate priced dwellings complying with satisfactory standards of comfort and hygiene.

(1) Article 11, paragraph 2, is worded as follows:

"No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State."

Article 2

Paragraph 1

At the proposal of M. Fens, the words "a minimum standard of" were deleted.

Paragraph 2

At the proposal of M. Dehousse the following clause was added at the end of this paragraph: "which shall be drawn up with the minimum of delay".

Paragraph 3

At the proposal of M. Vanistendael and the Chairman, the words "payment of the greater part of the expenditure incurred" were deleted and replaced, at the proposal of the latter, "benefits relating to."

Article 3

Article 3 has been left unaltered, in view of the restrictive clause at the beginning of the second paragraph.

Article 2

Everyone shall have the right to social security, and must be protected by social insurance or other means against loss or impairment of livelihood by reason of sickness, disability, widowhood, unemployment, old age or other cause beyond his control.

The measures by which the High Contracting Parties shall ensure the enjoyment of this right, supplementary to the action of individuals, of regional and professional bodies and of qualified organisations, shall be set forth in a European Code of Social Security, which shall be drawn up with the minimum of delay.

Such measures shall in particular guarantee the benefits relating to medical or hospital treatment, maternity allowances, family allowances, unemployment allowances, temporary or permanent disablement and retirement pensions for elderly workers.

Article 3

Every person should have access to facilities for ensuring a high standard of health.

The measures to be taken by the High Contracting Parties to secure the enjoyment of this right, in cases where the private resources and initiatives of individuals or communities are inadequate, will include:

- a) the reduction of infant mortality and provision for the healthy physical and moral development of the child; assistance to mentally defective children and those deserted or in distress; re-education of maladjusted children;
- b) the improvement of nutrition, housing, education, recreation and other environmental health factors;
- c) the prevention, treatment and control of epidemic, endemic and other diseases;

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Article 4

The Working Party decided to hold over this Article for further examination.

The Secretariat has listed a number of proposals.

SECTION C
(Formerly Section B)

Article 1

Paragraph 1 has been redrafted on the lines of paragraph 12 of the European Convention on Human Rights, in accordance with the wishes of the Working Party. Paragraph 4 has been deleted on the proposal of M. Dehousse.

Paragraphs 3 proposed by MM. Kulakowski and Fens and the Chairman, and paragraphs (a) and (b) of paragraph 5 have been redrafted.

After an exchange of views, the Working Party agreed to delete paragraph (c).

- d) the organization of services and facilities to ensure for all effective medical attention in the event of sickness;
- e) free basic medical care and treatment.

Article 4

The High Contracting Parties undertake to ensure protection against the consequences of monetary devaluation particularly with regard to savings, social benefits and allowances, pensions and the redemption of Governments stocks, life annuities and other similar bonds.

Text proposed by M. Vanistendael:

The High Contracting Parties undertake to do everything in their power to ensure that persons of limited means are compensated for damage caused by monetary devaluation, particularly so far as social benefits are concerned.

Text proposed by M. Schevenels (in committee):

The High Contracting Parties undertake to ensure that persons of limited means receive the utmost protection against the consequences of monetary devaluation.

Text proposed by the Committee Secretariat:

The High Contracting Parties undertake to protect savings and social benefits against the consequences of monetary devaluation.

SECTION C

Rights pertaining to the family and to children

Article 1

Every person of marriageable age shall have the right to found a family.

The family shall be based on a marriage freely entered into by the prospective husband and wife.

It is entitled to the widest measure of protection.

The steps to be taken by the High Contracting Parties for

Article 3

At the proposal of M. Dehousse, the words "enfant né hors mariage" in the French text were replaced by the words "enfant illégitime".

The amendment whereby M. Fens sought to delete the words "the same rights" was rejected by the Working Party.

SECTION D

The words "social and" have been deleted from the heading to this Section.

Article 1

On the proposal of M. Dehousse, the whole of the first sentence of paragraph 1 after the words "right to education" has been deleted.

the protection of the family shall include:

- a) the grant of allowances in proportion to the number of children;
- b) a supplementary allowance to enable the mother to remain in the home;
- c) special protection accorded to mothers during reasonable periods before and after childbirth; the mother shall have the right to leave with pay for not less than six weeks before and six weeks after childbirth, the right to keep her job and to receive both medical attention for herself and her child and financial assistance during the nursing period.

Article 2

Children and young persons have a right:

- a) to the welfare services and education necessary for their well-being and their moral, intellectual and physical development, in accordance with the provisions of Section B, Article 3, and Section D, Article 1, of this Part of the Charter;
- b) to protection from exploitation in their employment, in accordance with Section A, Article 3 of this Part of the Charter.

Article 3

The High Contracting Parties undertake to ensure that children born out of wedlock receive the necessary protection and shall enjoy the same rights to social assistance as those born in wedlock.

SECTION D

Rights relating to cultural development

Article 1

Every person has the right to education. This education should be based on respect for the human values and traditions



Paragraph (d) has been redrafted in the manner decided
the Working Party at the instigation of MM. Schevenels
Kulakowski.

Article 2

On the proposal of M. Mutter, the Working Party
ided to insert the words "and facilitate" after the words
lertake to respect".

in which the European spirit resides.

The High Contracting Parties agree to take steps:

- a) to make primary education compulsory and free to all;
- b) to make secondary education, in its different forms, including technical and professional training, available to everyone up to the age of 18 years and to make it increasingly free;
- c) to do all possible to ensure a basic education for those persons who have not received or have not completed their primary education;
- d) to make university and other higher education accessible to all who are capable of benefiting by it.

Article 2

In the exercise of any functions and duties which they assume in the field of education, the High Contracting Parties undertake to respect and facilitate the right of parents to choose how this education shall be accorded to their children in conformity with their own religious and philosophical convictions, as provided for under Article 2 of the Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms. (1)

Article 3

Every person has the right:

- a) to take part in cultural life;
- b) to enjoy the benefits of scientific progress and its applications.

The High Contracting Parties undertake to respect the freedom necessary for scientific research and creative activity.

1) Article 2 of the Protocol is worded as follows:

"No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions."

PART III

In accordance with the decision of the Working Party, a provisional text has been drafted to cover the establishment of a European Economic and Social Council, envisaged as the main organ for giving effect to the Charter.

Although it takes the form of a constituent instrument, this text should be regarded merely as a rough draft, the main purpose of which is to serve as a basis for the work of the Joint Sub-Committee on the Establishment of an Economic and Social Council, preparatory to the second meeting of the Working Party on the Social Charter.

Not until the Joint Sub-Committee has clarified the basic principles of the proposed Economic and Social Council will it be possible to prepare a final draft.

It was found more suitable when drafting the text to depart slightly from the decision of the Working Party by placing this Part before the provisions concerning implementation (which therefore become Part IV), since the latter contain frequent references to the Economic and Social Council.

Article 1

This Article has been modelled on Article 19 of the European Convention on Human Rights; whereby the European Commission of Human Rights is set up as the organ for implementation of the Convention.

The High Contracting Parties also undertake to do everything appropriate for the diffusion and development of science and culture.

PART III

European Economic and Social Council

Article 1

To ensure the observance and implementation of the engagements undertaken by the High Contracting Parties in this Charter, there shall be set up within the framework of the Council of Europe a European Economic and Social Council.

Article 2

In addition to the duties arising from the implementation of this Charter, which devolve upon it under Part IV, the European Economic and Social Council shall propose, guide and facilitate such measures of integration or co-operation as have been or shall be embarked upon for the benefit of all or some of the sectors of the European economic and social life:

- (a) by devolving contacts, on a European scale, between the various professional and social organisations and between the technical and administrative services of the participating States;

Articles 3, 4 and 5

The distinctive feature of alternatives (a) and (b) is that ensure representation for independent occupations (independent agriculturists, small tradespeople, craftsmen, artisans, cultural activities) and do not leave representation of the general interest entirely in the hands of governmental experts, since the consumer (through consumers' cooperatives and family associations) is represented in both alternatives and the Consultative Assembly in alternative (b).

Alternative (b) differs from the other two systems in that it provides for representation of the Consultative Assembly, gives stronger representation to independent agriculturists and makes a more generous allowance for the relative size of the populations of member countries.

As regards the method of appointing representatives of independent occupations, cultural activities and consumers' cooperatives (a) and (b), it was considered impracticable to go down a national system, on the lines adopted for employers and workers, for such a system would have increased the size of the Economic and Social Council to an unjustified extent.

(b) by transmitting recommendations to European or national political bodies and to European intergovernmental organisations possessing economic, social or cultural competence, which keep it fully informed of their activities.

Article 3

The European Economic and Social Council shall be composed of 93 members, one third of whom shall represent the employers, one third the workers and one third the States.

Article 4

The 31 seats allotted to each group of members shall be distributed by nationality on the following basis:

Iceland, Luxembourg, Saar	1 seat
Belgium, Denmark, Greece, Ireland, Netherlands, Norway, Sweden, Turkey	2 seats
France, German Federal Republic, Italy, United Kingdom of Great Britain and Northern Ireland	3 seats

Article 5

The representatives of employers and workers shall be selected by the Governments from lists submitted to them by the competent employers' and workers' organisations of their respective countries. These lists shall contain at least twice as many candidates as are due to be appointed.

The representatives of each State shall be appointed by the Government.



Alternatives to Articles 3, 4 and 5

Article 3

Alternative (a)

The European Economic and Social Council shall be composed of 93 members, one third of whom shall represent the employers, one third the workers and one third independent occupations and the general interest.

Alternative (b)

(Same as alternative (a), the number 93 being changed to 129.)

Article 4

Alternative (a)

The 31 seats allotted to the employers' and workers' groups shall be distributed by nationality on the following basis:

Iceland, Luxembourg, Saar	1 seat
Belgium, Denmark, Greece, Ireland,	
Netherlands, Norway, Sweden, Turkey	2 seats
France, German Federal Republic, Italy,	
United Kingdom of Great Britain and	
Northern Ireland	3 seats

The 31 representatives of independent occupations and of the general interest shall be appointed on the following basis:

- a) eight representatives of independent occupations namely: two for agriculturalists, two for small tradespeople, two for craftsmen and two for trained personnel and technicians;
- b) four representatives of cultural activities, namely: two for professors' and teachers' associations and two for cultural organisations;
- c) four representatives of the consumer: namely two for consumers' co-operatives and two for family associations;



d) fifteen governmental experts in social, economic or cultural matters, one representing each member country.

Alternative (b)

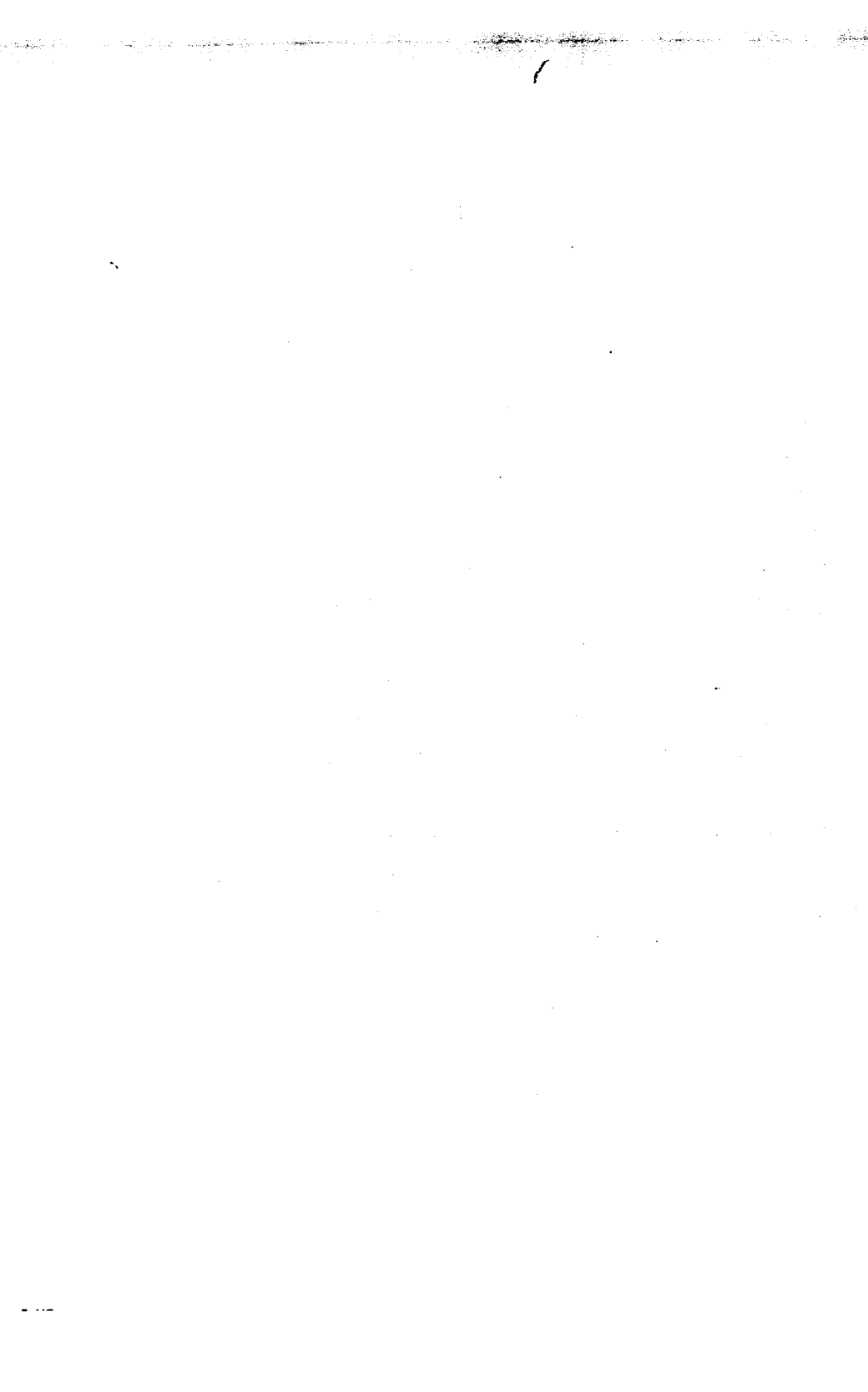
The 43 seats allotted to the employers' and workers' groups shall be distributed by nationality on the following basis:

Iceland, Luxembourg, Saar	1 seat
Belgium, Denmark, Greece, Ireland, Netherlands, Norway, Sweden, Turkey	2 seats
France, German Federal Republic, Italy, United Kingdom of Great Britain and Northern Ireland	6 seats

The 43 representatives of independent occupations and of the general interest shall be appointed on the following basis:

- a) twelve representatives of independent occupations, namely: six for independent agriculturalists, two for small tradespeople, two for craftsmen and two for trained personnel and technicians;
- b) four representatives of the consumer, namely: two for consumers' co-operatives and two for family associations;
- c) four representatives of cultural activities, namely: two for professors' and teachers' associations and two for cultural organisations;
- d) fifteen governmental experts in social, economic or cultural matters, one representing each member country;
- e) eight representatives of the Consultative Assembly, namely: three members of the Committee on Economic Questions, three members of the Committee on Social Questions, one member of the Committee on Cultural and Scientific Questions and one member of the Committee on Municipal and Regional Affairs.

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Article 5

Alternative (a)

The representatives of employers and workers shall be selected by the Governments from lists submitted to them by the competent employers' and workers' organisations of their respective countries. These lists shall contain at least twice as many candidates as are due to be appointed.

The representatives of independent occupations and of the general interest, other than the fifteen governmental experts, who shall be nominated by their own Governments, shall be appointed by decision of the Committee of Ministers of the Council of Europe, with the concurrence of the Consultative Assembly, on the basis of lists of candidates submitted by competent European organisations possessing consultative status with the Council of Europe.

Alternative (b)

The representatives of employers and workers shall be selected by the Governments from lists submitted to them by the competent employers' and workers' organisations of their respective countries. These lists shall contain twice as many candidates as are due to be appointed.

The representatives of independent occupations and of the general interest other than the fifteen governmental experts, who shall be nominated by their own Governments, and the eight representatives of the Consultative Assembly, who shall be appointed annually by the Assembly on the proposal of the Committee of which they are members, shall be appointed by decision of the Committee of Ministers of the Council of Europe, with the concurrence of the Consultative Assembly, on the basis of lists of candidates submitted by competent European Organisations possessing consultative status with the Council of Europe.



Article 6

Members of the European Economic and Social Council (1) shall be appointed for a period of three years. They shall receive no binding mandate or instructions.

Article 7

The decisions of the European Economic and Social Council shall be reached by an absolute majority of its members.

Article 8

The European Economic and Social Council shall elect its own President and Bureau. The latter shall consist of six members, one third representing the employers, one third the workers and one third the general interest.

The Secretariat of the European Economic and Social Council shall be provided by the Secretary-General of the Council of Europe. The Clerk of the European Economic and Social Council shall have the rank of Deputy Secretary-General of the Council of Europe.

Article 9

The European Economic and Social Council shall adopt its own rules of procedure.

Article 10

The European Economic and Social Council shall have its headquarters at the Seat of the Council of Europe.

Article 11

For each of its fields of competence - economic, social and cultural - the European Economic and Social Council shall

(1) In the case of alternative (b) add "other than those representing the Consultative Assembly".

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PART IV

The Articles of Part IV have been redrafted in accordance with the decisions of the Working Party, and with particular regard to the assumed creation of a European Economic and Social Council.

Article 1

Paragraph 2

Following the precedent of the draft Covenant on Economic, Social and Cultural Rights drawn up by the United Nations Commission of Human Rights, the European Economic and Social Council should prepare a programme for implementation of the Charter by stages. The relevant provision, which is based on Article 18 of the United Nations draft Covenant, is a vital factor in the progressive extension and development of the rights recognised under the Charter. (See also Part V, Article 1 and the notes on Part II, Section A, Article 2).

set up a permanent department, which may be subdivided, if necessary, into sections.

The European Economic and Social Council may convene special departmental conferences, attended by representatives of the organisations concerned, on any economic, social or cultural question within its competence.

PART IV

Implementation of the Charter

Article 1

The High Contracting Parties undertake:

- (a) to present annual reports to the Secretary-General of the Council of Europe on the progress made towards achieving the observance of the rights and duties recognised in this Charter;
- (b) to submit to the Secretary-General of the Council of Europe any additional information on this subject that he may request;
- (c) to confer on the European Economic and Social Council and the European Commission of Human Rights such powers as may be necessary to enable it to perform the task provided for under Article 3 of this Charter.

The reports referred to in the preceding paragraph shall be submitted stage by stage according to a programme drawn up by the European Economic and Social Council after consultation with the Governments of the High Contracting Parties. They should indicate any difficulties or other factors which may have prevented the States concerned from carrying out fully their obligations under this Charter.

The Secretary-General shall refer such reports and information to the European Commission of Human Rights and

Article 2

The arrangements mentioned in this Article would cover co-operation between the Economic and Social Council and such bodies as the I.L.O.

Article 3

In view of the national and trade union representation in the European Economic and Social Council and the Council's rôle as executive organ for the Charter, it has been found impossible in drafting the new text to retain the system of complaints provided for in the previous version. The system now proposed leaves the way open for complaints on the part of both trade union organisations and Governments.

Article 4

The outcome of discussions by the Working Party was that the European Commission of Human Rights would become the investigating body of the European Economic and Social Council. It could, if necessary, seek the opinion of the I.L.O. (see paragraph 3).

shall send copies of such reports and information to each of the Governments of the High Contracting Parties.

Article 2

Agreements shall be concluded with any international or European organisations competent in economic, social and cultural matters, to enable the Economic and Social Council to discharge its responsibilities under this Charter.

Article 3

The European Economic and Social Council may refer to the European Commission of Human Rights any question connected with the observance of the rights and obligations recognised in the Charter which may call for the measures described in Article 6 below.

Article 4

In the circumstances described in Article 3 above, the European Commission of Human Rights shall invite the Government directly concerned to submit the necessary observations.

The Commission shall open an inquiry into the matter according to the procedure which it shall lay down for carrying out the task entrusted to it in this Charter.

The Commission may ask any European or international organisation covered by Article 2 above to give an opinion on the matter.

After completing its inquiry, the Commission shall draw up a report, for transmission to the Economic and Social Council, which shall determine on the basis of this report what measures should be taken to enable the Government directly concerned to implement the Charter and to fulfil its obligations thereunder.

Article 5

The European Economic and Social Council shall submit an annual report to the Consultative Assembly of the Council

Article 6

The list given in Article 6 must not be regarded as restrictive.

The provisions of this Article merely emphasise the fact that the Council's main function will be to secure the progressive extension and development of the common social policy of Member States.

PART V

This Part contains the text of what was formerly Part II, Section E of the preliminary draft. On the proposal of M. Dehousse, the Working Party decided to place this text at the end of the Charter.

The "formal clauses" which should appear at the end of this Part will be added when the contents of the Charter have finally approved by the Working Party.

Article 1

This Article, which specifically provides for the progressive introduction of some of the measures mentioned in Part II, has been added at the request of the Chairman as a result of comments by some members of the Working Party.

of Europe on the progress made towards the implementation of this Charter.

Article 6

With the concurrence of the Consultative Assembly, the European Economic and Social Council may:

- (a) Make recommendations to the Committee of Ministers of the Council of Europe and in particular to the Government directly concerned;
- (b) Convene European conferences of such Governments as are Parties to this Charter, in which inter-governmental organisations competent in social, economic or cultural matters shall participate.

PART V

Final Provisions

Article 1

The measures to which the High Contracting Parties are committed under Part II of this Charter may be introduced by stages in accordance with the programme drawn up by the Economic and Social Council provided for in Part IV, Article 1.

Article 2

The High Contracting Parties recognise that, in a democratic society, the exercise of the rights set out in this Charter may be subjected only to such limitations established by law as are compatible with the nature of these rights or are designed to promote the general well-being in a democratic society.

Article 3

The rights set out in this Charter shall be enjoyed by all without distinction of any kind as to sex, race, colour, language, property, religion, political or other opinion, or national or social origin.

Article 4

As decided by the Working Party, this Article has split into two, but it was found impossible when trying to accept the proposal that the new Article 5 should be drafted on the same lines as the new Article 4, the former refers to the provisions of the Charter whereas the latter refers to cases where there are no such provisions.

Article 6

As decided by the Working Party, the word "mesure" in the fourth line of the French text has been deleted and the word "limites" substituted.

In the second paragraph, the word "fully" has been deleted at the request of the Chairman.

Article 4

Nothing in this Charter may be interpreted as giving a State, a body or an individual the right to carry on any activity or to perform any action the object of which is either to abolish the rights recognised by the Charter or to limit them to an extent not provided for therein.

Article 5

No restriction upon or derogation from the human social and economic rights recognised or existing in any of the States signatory to this Charter in virtue of law, international conventions, regulations or customs shall be admitted on the pretext that the Charter does not recognise such rights or that it recognises them to a lesser extent.

Article 6

In the event of war or of any other public danger threatening the life of the nation, each of the High Contracting Parties may take measures involving derogation from the obligations that it has assumed under this Charter, but only to the extent required by the situation and on condition that the measures taken are compatible with that Government's other obligations under international law.

Any High Contracting Party exercising the right of derogation provided for in the preceding paragraph shall keep the Secretary-General informed of the measures taken and the reasons therefor, and shall also inform him as soon as such measures cease to have effect.

Strasbourg, 23rd May, 1955

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AS/Soc I (6) 3

CONSULTATIVE ASSEMBLY

COMMITTEE ON SOCIAL QUESTIONS

Working Party for the preparation
of a Draft European Social Charter

Memorandum by the Secretariat of the Committee
on the preliminary draft of a Social Charter
drawn up by the Working Party

I.

Contents

The new text of the preliminary draft (Doc. AS/Soc I (6)2), which replaces the two previous drafts (Doc. AS/Soc (6) 25 and Doc. AS/Soc I (6) 1), has been drawn up in accordance with the instructions given by the Working Party at its first meeting on 29th and 30th April last. Not only have the texts of Parts I and II been altered and the lay-out changed but an entirely new section has been added, at the request of the Working Party, so that the Charter may also serve as the constituent instrument of a European Economic and Social Council.

The original draft was divided into three Parts. Part I laid down the general principles of a common social policy ; Part II gave a list of social, economic and cultural rights ; Part III dealt with the implementation of the Charter. The new version contains five Parts : Parts I and II cover the same ground as the original text ; Part III is the new section concerning the institution of an Economic and Social Council ; Part IV is the former Part III ; and Part V, containing the Final Provisions, is the former Section B of Part II.

Parts III and IV of the revised draft will be submitted for opinion to the Joint Sub-Committee to study the question of the creation of an economic and social Council including its rôle in the implementation of the Social Charter (cf. Section III below).

II.

Definition and Legal Force

Part I of the preliminary draft lays down the general principles of a common policy in social and economic matters on which will depend the exercise of the rights listed in Part II. In the opinion of the Working Party, Part I is to be regarded as a preamble which does not impose any obligations on the Contracting Parties.

Part II of the draft details the social, economic and cultural rights recognised by the High Contracting Parties. Before drafting this Part it was first necessary to determine the nature and legal force of these rights, which are of a different kind from those dealt with in the European Convention on Human Rights.

Generally speaking, the rights recognised in the Convention on Human Rights are those which men possess as individuals, irrespective of their social environment. Observance of these rights consists simply in not violating them, i.e. is purely negative.

A man's social, economic and cultural rights, on the other hand, are his as a member of society and he can only exercise them in conditions which permit him to develop his personality within the social structure. Such rights cannot therefore be assured without positive action by the public authorities and private organisations. Thus it would not be sufficient simply to enunciate these rights, to make a mere declaration of principle as is done in the Convention on Human Rights. Not only would such a declaration be an empty gesture which would do nothing to safeguard the exercise of the rights in question, but since the majority of these rights are essentially relative and variable, being conditioned by the social and economic situation of the different States, to proclaim them without reference to their administrative and economic implications might well arouse expectations which could not be satisfied.

Hence the dual nature of the clauses in Part II of the Draft. Each begins with a declaration of principle concerning the individual aspect of the rights in question, which, for reasons which have just been explained, leaves their legal implications uncertain. There then follows an undertaking by the Parties to carry out certain specific measures on which the exercise of the rights would depend. That there should be such undertakings was proposed in para. 6 of Doc. 312.

Some of the measures specified aim too high to be immediately feasible and the time-limits allowed for their implementation vary. This conception of the progressive application of the Charter which is specifically referred to in Article 1 of Part V of the Draft, makes it essential, as explained in Section III below, to set up an organisation for European social co-operation which will determine the necessary time limits and stages ; this organisation can be none other than a European social and economic Council.

Finally, it should be noted that the combination of declaration of principle and specific undertakings, of which we have just spoken, also complies with the instructions given by the Assembly to its Committee on Social Questions. The declaration of principle meets the wish expressed in Opinion n°5 that the Social Charter should, in social policy, form a "pendant to the Convention on Human Rights", and the inclusion of specific undertakings accord with the instructions given in Doc. 312 that the Social Charter was to establish minimum standards and obligatory provisions bearing on social policy.

In keeping, as far as possible, a balance between the "enunciatory" element and the "statutory" element in the Articles of Part II, the authors of the preliminary draft believe that they have solved the problem of definition raised at the beginning of this Memorandum. Although the present preliminary draft is certainly open to criticism, it would appear to be a definite improvement on the draft Convention on economic, social and cultural rights drawn up by the United Nations Commission on Human Rights and other texts of the same nature, whose weakness is that they do not establish definite standards and a social policy.

III

Implementation

The implementation of the Charter (Part IV) also called for a fresh approach. That of the Human Rights Convention is adequately secured by the provision of legal sanctions, through the European Commission and Court of Human Rights, for any violation of civil and political rights.

But, as has been demonstrated above, the implementation of social, economic and cultural right requires legislative or administrative measures. Thus decisions bearing on the implementation of the Charter might in many cases involve interference in the legislation and social policy of the States concerned. It is clear that, on the principle of the separation of powers, such decisions should not come within the province of the judicial authorities (1).

It is no doubt for these reasons that the draft Covenant on economic, social and cultural rights of the United Nations (2) (referred to henceforth as the United Nations' Covenant) makes no provision for any judicial procedure. Its implementation is assured by what are essentially administrative measures taken by its Commission on Human Rights and the specialised agencies within the framework of the Economic and Social Council.

In the case of the Charter, it is clear that the progressive execution and extension of its provisions should be effected under the aegis of a single organisation like the Economic and Social Council, which is in constant touch with the social, economic and cultural circles con-

(1) Particularly as the Member States of the Council of Europe have not all reached the same level in their administrative and social jurisdiction.

(2) Not to be confused with the new draft Covenant on civil and political rights.

cerned - for example, trade unions - and with the governments of the participating countries.

It is for these reasons that, on the model of the United Nations Covenant, provision is made in the Charter (Part IV) for a system of implementation based on a European Economic and Social Council, the creation of which should coincide, in accordance with the decision taken by the Working Party at its previous meeting, with the signature of the Charter, Part III of which is intended to serve as its constituent instrument.

The important task of investigating and checking the measures taken by the signatory states under the terms of the Charter could be entrusted to the European Commission of Human rights (1) which includes eminent specialists in social law among its members.

(1) See Doc AS/Soc I (6) 2, Commentary on Part IV Articles 1 and 4.

Strasbourg, 10th June 1955

Restricted
AS/Soc I (6) PV 2
Or. Fr.

CONSULTATIVE ASSEMBLY

COMMITTEE ON SOCIAL QUESTIONS

Working Party
to prepare a preliminary draft
Social Charter

MINUTES

of the meeting held on 4th June 1955
at the Chateau de la Muette, Paris

There were present:

MM. HEYMAN, Chairman	(Belgium)
DEHOUSSE	(Belgium)
FENS	(Netherlands)
HAEKKERUP	(Denmark)
MONTINI	(Italy)
MUTTER	(France)
Mme. WEBER	(German Fed. Rep.)

Apologised for absence:

Miss BURTON (United Kingdom)

There were also present:

MM. CERULLI-IRELLI (Italy)
KIRN (Saar)

Observers

MM. SCHEVENELS, International Confederation of
Free Trade Unions.

KULAKOWSKI, International Federation of
Christian Trade Unions.

The meeting opened at 10 a.m. under the Chairmanship of
M. Heyman.

1. Minutes

The Minutes of the meetings held on 29th and 30th
April 1955 were adopted.

[AS/Soc I (6) PV 1]

2. Agenda

The agenda was adopted.

[AS/Soc I (6) OJ 2]

3. Preparation of a Preliminary draft European Social Charter

[AS/Soc I (6) 2]

On the proposal of the Chairman, the Working Party
proceeded directly to examining the draft Social Charter.

PART I : PREAMBLE

Para. 1 : No comment.

Para. 2 : No comment.

Paras. 3, 4, 5 and 6 : No comment.

Para. 7 : The Working Party considered M. Haekkerup's proposal to delete the first phrase "Nevertheless, work is not an end in itself."

After comments by MM. Dehousse and Schevenels, opposing M. Haekkerup's proposal, this sentence was allowed to stand.

Paras. 8, 9, 10, 11, and 12 : No comment.

Para. 13 : No comment.

Paras. 14 and 15 : No comment.

PART II

Section A : Rights pertaining to employment

Article 1 : No comment.

Article 2 : On the proposal of M. Dehousse it was decided to reverse the order of the adjectives in paragraph 1 of the French text so as to read "des conditions de travail justes et stables", no change being required in the English text.

On the proposal of M. Dehousse and of the Chairman, it was decided to insert in paragraph 2 the word "progressively" between the words "undertake to introduce" and the words "measures for ...".

On the proposal of M. Mutter, it was decided to delete from the second point in sub-paragraph (b), the words "without distinction" on such grounds as sex".

On the proposal of the Chairman it was decided to insert, in sub-paragraph (d), the word "progressive" before the words "reduction of work to a 40-hour week".

M. Kulakowski thought this sub-paragraph might envisage an even shorter working week.

The Chairman pointed out that the immediate intention was to bring about gradual improvements.

With regard to sub-paragraph (e) M. Haekkerup considered a fortnight's holiday with pay inadequate, and suggested a period of three weeks.

The other members of the Working Party pointed out that it was a minimum period that was being discussed.

M. Haekkerup reserved his position on the question.

Concerning sub-paragraph (d) M. Haekkerup observed that the effective retiring age tended to rise with the higher expectation of life. He considered that fixing the retirement age at 65 was too arbitrary a procedure.

M. Schevenels considered that any worker should be able to retire at the age of 65 if he so desired.

Sub-paragraph (h) was allowed to stand. The English text would be amended to conform with the French text.

Article 3 : On the suggestion of the Secretariat it was decided to delete the second sentence in paragraph 1.

On the proposal of MM. Kulakowski and Dehousse it was decided to amend the end of the first sentence by deleting the words "in their work".

At the request of M. Haekkerup it was decided to amend the English text in sub-paragraph (c) by deleting the word "illegal" and by replacing the words "young persons" by the word "adolescents".

Article 4 : On the proposal of M. Dehousse, it was decided to delete from paragraph 2 of the French text the word "mesures" and substitute the word "dispositions", no change being required in the English text.

M. Haekkerup considered that the steps referred to in the second paragraph were insufficient to ensure exercise of the right set forth in the first paragraph.

Article 5 : On the proposal of M. Dehousse it was decided to replace the words "to supervise closely the enforcement" by the words "to ensure strict application".

Article 6 : M. Schevenels asked for a stipulation that arbitration in labour disputes should be optional.

The Chairman pointed out that under the existing text the Contracting Parties were entirely free to regard arbitration as optional.

The text was allowed to stand.

Article 7 : On the proposal of M. Kulakowski it was decided to delete (from the French text only) the words "à prendre les mesures propres" in paragraph 2.

Articles 8 and 9 : No comment.

Section B : Right to adequate standard of living
and social security

Article 1 : No comment.

Article 2 : The Working Party decided to delete the words "for elderly workers" at the end of the third paragraph.

Article 3 : On the proposal of M. Mitter, it was decided to substitute for the words: "should have access to facilities" the words: "should be entitled to facilities".

Article 4 : After discussion it was decided, on the proposal of the Chairman, to accept the text as drafted by the Secretariat, the words "monetary fluctuation" being substituted for the words "monetary devaluation".

Section C : Rights pertaining to the family and
to children

Article 1 : It was decided to delete the second paragraph.

Articles 2 and 3 : No comment.

Section D : Rights relating to cultural development

Article 1 : It was decided to delete the word "human" in the second paragraph.

Following comments by M. Kulakowski it was decided to record in the Minutes that the steps the Contracting Parties should take "to ensure a basic education for those persons who have not received their primary education" should include the organisation of "adult classes" and "evening classes".

Article 2 : No comment.

Article 3 : On the proposal of M. Mutter, it was decided to omit the tatulation in the first paragraph, which would then read: "Every person has the right to take part in cultural life and to enjoy the benefits of scientific progress and its applications."

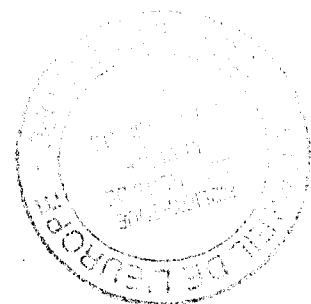
PART V

Final provisions

Part V was adopted without comment.

The meeting was closed at 12.30 p.m.

- Section IV 3rd preliminary Draft European Social Charter
- \$1 - Preliminary Draft of Social Charter drawn up by the Working Party for the preparation of a Draft European Social Charter - 18 June 1955 - AS/Soc (6) 28
 - \$2 - Memorandum by the Secretariat of the Committee on the Preliminary Draft of the Social Charter prepared by the Working Party - 25 June 1955 - AS/Soc (6) 30 revised
 - \$3 - Memorandum by the Secretariat of the International Federation of Christian Trade Unions on the preliminary draft Social Charter embodied in doc. AS/Soc (6) 28 - 28 June 1955 - AS/Soc (6) 32.
 - \$4 - Memorandum of the Secretariat of the International Federation of Christian Trade Unions on the Preliminary Draft for the Social and Economic Conference, contained in doc. AS/Soc (6) 28 - 30 June 1955 - AS/Soc (6) 33
 - \$5 - Minutes of the meeting held on 10 September 1955 - debate on the preliminary draft European Social Charter contained in doc. AS/Soc (6) 28 - AS/Soc (7) PV 3 revised.



Strasbourg, 18th June 1955.

Restricted
AS/Soc (6) 28
Or. Fr.

CONSULTATIVE ASSEMBLY

COMMITTEE ON SOCIAL QUESTIONS

Preliminary Draft of Social Charter

drawn up by the Working Party
for the preparation of a
Draft European Social Charter

PART I

PREAMBLE

1. The object of the High Contracting Parties in signing this Charter is to promote a progressive improvement

in the well-being of their peoples by a continued rise in living standards and by the equitable sharing of resources and burdens.

2. Realising that standards of living depend on economic conditions and particularly on the sum of resources available, the High Contracting Parties will seek to achieve adequate levels of production, investment and trade. They will pursue an economic, monetary and fiscal policy designed to ensure full employment, the fair distribution of resources and the equal sharing of burdens and to maintain the purchasing power of money.

3. The High Contracting Parties regard economic policy not as an end in itself, but as a means of attaining social objectives, which are defined in terms of the moral and spiritual values inherent in the common heritage of the European peoples.

4. In particular, in carrying out their economic and social policy, the Governments will adopt no measures incompatible with human dignity and the indivisibility of the family. The supreme aim of their social policy will be to develop the human personality and to allow the individual the opportunity of exercising his natural gifts to the full with due regard for his duty to other individuals and to the community in which he lives.

5. This policy can therefore be carried into effect only with the free participation of the people concerned, and within the framework of their national and local basic communities and professional groups. The rôle of the State should be to co-ordinate and supplement the activities of such communities and groups.

6. The first essential is that exercise of the right to work should be ensured. The maintenance of full employment in all the European countries must be the constant preoccupation of the High Contracting Parties.

7. Nevertheless, work is not an end in itself. The High Contracting Parties recognise it as essential for the development of the human personality that workers should have a share in the management and in the fruits of their labours, particularly by participation in the management and in the profits of the undertaking by which they are employed.

8. The High Contracting Parties regard it as a duty arising from the most elementary principles of human solidarity that they should assist the less favoured sections of their populations.

9. The High Contracting Parties are opposed to all forms of discrimination on grounds of sex, race, colour, language, religion, property, national or social origin, or political or other opinions.

10. They will not derive profit from exploitation of the living conditions of the peoples politically or economically dependent on them. They recognise that they are responsible for the economic and social development of territories under their jurisdiction, in collaboration with the native populations and, where appropriate, with qualified international organisations.

11. They also consider themselves collectively responsible for the economic expansion of their backward areas, and pledged to develop them by all means within their power.

12. The High Contracting Parties regard it as an embodiment of the principles of democracy that appropriate insti-

tutions should be created to enable employers', workers' and consumers' organisations to participate in the formulation of economic policy at all stages and in all sectors.

13. Although the planning and implementation of social policy are essentially the concern of national or regional authorities, its successful outcome depends, and will increasingly depend, on closer international organisation, on a more extensive sharing of resources and experience leading to the progressive lowering of barriers of all kinds to the free circulation of persons and property, manpower and capital.

14. The High Contracting Parties will therefore further develop their co-operation in economic and social matters, and in particular will harmonise their social legislation and practice at the highest level attainable.

15. The High Contracting Parties, being resolved to give effect to the foregoing principles, recognise the rights set forth in Part II of this Charter. With a view to guaranteeing the exercise of these rights, they agree to institute a Social and Economic Conference and to introduce or authorise all measures acknowledged to be necessary either at the international level, for instance by way of international labour conventions, or at a European, national, local or professional level.

PART II

SECTION A

Rights pertaining to employment

Article 1

Every person shall have the right to work. In the exercise of this right, he should be enabled to earn his living by a freely

accepted occupation.

The High Contracting Parties undertake to ensure the maintenance of the volume of investments needed for full employment in Europe and to make up any inadequacies by public investments; to assist, stimulate or create new economic activities, particularly to replace those which are obsolescent; and to provide for the rehabilitation and resettlement of unemployed workers.

Variant : insert a paragraph 3 worded as follows :

"Whenever the full exercise of the right to work cannot be ensured by such measures, the High Contracting Parties undertake to make the necessary arrangements for payment of unemployment benefits, as provided for in Article 11 of this Part of the Charter."

Article 2

Every person is entitled to fair and stable conditions of work.

The High Contracting Parties undertake to introduce progressive measures for ensuring to each :

- a) safe and healthy working conditions;
- b) a wage
 - which is commensurate with his professional capacities,
 - which provides equal pay for equal work,
 - which ensures for himself and his family a decent existence, guaranteed more particularly by :
 - the introduction of a minimum wage,
 - the fixing of wages on this minimum basis,
 - the periodical adjustment of the wage to the cost of living;
- c) reasonable notice on termination of employment;
- d) progressive reduction of work to a 40-hour week, subject to essential adjustments for certain professions, with higher rates for overtime;
- e) a minimum of two weeks annual holiday with pay;

- f) vocational guidance and training;
- g) prospects of professional promotion;
- h) retirement at the age of 65 at the latest, with a pension ensuring a decent living.

The High Contracting Parties undertake to ensure that the standards laid down in this Article are implemented in individual and collective employment contracts.

Article 3

In the field of employment, children and adolescents shall be accorded special measures of protection.

The High Contracting Parties undertake to ensure this protection and to take the necessary steps in order that :

- a) the use of child labour of under 14 years of age, and the employment of adolescents in work which is physically or morally injurious, shall be punishable by law.
- b) persons of under 16 years of age and those, who having reached that age, are still subject to compulsory education laws, may be employed only in such work as will not deprive them of this education.
- c) persons of under 16 years of age may not be employed for more than 6 hours a day.
- d) adolescents shall be entitled to not less than three weeks' annual holiday with pay.

Article 4

Every person employed in an undertaking shall be entitled to share in the management according to his abilities and in the profits according to the work he contributes.

The steps to be taken by the High Contracting Parties to ensure exercise of this right shall include the establish-

ment of joint managing boards whereby the workers may have a share in the life, management and profits of the undertaking.

Article 5

The High Contracting Parties undertake to supervise closely the enforcement of the measures taken in pursuance of Articles 2, 3 and 4, in particular by the introduction of joint labour inspections and tribunals.

Article 6

Every worker shall have the right to strike.

The High Contracting Parties undertake to introduce the necessary legislative measures to regulate the conditions and exercise of that right and, in particular, to establish conciliation and arbitration procedure to prevent Labour disputes or find a rapid solution to them.

Article 7

Every person shall have the right to form trade unions or to join trade unions of their choice whether local, national or international, for the protection of their economic and social interests.

The High Contracting Parties undertake to ensure the enjoyment of this voluntary right, having regard to the terms of Article 11, paragraph 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. (1)

(1) Article 11, paragraph 2, is worded as follows:

"No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State."

Article 8

In order that workers may progressively become the owners of real and personal property, particularly of their own homes, the High Contracting Parties undertake to protect savings and create favourable conditions for their encouragement.

Article 9

Every person shall be entitled to the protection of moral and material interests in any scientific, literary or artistic production of which he is the author.

SECTION B

Right to adequate standard of living and social security

Article 10

Everyone shall have a right to a decent living, and in particular to adequate food, clothing and housing.

Besides the measures referred to in Articles 1 and 11 of this Part of the Charter, the High Contracting Parties undertake to secure the fulfilment of this right by whatever measures may be required to :

- a) keep the market adequately supplied with basic necessities at prices within the reach of all;
- b) promote a policy of town planning and rural habitation such as will provide adequate numbers of moderate priced dwellings complying with satisfactory standards of comfort and hygiene.

Article 11

Everyone shall have the right to social security, ensuring protection by social insurance or other means against loss or impairment of livelihood by reason of sickness, disability, widowhood, unemployment, old age or other cause beyond his control.

The measures by which the High Contracting Parties shall ensure the enjoyment of this right, supplementary to the action of individuals, of regional and professional bodies and of qualified organisations, shall be set forth in a European Code of Social Security, which shall be drawn up with the minimum of delay.

Such measures shall in particular guarantee the benefits relating to medical or hospital treatment, maternity allowances, family allowances, unemployment allowances, temporary or permanent disablement and retirement pensions.

Article 12

Every person should have the benefit of facilities for ensuring a high standard of health.

The measures to be taken by the High Contracting Parties to secure the enjoyment of this right, in cases where the private resources and initiatives of individuals or communities are inadequate, will include :

- a) the reduction of infant mortality and provision for the healthy physical and moral development of the child; assistance to mentally defective children and those deserted or in distress; re-education of maladjusted children;
- b) the improvement of nutrition, housing, education, recreation and other environmental health factors;
- c) the prevention, treatment and control of epidemic, endemic and other diseases;
- d) the organisation of services and facilities to ensure for all effective medical attention in the event of sickness;
- e) free basic medical care and treatment.

Article 13

The High Contracting Parties undertake to protect savings and social benefits and allowances against the consequences of fluctuations in the value of money.

SECTION C

Rights pertaining to the family and to children

Article 14

Every person of marriageable age shall have the right to found a family.

The family is entitled to the widest measure of protection.

The steps to be taken by the High Contracting Parties for the protection of the family shall include :

- a) the grant of allowances in proportion to the number of children;
- b) a supplementary allowance to enable the mother to remain in the home;
- c) special protection accorded to mothers during reasonable periods before and after childbirth; the mother shall have the right to leave with pay for not less than six weeks before and six weeks after childbirth, the right to keep her job and to receive both medical attention for herself and her child and financial assistance during the nursing period.

Article 15

Children and young persons have a right :

- a) to the welfare services and education necessary for their well-being and their moral, intellectual and physical development, in accordance with the provisions of Articles 12 and 17 of this Part of the Charter;
-

- b) to protection from exploitation in their employment,
in accordance with Article 3 of this Part of the
Charter.

Article 16

The High Contracting Parties undertake to ensure that children born out of wedlock receive the necessary protection and enjoy the same rights to social assistance as those born in wedlock.

SECTION D

Rights relating to the cultural development of the human personality

Article 17

Every person has the right to education.

This education should be based on respect for the values and traditions in which the European spirit resides.

The High Contracting Parties agree to take steps :

- a) to make primary education compulsory and free to all;
- b) to make secondary education, in its different forms, including technical and professional training, available to everyone up to the age of 18 years and to make it increasingly free;
- c) to do all possible to ensure a basic education for those persons who have not received or have not completed their primary education;
- d) to make university and other higher education accessible to all who are capable of benefiting by it.

Article 18

In the exercise of any functions and duties which they assume in the field of education, the High Contracting Parties undertake to respect and facilitate the right of parents to choose how this education shall be accorded to their children

in conformity with their own religious and philosophical convictions, as provided for under Article 2 of the Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms. (1)

Article 19

Every person has the right to take part in cultural life and to enjoy the benefits of scientific progress and its applications.

The High Contracting Parties undertake to respect the freedom necessary for scientific research and creative activity.

The High Contracting Parties also undertake to do everything appropriate for the diffusion and development of science and culture.

PART III

Social and Economic Conference

Article 1

To ensure the observance and implementation of the pledges made by the High Contracting Parties in this Charter, there shall be set up within the framework of the Council of Europe a Social and Economic Conference.

Article 2

In addition to the duties arising from the implementation of this Charter which devolve upon it under Part IV, the Social and Economic Conference shall prepare, guide and facilitate such measures of integration or co-operation as have been or shall

- (1) Article 2 of the Protocol is worded as follows :
"No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions."

be embarked upon for the benefit of all or some of the sectors of European social and economic life:

- (a) by developing contacts, on a European scale, between the various professional and social organisations and between the technical and administrative services of the participating States;
- (b) by transmitting recommendations with the concurrence of the Consultative Assembly of the Council of Europe:
 - (i) to the Committee of Ministers,
 - (ii) to other European organisations possessing political, economic, social or cultural competence.

To enable the Social and Economic Conference to fulfil its functions, the Governments of the participating States shall keep it periodically informed of their economic, social and cultural activities on a European and a world scale, particularly those pursued within the framework of intergovernmental organisations.

Article 3

The Social and Economic Conference shall hold sessions whenever the need arises and not less than once a year, as provided for in its Rule of Procedure.

Article 4

The Social and Economic Conference shall be composed of 93 members, one-third of whom shall represent the employers, one-third the workers and one-third the interests of the general public.

Article 5

The 31 seats allotted to each of the three groups mentioned in Article 4 above shall be distributed by nationality on the following basis:

Iceland, Luxembourg, Saar	1 seat
Belgium, Denmark, Greece, Ireland, Netherlands, Norway, Sweden, Turkey	2 seats
France, German Federal Republic, Italy, United Kingdom of Great Britain and Northern Ireland	3 seats

Article 6

The representatives of employers and workers shall be appointed for a three-year period by their respective Governments in such a manner as the Governments shall determine, names being selected from lists submitted by the competent employers' and workers' organisations. These lists shall contain at least twice as many candidates as the number due to be appointed.

In the same manner, the Governments shall appoint a substitute for each member, who shall be entitled to attend meetings, speak and vote in his place.

Article 7

Members representing the interests of the general public shall be appointed for a three-year period by their respective Governments in such a manner as the Governments shall determine. They shall be selected from among representatives of the consumer, of independent economic occupations and of cultural activities.

At each session of the Social and Economic Conference and for the duration of that session, the Governments shall appoint one or more substitutes for every such representative, selecting them from the groups mentioned in paragraph 1 above on account

of their qualifications in the subjects to be discussed when they replace the member in question.

Article 8

Members of the Social and Economic Conference and their substitutes shall receive no binding mandate or instructions.

Article 9

The decisions of the Social and Economic Conference shall be reached by a two-thirds majority of the votes cast. No recommendations may be adopted unless more than half of its members are present.

Article 10

The Social and Economic Conference shall each year elect its President and Bureau. The Bureau shall consist of six members, one-third representing the employers, one-third the workers and one-third the interests of the general public.

The Secretariat of the Social and Economic Conference shall be provided by the Secretary-General of the Council of Europe. The Conference shall appoint its own Clerk on the proposal of the Secretary-General of the Council of Europe. He shall have the rank of Deputy Secretary-General of the Council of Europe.

Article 11

The Social and Economic Conference shall adopt its own Rules of Procedure, which shall lay down inter alia:

- (a) the duration of sessions and the procedure for preparing, fixing and communicating the agenda,
- (b) the method whereby the participating Governments shall notify the names of representatives and substitutes and the procedure for examining credentials,

- (c) the functions of the Bureau and the Secretariat,
- (d) the composition and working methods of the departments, sections and special meetings provided for in Article 13 of this Part of the Charter,
- (e) the different types of decision to be taken,
- (f) methods of communication with the Governments of participating States,
- (g) the rules for admitting observers from inter-governmental organisations and international non-governmental organisations,
- (h) the rules governing its budget.

Article 12

The Social and Economic Conference shall have its headquarters at the Seat of the Council of Europe.

Article 13

For each of its fields of competence - economic, social and cultural - the Social and Economic Conference shall set up a permanent department, which may be subdivided, if necessary, into sections.

The Social and Economic Conference may convene special departmental meetings of representatives of the organisations concerned.

Article 14

The expenses of the Social and Economic Conference shall be borne by the Council of Europe.

PART IV

IMPLEMENTATION OF THE CHARTER

Article 1

The High Contracting Parties undertake:

- (a) to confer on the Social and Economic Conference and the European Commission of Human Rights such powers as may be necessary to enable it to perform the task defined in this Part of the Charter;
- (b) to present annual reports to the Social and Economic Conference on the progress made towards securing observance of the rights and fulfilment of the obligations recognised in this Charter;
- (c) to provide the Social and Economic Conference with any additional information on this subject that may be requested by its Clerk.

The reports referred to in the sub-paragraph (b) above shall be submitted from time to time according to a programme drawn up by the Social and Economic Conference after consultation with the Governments of the High Contracting Parties and with the approval of the Committee of Ministers. They should indicate any difficulties or other factors which may have prevented the States concerned from carrying out their full obligations under this Charter.

The Clerk of the Social and Economic Conference shall send copies of these documents to each of the Governments of the High Contracting Parties.

Article 2

Agreements shall be concluded with any international or European organisations competent in economic, social and

cultural matters, to enable the Social and Economic Conference and the European Commission of Human Rights to discharge their responsibilities under this Charter.

Article 3

The Social and Economic Conference may refer to the European Commission of Human Rights any question connected with observance of the rights and fulfilment of the obligations recognised in the Charter, unless such question has already been the subject of a complaint registered with the International Labour Office in accordance with Article 26 of the Constitution of the International Labour Organisation.

Article 4

In the situation described in Article 3 above, the European Commission of Human Rights shall invite the Government directly concerned to submit the necessary observations.

The Commission shall open an enquiry into the matter in accordance with the rules of procedure which it shall lay down for the performance of its task under this Charter.

The Commission may ask any European or international organisation covered by Article 2 above to give an opinion on the matter.

After completing its inquiry, the Commission shall draw up a report, for transmission to the Social and Economic Conference, which shall then determine, on the basis of this report, what measures should be adopted to enable the Government directly concerned to implement the Charter and to fulfil its obligations thereunder.

Article 5

The Social and Economic Conference shall submit an annual report to the Consultative Assembly of the Council of Europe on progress made towards the implementation of this Charter.

Article 6

With the concurrence of the Consultative Assembly, the Social and Economic Conference may:

- (a) make recommendations to the Committee of Ministers of the Council of Europe designed for the Government directly concerned:
- (b) in agreement with the Committee of Ministers, convene European conferences of Governments party to this Charter, in which inter-governmental organisations competent in social, economic or cultural matters shall participate.

PART V

FINAL PROVISIONS

Article 1

The measures which the High Contracting Parties have undertaken to adopt under Part II of this Charter may be introduced by stages in accordance with the programme drawn up by the Social and Economic Conference provided for in Article 1 of Part IV.

Article 2

The High Contracting Parties recognise that the exercise of the rights set out in this Charter may be subjected only to such limitations established by law as are compatible with the nature of these rights or are designed to promote the general well-being in a democratic society.

Article 3

The rights set out in this Charter shall be enjoyed by all without distinction of any kind as to sex, race, colour, language, religion, property, national or social origin or political or other opinion.

Article 4

Nothing in this Charter may be interpreted as giving a State, a body or an individual the right to carry on any activity or to perform any action the object of which is either to abolish the rights recognised by the Charter or to limit them to an extent not provided for therein.

Article 5

No restriction upon or derogation from the social, economic and cultural rights of man recognised or existing in any of the States signatory to this Charter in virtue of law, international conventions, regulations or customs shall be admitted on the pretext that the Charter does not recognise such rights or that it recognises them to a lesser extent.

Article 6

In the event of war or of public danger threatening the life of the nation, each of the High Contracting Parties may take measures involving derogation from the obligations that it has assumed under this Charter, but only to the extent required by the situation and on condition that the measures taken are compatible with other obligations under international law.

Any High Contracting Party exercising the above right of derogation shall keep the Secretary-General of the Council of Europe informed of the measures taken and the

reasons therefor, and shall likewise inform him as soon as such measures cease to have effect.

Article 7

A High Contracting Party may denounce the present Charter only after the expiry of five years from the date on which it became a Party to it and after six months' notice contained in a notification addressed to the Secretary-General of the Council of Europe, who shall inform the other High Contracting Parties.

A High Contracting Party which shall have ratified the present Charter and shall not have availed itself of the above right of denunciation within the period laid down in the paragraph above, shall be bound thereby for a further period of five years, whereupon it may denounce the Charter on the expiry of each successive five year period.

Any High Contracting Party which shall cease to be a Member of the Council of Europe shall cease to be a Party to this Charter.

Article 8

This Charter shall be open to the signature of the Members of the Council of Europe. It shall be ratified. Ratifications shall be deposited with the Secretary-General of the Council of Europe.

The present Charter shall come into force after the deposit of ten instruments of ratification.

As regards any signatory ratifying subsequently, the Charter shall come into force at the date of the deposit of its instrument of ratification.

The Secretary-General of the Council of Europe shall notify all the Members of the Council of Europe of the entry into force of the Charter, the names of the High Contracting

Parties which have ratified it, and the deposit of all instruments of ratification which may be effected subsequently.

Article 9

The French and English texts of this Charter shall be regarded as equally authentic.

Strasbourg, 5th July, 1955.
25th June 1955

Restricted
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Or. Fr.

CONSULTATIVE ASSEMBLY

COMMITTEE ON SOCIAL QUESTIONS

Memorandum by the Secretariat of the Committee
on the Preliminary Draft of the Social
Charter prepared by the Working Party

I

BACKGROUND

1. In an Order issued on behalf of the Assembly on 9th July 1954, the Standing Committee instructed the Committee on Social Questions to undertake the preparation of a draft Social Charter, for submission to the Committee of Ministers. On 23rd September 1954, at the end of the debate on the preliminary report of the Committee on Social Questions (Doc. 312), the Assembly instructed the Committee to submit a draft Social Charter during its Seventh Session (Reference No. 63).

2. On 1st April, 1955, the Committee decided to set up a Working Party made up of eight members to examine a preliminary draft Social Charter, already prepared by the Secretariat of the Committee.

At its meetings of 29th and 30th April 1955 the Working Party, after a first reading of the text of this preliminary draft, came to the conclusion that the preparation of a European Social Charter necessarily implied the establishment of a social and economic body entrusted with the implementation of the Charter; this body would be roughly similar to the European Economic and Social Council, whose establishment had already been recommended by the Assembly in Resolution 26 (1953).

3. The Working Party accordingly decided to hold its next meeting at the same time as that of the Joint Sub-Committee entrusted with the study of the establishment of a European Economic and Social Council. On 3rd June 1954, the Joint Sub-Committee met in the presence of members of the Working Party invited in their capacity as observers and agreed with its Chairman's proposal that a draft Act setting up an Economic and Social Conference, as an integral part of the European Social Charter, should be submitted to the Assembly.

4. With the approval of the Joint Sub-Committee, the Working Party which met once more on 4th June 1954, gave a second reading to the preliminary draft Charter and instructed its Chairman to submit a final text to the plenary Committee. in

the light of the observations made both by the Joint Sub-Committee and the Working Party itself; the final wording of parts III and IV of the draft, dealing with the Economic and Social Conference was entrusted to M. Dehouso, the Rapporteur appointed by the Joint Sub-Committee of the Economic and Social Council.

II.

COMPOSITION AND STRUCTURE

The preliminary draft Charter was drawn up in the light of:

- (a) the indications given in the preliminary report on the preparation of a Social Charter submitted to the Assembly on 23rd September 1954 (Doc.312);
- (b) the draft Covenant on Economic, Social and Cultural Rights, drawn up by the United Nations Human Rights Commission;
- (c) various international texts, charters, declarations and constitutions, reproduced in Doc. AS/Soc (6) 23 (Documentary Note on the economic and social rights set forth in some international instruments such as)-
 - (i) the United Nations Universal Declaration on Human Rights,
 - (ii) European Convention on Human Rights and Fundamental Freedoms,
 - (iii) The Philadelphia Declaration concerning the aims and Purposes of the International Labour Organisation, as well as the latter's Constitution,
 - (iv) The American Declaration of the Rights and Duties of Man, Bogota,
 - (v) The Inter-American Charter of Social Guarantees, Bogota,
 - (vi) The Geneva Declaration of the Rights of the Child and similar provisions in some national constitutions.

6. The composition of the preliminary draft Charter is as follows:

Part I which serves as a Preamble defines the general principles of the common social policy of the Governments of Member States.

Part II defines the social, economic and cultural rights of individuals and, in respect of each of these rights, the specific measures which the signatory Governments agree to take to ensure their effective exercise, albeit to a variable extent.

Part III of the preliminary draft deals with the social and economic Conference, the organ which applies the Charter.

... in this Part may be regarded as the draft Act setting up the Conference.

Part IV of the preliminary draft features the provisions necessary for the implementation of the Charter, i.e., the control and the fulfilment of engagements entered into by the participating States.

Lastly, Part V includes a number of general provisions relating to the application of the provisions contained in Part II and the general rules governing the conclusion, application and termination of the Convention, this being the institutional form of the Charter.

III

LEGAL DEFINITION AND SCOPE

7. Part I of the preliminary draft Charter, entitled Preamble, must be regarded as a series of considerations which cannot impose any legal obligations upon the participating States. In the drafting care has been taken to avoid a contrary interpretation. As is the case with preambles preceding other declarations, constitutions or charters, the considerations in question have only a moral value. In fact, it is only a question of the general principles of social and economic policy by which the Member States will be guided in preparing the concrete measures they will take in application of the engagements mentioned in Part II.

An exception should, however, be made in the case of the last paragraph of the Preamble in question (paragraph 15) which forms the link between Parts I and II of the preliminary draft. This paragraph outlines the dual commitment entered into by the High Contracting Parties upon coming a party to the Charter, namely

- (a) to recognise the social, economic and cultural rights set forth in Part II of the Charter and
- (b) to introduce or authorise all the measures required to guarantee the exercise of these rights, the first of these measures being the establishment of the European Social and Economic Conference.

8. The measures in question are outlined in Part II of the draft in respect of every social, economic and cultural right recognised. These measures, set out in general terms, may be of a legislative or administrative nature; they may be taken at international level, for instance by way of labour conventions, the conclusion or ratification of which are encouraged by the Charter; or at European, national, local or professional level and even in the absence of any direct action on the part of the public authorities.

9. The preparation of Part II of the draft has raised the problem of the nature and the legal scope of the rights to be recognised in the Charter, which should be distinguished from those recognised in the European Convention for the Protection of Human Rights and Fundamental Freedoms.

It is known that as a general rule the rights recognised in this Convention, namely civil and political rights, are rights which belong to man as an individual, disregarding in most cases

the special social and economic circumstances under which these rights are exercised.⁽¹⁾ As the social discipline involved in the observance of these rights consists merely in refraining from violating them, the legal criteria involved in guaranteeing these rights have a negative character.

On the other hand, the exercise of social, economic and cultural rights implies the creation of conditions which will enable man to ensure the development of his personality through the natural and social links which go to make up society. Hence these rights cannot be guaranteed without a concerted and constructive action on the part of the public authorities and private communities. In short, the social discipline imposed by this guarantee is a markedly positive one.

10. It follows that in defining each of these rights a declaration of principle covering only the individual and subjective aspect of these rights, usually made in the case with civil and political rights, is not sufficient. Not only would such a definition be a mere meaningless gesture and the exercise of the social, economic and cultural rights in question remain inoperative but, such a definition would, further, involve an element of danger, since most social, economic and cultural rights are essentially of a relative and variable character, governed by the economic and social conditions prevailing in each of the States concerned. By proclaiming these rights without defining them more precisely to match these particular conditions, there would be a great risk of creating illusions and making promises which none of the States adhering to the Social Charter will be in a position to fulfil (see paragraph 28 below).

11. This explains the dual character of the provisions appearing under various headings in Part II of the draft Charter. Each of these is headed by a declaration of principle relating to the individual and subjective aspect of the right recognised, but, for the reasons we have just outlined, the legal scope of these provisions remains doubtful and is followed by a number of measures governing the exercise of individual rights which the participating States agree to introduce in ratifying the Charter.

12. This dual composition of the provisions of Part II follows not only from the nature of the rights in question but also from the Orders of the Assembly and the Committee on Social Questions. In the first place, it was necessary to meet the wish of the Assembly expressed in its Opinion No. 5, that the Social Charter should form in the social sphere "a pendant to the Convention on Human Rights" and it is for this reason that, as far as possible, each of the provisions of Part II is headed by a declaration of principle recognising an individual right. Secondly, it has been necessary to take into account the instructions mentioned in paragraph 7 of Doc. 312, according to which the Charter should guarantee minimum standards and provisions binding upon the participating States.

13. The authors of the draft thought that the way to solve the above-mentioned problem was to ensure, in each of the

(1) This does not in any way rule out the existence of a certain interdependence between civil and political rights on the one hand and social, economic and cultural rights on the other, the exercise of the latter being likely to promote that of the former.

provisions of Part II, a certain equilibrium between the "declaration" factor and the "regulation" factor. Although, for reasons of homogeneity, it was necessary to depart slightly from the composition of the Charter, as provided for in Doc. 312, which recommended that a part should be reserved for obligatory

provisions, it appears that the present draft is a considerable improvement over other drafts of the same kind, more especially the draft Covenant on Economic, Social and Cultural Rights prepared by the United Nations Human Rights Commission (henceforth referred to as U.N. Draft Covenant), whose weakness resides precisely in the fact that a number of recognised rights have not been defined explicitly enough by means of social policy criteria and directives, which are their essential complement.

14. With regard to the legal scope of the rights recognised in Part II of the Charter there seem to be grounds for concluding that the subjective right recognised at the beginning of each of these provisions, is in substance only a relative and variable right, governed, from a normative point of view, by provisions relating to its exercise which, for this reason, form an integral part of the definition of the right in question. Moreover, in the light of the fact, already noted in Doc. 312, that the aims of some of these provisions are too high to be achieved immediately, it follows that some of the rights recognised in the Charter represent an objective which will be attained as a result of gradual development. The scope of the undertakings entered into by the participants therefore varies in accordance with the time it takes to fulfill these undertakings.

15. This concept of a gradual application of the Charter is specifically mentioned in Article 1 of Part V of the draft. This same notion underlies the provision contained in paragraph 2 of Article 1 of Part IV of the draft, according to which the coming into force of the Charter will be followed by the establishment of one or several programmes providing for the implementation by stages of the commitments entered into by the participating States. This provision, which is the nucleus of the Charter and, at the same time a saving clause for the participating States, has been drafted along the lines of Article 18 of the United Nations draft Covenant.

16. In short, the Social Charter is to be regarded as a sort of "legal framework" which will later be completed with a series of measures, particularly in the case of relatively high aims. Furthermore, and this has been confirmed by the preparatory work on the draft United Nations Covenant, it is obvious that the implementation of the Charter makes it essential to establish, within the framework of the Council of Europe, an organ entrusted with determining and supervising the programme, the time-limit and the stages of implementation. As will be seen from paragraphs 20 and 21 of the present note this will be the task of the Social and Economic Conference of the Council of Europe.

IV

IMPLEMENTATION

17. The special nature of social, economic and cultural rights had another important consequence, namely on their implementation, a point dealt with in Chapter IV of the draft. In this connection, it has been necessary, once more, to start afresh and depart from the system established by the European Convention on Human Rights. It

will be recalled that the implementation of this Convention consists, broadly speaking, in the establishment of judicial regulations. As the recognition of most of the civil and political rights implies "ipso facto" that they must not be violated, it could be applied merely by establishing a legal procedure for which the two European agents are the European Commission of Human Rights and Court.

18. As can be seen from the preceding part of the present note, the implementation of social, economic and cultural rights must fulfill different requirements. In fact, this procedure implies, not mere repression, but gradual action of a positive and constructive character reflected in a series of legislative or administrative measures. Apart from the principle of the separation of powers, it is obvious that this task could not be entrusted to a judicial body. Not only would recourse to such a body lead to direct interference in the legislation and administration of the participating States, but in addition, if such recourse were to be effective it would have to bear on technical points on which, in most cases, existing judicial bodies would not be in a position to form a judgement.

19. There are grounds for believing that it is for those same reasons that the text of the United Nations draft Covenant (1) does not provide for legal recourse; instead of this, its Articles 17 - 24 provide for an essentially administrative implementation within the framework of ECOSOC through its Human Rights Commission and the United Nations specialised Agencies.

20. In effect, the gradual development and extension implied by the implementation of social, economic and cultural rights can only be entrusted to a specialised deliberative organ, having close and permanent relations with the social, economic and cultural circles concerned, in particular trade unions, as well as with participating governments.

In the light of these considerations, the Working Party, in agreement with the Joint Sub-Committee entrusted with the study of the establishment of an economic and social council, has decided, on the basis of the procedure envisaged in the United Nations draft Covenant to propose the establishment of an organ named "Social and Economic Conference" which would be entrusted with the implementation of the Social Charter. The provisions relating to the powers and composition of this organ, set out in Part III of the preliminary draft Charter, have been drafted in accordance with the instructions issued by the Joint Sub-Committee. They will form the subject of a later report by M. Dehousse.

21. Again on the basis of the United Nations draft Covenant one of the first tasks of the Social and Economic Conference will be, in agreement with participating Governments, to establish a programme of implementation by stages, to be approved by the Committee of Ministers. On the basis of this programme and in the proposed stages, the Governments would have to submit at a later date reports on the progress they had made towards ensuring the observance of the rights and fulfilment of the obligations recognised in the Charter. (see Part IV, Article 1, paragraph 1 (a) and paragraph 2).

(1) This should not be confused with the draft Covenant on Civil and Political Rights, whose implementation is based on that of the European Convention on Human Rights.

This procedure, which is similar to that employed at I.L.O. for Labour Conventions, seems absolutely essential in the case of so far-reaching an objective as that represented by the Charter. It will be considerably facilitated by the fact that some of the members of the Social and Economic Conference will, in fact, be government experts appointed by each of the participating governments (1).

22. It should be noted that the implementation of the Charter will require the technical co-operation of I.L.O., which is expressly provided for under Article 2, Part IV of the present draft, which deals with agreements to be concluded with international organisations competent in economic, social and cultural matters.

23. Lastly, Articles 3, 4 and 6 of Part IV of the draft Charter contain provisions concerning the measures to be adopted to enable a government to fulfil the engagements it entered into when it signed the Charter. In such cases the Social and Economic Conference may refer this question to the European Commission of Human Rights. Acting as an organ of enquiry, the European Commission of Human Rights invites the Governments directly concerned to submit the necessary observations. It may consult qualified European organisations, including I.L.O. Upon the conclusion of this enquiry, the European Commission of Human Rights which already includes experts on social law, may, in accordance with Article 4 of Part IV, submit a report to the Social and Economic Conference. The latter, after deciding what measures should be adopted to ensure that the State in question will fulfil its obligations, may if the Assembly so agrees, make a recommendation to the Committee of Ministers designed for the Government directly concerned. (Article 6).

24. The powers thus conferred upon the Conference by the High Contracting Parties, by virtue of Part IV, Article 1 (a) guarantee that the rights embodied in the Charter will not remain a dead letter. Both the Joint Sub-Committee and the Working Party have thought it reasonable to grant the Social and Economic Conference the same mandate as that enjoyed by similar specialised bodies entrusted with the world-wide control of intergovernmental co-operation in social matters, often in much more delicate circumstances. Lastly, the powers conferred upon the Conference are subject to some political guarantees such as the binding agreement and medium of the Assembly and the Committee of Ministers.

25. It should be noted, moreover, that according to the provisions of Part IV, Article 3, the proposed procedure could not apply in cases where the litigious question has already been the subject of a complaint registered with the I.L.O., in accordance with Article 26 of the I.L.O. Constitution. However, the priority given to action by the I.L.O. is confined to cases of pendency. This priority in no way affects the general competence of the Council of Europe and, in particular, that of the Social and Economic Conference. While it is true that the definition of competences required, on the one hand, by the application of the Charter, and, on the other hand, by that of specialised multilateral con-

(1) It is interesting to note that the government experts have already forestalled the action provided for in connection with the implementation of the Charter. At its last meeting the Social Committee of the Committee of Ministers asked member Governments to send to it reports on their existing legislation and regulations on labour rights.

ventions, will inevitably raise some problems (1), nevertheless, if these problems are to be solved, it is necessary not to lose sight of the fact that the Council of Europe is concerned with the joint social policy of its member States.

V.

PRINCIPLE OF NON-DISCRIMINATION

26. Among the general points raised by the present draft Charter, mention should also be made of the principle of non-discrimination referred to in paragraph 9 of the Preamble and in Article 3 of Part V. Although it seems essential to express this principle in the Charter, by prohibiting all discrimination based on the grounds mentioned in the relevant texts, the broad lines of which are reproduced on the European Convention of Human Rights, it should, however, be noted that the granting of social and economic rights implies some differentiation in the function of the groups: married women, children and adolescents, the economically depressed classes, the unemployed etc., to whom these rights are granted exclusively. This problem which was not overlooked during the discussions relating to the preparation of the draft United Nations Covenant, by the Commission of Human Rights, did not however prevent the latter from drafting a general provision condemning discrimination; (2) the Working Party has followed suit.

VI.

RESERVE CLAUSE

27. The authors of the draft Charter have had to decide whether the Charter should include a general clause authorising the High Contracting Parties to make reservations, when signing or on ratification of the Charter, concerning any point mentioned in it. To this question which was the subject of many discussions during the preparation of the United Nations draft Covenant, the authors of the draft replied in the negative. Such a reply seems warranted since the undertakings entered into by the State participating in the Covenant or a charter on social, economic and cultural rights relate in many cases, to objectives to be attained gradually, in stages and over a fairly long period of time. Firstly, this principle of gradual progress is in itself sufficient to impair considerably the usefulness of a system of reservations; as has already been mentioned in paragraph 15 of the present note, Article 1 of Part V of the Charter which sets forth the principle of gradual progress, already acts as a saving clause. Secondly, a system of reserves seems all the more difficult to institute if it is borne in mind that the undertakings generally come into force after a period of time, the duration of which is difficult to determine at the time when the reserves should be made. For these reasons the Working Party has not thought it advisable to introduce a reserve clause.

(1) See the article by Prof. R. Cassin in the "Recueil des Cours de l'Académie de Droit International" (1955 - II), page 313.

(2) See Article 2, paragraph 2 of the draft Covenant.

VII.

AMENDMENT CONCERNING THE RIGHT TO WORK,

PROPOSED BY THE SECRETARIAT

(Section A, Article 1)

28. The first paragraph of the Article in question has been modelled on Article 6 of the United Nations draft Covenant. A similar declaration appears in Article XIV of the American Declaration of the Rights and Duties of Man (Bogota, 1948) and in Article 23 of the Universal Declaration. In accordance with the system explained in Part III of this Report, the first paragraph of Article 1 contains a declaration of principle, whereas paragraph 2 defines certain measures for ensuring the full exercise of the right concerned.

With regard to the first paragraph of the Article in question, the drafters were fully aware of the drawbacks entailed in recognising the right to work set out in the text, the absolute character of which might create illusory hopes among the unemployed. In order to reduce these drawbacks it has been deemed necessary to insert a second paragraph stating that the exercise of the right to work is governed by economic circumstances and the Secretariat of the Committee suggests the addition of a third paragraph giving a precise definition of the obligations of Governments, in the case of individual recourse to national jurisdictions.

Strasbourg, 28th June 1955

Restricted
AS/Soc (6) 32
Or. Fr.

CONSULTATIVE ASSEMBLY

COMMITTEE ON SOCIAL QUESTIONS

Fourth Session

Preparation of a draft European Social Charter

Memorandum by the Secretariat of the
International Federation of Christian Trade Unions
on the preliminary draft
Social Charter embodied in Doc. AS/Soc (6) 28

MEMORANDUM BY THE SECRETARIAT OF THE INTERNATIONAL FEDERATION OF CHRISTIAN TRADE UNIONS ON THE EUROPEAN SOCIAL CHARTER

The Secretariat of the I.F.C.T.U. has already submitted two memoranda on the European Social Charter to the competent organs of the Council of Europe, the first dealing with the preparatory documents to this Charter and the second with the preliminary draft prepared by the Secretariat of the Committee on Social Questions. Moreover, observers from the I.F.C.T.U. have taken part in the proceedings of the Working Party for the Preparation of a Draft European Social Charter, and it is fitting that the Chairman and members of this group should be thanked for many times allowing our observers to state the views of the Christian trade union movement.

However, the I.F.C.T.U. representatives, not wishing to abuse their privileges as observers, limited their remarks to essentials and briefly outlined the position of the I.F.C.T.U., without entering into discussion.

The purpose of this memorandum is to add certain points not covered in the previous memoranda or by the comments of the I.F.C.T.U. observers at the meetings of the Working Party. It is based on the final French text of the preliminary draft Social Charter, prepared by the Working Party (Doc. AS/Soc (6) 28).

Part I - Preamble

Para. 5: Since the function of the State must sometimes be to provide a framework for the activities of basic communities; since, moreover, initiation, co-ordination and supplementary efforts may not necessarily be simultaneous or inter-dependent, we propose that the final sentence of this paragraph be amended as follows:

"The rôle of the State should be to provide a framework for, co-ordinate and supplement the activities of such communities and groups."

Para. 13: The wording of the last two lines of this paragraph seems to imply that persons and manpower are two totally different matters, whereas the former includes the latter, just as "property" includes "capital". For this reason, we propose the following amendment: "...the free circulation of persons and property, and particularly of manpower and capital."

Part II - Section A: Rights pertaining to employment

Article 4

The first paragraph of this Article may lead to confusion and tendentious interpretations. We therefore think that it should be abridged, especially since the second part is sufficiently obvious to be taken for granted. The first paragraph would therefore read as follows:

"Every person shall be entitled to share in the management of his work."

We also consider that paragraph 2 of this Article should be amended. Participation in the profits of an undertaking is one of the means whereby workers may be encouraged to acquire property, but it is only to be recommended in certain specific circumstances, where no restriction of the personal freedom of the worker is implied. Moreover, the statement in Article 2 that "Every person is entitled to fair and stable conditions of work" could be taken to mean that the worker can acquire property. On the other hand, we suggest that the idea of co-management should be extended to the national economy, in which the workers are already associated in most European countries through the national Economic Councils, and to the international economy, which already provides for some measure of co-operation with the workers and, as its organisation develops, should do so to an increasing extent. We therefore propose that the end of the second paragraph of Article 4 be worded as follows:

"...the establishment of joint managing boards whereby the workers may play their part in the life and management of the undertaking and in the national and international economy."

Article 6

Since there are countries in which the right to strike functions normally without legal sanctions, and since State intervention should be limited to essentials, we propose the following amendment of the second paragraph of this Article:

"The High Contracting Parties undertake to introduce the necessary legislative or other measures....."

Section B: Right to an adequate standard of living and social security

The I.P.C.T.U. has no comments to make on this Section.

Section C: Rights pertaining to the family and to children

Would it not be better to replace the term "of marriageable age" by the term "of suitable age"?

Section D: Rights relating to the cultural development of the human personality

The I.P.C.T.U. has no comments to make on this Section.

Part III - Social and Economic Conference

The Secretariat of the I.P.C.T.U. is submitting separate memorandum on the Social and Economic Conference.

Part IV - Implementation of the Charter

Article 2

The wording of this Article seems to imply that European organisations are not international. Moreover, since, in our view, this Article only concerns inter-governmental bodies, we propose the following as a more precise and accurate wording:

"Agreements shall be concluded with any inter-governmental or supranational organisations of regional or world scope which are....."

Article 4

The comment made on Article 2 also applies to the third paragraph of Article 4. Furthermore, in our view, the European Commission of Human Rights should be able to seek the opinion of international non-governmental organisations possessing consultative status, category A, with such inter-governmental bodies as the Council of Europe, for these organisations will not be represented in their own right in the Social and Economic Conference, which is constructed on a national basis. The international point of view which they could contribute cannot be completely ignored. We therefore suggest that the third paragraph of Article 4 should read as follows:

IV.4

Strasbourg, 30th June 1955.

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AS/Soc (6) 33
Or. Fr.

CONSULTATIVE ASSEMBLY

COMMITTEE ON SOCIAL QUESTIONS

Preparation of a draft European Social Charter

Memorandum of the Secretariat of the International Federation of Christian Trade Unions on the Preliminary Draft for the Social and Economic Conference, contained in doc. AS/Soc (6) 28.

In view of the steadily increasing number and importance of European problems discussed and solved and the consequent increase in the number and competence of European bodies, the I.F.C.T.U. has on several occasions called for the establishment of a tripartite European organ enjoying economic and social competence, which would enable workers to participate in the steps taken to achieve European integration.

Our first Memorandum on the European Social Charter, dated 4th February 1955 (doc. AS/Soc (6) 22), already called for the establishment of a European Economic and Social Council, and referred to the views already expressed to that

effect, namely, by the 23rd session of the Council of the I.F.C.T.U. and by M. Bouladoux, Chairman of the French Federation of Christian Trade Unions, in a speech made at the I.L.O. European Regional Conference. This extract from our memorandum has also been reproduced in a document of the Joint Sub-Committee entrusted with the study of the establishment of an Economic and Social Council.

Before commenting upon the statute of the Social and Economic Conference we wish to pay a tribute to the magnificent work accomplished in the social sphere by the International Labour Organisation. In our opinion the establishment of a Social and Economic Conference in Europe is not in any way prejudicial to the interests of I.L.O. and we do not anticipate any risk of duplication between these two bodies. Here, we would refer to the arguments put forward by M. Jacques Tessier in his note of 3rd June 1955 which has been filed by the Joint Sub-Committee entrusted with the study of the establishment of an Economic and Social Council.

It is here intended to supplement the remarks of the I.F.C.T.U. observer at the meeting of the Joint Sub-Committee.

Before commenting, article by article, on Part III of the Draft Social Charter, we should first like to dwell upon the name of the new body.

The term "Conference" would not appear to be a very happy one. A conference is not in fact a permanent body, but a meeting which takes place either at one time or another or at set intervals and possesses legislative or executive powers as one arm of a more complex organ. This is not the case with the Social and Economic Conference. Thus, if there is any danger of the term "Council" being confused with the United Nations Economic and Social Council, and "Commission" with the Commission of the Consultative Assembly, it might perhaps be possible to use the term Social and Economic "Committee" or

"The Commission may ask any intergovernmental or supranational organisation of regional or world scope and any international non-governmental organisation concerned to give an opinion on the matter."

Article 6 (b)

For the reasons given in our comments on Article 4, we propose that international non-governmental organisations should be able to participate in the Conferences referred to here by sending observers. We therefore suggest the addition of the following clause at the end of Article 6, sub-para.(b):

"...qualified international non-governmental organisations being represented by observers."

Perhaps we may also point out that Article 6, sub-paragraph (b) makes no provision for the participation of supranational organisations.

Part V - Final Provisions

The I.F.C.T.U. has no comments to make on this Part.

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As in its previous memoranda and its remarks in committee, the I.F.C.T.U. has deliberately refrained from general opinions and vague expressions of principle and has confined itself to concise comments on definite points. It is in this way that we believe we can make a constructive contribution to the work of the Council of Europe.

Should the Chairman of the Committee on Social Questions authorise his attendance, our representative is prepared to appear before the Committee to justify and explain the views put forward in this memorandum.

In its conviction that the European Social Charter answers a real need, the I.F.C.T.U. takes the liberty of appealing to all members of the Committee on Social Questions of the Council of Europe to examine the preliminary draft with particular care, bearing in mind not only the importance of the principles involved but also ratification of the Charter by Member States of the Council of Europe which they will doubtless wish to urge upon their respective Parliaments and Governments.

Brussels, 24th June 1955.

ARTICLE 4

We think that instead of referring to the "interest of the general public" in the singular, it would be preferable to refer to "interests of the general public", in the plural, in order to make it quite clear that there is no question of the State being represented, as an expression of the interest of the general public, but rather of various interests being represented as such, while the State confines itself to appointing the representatives.⁽¹⁾

The same comment applies to Articles 7 and 10.

- (1) The above comment has no bearing upon the text in English which remains unchanged.

ARTICLE 7

See remarks and amendments concerning Article 4.

ARTICLE 9

It seems to us that a uniform two-thirds majority of the votes cast cannot indiscriminately be required in the case of all votes. Indeed, there are procedural votes or votes involving the election of persons, where a simple majority should be enough. That is why we propose the addition at the end of the first sentence of Article 9, of the following sentence:

".... except in specific cases, provided for under the rules of procedure".

ARTICLE 10

The remark made in Article 4 concerning the interests of the general public also applies here.(1)

ARTICLE 11

With regard to the rules of procedure we feel that it should explicitly be stated that the Conference must, in its rules, also indicate its procedure during plenary sessions and, in particular, the majorities required when voting on questions of substance, on recommendations, on the election of persons, for procedural votes, etc. (see our amendment to Article 9). We think, therefore, that it would be useful to insert in Article 11 a new sub-paragraph (b), worded as follows:

"...(b) the procedure during plenary session ..."

It should also be stipulated that the rules should indicate the procedure and the quorum of members required for submitting a question to the Conference, by virtue of the Conference's right of initiative which is discussed below. (see Article 13). This might form the subject of a new sub-paragraph (c).

The present sub-paragraph (b) would thus become sub-paragraph (d), and so forth.

(1) For the French text only.

ARTICLE 13

It is in connection with this article that we make our chief criticism of the draft statute of the Social and Economic Conference. It concerns the proposed competence of the Conference. Article 13 refers to its fields of competence but no mention whatever is made of the fundamental problem of the nature of this competence. The I.F.C.T.U. observer at the meeting of the Joint Sub-Committee raised this question and was supported by Senator Dehousse. This is not reflected in the text. We believe that if the Conference is to play its part to the full, it must:

1. have the right of initiative, i.e., the right to consider on its own initiative questions which it thinks it necessary to examine with a view to following this up with a recommendation to the Assembly, it being understood, however, that it retains its freedom of decision;
2. have an obligatory competence, i.e., the Assembly is obliged to refer to it all the social and economic questions with which it will itself have to deal.

The right of initiative has not been contested by the Joint Sub-Committee and it seems to be generally agreed that the Conference should be given this right. With regard to obligatory competence, it has been argued that it might lead to an undue extension of the work of the Consultative Assembly. This is a purely formal argument which may easily be disposed of by adopting an appropriate procedure, which consists in fixing time limits for the submission by the Social and Economic Conference of its recommendation to the Consultative Assembly.

The obligatory competence granted to the Conference would not in fact prove to be an innovation, since in several countries, particularly in France and the Netherlands, national economic councils have such competence. To withhold it from the European Social and Economic Conference would be a retrograde step in relation to the national legislations of several Member States of the Council of Europe.

Convinced that the establishment of a tripartite European body with social and economic competence would be meaningless unless this body is taken really seriously and has a statute which will enable it to fulfil its purpose, the I.F.C.T.U. considers that it is absolutely essential to grant the Social and Economic Conference both the right of initiative and obligatory competence. Our observer will firmly stand by this recommendation which we regard as essential to the effectiveness of the Social and Economic Conference.

We should like, in conclusion, to reaffirm our support of the proposal to establish a Social and Economic Conference within the framework of the Council of Europe. Our criticisms and the conditions we lay down for our support are only aimed at ensuring the effectiveness of this new body which meets a vital European need, namely the participation of workers in all the steps taken to achieve economic and social integration.

The present note, while supplementing the previous remarks of our observer, will form the basis of his future observations concerning the Social and Economic Conference, Brussels, 27th June 1955.

Strasbourg, 8th October, 1955

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Or. Fr.

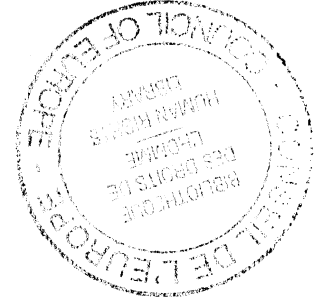
CONSULTATIVE ASSEMBLY

COMMITTEE ON SOCIAL QUESTIONS

Third Session

MINUTES

of the meeting held at 10 a.m.
on 10th September, 1955
at the Château de la Muette, Paris



There were present:

M. MUTTER, Vice-Chairman	(France)
Miss BURTON, Vice-Chairman	(United Kingdom)
MM. ANDERSSON	(Sweden)
BENGTSSON	(Sweden)
COTTONE (substitute for M. LUCIFERO)	(Italy)
Miss CROWLEY	(Ireland)
MM. EVEN	(Federal Republic of Germany)
	(Sarr)
KIRN	(Greece)
MANOUSSIS	(Italy)
MONTINI	(France)
MOUTET	(United Kingdom)
NICOLSON (substitute for Miss Pitt)	(France)
RADIUS	(Greece)
SAVOPOULOS	(Federal Republic of Germany)
Mmes SCHROEDER	(Germany)
	(Turkey)
TLABAR	(Turkey)
MM. TUMERKAN	(Federal Republic of Germany)
Mme. WEBER	(Germany)

Apologised for absence:

M. HEYMAN, Chairman	(Belgium)
MM. BONDEVIK	(Norway)
CANEVARI	(Italy)
DEHOUSSE	(Belgium)
FENS	(Netherlands)
HAEKKERUP	(Denmark)

van KAUVENBERGH
MELLISH
STEFANSSON
VIKSEBOXSE

(Luxembourg)
(United Kingdom)
(Iceland)
(Netherlands)

Observer:

M. STRASSER (Austria)

International Organisations:

MM. F.NO	International Labour Organisation
GROS	United Nations
TESSIER	International Confederation of Christian Trade Unions
KULAKOWSKI	" " "
ZUNIC	World Veterans Federation

The meeting was opened at 10 a.m. by M. Mutter,
Vice-Chairman.

Preparation of a draft European Social Charter.

In the absence of the two rapporteurs, MM. Heyman and
Dohousse, M. Mutter presented the text of the preliminary
draft Social Charter prepared by the Working Party (Doc. AS/SOC
(6)28).

On the proposal of the Chairman the Committee decided
to examine the preliminary draft article by article.

Part 1: Preamble

Para. 1

The Committee considered an amendment submitted by
M. Manoussis to word paragraph 1 as follows:

"The High Contracting Parties, considering that the
dignity of man presupposes not only observance of
his fundamental freedoms, but also his well-being and
a decent standard of living, declare that the object
of the present Charter, which is complementary to the
European Convention on Human Rights, is to ensure
progressive improvement in the well-being of their peoples
by a continued rise in national income and the equitable
distribution both of national income and of burdens."

On the proposal of M. Moutet, partly based on the
amendment of M. Manoussis, it was unanimously decided to add
at the end of paragraph 1 the words: "and thus to ensure
the dignity of man affirmed in the European Convention on
Human Rights."

Para. 2.

The Committee considered an amendment submitted by
M. Manoussis to word paragraph 2 as follows:

"realising that any increase in the national income and, as a result, in individual and family incomes depends on economic conditions and particularly on the development of the resources available, the High Contracting Parties will seek to achieve ever high levels of production, investment and trade. They will pursue an economic, monetary and fiscal policy designed to ensure economic development, full employment, a fair distribution of national income and of burdens and stability of the purchasing power of money. They welcome the fact that these standards of economic policy have been adopted by the International Labour Organisation in its resolutions on economic policy for the achievement of social aims, full employment and the abolition of unemployment. (Resolution of 12th May, 1944, adopted at Philadelphia, of 3rd November, 1945, at Paris and of 30th June, 1950, at Geneva. International Labour Code 11 pp.47-63)

After comments by the Chairman, M. Montini and Mme. Weber, the amendment was rejected.

On the proposal of Mr. Nicolson, it was decided to bring the English text into line with the French text by deleting the word "equal" and replacing the words "to maintain" by the words "the stability of".

The paragraph was adopted.

Para. 3

The paragraph was adopted.

Para. 4

On the proposal of Miss Burton it was decided to delete the word "indivisibility" and insert "integrity".

After comments by Mme. Weber, M. Montini, and the Chairman, an amendment by M. Moutet for deleting the words "and the integrity of the family" was withdrawn.

The paragraph was adopted.

Para. 5

After a comment by M. Kulakowski it was decided on the Chairman's proposal to replace the words "national and local basic communities" by "local communities", and to insert the word "promote" before the words "co-ordinate and supplement".

The paragraph thus amended was adopted.

Para. 6

The paragraph was adopted.

Para. 7

On the proposal of Mr. Nicolson it was decided to delete the words "essential for the development" and insert "one of the conditions for the development" and to delete the words "the management and in" in both cases.

The paragraph thus amended was adopted.

Para. 8

On the proposal of M. Moutet it was decided to delete the words "do porter assistanco" and insert "d'organizer l'aide" (no change in English).

The paragraph thus amended was adopted.

Para. 9

Mr. Nicolson pointed out that the condemning of a number of discriminations, especially those based on national origin, was hardly compatible with the prohibitive measures actually in force with regard to those discriminations.

Mme. Schroeder, M. Evon, M. Montini and the Chairman nevertheless proposed that the text be maintained, since the prohibitive measures in question were based on quite different motives and in no way implied discrimination.

Mr. Nicolson agreed to maintaining the text.

The paragraph was adopted.

Para. 10

The paragraph was adopted.

Para. 11

The paragraph was adopted.

Para. 12

The paragraph was adopted.

Para. 13

At M. Kulakowski's suggestion it was decided to add the word "particularly" before the words "manpower and capital."

On the proposal of Mr. Nicolson it was decided to delete the word "property" and insert "goods".

The paragraph thus amended was adopted.

Para. 14

An amendment by M. Manoussis wording the paragraph as follows:

"The High Contracting Parties will therefore further develop their co-operation in economic matters, mainly by creating a European Investments Fund with sufficient capital, and in social matters mainly by harmonising their social legislation and practice at the highest level attainable."

was withdrawn after discussion.

The paragraph was adopted.

Pars. 15

The examination of this paragraph was postponed as its outcome would depend upon the decision taken by the Committee on Part III.

Part II

Section A: Rights pertaining to employment

Article 1

M. Manoussis submitted an amendment wording the Article as follows:

"Every person shall have the right to employment and shall be free to choose his employment.

"Every worker shall have the right to work and shall be free to choose his work. Work is a social function, which enjoys the special protection of the State and cannot be regarded as an object of barter.

"The High Contracting Parties agree with the report of the United Nations experts in defining full employment as a situation in which unemployment does not exceed the minimum due to seasonal and frictional factors. They observe that in many European countries not only unemployment but also under-employment and the resultant low productivity of labour seriously impede any improvement in living standards and they consider mass unemployment and under-employment as social ills which can be cured without violating fundamental freedoms.

"The High Contracting Parties pledge themselves to a policy of full employment; in particular they undertake to ensure the maintenance of the volume of investments needed for full employment in Europe and to make up any inadequacies by public investments; to assist, stimulate or create new economic activities, particularly to replace those which are obsolescent; to provide for the rehabilitation and resettlement of unemployed workers.

"They undertake, in particular by the creation of a European Investments Fund, to co-operate even more closely and to join in assisting the less highly developed countries of Europe.

"Whenever the full exercise of the right to work cannot be ensured by such measures, the High Contracting Parties undertake to make the necessary arrangements for payment of unemployment benefits, as provided for in Article 11 of this Part of the Charter."

A discussion ensued between MM. Manoussis, Moutet, Kulakowski and the Chairman on the question of regarding work as a "social function".

The Chairman pointed out that the general considerations contained in M. Manoussis' amendment should more appropriately be inserted in the Preamble since Part II of the Charter was concerned with rights, not duties.

M. Manoussis withdrew his amendment.

The variant proposed by the Secretariat of the Committee as given at the end of the Article was not accepted.

The Article was adopted.

Article 2

M. Manoussis proposed an amendment replacing the first paragraph of this Article by the following:

"Every person who is engaged in an occupation has the right to receive an income commensurate with his capacities and which will provide him and his family with a decent standard of living.

"The High Contracting Parties undertake to ensure the progressive control of incomes by adequate measures, including in particular price control and an appropriate fiscal policy.

"Every worker and every wage-earner is entitled to fair and stable conditions of work.

"The High Contracting Parties undertake to introduce progressive measures for ensuring to all workers and wage-earners:

....."

As this amendment was not supported by the Committee it was withdrawn.

Miss Burton and Mr. Nicolson remarked that the text of the second paragraph of the Article was incompatible with current practice in the United Kingdom, where working conditions were not laid down by the public authorities but by agreements between the parties concerned. A discussion ensued, as a result of which it was decided to word the second paragraph of this Article as follows: "The High Contracting Parties undertake to encourage the adoption of measures which will ensure progressively for everyone: " etc.

In reply to comments by MM. Nicolson and Bengtsson the Chairman pointed out that paragraph (h) was intended solely to provide workers with a pension enabling them to retire at the age of 65, but not to prevent persons over 65 years of age from continuing to work if they so desired.

On the proposal of Miss Burton it was decided to amend paragraph (b) by inserting before the words "with his professional capacities" the words "with the nature of his work and".

On the proposal of M. Moutet it was decided to add at the end of paragraph (b) the words "and the economic situation" and in paragraph (d) to delete "higher rates" and insert "special rates".

The Article thus amended was adopted.

Article 3

The Committee decided by 5 votes to 4 to maintain the text of paragraph (d) which stipulates that adolescents shall be entitled to not less than three weeks' annual holiday with pay.

The Committee rejected by 7 votes to 1 a proposal by Mr. Nicolson deleting the prohibition of the employment of child labour of under 14 years of age contained in paragraph (a).

It was nevertheless specified that the word "employment" contained in this paragraph should be construed as meaning permanent employment.

The Article was adopted.

Article 4

At the suggestion of Miss Burton it was decided to change the English translation of the term "organes de cogestion".

A suggestion of M. Kulakowski deleting the words "and profits" in the second paragraph of this Article was rejected.

The Article was adopted.

Article 5

A proposal by Miss Burton deleting the word "joint" was rejected.

The Article was adopted.

Article 6

It was decided for reasons of style to delete the words "faire la" in the first paragraph of the French text.

On the proposal of M. Moutet it was decided to delete the words "and arbitration procedure" and insert "procedure and put at the disposal of the parties a procedure of arbitration".

Mme Weber having objected that the officials of certain services did not have the right to strike, the Chairman replied that the second paragraph of this Article made it possible to remedy this drawback by means of legislative measures.

The Article thus amended was adopted.

Article 7

On the proposal of M. Moutet it was unanimously decided, except for M. Manoussis who was of a contrary opinion, to delete the words "for the protection of their economic and social interests" at the end of the first paragraph.

The Article thus amended was adopted.

Article 8

On the proposal of M. Meutet it was decided to add at the end of the Article the words "in particular by the organisation of credit".

The Article thus amended was adopted.

Article 9

The Article was adopted.

Section B: Right to adequate standard of living and social security.

Article 10

M. Manoussis proposed an amendment adding to paragraph (b) the following words:

"In this matter, which is one of great urgency, the High Contracting Parties shall take into consideration the directives proposed by the International Labour Organisation and by the Interamerica Conference on Social Security regarding national housing programmes, the creation of an International Credit Institute for Building and on the investment of funds in the construction of dwellings for low income families. (International Labour Code, Vol. II, pp. 561, 572, 646, 942, 997)."

After comments by M^r. Montini and Kulakowski, the amendment was rejected.

The Article was adopted.

Article 11

M. Manoussis thought it necessary to insert a special provision concerning agricultural workers, and proposed the following amendment:

"The High Contracting Parties agree that in all countries plans should at once be drawn up and developed to ensure a minimum of social security for the agricultural population, and that appropriate measures should be taken to put these plans into execution as rapidly as possible. Such plans should apply not only to agricultural workers but also to the various categories of persons who work for themselves and who represent the large majority of the agricultural population. The plans should also cover members of the farmer's family whose work is not paid. Effective measures should also be taken for protection against the dangers which threaten crops and livestock and are liable to bring ruin to agricultural holdings."

The Chairman pointed out to M. Manoussis that the present text in no way excluded this category of workers. The Committee rejected the amendment, expressing itself in agreement with this broad interpretation of Article 11 which was devoid of all discrimination.

On the proposal of M. Moutet it was decided to replace in the second paragraph the words "supplementary to" by "either by supplementing" and to insert, after the words "qualified organisations", the words "or by taking the necessary action themselves".

The Article thus amended was adopted.

Article 12

The Article was adopted.

Article 13

A discussion ensued as a result of which it was proposed:

by Mr. Nicolson and Mme Weber to delete the words "savings and";

by Miss Burton to specify that this referred to savings invested in State securities.

The Article, however, was adopted unchanged by 5 votes to 2.

Section C: Rights pertaining to the family and to children

Article 14

A proposal by Miss Burton to delete in paragraph (c) the phrase "the mother shall have the right" onwards was rejected.

A proposal by M. Tümerkan that the total amount of leave to be granted the mother in the case of childbirth should not be specified was also rejected.

A discussion ensued on the subject of paragraph (b), which Miss Burton wished to delete, since she was against the idea of encouraging women to remain in the home.

By 7 votes to 5 it was decided to maintain paragraph (b).

The Article was adopted unchanged.

Article 15

The Article was adopted.

- 2nd PART - 7th Ordinary Session of the Consultative Assembly of the Council of Europe - Documents concerning the preparation of a European Social Charter and the creation of a European Economic and Social Council - October 1955
- Section I - Letter by M. FEDERSPIEL, Chairman of the Committee on Economic Questions, in relation with the debate of the Assembly on the European Social Charter and on the creation of a European Economic and Social Council - 15 October 1955 - AS/B (7) 8 - Document 407
- Section II - Draft Recommendation containing the Draft European Social Charter - 26 October 1955 - Document 403
- Section III - Debates on the European Social Charter and the European Economic and Social Council - October 1955
- Section IV - Letter from the Secretary General of the International Federation of Christian Trade Unions to the President of the Consultative Assembly - 24 October 1955

Section I - Letter by M. Per FEDERSPIEL, Chairman of the Committee on Economic Questions, to M. Guy MOLLET, President of the Assembly, in relation with the debate of the Assembly on the European Social Charter and on the creation of a European Economic and Social Council - 15 October 1955 - AS/B (7) 8 - Document 407

17th October 1955

Doc. 407

CONSULTATIVE ASSEMBLY

SEVENTH ORDINARY SESSION

COMMUNICATION

by the Committee on Economic Questions.
on the Draft European Social Charter

Letter by M. FEDERSPIEL,
Chairman of the Committee on Economic Questions
to the President of the Assembly

15th October 1955

Dear Mr. President,

On September 19th 1955 the Committee on Economic Questions, meeting in Paris, received from the Committee on Social Questions the draft European Social Charter (Document 407) for opinion on the Articles concerning the creation of a European Economic and Social Council. Attached to the Draft was the Report thereon presented by M. Dohousse, Rapporteur of the Committee on Social Questions and of the Joint Sub-Committee on the Economic and Social Council. Having heard M. Mutter's presentation of the document, the Committee appointed M. Kalbitzer Rapporteur.

Subsequently, the Standing Committee, on September 26th, requested the Committee on Economic Questions to give its opinion on the whole of the draft European Social Charter, i.e. also on the Social Charter proper. This extension of mandate was in full agreement with the views of the Committee on Economic Questions, as expressed by me at the time, that the consideration of the Economic and Social Council could not be divorced from a study of the provisions that form the basis of one of its main tasks.

The Committee on Economic Questions discussed the subject during its meeting of 14th October in the light of your suggestion - made during the course of our conversation yesterday afternoon - that the debate of the Assembly on Tuesday next might take the form of a first reading at the end of which a vote in principle would be taken on chapters I and II of the Charter, but not on chapters III and IV concerning the ECOSOC, leaving the final vote on the project as a whole to be taken next May. However, the Committee on Economic Questions, at its meeting on October 14th,

unanimously decided to instruct me to ask you for a postponement of the debate until the next session of the Consultative Assembly.

In making this request the Committee is moved by its strong conviction that the draft Social Charter deserves a thorough examination on its part in view of the essentially economic character of numerous provisions carrying far-reaching economic implications. The short time which the Committee has had at its disposal for this important enquiry has manifestly not been sufficient to permit it to arrive at

a considered opinion either on the proposed Social Charter proper or on the proposed Economic and Social Council.

In justification of the Committee's decision I ask to submit, on behalf of the Committee, the following remarks based on its first preliminary examination of the draft European Social Charter, dealing first with the Charter itself and secondly with the Economic and Social Council.

The Social Charter is set forth in Parts I and II of the draft.

Part I, headed Preamble, takes the form of a series of introductory clauses expressing the general principles of social and economic policy by which the Member States will be guided.

In illustration of the economic substance of these principles one can mention Article 2 which stakes out the general lines of economic policies that Governments should pursue; Article 6 which asserts the right to work and consequent maintenance of full employment; Article 7 which claims workers' participation in the profits of the enterprise as a step towards a more equal distribution of income; Articles 10 and 11 which proclaim the responsibility of Member States for the economic and social expansion of their overseas territories and collective responsibility for their own under-developed areas; Article 13 which recommends the lowering of barriers of all kinds to the free circulation of persons and goods, particularly manpower and capital. The essentially economic character of these provisions is as clear as their scope is vast.

These principles are of a declaratory character. The last article of Part I, Article 15, however, establishes a legally binding commitment on signatories:

- (i) to recognise a number of rights of individuals;
- (ii) to introduce and authorise all measures required to ensure the effective enjoyment of these rights;

These rights - derived from the general principles - are enumerated in Part II. Again, many of the rights - and particularly those set forth in the first two Sections, headed respectively A) Rights pertaining to employment and B) Right to adequate standard of living and social security - are clearly economic in character either by their nature or by their economic implications.

The structure of all the articles setting forth the rights is the same, each beginning with a declaration relating to the subjective aspect of a right which is recognized as such, and continuing with a definition of the objective conditions required to ensure the exercise of such right. Principles are thus defined in terms of the ways and means of attaining them. Conversely, obligations are expressed in terms of precise policies.

It is a truism to say that many economic policies are highly controversial, not only because of the element of political philosophy they almost invariably contain, but also because of our faulty knowledge of the complex working of the economic mechanism. Thus, a policy which might be adequate in relation to a particular right - in one country at one time may well be totally inadequate at another time or in another country.

This raises the question whether it is advisable to lay down in an Act of this nature, in a Charter, obligations concerning concrete economic policies. In any event it calls for the closest scrutiny from an economic angle of each separate element and of the compatibility of the several elements.

A few examples will bring out the controversial character of some of the strictly economic provisions of the Charter and the need of weighing them carefully against each other.

Article 1 of Part II commits signatories to make up by public investments any inadequacy in the volume of investment needed to maintain full employment. Important as this policy may be in many cases, it will probably never be sufficient by itself. It constitutes one of several instruments to attain a desired volume of investment and it may in certain circumstances not be the most adequate.

The principle of full employment and that of the stability of the purchasing power of money, joined together in one and the same paragraph in the Preamble (Article 2) and reiterated separately in Articles 1 and 13 of Part II, each constitute very complex problems upon which there is heated argument, not to mention that the two have been most difficult to reconcile in the recent past. The problems that will arise whenever a priority must be established between them - and that need will often be felt - will obviously depend on the conditions at hand in a given country at a given time.

A 40-hour week (Part II Article 2 (d)) and a legal retirement age of 65 (Part II Article 2 (h)) also raise serious problems separately and in conjunction with one another, and can certainly not be synchronized in all countries. The one may defeat the other, and together they may defeat a third economic objective, for instance the duty placed on Governments, in Part II Article 10, to supply consumer goods and housing at moderate prices, which is perhaps potentially the most far-reaching economic provision of the Charter.

Another controversial provision (Part II Article 4) is that which claims a share for workers in the management and profits of the enterprise - an issue on which even the trade unions are far from agreed.

This enumeration of controversial economic provisions contained in the Social Charter is far from exhaustive. It should be added that several of the social policies advocated in Parts I and II also carry far-reaching economic implications which deserve the most careful attention.

It is worth noting, finally, that the United Nations draft Covenant on Economic, Social and Cultural Rights by which the draft Social Charter has been inspired to a great extent does not at all go as far as the Charter in defining the rights of individuals in terms of obligations of the State, and that the United Nations organs have been labouring on it for several years and still are.

The fact that the Social Charter is to be implemented by the Economic and Social Council, the vast scope and binding character of its economic implications clearly indicate an imperative need for the Committee on Economic Questions to undertake a searching examination of the relevant articles of the draft Social Charter as such.

The provisions relating to the proposed European Economic and Social Council are contained in Part III of the draft setting forth the functions and structure of the Council and in Part IV laying down the rules that will govern its implementation of the Charter.

It stands out clearly from the text of articles 20 and 21 that the main purpose to be served by creating the Council is "To ensure the observance and implementation of the pledges made by the High Contracting Parties in this Charter (Article 20)." However, "in addition" the Council "shall prepare, guide and facilitate such measures of integration or co-operation as have been or shall be embarked upon for the benefit of all or some of the sectors of European social and economic life" by (a) developing contacts between European professional and social organisations, and between national technical and administrative services; and (b) transmitting recommendations, with the concurrence of the Consultative Assembly, to the Committee of Ministers and to other European governmental organisations (Article 21).

The Council is to be composed of 93 members, one-third representing the employers, one-third the workers and one-third the general public; i.e. government experts, representatives of the consumer, of independent occupations and of social and cultural activities. Members are not to be bound by any mandate or instructions and shall reach their decisions by simple majority of votes cast, in the case of recommendations with the added proviso that two-thirds of members must be present (Articles 23 - 28).

The wording of Articles 20 and 21 would appear to warrant the reflection that the primary emphasis upon the Council as an organ to ensure the implementation of the Social Charter would seem to relegate its more general and - in principle - at least equally important responsibilities to a secondary place in a way hardly suited to enhance the status of that organ in this sphere.

However, the main question is whether in present circumstances there is need for the creation of a European Economic and Social Council as proposed, quite apart from its contemplated function relating to the implementation of the pledges made in the Social Charter.

In his Report concerning those articles of the draft European Social Charter which relate to the European Economic and Social Council M. Dehousse devotes chapter II, pp. 33 - 34, to a discussion of the need for such an institution.

M. Dehousse introduces his presentation with the following statement:

"There is a general tendency these days for democratic institutions to show ever increasing concern for the opinion of the various sectors of economic and social life or, more specifically, of the professional and trade union organisations which represent them. The effect of this tendency is to create, side by side with the political institutions, more or less developed and co-ordinated bodies whose function is to ensure that these various sectors can officially bring their influence to bear. It has become normal, under the democratic system, for professional, technical or social organisations to be able to express their views; they have acquired the status of a Fourth Estate. This tendency has also been followed by the international institutions."

Mention is subsequently made of a number of such representative bodies established by Member States, i.e. on the national level. Foremost among them are the French Economic Council and the Dutch Economic and Social Council. Although the membership of both of these organs is dominated by representatives of trade unions and employers' organisations, the French Council also includes representatives of other organisations - consumers, co-operatives, middle classes, etc. while the Netherlands up to one-third of the members are directly appointed by the Crown as experts. All members act in their personal capacity and without instruction from their organisations.

The functions of the two Councils are similar: a) to comply with requests for their opinion on social and economic measures contemplated by the government - but while the Dutch Ministers are in principle obliged to ask the Council's opinion, the French authorities are under no such obligation and rarely put forward any such request; b) to express an opinion at their own initiative.

The Report goes on to emphasise that even where no such organs are found, Governments very frequently call upon the various non-governmental organisations to give their opinion on important social and economic proposals.

As for international organs of the kind described above reference is made to the Consultative Committee of the E.E.S.C., composed of an equal number of representatives of producers, workers and consumers and dealers, all appointed by the Council of Ministers. The Committee may be consulted in any case by the High Authority which is, moreover, bound to do so in certain cases.

Contrasting the limited scope of this Committee with the general competence given in the Draft Treaty setting up a Political Community to the envisaged, but never materialised, Economic and Social Council, M. Dehousse concludes (p.38 para.2) that "there is in Europe no official institution which can ensure a sufficiently close association of professional and social organisations with the formulation of European social policy." It may be noted that economic policy has been omitted here.

Referring to the consultation procedure with non-governmental international organisations established by the Council of Europe, O.E.E.C, E.C.E., etc., the Report goes on to state that "the consultative status granted by the Council of Europe to certain trade unions or professional organisations is sufficient illustration of the shortcomings of this system" in that "it is always left to the official body concerned to decide whether a consultation is desirable. The system therefore only allows for fragmentary opinions to be obtained and there is never any opportunity for the different points of view to be compared before they are submitted."

M. Dehousse sums up that as a general rule "the results of these consultations would carry far more weight if they were co-ordinated by an organisation which had an overall view of European economic and social problems" (p.39, para. 3).

The case for the creation of a European Economic and Social Council (quite apart from its functions in regard to the Social Charter proper) would thus appear to rest upon two distinct arguments;

First, representative non-governmental organisations should be more closely associated with the formulation of European policy than they are at present.

Second, the consultation of such bodies would carry enhanced weight if the various organisational points of view were compared and co-ordinated before their submission.

The question is thus to consider, first, the merit of the arguments outlined above, and, in the second place, whether, if accepted, they justify the creation of the proposed Economic and Social Council.

As for the first argument, it is possible to be brief. In so far as the Council of Europe is concerned there would probably be general agreement that the association of international non-governmental organisations with its work is as yet insufficiently developed and that the strengthening of existing links might contribute materially to the successful functioning of the Council.

The second argument is of an entirely different quality and far more controversial in character. The key question may be simply posed as follows: is it really desirable that the views of the various non-governmental organisations be co-ordinated prior to their submission to the appropriate inter-governmental organs?

While it is true, as pointed out by M. Dehousse, that "It has become quite normal, under the democratic system for professional, technical or social organisations to express their views", it is equally relevant to emphasise that this trend has been widely regarded with misgivings as implying a threat - de facto if not de jure - to the supremacy of parliamentary assemblies. Far from calling for a further consolidation of extra-parliamentarian centres of power, the trend has frequently been the opposite, calling for alertness on the part of elected representatives to preserve the genuine independence of parliaments from organised interests.

The authors of the Social Charter envisage the prior co-ordination of organisational points of view to take the form of recommendations arrived at by majority decisions (Articles 26 and 28).

The intergovernmental organisations - as well as the Consultative Assembly the approval of which for such recommendations is stipulated (Article 21) - will thus be presented with recommendations, which, at least potentially, will be determined by the weight accorded - necessarily very arbitrarily - to the various groups of interests represented in the Economic and Social Council. In practice, if not in theory, it is rather too easy to anticipate the way in which Council decisions will be made as consisting in a scramble by the two major groups, workers' and employers' representatives, for the largest possible share of the representatives of the "general public". More important, still, is that as a matter of principle the various interests represented - whatever apportionment of seats be finally chosen - are in effect incommensurable - at least as long as the idea of a corporative community is not accepted as the basis for our political system. If the latter possibility may be ruled out, it would appear important to say, and to insist, that the only proper criterion by which the interests of various groups can be weighed against each other is the political one applied by parliamentary representatives, each of them representing - within their respective countries - approximately the same number of citizens' votes, and by governments ruling in accordance with their majority. The Committee on Economic Questions feels this to be a highly delicate subject on which no opinion should be formed without the most thorough consideration of its various aspects.

With respect to the procedure envisaged it should be noted, moreover, that the Council's Recommendations are to be transmitted - via the Consultative Assembly - (i) to the Committee of Ministers, (ii) to other European governmental organs. This means that although the Economic and Social Council is to be set up "within the framework of the Council of Europe" it is possible for its recommendations to by-pass the Committee of Ministers, thus giving the new organ a status not enjoyed by the Consultative Assembly itself.

Summing up its foregoing observations, the Committee on Economic Questions feels that while it can fully endorse the first argument - the need for closer association of representative non-governmental organisations with the formulation of European policy - it has misgivings as regards the second argument - the need for prior co-ordination of organisational views in the form proposed.

It remains to consider whether the need for assuring closer links with non-governmental organisations justifies the creation of a European Economic and Social Council, as proposed, still disregarding the contemplated functions of that organ in relation to the implementation of the Social Charter which the Committee on Economic Questions has had no opportunity of discussing.

In a general way, and as a matter of principle, the Committee is anxious that before any decision be taken on the creation of a new international organ on the European level all possible alternatives be first explored. It would appear from the available documentation that no such enquiry has been undertaken so far, and the Economic Committee feels that this issue should be carefully examined before going any further.

I have the honour to remain, Mr. President,
Your obedient Servant,

Per Federspiel
Chairman
Committee on Economic Questions

M. Guy Mollet
President of the Assembly

- Section II - Draft Recommendation containing the Draft European Social Charter
- §1 - Draft Recommendation containing the Draft European Social Charter presented by the Committee on Social Questions - 26 October 1955 - Document 403
- A. Appendix: Draft European Social Charter
- B. Explanatory Memorandum by MM. HEYMAN and DEHOUSSE, Rapporteurs
- §2 - Amendment n° 1 to the Draft Recommendation of the Committee on Social Questions submitted by MM. JAQUET and SILVANDRE - 17 October 1955

**CONSULTATIVE ASSEMBLY
OF THE
COUNCIL OF EUROPE**

SEVENTH ORDINARY SESSION

26th October, 1955

Doc. 403

**EUROPEAN SOCIAL CHARTER¹
AND EUROPEAN ECONOMIC
AND SOCIAL COUNCIL²**

Draft Recommendation

*containing the draft European Social Charter³
presented by the Committee on Social Questions
(Explanatory Memorandum
by MM. HEYMAN and DEHOUSSE, Rapporteurs)⁴*

Draft Recommendation

The Assembly,

Considering the Universal Declaration of Human Rights proclaimed by the General Assembly of the United Nations on 10th December, 1948;

Considering that the Member Governments of the Council of Europe have, by concluding the European Convention on Human Rights and its Protocol, taken steps to guarantee to everyone within their jurisdiction certain of the civil and political rights set out in the Universal Declaration;

1. See Opinion No. 5, Doc. 238, Opinion No. 9 and Doc. 312.

2. See Resolution 26 (1953).

3. Adopted unanimously, with two abstentions, by the committee.

MEMBERS OF THE COMMITTEE: M. Heyman (Chairman); Miss Burton, M. Mutter (Vice-Chairmen); MM. Andersson, Bengtsson, Bondevik, Canevari, Mrs. Crowley, MM. Dehousse, Even, Fens, Haekkerup, van Kauenbergh, Kirn, Lucifera, Manoussis, Mellish, Montini, Moutet, Miss Pitt (Substitute); Mr. Nicolson, MM. Radius, Savopoulos, Mme. Schroeder, M. Stefansson, Mme. Tabar, MM. Tümerhan, Virseboxse, Mme. Weher.

N. B. THE NAMES OF THOSE WHO TOOK PART IN THE VOTE ARE PRINTED IN ITALICS.

4. Sections I-IV presented by M. Heyman, Section V presented by M. Dehousse.

Doc. 403 *European Social Charter and Euro*

Considering that it is also necessary to guarantee social, economic, and cultural rights in order to permit the peoples of Europe to live in conditions of human dignity and freedom from want and from fear;

Recalling with satisfaction that the Committee of Ministers has accepted the Assembly's Recommendation "to elaborate a Social Charter which would define the social objectives aimed at by Members and would guide the policy of the Council in the social field, in which it would be complementary to the European Convention on Human Rights and Fundamental Freedoms"¹;

Having given further consideration to the principles which should be enshrined in the Charter,

1. Recommends to the Committee of Ministers the adoption of the draft European Social Charter appended hereto;

2. Requests that a joint meeting should be arranged between members of the Social Committee and members of the Assembly Committee on Social Questions in order to examine the draft European Social Charter before the Committee of Ministers takes its final decision thereon.

A.

APPENDIX

**DRAFT
EUROPEAN SOCIAL CHARTER**

PART I

Preamble

1. The object of this Charter is to promote a progressive improvement in the well-being of the nationals of the High Contracting Parties by a continuous rise in living standards and by the equitable sharing of resources and burdens and thus to ensure the dignity of man affirmed in the European Convention on Human Rights.

2. Realising that the standard of living depends on economic conditions, and particularly on the sum of resources available, the High Contracting Parties will seek to achieve adequate

1. Opinion No. 5 of September, 1953, para. 2; Special Message of the Committee of Ministers, May, 1954, Doc. 238, para. 45.

Charte sociale européenne et Cons.

Doc. 403 European Social Charter and Euro

levels of production, investment and trade. They will pursue an economic, monetary and fiscal policy designed to ensure full employment, the fair distribution of resources and sharing of burdens and the stability of the purchasing power of money.

3. The High Contracting Parties regard economic policy not as an end in itself, but as a means of attaining social objectives, which are defined in terms of the moral and spiritual values inherent in the common heritage of the European peoples.

4. In particular, in carrying out their economic and social policy, the Governments will adopt no measures incompatible with human dignity and the integrity of the family. The supreme aim of their social policy will be to develop the human personality and to allow the individual the opportunity of exercising his natural gifts to the full, with due regard for his duty to other individuals and to the community in which he lives.

5. This policy can therefore be carried into effect only with the free participation of the people concerned, and within the framework of their local communities and professional groups, whose activities the State is bound to promote, co-ordinate and supplement.

6. The first essential is to ensure the exercise of the right to work. The maintenance of full employment in all European countries must be the constant preoccupation of the High Contracting Parties.

7. Nevertheless, work is not an end in itself. The High Contracting Parties recognise it as one of the conditions for the development of the human personality that workers should have a share in the fruits of their labours, particularly by participation in the profits of the undertaking by which they are employed.

8. The High Contracting Parties regard it as a duty arising from the most elementary principles of human solidarity that they should assist the less favoured sections of their populations.

9. The High Contracting Parties are opposed to all forms of discrimination on grounds of sex, race, colour, language, religion, property, national or social origin, or political or other opinions.

10. They will not derive profit from exploitation of the living conditions of the peoples politically or economically dependent on them. They recognise that they are responsible for the economic and social development of territories under their jurisdiction, in collaboration with the native population and, where appropriate, with qualified international organisations.

11. They also consider themselves collectively responsible for the economic expansion of their under-developed areas, and pledged to develop them by all means within their power.

12. The High Contracting Parties regard it as an embodiment of the principles of democracy that appropriate institutions should be created to enable employers, workers' and consumers' organisations to participate in the formulation of economic policy at all stages and in all sectors.

13. Although the planning and implementation of social policy are essentially the concern of national or regional authorities, its successful outcome depends, and will increasingly depend, on closer international organisation, on a more extensive sharing of resources and experience leading to the progressive lowering of barriers of all kinds to the free circulation of persons and goods, particularly manpower and capital.

14. The High Contracting Parties will therefore further develop their co-operation in social and economic matters, and, in particular, will harmonise their social legislation and practice at the highest level attainable.

15. The High Contracting Parties, being resolved to give effect to the foregoing principles, recognise the rights set forth in Part II of this Charter. With a view to guaranteeing the exercise of these rights, they agree to institute a European Economic and Social Council and to introduce or authorise all measures acknowledged to be necessary either at the international level, for instance by way of international labour conventions, or at a European, national, local or professional level.

PART II

Section A

Rights pertaining to employment

Article 1

Everyone has the right to work. In the exercise of this right he should be enabled to earn his living by a freely accepted occupation.

The High Contracting Parties undertake to ensure the maintenance of the volume of investments needed for full employment in Europe and to make up any inadequacies by public investments; to assist, stimulate or create new economic activities, particularly to replace those which are obsolescent; and to provide for the rehabilitation and re-settlement of unemployed workers.

Charte sociale européenne et Conse

Article 2

Everyone has the right to fair and stable conditions of work.

The High Contracting Parties undertake to encourage the adoption of measures which will ensure progressively for everyone :

- (a) safe and healthy working conditions;
- (b) a wage :
 - which is commensurate with the nature of his work and with his professional capacities;
 - which provides equal pay for equal work;
 - which ensures for himself and his family a decent existence, guaranteed more particularly by the introduction of a minimum wage; the fixing of wages in relation to this minimum;
- the periodical adjustment of the wage by reference to the cost of living and the economic situation;
- (c) reasonable notice on termination of employment;
- (d) progressive reduction of work to a 40-hour week, subject to essential adjustments for certain professions with special rates for overtime;
- (e) a minimum of two weeks' annual holiday with pay;
- (f) vocational guidance and training;
- (g) prospects of professional promotion;
- (h) the possibility of retirement at the age of 65 at the latest, with a pension ensuring a decent living.

The High Contracting Parties undertake to ensure that the standards laid down in this Article are implemented in individual and collective employment contracts.

Article 3

In the field of employment, children and adolescents have the right to special measures of protection.

In order to ensure this protection the High Contracting Parties undertake to take all necessary steps in order that :

(a) the employment of child labour of under 14 years of age, and the employment of adolescents in work which is physically or morally injurious, shall be punishable by law;

(b) persons of under 16 years of age and those who, having reached that age, are still subject to compulsory education may be employed only in such work as will not deprive them of this education;

Doc. 403

European Social Charter and Euro

- (c) persons of under 16 years of age may not be employed for more than 6 hours a day;
- (d) adolescents shall be entitled to not less than three weeks' annual holiday with pay.

Article 4

Everyone employed in an undertaking has the right to share in the management according to his abilities and in the profits according to the work he contributes.

The steps to be taken by the High Contracting Parties to ensure exercise of this right shall include the establishment of organs of joint management whereby the workers may have a share in the life, management and profits of the undertaking.

Article 5

The High Contracting Parties undertake to supervise closely the enforcement of the measures taken in pursuance of Articles 2, 3 and 4, in particular by the introduction of joint labour inspectorates and tribunals.

Article 6

Every worker has the right to strike.

The High Contracting Parties undertake to introduce the necessary legislative measures to regulate the conditions and exercise of that right and, in particular, to establish conciliation procedure and put at the disposal of the parties a procedure of arbitration to prevent labour disputes or find a rapid solution to them.

Article 7

Everyone has the right to form trade unions whether local, national or international and to join trade unions of their choice.

The High Contracting Parties undertake to ensure the enjoyment of this right on a basis of free choice, having regard to the provisions of Article 11, paragraph 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.¹

1. Article 11, paragraph 2, is worded as follows :
"No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State."

Charte sociale européenne et Cons

Article 8

In order that workers may progressively become the owners of real and personal property, particularly of their own homes, the High Contracting Parties undertake to protect savings and create favourable conditions for their encouragement, in particular by the organisation of credit.

Article 9

Everyone has the right to the protection of his moral and material interests in any scientific, literary or artistic production of which he is the author.

Section B

Right to adequate standard of living and social security

Article 10

Everyone has the right to a decent living, and, in particular, to adequate food, clothing and housing.

Besides the measures referred to in Articles 1, 2 and 11 of this Part of the Charter, the High Contracting Parties undertake to secure the fulfilment of this right by whatever measures may be required in order to :

(a) keep the market adequately supplied with basic necessities at prices within the reach of all;

(b) promote a policy of town planning and rural habitation such as will provide adequate numbers of moderate priced dwellings complying with satisfactory standards of comfort and hygiene.

Article 11

Everyone has the right to social security, ensuring protection by social insurance or other means against loss or impairment of his livelihood by reason of sickness, invalidity, widowhood, unemployment, old age or other causes beyond his control.

The measures by which the High Contracting Parties undertake to ensure the enjoyment of this right, either by supplementing the action of individuals, local communities and professional groups and of qualified organisations, or by taking the necessary action themselves, shall be set forth in a European Code of Social Security, which shall be drawn up with the minimum of delay.

Such measures shall, in particular, guarantee the benefits relating to medical, surgical, obstetrical or hospital treatment, maternity allow-

Doc. 403

European Social Charter and Euro

ances, family allowances, unemployment allowances, temporary or permanent disablement and retirement pensions.

Article 12

Every human being should have the benefit of facilities for ensuring a high standard of health.

The measures by which the High Contracting Parties undertake to ensure the enjoyment of this right, in cases where the private resources and initiatives of individuals or communities are inadequate, will include :

(a) the reduction of infant mortality and provision for the healthy, physical and moral development of the child; assistance to mentally defective children and those deserted or in distress; re-education of maladjusted children;

(b) the improvement of nutrition, housing, education, recreation and other environmental health factors;

(c) the prevention, treatment and control of epidemic, endemic and other diseases;

(d) the organisation of services and facilities to ensure for all effective medical attention in the event of sickness;

(e) free basic medical care and treatment.

Article 13

The High Contracting Parties undertake to protect savings and social benefits and allowances against the consequences of fluctuations in the value of money.

Section C

Rights pertaining to the family and to children

Article 14

Everyone of marriageable age has the right to found a family.

The family is entitled to the widest measure of protection.

The measures by which the High Contracting Parties undertake to protect the integrity of the family shall include :

(a) the grant of allowances in proportion to the number of children;

(b) a supplementary allowance to enable the mother to remain in the home;

(c) special protection accorded to mothers during reasonable periods before and after childbirth; the mother shall have the right to leave with pay for not less than six weeks before and six weeks after childbirth, the right to keep her

Charte sociale européenne et Cons

job and to receive both medical attention for herself and her child and financial assistance during the nursing period.

Article 15

Children and young persons have the right:

(a) to the welfare services and education necessary for their well-being and their moral, intellectual and physical development, in accordance with the provisions of Articles 12 and 17 of this Part of the Charter;

(b) to protection from exploitation in their employment, in accordance with Article 3 of this Part of the Charter.

Article 16

The High Contracting Parties will undertake the necessary steps to ensure that children born out of wedlock receive the necessary protection and enjoy the same rights to social assistance as those born in wedlock.

Section D

Rights relating to the cultural development of the human personality

Article 17

Everyone has the right to education.

This education should be based on respect for the values and traditions enshrined in the European spirit.

The High Contracting Parties will undertake the necessary steps in order:

(a) to make primary education compulsory and free to all;

(b) to make secondary education, in its different forms, including technical and professional training, available to everyone up to the age of 18 years and to make it increasingly free;

(c) to do everything possible to ensure a basic education for those persons who have not received or have not completed their primary education;

(d) to make university and other higher education accessible to all who are capable of benefiting by it.

Article 18

In the exercise of any functions and duties which they assume in the field of education, the High Contracting Parties undertake to respect and facilitate the right of parents to choose how this education shall be accorded to their children in conformity with their own religious and philosophical convictions, as provided for under Article 2 of the Protocol to the Convention for the

Doc. 403 European Social Charter and Eur

Protection of Human Rights and Fundamental Freedoms.¹

Article 19

Everyone has the right to take part in cultural life and to enjoy the benefits of scientific progress and its applications.

The High Contracting Parties undertake to respect the freedom necessary for scientific research and creative activity.

The High Contracting Parties also undertake to do everything appropriate for the diffusion and development of science and culture.

PART III

European Economic and Social Council

Article 20

To ensure the observance and implementation of the pledges made by the High Contracting Parties in this Charter, there shall be set up within the framework of the Council of Europe a European Economic and Social Council (hereinafter referred to as "the Council").

Article 21

In addition to the duties arising from the implementation of this Charter which devolve upon it under Part IV, the Council shall prepare, guide and facilitate such measures of integration or co-operation as have been or shall be embarked upon for the benefit of all or some of the sectors of European social and economic life:

(a) by developing contacts, on a European scale, between the various professional and social organisations and between the technical and administrative services of the participating States;

(b) by transmitting recommendations with the concurrence of the Consultative Assembly of the Council of Europe;

(c) to the Committee of Ministers of the Council of Europe;

(d) to other European governmental organisations possessing political, economic, social or cultural competence.

To enable the Council to fulfil its functions, the Governments of the participating States shall keep it periodically informed of their economic, social and cultural activities on a Euro-

1. Article 2 of the Protocol is worded as follows:

"No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions."

Charte sociale européenne et Conse

pean and a world scale, particularly those pursued within the framework of intergovernmental organisations.

Article 22

The Council shall hold sessions whenever the need arises and not less than once a year, as provided for in its Rules of Procedure.

Article 23

The Council shall be composed of 93 members, one-third of whom shall represent the employers, one-third the workers and one-third the interests of the general public.

Article 24

The 31 seats allotted to each of the three groups mentioned in Article 23 above shall be distributed by nationality on the following basis :

Iceland, Luxembourg, Saar.	1 seat
Belgium, Denmark, Greece, Ireland, Netherlands, Norway, Sweden, Turkey.	2 seats
France, Federal Republic of Germany, Italy, United Kingdom of Great Britain and Northern Ireland	3 seats

Article 25

The representatives of employers and workers shall be appointed for a three-year period by their respective Governments in such a manner as the Governments shall determine, names being selected from lists submitted by the competent employers' and workers' organisations. These lists shall contain at least twice as many candidates as the number due to be appointed.

In accordance with the same procedure the Governments shall appoint a substitute for each member, who shall be entitled to attend meetings, speak and vote in his place.

Article 26

Members representing the interests of the general public shall be appointed for a three-year period by their respective Governments in such a manner as the Governments shall determine. They shall be selected from among governmental experts, representatives of the consumer, of independent economic occupations and of social and cultural activities.

At each session of the Council, and for the duration of that session, the Governments shall appoint one or more substitutes for every such representative, selecting them from the groups mentioned in paragraph 1 above by reason of their qualifications in the subjects to be discussed when they shall replace the member in question.

Doc. 403 European Social Charter and Eur

Article 27

Members of the Council and their substitutes shall not be bound by any mandate or instructions.

Article 28

The decisions of the Council shall be reached by a simple majority of the votes cast. No recommendations may be adopted unless two-thirds of its members are present.

Article 29

The Council shall each year elect its President and Bureau. The Bureau shall consist of six members, one-third representing the employers, one-third the workers and one-third the interests of the general public.

The Secretariat of the Council shall be provided by the Secretary-General of the Council of Europe. The Council shall appoint its own Clerk on the proposal of the Secretary-General of the Council of Europe. He shall have the rank of Deputy Secretary-General of the Council of Europe.

Article 30

The Council shall adopt its own Rules of Procedure.

Article 31

The Council shall have its seat at the seat of the Council of Europe.

Article 32

For each of its fields of competence—economic, social and cultural—the Council shall set up a permanent section, which may be subdivided, if necessary, into sub-sections.

Within the framework of these sections and sub-sections, the Council may convene special meetings of representatives of the organisations concerned.

Article 33

The expenses of the Council shall be borne by the Council of Europe.

PART IV

Implementation of the Charter

Article 34

The High Contracting Parties undertake :

(a) to confer on the European Economic and Social Council and the European Commission

Charte sociale européenne et Cons

of Human Rights such powers as may be necessary to enable them to perform the tasks defined in this Part of the Charter:

(b) to present annual reports to the Council on the progress made towards securing observance of the rights and fulfilment of the obligations recognised in this Charter;

(c) to provide the Council with any additional information on this subject that may be requested by its Clerk.

The reports referred to in the sub-paragraph (b) above shall be submitted from time to time in accordance with to a programme drawn up by the Council after consultation with the Governments of the High Contracting Parties and with the approval of the Committee of Ministers. They should indicate any difficulties or other factors which may have prevented the States concerned from carrying out their full obligations under this Charter.

The Clerk of the Council shall forward copies of these documents to the Governments of the High Contracting Parties.

Article 35

Arrangements shall be made with any international or European organisations competent in economic, social and cultural matters, to enable the Council and the European Commission of Human Rights to perform the tasks entrusted to them by this Charter.

Article 36

The Council may refer to the European Commission of Human Rights any question connected with observance of the rights and fulfilment of the obligations recognised in the Charter, unless such question has already been the subject of a complaint registered with the International Labour Office in accordance with Article 26 of the Constitution of the International Labour Organisation.

Article 37

In the case provided for in the preceding Article, the European Commission of Human Rights shall invite the Government directly concerned to submit any necessary observations.

The Commission shall open an enquiry into the matter in accordance with the rules of procedure which it shall lay down for the performance of its task under this Charter.

The Commission may ask any European or international organisation referred to in Article 35 above to give an opinion on the matter.

Doc. 403

European Social Charter and Euro

After completing its enquiry, the Commission shall draw up a report, for transmission to the Council, which shall then determine, on the basis of this report, what measures should be adopted in order to ensure the implementation of the Charter and the fulfilment of its obligations by the Government directly concerned.

Article 38

The Council may, with the concurrence of the Consultative Assembly :

(a) make recommendations to the Committee of Ministers of the Council of Europe, which may be intended for the Government directly concerned;

(b) in agreement with the Committee of Ministers, convene European conferences of Governments party to this Charter, in which inter-governmental organisations competent in social, economic or cultural matters shall participate.

Article 39

The Council shall submit an annual report to the Consultative Assembly of the Council of Europe on the progress made towards the implementation of this Charter.

PART V

Final provisions

Article 40

The measures which the High Contracting Parties have undertaken to adopt under Part II of this Charter may be introduced by stages in accordance with the programme drawn up by the European Economic and Social Council and provided for in the second paragraph of Article 34.

Article 41

The High Contracting Parties recognise that the exercise of the rights set out in this Charter may be subjected only to such limitations established by law as are compatible with the nature of these rights or are designed to promote the general well-being in a democratic society.

Article 42

The rights set out in this Charter shall be enjoyed by all without distinction of any kind as to sex, race, colour, language, religion, property, national or social origin or political or other opinion.

Charte sociale européenne et Con.

Article 43

Nothing in this Charter may be interpreted as giving a State, a body or an individual the right to carry on any activity or to perform any action the object of which is either to abolish the rights recognised by the Charter or to limit them to an extent not provided for therein.

Article 44

No restriction upon or derogation from the social, economic and cultural rights of man recognised or existing in any of the States signatory to this Charter in virtue of laws, international conventions, regulations or customs shall be admitted on the pretext that the Charter does not recognise such rights or that it recognises them to a lesser extent.

Article 45

In the event of war or of public danger threatening the life of the nation, each of the High Contracting Parties may take measures involving derogation from the obligations that it has assumed under this Charter, but only to the extent required by the situation and on condition that the measures taken are compatible with its other obligations arising under international law.

Any High Contracting Party exercising the above right of derogation shall keep the Secretary-General of the Council of Europe informed of the measures taken and the reasons therefor, and shall likewise inform him as soon as such measures cease to have effect.

Article 46

A High Contracting Party may denounce the present Charter only after the expiry of five years from the date on which it became a Party to it and after six months' notice contained in a notification addressed to the Secretary-General of the Council of Europe, who shall inform the other High Contracting Parties.

A High Contracting Party which shall have ratified the present Charter, and shall not have availed itself of the above right of denunciation within the period laid down in the paragraph above, shall be bound thereby for a further period of five years, whereupon it may denounce the Charter on the expiry of each successive five year period.

Any High Contracting Party which shall cease to be a Member of the Council of Europe shall cease to be a Party to this Charter.

Article 47

This Charter shall be open to the signature of the Members of the Council of Europe.

Doc. 403 European Social Charter and Eur

It shall be ratified. Ratifications shall be deposited with the Secretary-General of the Council of Europe.

The present Charter shall come into force after the deposit of ten instruments of ratification.

As regards any signatory ratifying subsequently, the Charter shall come into force at the date of the deposit of its instrument of ratification.

The Secretary-General of the Council of Europe shall notify all the Members of the Council of Europe of the entry into force of the Charter, the names of the High Contracting Parties which have ratified it, and the deposit of all instruments of ratification which may be effected subsequently.

Article 48

The French and English texts of this Charter shall be equally authoritative.

B.

Explanatory Memorandum¹

I

Preparatory work

1. In an Order adopted on behalf of the Assembly on 9th July, 1954, the Standing Committee instructed the Committee on Social Questions to undertake the preparation of a draft European Social Charter, for submission to the Committee of Ministers. On 23rd September, 1954, at the end of the debate on the preliminary report of the Committee on Social Questions (Doc. 312), the Assembly instructed the Committee to submit a draft European Social Charter during its Seventh Session (Reference 63).

2. On 1st April, 1955, the Committee decided to set up an eight-member working party to examine a preliminary draft Social Charter which had been prepared for the Committee by its Secretariat.

At its meetings of 29th and 30th April, 1955 the Working Party, after a first reading of the text of this preliminary draft, came to the conclusion that the preparation of a European Social Charter necessarily implied the establishment of a social and economic body entrusted with the implementation of the Charter—a body roughly similar to the Euro-

1. Sections I-IV presented by M. Heyman.

Charte sociale européenne et Conse.

pean Economic and Social Council, whose establishment had already been recommended by the Assembly in Resolution 26 (1953).

3. The Working Party, accordingly, decided to hold its next meeting at the same time as that of the Joint Sub-Committee on the establishment of a European Economic and Social Council. On 3rd June, 1954 the Joint Sub-Committee met in the presence of members of the Working Party, invited to attend as observers, and agreed to the Working Party's proposal that a draft Act setting up a European Economic and Social Council (referred to at this stage as a Social and Economic Conference), should be submitted to the Assembly as an integral part of the European Social Charter.

4. The Working Party met once more on 4th June, 1954 to give a second reading to the preliminary draft Charter and adopted a revised text taking into account the observations of the Joint Sub-committee. The wording of Part III of the draft, dealing with the Economic and Social Council, was entrusted to M. Dehousse, who was appointed Rapporteur for this Part of the Charter. At its meeting on 3rd September, 1955 the Committee on Social Questions examined and adopted the draft presented on behalf of the Working Party. Finally, the draft was submitted for opinion to the Committee on Economic Questions.

II

Composition and Structure

5. The present draft Charter was drawn up in the light of :

(a) the indications given in the preliminary report on the preparation of a Social Charter submitted to the Assembly on 23rd September, 1954 (Doc. 312);

(b) the draft Covenant on Economic, Social and Cultural Rights, drawn up by the United Nations Human Rights Commission;

(c) various international texts, charters, declarations and constitutions, reproduced in Doc. AS/Soc (6) 23. *Documentary Note on the economic and social rights set forth in a number of international instruments*, such as :

Doc. 403

European Social Charter and Eur

- (i) the United Nations Universal Declaration on Human Rights;
- (ii) the European Convention for the Protection of Human Rights and Fundamental Freedoms;
- (iii) the Philadelphia Declaration concerning the aims and purposes of the International Labour Organisation, as well as the latter's Constitution;
- (iv) the American Declaration of the Rights and Duties of Man, Bogotá;
- (v) the Inter-American Charter of Social Guarantees, Bogotá;
- (vi) the Geneva Declaration of the Rights of the Child;

(d) certain national constitutions.

6. The structure of the draft Charter is as follows :

Part I, which serves as a preamble, defines the general principles of the common social policy of the Member Governments.

Part II defines the social, economic and cultural rights of individuals and, in respect of each of these rights, the measures which the signatory Governments agree to promote or introduce to ensure their effective exercise, albeit on a differential and progressive scale.

Part III deals with the Economic and Social Council, the organ for the implementation of the Charter. The provisions appearing in this Part may be regarded as the first draft of an Act setting up the Council.

Part IV embodies the provisions necessary for the implementation of the Charter, namely, those which define the pledges made by the participating States and the methods whereby these pledges will be fulfilled and supervised.

Lastly, Part V includes a number of general provisions relating to the application of the rights set forth in Part II and to the procedure governing the conclusion, entry into force and denunciation of the Convention, which is the institutional form of the Charter.

III

Legal definition and scope

7. Part I of the draft Charter, headed *Preamble*, takes the form of a series of introductory clauses which impose no legal obliga-

tions upon the participating States. In the drafting, every care has been taken to avoid an interpretation to the contrary. As is often the case with preambles prefacing declarations, constitutions or charters, the introductory clauses in question have no more than a moral force. In fact, they merely give expression to the general principles of social and economic policy by which the Member States will be guided when working out the concrete measures which they are to promote or introduce in pursuance of the pledges defined in Part II.

An exception should, however, be made in the case of the last paragraph of the Preamble (paragraph 15) which forms the link between Parts I and II of the draft. This paragraph defines the dual commitment entered into by the High Contracting Parties when acceding to the Charter, namely :

(a) to recognise the social, economic and cultural rights set forth in Part II of the Charter; and

(b) to introduce or authorise all measures required to ensure the effective exercise of these rights, one of these measures being the establishment of the European Social and Economic Conference.

8. The measures in question are outlined in Part II of the draft in respect of every social, economic and cultural rights recognised, and may be of a legislative or administrative nature. They may be taken at the local, national or international level, for instance by means of labour conventions, which the Charter encourages the Governments to conclude or ratify. Finally, these measures may be taken by the *milieux* concerned, even in the absence of any direct action on the part of the public authorities (see, among others, Article 2 of Part II of the Charter).

9. The preparation of Part II of the draft raised the problem of the nature and legal scope of the pledges made and the rights recognised in the Charter. Specifically, these rights should be distinguished from the civil and political rights, recognised in the European Convention for the Protection of Human Rights and Fundamental Freedoms.

It is known that, as a general rule, civil and political rights apply to man as an individual, regardless of the special social and economic circumstances under which they

are exercised.¹ As the social discipline involved in the observance of these rights consists merely in refraining from violating them, the legal criteria applicable to the guarantee of these rights are purely *negative* in character.

On the other hand, the exercise of social, economic and cultural rights implies the creation of conditions which will enable man to ensure the development of his personality through the natural and social links which go to make up society. Hence these rights cannot be guaranteed without concerted and constructive action on the part of the public authorities and private communities. In short, the social discipline imposed by this guarantee is a decidedly *positive* one.

10. It follows that, in defining social, economic and cultural rights, one should not consider merely their individual and subjective aspect, as is usually the case with civil and political rights. Not only would such a definition be a mere meaningless gesture, and the exercise of the social, economic and cultural rights remain inoperative, but such a definition would also involve an element of risk, since most social, economic and cultural rights are essentially relative and variable, being governed by the economic and social conditions prevailing in each individual State. If these rights were proclaimed without being defined more precisely in terms of these particular conditions, there would be a great risk of creating illusions and making promises which none of the Parties to the Social Charter could fulfil (compare, for instance, the rights recognised in the opening paragraphs of Articles 1, 4, 6, 10 and 12 of the draft Charter).

11. This explains the dual character of the provisions appearing under various headings in Part II of the draft Charter. Each of these begins with a declaration of principle relating to the individual and subjective aspect of a right which is recognised but has "doubtful" legal implications, and each continues with a number of measures and general conditions governing the exercise of individual rights, which the signatory States undertake to introduce progressively, when ratifying the Charter.

1. This in no way precludes a certain interdependence and reciprocal influence between civil and political rights, on the one hand, and social, economic and cultural rights, on the other.

12. This dual composition of the provisions of Part II follows not only from the nature of the rights in question, but also from the instructions and Orders previously adopted by the Assembly and the Committee on Social Questions. In the first place, it was necessary to meet the wish expressed in Opinion No. 5 of the Assembly, that the Social Charter should form in the social sphere "a pendant to the Convention on Human Rights" and it is for this reason that, as far as possible, each of the provisions of Part II begins with a declaration of principle recognising an individual right. Secondly it has been necessary to take into account the instructions appearing in paragraph 7 of Doc. 312, according to which the Charter should include minimum standards, and regulations and other measures to be introduced by the signatory States.

13. The authors of the draft thought that the way to solve the above-mentioned problem was to ensure, in each of the provisions of Part II, a certain equilibrium between the "declaration" factor and the "regulation" factor. Although, for reasons of homogeneity *etc.*, it was necessary to depart from the composition of the Charter envisaged in Doc. 312—which recommended that one part should be reserved for compulsory provisions—it would seem that the present draft is a considerable improvement upon others of the same kind, more especially the draft Covenant on Economic, Social and Cultural Rights drawn up by the United Nations Human Rights Commission (henceforth referred to as the United Nations draft Covenant), whose weakness lies precisely in the fact that a number of recognised rights have not been defined accurately enough by means of social policy criteria and directives, which are their essential complement.

14. With regard to the legal scope of the rights recognised in Part II of the Charter, it seems reasonable to conclude that the subjective right recognised at the beginning of each of these provisions, is in substance only a relative and variable right, determined, from a normative point of view, by provisions relating to its exercise which, for this reason, form an integral part of the definition of the right in question. Moreover, in the light of the fact, already noted in Doc. 312, that the aims of these provisions are too high to be achieved immediately, it follows that, by and

large, the provisions of Part II of the Charter merely represent a target which should be reached by dint of gradual progress. This will be discussed in the succeeding chapters of this report.

15. This idea of progressive implementation finds explicit expression in Article 40 of the draft—a general clause which should be regarded as applying to every Article of Part II. The same idea is implicit in the second paragraph of Article 34, whereby, after the entry into force of the Charter, a programme is to be drawn up providing for the gradual fulfilment of the pledges made by the signatory States. This provision, which is both the pivot for the application of the Charter and a saving clause for the signatory States¹, is modelled on Article 18 of the United Nations draft Covenant. As will be explained in the next chapters of this report, the method adopted for implementing the Charter is closely related to that of the United Nations Covenant.

16. To sum up, the Social Charter is by way of being an outline convention, or even a "convention-programme"² which requires to be developed and completed by a series of subsequent measures at the international, national, local and professional levels. As may be seen from the preparatory work on the United Nations draft Covenant³, the general view is that the pledges made by the Signatory States in a document of this type commit them to the extent of doing everything necessary by their own particular constitutional, legislative, administrative or other methods to ensure that steps are taken which will finally result in the full exercise of social, economic and cultural rights.

1. The question arose in committee as to whether a clause covering reservations should also be inserted. The Committee considered that there was nothing to prevent the preparation of such a clause at a later stage in the examination of the draft.

2. *c.f.* Report of the Tenth Session of the United Nations Human Rights Commission, in which the question of a "covenant-programme" is discussed (Doc. E/CN.4/SR.432 of ECOSOC).

3. This accords with statements by Professor René Cassin, French delegate, and Mr. Hoare, United Kingdom delegate, at the tenth Session of the United Nations Human Rights Commission on 24th March, 1954 (Doc. E/CN.4/SR.427 of ECOSOC).

IV

Implementation

17. The particular nature of social, economic and cultural rights had another important consequence, this time connected with their implementation, which is the subject of Part IV of the draft. Here again, it was necessary to depart from the system laid down in the European Convention on Human Rights and break new ground. It will be recalled that the system for implementing this Convention largely consists in a set of judicial regulations. Since recognition of most civil and political rights *ipso facto* implies that their infringement is prohibited, all that was required to enforce them was the introduction of a procedure designed to give legal sanction to this prohibition, in this case through the agency of the European Commission and European Court of Human Rights.

18. It follows, however, from the points raised in the previous chapter, that the procedure for implementing social, economic and cultural rights must meet quite different requirements. Indeed, before there is any question of legal action, such a procedure calls for progressive, positive and constructive action in the form of a series of legislative, administrative and other measures, which must be promoted or introduced by the Signatory States. Quite apart from the principle of the separation of powers, it is obvious that this task could not be vested in a judicial body. Not only would judicial action lead to direct interference with the legislation and administration of the Signatory States, but, in order to be effective, it would have to cover technical objectives on which existing judicial bodies are not usually equipped to pronounce judgment.

19. These are probably the reasons why the United Nations draft Covenant¹ makes no provision for legal action, while, on the other hand, Articles 17 to 21 thereof provide for an essentially administrative system of implementation, which would operate under the aegis of ECOSOC, through the machinery

¹ Not to be confused with the other draft Covenant prepared by the United Nations, which deals with civil and political rights and adopts a similar method of implementation to that of the European Convention on Human Rights.

of its Human Rights Commission and the Specialised Agencies of the United Nations.

20. It is clear that, on a European, even more than on a world, scale, the gradual process of development and extension inherent in the implementation of social, economic and cultural rights could only be entrusted to a specialised body with deliberative functions and in close and continuous touch not only with the Governments of the signatory States, but also with the social, economic and cultural interests concerned, particularly employers' and workers' unions. This necessitates the creation of a body which could perform the same functions within the area covered by the fifteen member countries of the Council of Europe as ECOSOC has assumed at the world level for the protection of social, economic and cultural rights.

In view of these considerations, the Committee on Social Questions, in agreement with the Joint Sub-Committee, decided to base itself on the system of the United Nations draft Covenant and propose the creation of a European Economic and Social Council within the framework of the Council of Europe. As a body for co-ordination and technical assistance in the social field—standing in similar relation to the Council of Europe as ECOSOC and the I. L. O. in relation to the United Nations—this Council would provide the machinery whereby the Consultative Assembly and the Committee of Ministers could remain effectively associated in the implementation of the European Social Charter which they themselves would have created. The provisions relating to the powers and composition of the Council, which appear in Part III of the draft Charter, were drawn up in accordance with the instructions of the Joint Sub-Committee and are discussed in Chapter V of this report. In fact, the European Economic and Social Council would be the framework within which the delicate but steady process of implementation of the Social Charter would take place. It is clearly understood that this process would be followed and approved, at every stage, by the Committee of Ministers, since Recommendations would be transmitted to it by the Council in accordance with Article 21 (b) (i) and Article 38 of the draft, after approval by the Assembly.

Charte sociale européenne et Conse

Doc. 403 European Social Charter and Euro

21. The procedure proposed is as follows¹ :

(a) The Economic and Social Council will draw up a programme for the gradual implementation of the Charter. This is to be prepared after consultation with the signatory Governments and to be approved by the Committee of Ministers (Article 34, second paragraph).

(b) The signatory Governments will thereafter present to the Council reports on the progress made in implementing this programme (Article 34, paragraphs 1 (b) and (c) and 2).

(c) In accordance with its general powers under Article 21, para (b) (i), the Economic and Social Council may, with the concurrence of the Assembly, address recommendations to the Committee of Ministers arising out of its examination of these reports (Article 38 paragraph (a)). It may also, in agreement with the Committee of Ministers, convene conferences of the Parties to the Charter (Article 38, paragraph (b)).

(d) If the Economic and Social Council considers that any signatory Government is not complying with the provisions of the Charter, it may, unless the matter has already formed the subject of a complaint to the I. L. O., refer the matter to the European Commission of Human Rights (Article 36), which shall undertake an inquiry and make a report (Article 37). Alternatively, the Economic and Social Council may investigate the matter itself.

(e) The Economic and Social Council will then determine what action should be taken to ensure the implementation of the Charter (Article 37, last paragraph) and, subject to the approval of the Assembly, submit its conclusions in the form of a Recommendation to the Committee of Ministers, which may be intended for the Government directly concerned (Article 38, paragraph (a)) or, by agreement with the Committee of Ministers, convene a governmental conference to consider the matter (Article 38, paragraph (b)).²

(f) The Economic and Social Council will, in any event, submit an annual report to

the Assembly on the progress made in the implementation of the Charter.

22. This procedure is similar to that of the United Nations Covenant, which in its turn was based on the current practice of the I. L. O. in regard to international labour conventions, and seems essential to the pursuit of aims as vast as those of the Charter.¹ It will be considerably facilitated by the fact that a number of members of the Economic and Social Council may be governmental experts appointed by the participating Governments. By no means the least of the Council's tasks will be to guide and co-ordinate the work hitherto carried out by committees of experts under the Committee of Ministers, to which the latter has not given continuous guidance or the necessary scope, for reasons which need not be discussed here.²

23. Here again, the example of the United Nations Covenant has been followed, for the implementation of the Charter will involve appropriate technical co-operation on the part of the I. L. O. Special provision has been made for such co-operation in Article 35 of the draft, which deals with arrangements to be concluded with international bodies qualified in the economic, social and cultural fields. Other organisations which could be consulted are UNESCO (in regard to Section D of the Charter) and the World Health Organisation (in regard to Article 12 of Section B of Part II). These and the I. L. O. should straightaway be invited to participate in the further elaboration of the Charter once this draft has been adopted by the Assembly.

24. It cannot be emphasised too strongly that the measures designed to implement the Charter have been conceived as an approach to international co-operation whereby the signatory States may be helped to overcome any difficulties arising from their obligations under the Charter, rather than as a means of

1. See paragraph 45 (2) below.

2. It is interesting to note that the present committee of governmental experts has already anticipated the steps proposed for implementing the Charter, for, at its recent meeting, the Social Committee of the Committee of Ministers invited Member Governments to send it reports on their laws and regulations relating to labour rights.

1. See also paragraph 45 below.

2. See paragraph 45 (2) below.

denunciation or legal action in the event of failure to fulfil these obligations.¹

25. However, the powers conferred upon the European Economic and Social Council by the High Contracting Parties by virtue of Article 34, paragraph 1 (a) of the Charter guarantee that the rights embodied in the Charter will not remain a dead letter. In full agreement with the Joint Sub-Committee, the Committee on Social Questions considered it reasonable to confer upon the Council the same powers as those possessed by other specialised organisations of the same type (I. L. O., ECOSOC etc.) which have a world responsibility for supervising intergovernmental social co-operation, often in very difficult circumstances. Lastly, the powers of the Council are hedged about with a number of political safeguards such as compulsory approval by the Assembly and the Committee of Ministers, so that there can be no possible doubt about the fundamentally consultative nature of the Council so far as the implementation of the Charter is concerned.

26. It should also be noted that, in accordance with the provisions of Article 36 of the draft, the procedure for holding enquiries mentioned in paragraph 21 (d) of this report cannot be instituted if the question at issue has already been the subject of a complaint to the I. L. O. in accordance with Article 26 of the Constitution of this Organisation. However, the priority thus granted to action by the I. L. O. is strictly limited to cases where there is another action pending between the same parties for the same cause.² This priority in no way affects the general competence of the Council of Europe or the particular competence of its Economic and Social Council. Although certain problems of competence are bound to arise³ when fixing the border-line between the application of the Charter, on the one hand, and the application of international labour and other specialised multilateral conventions, on the other, it remains true that their solution cannot disregard the fact that the responsibility for promoting and supervising the common

1. Cf. the statement of the Australian delegate at the Tenth Session of the United Nations Human Rights Commission (Doc. E/CN.4/SR.429 of ECOSOC, 1954).

2. See paragraph 15, 2, below.

3. See the article on this subject by Professor René Cassin in *Recueil des Cours de l'Académie de Droit International* (1952-III), p. 313, which shows that the United Nations Covenant raises similar problems.

social policy of the Member States rests with the Council of Europe and its organs.

V

*European Economic and Social Council*¹

A. HISTORY

27. It was at the Economic Conference which met at Westminster in April, 1949 under the auspices of the European Movement that the creation of a European Economic and Social Council was first advocated as constituting a means of hastening the economic and social unification of the Old Continent. Below is the motion submitted by the Rt. Hon Leslie Hore-Belisha, P. C.

" This Conference proposes that the European Consultative Assembly set up a European Economic Council whose task would be to draw up recommendations for the gradual unification of Europe.

This Council would be composed of an equal number of representatives of employers and workers drawn from the main industries of Europe and from agriculture.

This Council should maintain constant supervision of the effects of monopolies, cartels, tariffs, currency regulations, restrictions in the free movement of persons, and on the economy of Europe in general, it should draw up suggestions for improving the production and distribution of goods, to maintain full employment, to facilitate the movements of labour and, finally, to create more and more uniformity between the various economic practices of the different countries, e. g., the transferability of rights to social services.

The recommendations of the European Economic Council should be submitted to the European Consultative Assembly. "

The Westminster Conference retained this proposal and adopted almost unanimously a resolution desiring the creation of a European Economic and Social Council.

28. In July, 1950 the Social Conference of the European Movement, held at Rome, again insisted on the need to set up an Economic and Social Council and made the following detailed proposals :

1. Presented by M. Dehousse.

Charte sociale européenne et Conse

" All the various social categories : producers, consumers, family groups, and, in fact, all the groups and factors which have a part in economic life, would be closely associated with this institution.

It will crystallise, in the eyes of the workers, the will to achieve a genuine democracy and will provide an important element of confidence in the European unity which is in the process of creation.

The rôle of this Economic and Social Council will be consultative : it will make use, on the one hand, of data which will be supplied by the " European Institute of Economic and Labour Statistics " and also that of all other existing research bodies, or of new bodies the creation of which may appear necessary; and, on the other hand, of the information collected from those concerned in the industries themselves, both employers and workers; it will assemble, sift and present to the European political authorities all the technical factors involved in each problem. It will then be for the political authorities to make the decisions required.

One of the first questions with which the Economic and Social Council will have to deal is that of bringing into line the social and fiscal legislation in the different countries and, also, in a general way, the charges of production. "

29. It is perhaps worth recording that the draft treaty embodying the statute of the European (Political) Community provided for the creation of an Economic and Social Council. Articles 50 and 51 of the draft treaty read as follows :

" Article 50 : The Economic and Social Council shall assist the European Executive Council and Parliament in an advisory capacity.

It shall deliver opinions to each of the Chambers of Parliament and to the European Executive Council, if they so request. It may also transmit resolutions to them.

Article 51 : The Community shall enact legislation establishing the membership, competence, and *modus operandi* of the Economic and Social Council.

If an Economic and Social Council is set up by the Council of Europe, agreements shall be concluded to enable the Economic and Social Council of the Community to constitute a section of the Council thus created, and to take part in its deliberations. Where necessary, however, the Economic and Social Council of the Community shall be separately consulted. "

Doc. 403 European Social Charter and Euro

30. In the Council of Europe, the Consultative Assembly had, as far back as September, 1949, recommended the Committee of Ministers, on the proposal of its Committee of Economic Questions,

" to call, as soon as possible, industrial conferences representing employers', workers', and consumers' organisations, as well as Government services interested in the main manufacturing and agricultural industries, in order to make concrete proposals to the Assembly on the organisation of these industries and the increase in their productivity in the common interests of Europe "1

Thus, the Assembly, by adopting the views of the Committee on Economic Questions, had already recognised the necessity of organising the representation of the various professional and social organisations.

31. On 17th January, 1953 the Consultative Assembly confirmed its attitude by adopting Resolution 26, which contains the proposal that : " An Economic and Social Council shall be set up with consultative functions representing the fifteen Member States of the Council of Europe " and instructed the Committee on Social Questions to draw up, in co-operation with the Committee on Economic Questions, a draft Recommendation " for the creation of an Economic and Social Council ".

A Joint Sub-Committee was set up composed of representatives of the two Committees concerned. It began its work on 23rd September, 1953, and it had not yet completed it when the Working Party of the Committee on Social Questions, appointed to prepare a draft Social Charter, decided in April, 1955 to assign to a European Economic and Social Council the task of putting the Charter into effect. From then on the Working Party and the Joint Sub-Committee worked together and in June, 1955 reached joint conclusions which are recorded in Parts III and IV of the draft European Social Charter.

II. NEED FOR AN ECONOMIC AND SOCIAL COUNCIL

32. There is a general tendency these days for democratic institutions to show ever-in-

1. Recommendation 19 (1949).

creasing concern for the opinion of the various sectors of economic and social life or, more specifically, of the professional and trade union organisations which represent them. The effect of this tendency is to create, side by side with the political institutions, more or less developed and co-ordinated bodies whose function is to ensure that these various sectors can officially bring their influence to bear. It has become normal, under the democratic system, for professional, technical or social organisations to be able to express their views; they have acquired the status of a Fourth Estate. This tendency has also been followed by the international institutions.

The replies to a questionnaire prepared by the Secretariat-General of the Council of Europe and sent by the Sub-committee to the appropriate authorities of member countries showed how far and in what ways representative organisations in the economic and social field were consulted in certain European countries.

33. *The French "Economic Council"* consists of 169 members appointed by organisations representing the entire economic activity of the country. The following organisations are represented: Trade unions (45 seats), nationalised business concerns (6 seats), private industrial enterprises in France and Algeria (14 seats), private commercial enterprises in France and Algeria (10 seats), the craftsmen of France and Algeria (10 seats), the agricultural organisations of France and Algeria (35 seats), the co-operative societies (9 seats), Overseas Departments and Territories (15 seats), *The Pensée Française* (8 seats), the consumers' associations (9 seats), the homeless owing to war damage (2 seats), various other branches activities (4 seats), the middle classes (2 seats).

The various organisations and groups appoint their representatives for a period of three years. The members of the Council act in their personal capacity and are thus not bound to follow any instructions from their organisations. There are ten standing research committees, and *ad hoc* committees may be appointed.

Within the limits of its technical competence in economic and social questions, the Council discusses bills and draft laws and international agreements of an economic or financial character which are submitted for

the approval of the National Assembly. Other matters may also be referred to the Council by the National Assembly or by the Government, but they are not legally bound to submit any matters, except in certain specific cases. Thus, the Council presents an annual report regarding national economic schemes aimed at ensuring full employment and the rational exploitation of material resources. Twice a year it presents a report on developments in the economic situation.

In actual fact the Government and the National Assembly very seldom make use of the possibility of asking the Council for its opinion. For instance, of the 47 surveys carried out between November, 1951 and the end of December 1952, only three were effected at the request of the National Assembly. The Economic Council took up the remaining 44 on its own account. The Council thus has, and makes frequent use of, a right of initiative.

34. *The Dutch Social and Economic Council* is composed of not less than 30 and not more than 45 members, who are paid by the Crown. At least two-thirds of the total number of members are appointed by employers' and employees' organisations which, again, are selected by the Crown. The number of representatives of employers and of representatives of employees must always be equal. The other members of the Council are directly appointed by the Crown. They are appointed in their personal capacity as experts on social and economic questions. The selected employers' and employees' organisations appoint, themselves, the number of members and substitutes allocated to them. All members of the Council vote without instructions and without consulting the organisations which nominated them. In certain restricted fields defined by law, the Social and Economic Council has legislative power. The Council gives its opinion at the request of the Ministers. Unless they take the view that such a step would be contrary to the national interest, the Ministers selected for this purpose are obliged to ask the opinion of the Council or of certain of its committees regarding any important measures they may contemplate in the social or economic field. The Council may also give its opinion on its own initiative.

Apart from these two Councils of general competence, namely the French and the Dutch, there are in some countries a number

of specialised councils or other bodies which, in limited fields, play more or less the same role.

In Belgium a law was passed on 14th September, 1948 setting up a *Central Economic Council*. This Council has 50 members, each with a substitute, 22 representing employers and 22 representing workers, the latter co-opting six others from university staffs. The 44 original members are appointed by the King from dual lists submitted by representative organisations. The opinions given by this Council, either on its own initiative, or at the request of the Ministers or the legislative Chambers, are presented in the form of a report giving the points of view of the members. Consultation of the Council is compulsory for any bill concerning the organisation of the country's economy, such as the institution of a Trade Council.

Under a recent law (29th May, 1952) a *National Council of Labour* was created to deal with social problems. In it are represented the most representative organisations of industry, agriculture, commerce, the handicrafts and of course the workers. The members of this Council are selected, as in the case of the Central Economic Council, from dual lists presented by the organisations mentioned above. The rules governing consultation are very similar to those applicable to the Central Economic Council. It should be noted that many social laws provide for compulsory consultation of the Council. It may be said in general that the National Council of Labour is consulted before the adoption of any important social measure.

36. In the *Federal Republic of Germany* there is an *Advisory Council for the Re-organisation of Social Insurance*, and an *Advisory Council for Pensions Legislation*.

The Advisory Council for the Re-organisation of Social Insurance consists of individuals with special experience in various branches of social insurance. They are appointed on the recommendation of the parliamentary groups of the Bundestag, the employers' and the employees' associations, the medical faculty and the working group of scientific institutes of the universities. They act as experts in a private capacity and are not bound by the instructions of any organisations. There is no legal obligation to consult the Council. Nor does it have any right of initiative.

The Advisory Council on Pensions Legislation includes representatives of the *Laender*, representatives of war victims and independent experts, as well as guest representatives of various Federal Ministries. The members act in their personal capacity and receive no instructions. There is no legal obligation for the Government to consult the Council. Nor has the Council any constitutional right of initiative. It deals with the readjustment and improvement of war victims' pensions. The result of its work is used in the drafting of laws.

37. In *Ireland* there is a *National Health Council*, representative of the medical and ancillary professions, local authorities and trade unions. Persons are appointed to the Council by the Minister for Health on the nomination of the professional bodies. The views put forward by the members normally represent those of their nominating bodies. There are no rules of procedure. The Council shall, at the request of the Minister for Health, give him advice on matters affecting, or incidental to, the health of the people. It has no right of initiative.

38. In *Sweden* there is a special advisory body dealing with the control of investment in housing and factory buildings. Organisations of employers, workers, farmers, consumers, craftsmen and industrial undertakings are represented. All questions in the field concerned are taken up by this body before the Government takes its decision.

The trade unions, industry and agriculture are represented together with the administration on the *Committee on the National Budget*.

39. In the *United Kingdom* there are a number of national and regional advisory councils. There is thus the *National Joint Advisory Council*, which advises the Government on matters of common interest to employers and workers. The Chairman is the Minister of Labour, and there are 17 employers' representatives, 17 trade union representatives, and 5 representatives of Nationalised Industries.

There is then the *National Production Advisory Council for Industry*, which advises Ministers on industrial conditions and general production questions. It is presided over by the Chancellor of the Exchequer and has 12

views"¹, but rarely of informing public opinion; in any case consultation of these bodies cannot be compared to the functions and rôle of an Economic and Social Council.

Within the field of its competence, the International Labour Organisation is so organised as to give certain social organisations, mainly the workers' and employers' organisations, an opportunity of having their views heard. The fact that the I. L. O.'s competence is limited to social problems and more particularly to the progressive elaboration of standards for world social legislation reduces the value of their participation. The same is clearly the case with the European Regional Conferences convened by the I. L. O. These conferences have no power to adopt or even to propose regional conventions.

43. As a general rule, the results of these consultations within the framework of the many international institutions would carry far more weight if they were co-ordinated by an organisation which had an overall view of European economic and social problems. These problems are too closely interwoven for it to be possible to study their various aspects or various branches separately. The professional and social organisations can achieve no more than a fragmentary insight into these problems. In the report which he presented to the second European Economic Conference, held at Westminster, M. Jacques Tessier made the following very apt remarks on this subject :

" In fact, these organisations comprise a single category of producers (employers or wage-earners) and they tend to consider too exclusively the special interests of this category. On the other hand, if the international organisations of wage-earners comprise members of different sectors of economic activity, the same is not true of the employers' organisations. The Council of European Industrial Federations only comprises the heads of industrial or commercial undertakings and ignores agriculture, while, for its part, the European Confederation of Agriculture rightly admits its incompetence to deal with industrial and commercial problems. In addition, it must be stressed that the international federations

1. Extract from a letter, dated 11th January, 1954, from the Secretary-General of the U. N. to the Secretary-General of the Council of Europe, conveying his observations on the advisability of creating a European Economic and Social Council (Doc. AS/Soc-EC (5) 3).

corresponding to industrial or agricultural branches are often more active and enterprising than the international confederations.

Each organisation is thus led, with the best will in the world, to conceive and construct " its " Europe in a vacuum, and it is not surprising that the views taken and the suggestions made by one or other of them when they have never been set alongside those of the other categories of legitimate interests, arouse strong opposition which, in fact, prevents any real progress towards economic unification.

A " meeting-place " is necessary to make this confrontation of views of the various professional and social circles and to make patient research for the indispensable compromises possible.

This " meeting-place " might be found in the Economic and Social Council provided for in the draft European Social Charter.

In addition to co-ordinating consultation of the professional world and collating its views, the Economic and Social Council would make a substantial contribution to the work of European unification, both at the economic and social levels and in the intellectual and political sphere. Is it impossible to hope that a regular exchange of views will not gradually imbue the minds of the members of this Council, influential members of powerful national organisations, and through them the minds of the public at large, with the consciousness of a true community of interests in Europe? Would not the Economic and Social Council succeed in modifying and perhaps conquering the autarkic spirit of the professional organisations and direct to European ends the pressure they exert on national Governments? It is difficult to conceive how, after repeatedly and carefully studying their problems from a European angle, they can fail to see how many more advantages than disadvantages there are in economic unification from the point of view of their own interests. In any case the Economic and Social Council would deal a severe blow to corporative selfishness, which is particularly dangerous at a moment when the major sectors of activity are tending to organise at the European level.

Finally—and this seems to be a decisive factor—it would enable the European

representatives of employers, 12 representatives of workers, 2 representatives of the nationalised industries and the chairman of regional boards for industry.

There is the *British Productivity Council*, which comprises representatives of : the Federation of British Industries, the British Employees' Confederation, the National Union of Manufacturers, the Association of British Chambers of Commerce, the Trade Union Congress, and the nationalised industries.

There is the *Economic Planning Board*, which advises the Government on the best use of the country's economic resources. There are representatives of workers and employers, and also selected public officials. All serve in a personal capacity.

In addition, there are advisory committees for individual industries, such as the Engineering Advisory Council, the Shipbuilding Advisory Committee, and the Cotton Board. They all include representatives of workers and employers.

Finally, there should be mentioned a number of other consultative committees, like the Women's Consultative Committee, the National Youth Employment Council, the Factory and Welfare Advisory Board, etc.

With some exceptions, the Government is not legally bound to consult any of these advisory committees, although, in fact, it does so in all appropriate cases. The committees do not have the right of initiative.

40. In general, it should be noted that even when there are no organisations of the "Economic Council" or "Consultative Committee" type in a country, and sometimes to supplement their work when they do exist, Governments to a large extent invite the professional and social organisations, and more particularly trade unions and employers' organisations, to give their opinion on important measures which they propose taking in the economic and social field.

41. At the international level we know of the existence and role of the Consultative Committee in the *European Coal and Steel Community*. This Organ¹ comprises 51 members, equally divided among producers, workers and consumers and dealers, all appointed

1. See Articles 18 and 19 of the Treaty establishing the E. C. S. C.

by the Council of Ministers. The High Authority may consult it in any case it deems proper and is required to do so in certain cases prescribed by the Treaty, notably with regard to the preparation programme forecasts dealing with production, consumption, exports and imports and the formulation of general programmes with respect to "modernization, the long-term orientation of manufacturing and the expansion of productive capacity."

The competence of this Consultative Committee is, obviously, limited to the coal and steel industries. On the other hand the Economic and Social Council provided for in the Treaty setting up a Political Community was given a general competence to deal with all economic and social problems that arose in the six member countries. As this body was never set up, there is in Europe no official institution which can ensure a sufficiently close association of professional and social organisations with the formulation of European social policy.

42. The Council of Europe, O. E. E. C., the Economic Commission for Europe and the numerous organs, parliamentary committees, committees of experts and technical committees which come within their orbit have made possible the consultation of representative non-governmental international organisations. The consultative status granted by the Council of Europe to certain trade unions or professional organisations is sufficient illustration of the shortcomings of this system. Although the form of consultative status varies from one institution to another, it is always left to the official body concerned to decide whether a consultation is desirable. The system therefore only allows for fragmentary opinions to be obtained and there is never any opportunity for the different points of view to be compared before they are submitted.

The same criticism applies to the system of consultation of non-governmental organisations in use in the Economic and Social Council of the United Nations.¹ The non-governmental employers', workers' and consumers' organisations no doubt have "the opportunity of informing Governments of their

1. It should be recalled here that the Economic and Social Council of the U. N. is essentially a Government body, whose members are Government experts.

political organisations not only to get to know and to take into account to the greatest possible extent the opinion of the various professional and social circles in regard to all new measures that are envisaged, but also to associate these circles with the elaboration and application of such measures.

In this way the somewhat State controlled and technocratic trend which has so far shown itself in the upbuilding of the European economy would be avoided. New impulse would be given to the work of the Consultative Assembly and no doubt—an appreciable advantage—a wider hearing and greater weight to its Recommendations.

C. FUNCTIONS AND POWERS OF THE ECONOMIC AND SOCIAL COUNCIL

44. The functions devolving on the European Economic and Social Council in accordance with the draft Social Charter prepared by the Committee on Social Questions derive from Articles 20 and 21 (Part III).

Article 20 stipulates that an Economic and Social Council shall be set up within the framework of the Council of Europe "to ensure the observance and implementation of the pledges made by the High Contracting Party in this Charter".¹

The decision to entrust to an Economic and Social Council, representing the majority of the sectors of economic and social life, the rôle of implementing the Charter was one of the most remarkable decisions taken by the Working Party which the Committee on Social Questions appointed to draw up a preliminary draft. The work of progressive development and control involved in the implementation of the social, economic and cultural rights recognised in the Charter could only be entrusted to a permanent deliberative organ in close contact with the social circles concerned, in particular with workers' and employers' unions. Thus, it was specified during the preparatory stage of the work, that the Economic and Social Council would have the task, on the one hand, of defining the measures which the States would have to take in order to attain the aims of the Charter and on the other hand to supervise their application. In this way the most representative professional and social organisations must be closely associated with the whole

1. See also paragraph 15 of the Preamble (Part I of the draft Charter).

of the social and economic policy of Member States.

Article 21 adds: "in addition to the duties arising from the implementation of this Charter which devolve upon it under Part IV, the Economic and Social Council shall prepare, guide and facilitate such measures of integration or co-operation as have been or shall be embarked upon for the benefit of all or some of the sectors of European social and economic life..." Therein lies the general competence of the Economic and Social Council, which should be distinguished from its special competence as a body for implementing the Charter.

1. *The Economic and Social Council will work out the measures required for the application of the Charter.*¹

45. In correlation with this article 21 there is an Article 38 in Part IV (implementation of the Charter) of the draft Charter which runs as follows:

"With the concurrence of the Consultative Assembly, the Economic and Social Council may:

(a) make recommendations to the Committee of Ministers of the Council of Europe which may be intended for the Government directly concerned;

(b) in agreement with the Committee of Ministers, convene European conferences of Governments party to this Charter, in which intergovernmental organisations competent in social, economic or cultural matters shall participate."

The Social Charter was conceived as an international convention with certain definite aims that the Signatories would pledge themselves to achieve. Underlying the whole Charter is the idea that these aims should be realised by gradual process. This principle is explicitly set forth in Article 40 of Part V—Final Provisions:

"The measures which the High Contracting Parties have undertaken to adopt under Part II of this Charter may be introduced by stages in accordance with the programme drawn up by the Economic and Social Council provided for in Article 34."

1. See summary in paragraph 21 above.

Article 34 stipulates in para. 2 that :

"The reports referred to in the subparagraph (b) above shall be submitted from time to time according to a programme drawn up by the Economic and Social Council after consultation with the Governments of the High Contracting Parties and with the approval of the Committee of Ministers..."

These reports, submitted by the Governments of the Parties to the Charter will show the progress made towards its implementation. This procedure is not entirely new. It is based in particular on the draft Covenant of the United Nations relating to the economic and social rights and on the system in force in I. L. O. for Labour Conventions. Article 22 of the I L O constitution stipulates that "each of the members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of the Conventions to which it is a party." The United Nations draft Covenant goes further and lays down that the reports supplied by the States party to the Covenant on the progress realised in the recognition of the rights set out in the Covenant shall be submitted in accordance with the programme drawn up by the Economic and Social Council after consultation with the States party to the Covenant (Articles 17 and 18).

The European Economic and Social Council therefore, in agreement with the Governments concerned, would draw up a programme of economic and social measures which Member Governments would be recommended to put into effect in prescribed stages. Would this programme be one drawn up once and for all at the initial meetings of the Council or would it be drawn up periodically? The Council itself could be left to decide this point.

2. *The Economic and Social Council will supervise the application of the Charter.*¹

The Economic and Social Council may refer to the European Commission of Human Rights any question connected with observance of the rights and obligations recognised in the Charter Part IV, Article 36).

An exception is made however for the case in which a complaint has already been lodged before the International Labour Office on this question. Article 29 of the Constitution

1. See summary in paragraph 21 (d-e) above.

of the International Labour Organisation provides that a complaint can be filed with the International Labour Office by a Member State against another Member State which, in its opinion, has not satisfactorily ensured the execution of a Labour Convention. There was therefore a risk of a conflicting competence.¹

The European Commission of Human Rights may, if a question is submitted to it by the Council, proceed to make an enquiry, inviting the Governments concerned to submit the necessary observations; the results of the enquiry would be recorded in a report to be submitted to the Council (Part IV, Article 37).

Finally, the Council, on the basis of the conclusions reached in this enquiry, may recommend to the Governments concerned the measures required to ensure fulfilment of the obligations arising out of the Charter (Part IV, Articles 37 and 38).

Such recommendations would necessarily be submitted to the Committee of Ministers but would, of course, be addressed to the Government directly concerned, to which the Committee of Ministers would be obliged to forward them. This is an indispensable condition for the functioning of the whole system. What would be the use of the system if a Government which was at fault could use its veto in the Committee of Ministers to suppress the warning and the criticism addressed to it by the Council?

3. *The Economic and Social Council will prepare measures by which economic and social integration or co-operation can be achieved.*

46. In addition to its functions as an organ for implementing the Social Charter, the Council is given, under Article 21 of Part III, which is its constituent act, a most important role in the economic and social co-operation or integration of European States :

"the Economic and Social Council shall prepare, guide and facilitate such measures of integration or co-operation as have been or shall be embarked upon for the benefit of all or some of the sectors of European social and economic life :

(a) by developing contacts, on a European scale, between the various professional and social organisations and between the technical and administrative services of the participating States;

1. See paragraph 26 above.

(b) by transmitting recommendations with the concurrence of the Consultative Assembly of the Council of Europe :

(i) to the Committee of Ministers;

(ii) to other European governmental organisations possessing political, economic, social or cultural competence."

And Article 21 adds :

"To enable the Economic and Social Council to fulfil its functions, the Governments of the participating States shall keep it periodically informed of their economic, social and cultural activities at the a European and the world level, particularly those pursued within the framework of intergovernmental organisations."

47. Is consultation with the Economic and Social Council compulsory? The authors of the draft, who preferred to leave the Council free to act on its own initiative, in particular with respect to its recommendations, and have taken the necessary precautions to ensure that it should be in possession of all relevant information (see last paragraph of Article 21), have not thought it necessary to provide for compulsory consultation. They deemed it preferable to leave it to the Council, which would be fully informed of Government plans under the last sub-paragraph of Article 21, to decide itself whether or not it has an opinion to give on any of these plans.¹

It should be recalled that, in accordance with the terms of the draft (Article 21), the Council can address recommendations :

— to the Committee of Ministers of the Council of Europe;

— to European governmental organisations with political, economic, social or cultural competence, in particular to O. E. E. C.

48. Finally, it is no doubt necessary to call attention to a particular provision to be found in two Articles of the draft. Article 21 (para. (b)) and Article 38. These two texts provide that the recommendations of the Council addressed to the Committee of Ministers of the Council of Europe shall be subject to a favourable opinion by the Consultative Assembly. This condition refers to the recommendations relat-

1. It goes without saying, however, that one or more Governments can always, if they think fit, ask the Council to give them an opinion.

ing to the application of the Charter (Article 38) and those concerning the policy of economic and social integration or co-operation. This formula appears to have reconciled the apparently conflicting theses of those who wanted an Economic and Social Council which would only give its opinions to the Assembly and the champions of a sovereign Council addressing its recommendations directly to the authorities concerned. We may add, in connection with the control by the Assembly over the activities of the Council, that under the terms of Article 39 of Part IV ("Implementation of the Charter") the Economic and Social Council submits an annual report to the Consultative Assembly on the progress accomplished in ensuring the implementation of the Charter.

D. STRUCTURE AND WORKING SYSTEM OF THE ECONOMIC AND SOCIAL COUNCIL

1. Problems connected with the distribution of seats

49. The composition of the Economic and Social Council, as finally settled by the Committee on Social Questions at the proposal of the Joint Sub-Committee, was determined by various considerations :

(a) Distribution by countries

The Sub-Committee's first concern was to limit the number of seats. Strictly proportional representation, based on the system of one unit for the smallest representative organisation (those of Iceland or Luxembourg), would have resulted in an inordinate number of seats, allowing for the population of the member countries and the numerical strength of the sectors represented. It was necessary, therefore, to accept a somewhat arbitrary, or at any rate empirical, system. The drafting committee therefore divided the fifteen member countries into three groups : small, medium and large. By allotting three seats to the smallest countries (Iceland, Luxembourg and the Saar), each of the three broad categories referred to below could be represented. The medium-sized countries (Belgium, Denmark, Greece, Ireland, Netherlands, Norway, Sweden and Turkey) then received twice as many seats (*i.e.* six) and the largest (France, Federal Republic of Germany, Italy and the United Kingdom) three times as many (*i.e.* nine). This resulted in the manageable figure of 93 members.

Charte sociale européenne et Cons

(b) *Distribution by social groups or interests*

The Sub-Committee adhered to the most generally held conception of Western Society as divided into three broad sectional interests: the employers, the workers and what might be called the "third group", comprising all other interests whose voice would be heard in an Economic and Social Council, namely: independent economic occupations (agricultural small-holders, craftsmen and trades people), consumers (consumer co-operatives and family associations), social and cultural activities (for it must not be forgotten that the Charter recognises cultural rights so that the Council will be concerned with the observance and extension of those rights) and, last but not least, the State itself.

The draft therefore divides the seats of the Economic and Social Council into three equal categories: 31 seats for workers' representatives, 31 for employers' representatives and 31 for members representing the interests of the general public. Moreover, in order to ensure that certain important sectors of economic and social life are properly represented it lays down (Article 26 of Part III) that members representing the interests of the general public may be selected "from among governmental experts, representatives of the consumer, of independent economic occupations and of social and cultural activities". To strengthen this representation further and adapt it more closely to the questions under discussion, Article 26 also lays down that at each session of the Economic and Social Council and for the duration of that session, the Governments shall appoint "one or more substitutes for every member representing the interest of the general public, selecting them from the groups mentioned in paragraph 1 above on account of their qualifications in the subjects to be discussed when they replace the member in question". Such a system ensures that the representation can be varied *ad infinitum*.

2. *Appointment of representatives*

50. With regard to the manner of appointment, the Sub-Committee has adopted the normal methods of most representative economic and social organisations: appointment of mem-

Doc. 403

European Social Charter and Euro

bers by their respective Governments from lists submitted by the competent employers' and workers' organisations, which lists must contain at least twice as many candidates as the number due to be appointed.

3. *Internal organisation*

51. With regard to the internal organisation of the Council, it should be noted that the division of activities into three fairly distinctive fields—social, economic and cultural—has led the Sub-Committee to divide the membership of the Council into three sections, each covering one of these fields, and to provide for the creation of sub-sections. It need hardly be mentioned that these sections and sub-sections would be no more than study groups for drawing up plans, and that decisions, recommendations and opinions could only be adopted in the plenary Council.

Furthermore, Article 32 of Part III lays down that "in connection with the work of its sections or sub-sections, the Economic and Social Council may convene special departmental meetings of representatives of the organisations concerned." Thus, every aspect of the economic, social and cultural life of Europe can be covered and all the organisations interested in them can be consulted.

4. *Proceedings*

52. This brings us to the last important problem, the implementation of the proceedings.

Article 28 states: "The decisions of the Economic and Social Council shall be reached by a simple majority of the votes cast."

By confining itself to a simple majority, rather than the two-thirds majority originally proposed by the Sub-committee—the quorum being two-thirds of the members—the Committee on Social Questions wished to avoid any risk of the Council being paralysed by the systematic opposition of one or other of the three groups, for such action could prevent the adoption of any recommendation. It may be argued, however, that Part III should include a provision whereby any document put to the vote at the close of the proceedings of the Council shall mention any differences of opinion between the various professional and social groups represented, setting forth, side by side with the majority view, the opinion of the

Charte sociale européenne et Conse

minority or minorities together with their reasons for holding it.

VI

53. The draft European Social Charter was unanimously adopted by the Committee on Social Questions, although various members of the Committee reserved their personal attitude to certain Articles, and two of them abstained.¹ Previous to this, the Joint Sub-Committee on the Economic and Social Council had unanimously adopted, with one abstention, the broad lines of Parts III and IV of the Charter, concerning the Economic and Social Council and its role in the implementation of the Charter.²

1. See Minutes of the meeting of the Committee on Social Questions held on 10th September, 1955 (Doc. AS/Soc (7) PV 3).

2. See Minutes of the meeting of the Joint Sub-Committee held on 3rd June, 1955 (Doc. AS/Soc-EC (6) PV 2).

CONSULTATIVE ASSEMBLY
OF THE
COUNCIL OF EUROPE

SEVENTH ORDINARY SESSION

17th October, 1955

Doc. 483

Amendment No. 1

European Social Charter
and European Economic and Social Council

AMENDMENT No. 1

*to the draft Recommendation
of the Committee on Social Questions
submitted by MM. JAQUET and SILVANDRE*

Article 18 of the draft Social Charter,
after the words "to respect", to be worded as
follows:

" the right of every child to have access
to culture by methods of education which shall
permit the free and gradual development of its
own personality ".

Signed :

JAQUET, SILVANDRE

- Section III - Debates on the European Social Charter and the European Economic and Social Council
- §1 - Official Report of the 15th sitting: general debate on the draft Recommendation presented by the Committee on Social Questions and on the communication from the Committee on Economic Questions - 18 October 1955
- §2 - Official Report of the 16th sitting: resumed general debate - 18 October 1955
- §3 - Official Report of the 26th sitting: European Social Charter and European Economic and Social Council - debate on a draft Order presented by the Committee on Social Questions - 26 October 1955

CONSULTATIVE ASSEMBLY OF THE COUNCIL OF EUROPE

SEVENTH ORDINARY SESSION

OFFICIAL REPORT

Fifteenth Sitting

Tuesday, 18th October, 1955, at 10.15 a.m.

**4. European Social Charter
and European Economic
and Social Council**

*(General Debate on the draft Recommendation
presented by the Committee
on Social Questions, Doc. 493,
and on the communication from the Committee
on Economic Questions, Doc. 407)*

THE PRESIDENT — The first item in the
Orders of the Day is the General Debate on the
European Social Charter and European Econo-

mic and Social Council. Before I call the
first speaker, I have pleasure in welcoming
M. Gudmund Harlem and M. Surhof, the
Ministers of Social Affairs of Norway and of
the Netherlands respectively, who have been
so good as to attend the Debate. Mr. Garish,
who is, of course, a Representative, will also
speak in this Debate in his capacity as the
Minister of Social Welfare of Ireland.

I call M. Heyman, Rapporteur of the Com-
mittee on Social Questions.

M. HEYMAN *Belgium* (Translation).
Mr. President, Ladies and Gentlemen, the Consultative Assembly, as we all know, is mostly concerned with political problems. Our present Session gives further evidence of this, for, from next Thursday onwards, three whole days will be devoted to debating the general policy of the Council of Europe and the new drive for European integration.

However, it has always been clear that there are members of the Assembly keenly interested in economic and social questions. When dealing with such questions, the Assembly has frequently maintained that political, economic and financial integration is meaningless unless it is related to social progress. This idea, already embodied in many of our Recommendations, is to be given a special application in the debate on the European Social Charter and Economic and Social Council, which I now have the honour to introduce.

As you will be aware from what I said yesterday, these two subjects themselves are not new to this Assembly.

In Opinion No. 5, adopted on 23rd September, 1953, and accepted by the Committee of Ministers in its Special Message of 20th May, 1954, the Assembly decided to create a Social Charter and instructed your Committee on Social Questions to present a draft.

Moreover, in its Resolution of 17th January, 1953, the Assembly proposed the creation of a European Economic and Social Council and instructed its Committees on Economic and Social Questions to prepare a draft Recommendation on this subject.

To place the problem of the Social Charter and the Economic and Social Council in its proper context, I might describe it as mainly a matter of approach. I went into this matter in one of my previous speeches to your Assembly. At that time I ventured to describe the Council of Europe's approach to social problems as empirical, inasmuch as it had dealt with them one by one as the need arose. Since then, we have become increasingly conscious of the inadequacy of this approach.

As this method is bound to suffer from the limited opportunities and resources at the disposal of the Council, we have found ourselves unable to keep pace with the growing number of social needs. Moreover, one essential was lacking in this approach, namely co-ordination and general planning in the different fields of social action. I say "lack of co-ordination" because it is clear that the Council of Europe's grasp of the social realities of the West is becoming increasingly inadequate.

We now realise that, in social matters, empiricism does not pay unless two prior conditions are fulfilled: first, the establishment of a more extensive and longer-term programme enabling the Member States to pursue a common social policy and, second, the creation of a permanent executive body to put this programme into effect and guide and co-ordinate policy.

The Assembly realised this some time ago when it adopted its Recommendation 14 of December, 1951 on a common policy in social matters. The Committee of Ministers showed that it was thinking on the same lines in 1954 when it set up the Committee of governmental experts known as the Social Committee.

There are grounds for believing that none of these measures is sufficient to meet the situation I have just described. For one thing, we are still awaiting coordinated action in the social sphere as a whole; for another, the fact must be faced that, despite the enthusiasm and conscientiousness with which it has tackled its work, the Social Committee has only held one short session throughout this year and, evidently, has neither the continuity, the power, nor the means to provide the sustained policy which I have just mentioned.

This is all the more regrettable in that such a policy has now become vital if the Council of Europe is to fulfil its proper function in the social sphere, namely to achieve a greater unity between the fifteen member countries, in accordance with Article 1 of the Statute.

That, Ladies and Gentlemen, is the situation behind the preparation of this document, which I now have the honour to present on behalf of the Committee on Social Questions.

The main purpose of the draft European Social Charter, which has been prepared in accordance with your instructions, is to remedy these omissions and shortcomings. Conceived as a declaration and a solemn pledge by Member States, this document assembles all the ideas and principles by which our States should be guided in their common social policy. It is designed, above all, to guide the social programme of the Council of Europe in a definite direction and correlate its application with the distinctive social principles of the Western democracies.

I need hardly emphasise the importance of such a document in our times. Although military security rightly remains in the forefront of our preoccupations, such security would be precarious without a widespread public consciousness of the principles of social justice and human dignity which we seek to defend.

Again, there is considerable interest in *détente* and co-existence. Quite rightly so, but with the continued possibility of subversive activities and the continued existence of "fifth columns" in our midst, we are more than ever obliged to take effective steps to improve social conditions and raise the standard of living of the working population, if only as a safeguard against the temptations of other ways of life and other horizons.

It was with these points in mind, Ladies and Gentlemen, that your Committee prepared the present draft Charter. Nor did it forget your Assembly's previous decision—and here I quote—that

"such a Charter should define the social aims of the Member States and serve as a guide for all future activities of the Council in the social field. In social policy it should form a pendant to the Convention on Human Rights and Fundamental Freedoms."

Before I discuss the document in question, namely Doc. 403, I should like to make two preliminary points which should be borne clearly in mind in connection with the text.

In the first place, it should be realised that it is in no sense a final text. The European Social Charter is too important, not to say too complex, a document for its final wording

to be settled at a single parliamentary debate, still less by the efforts of a single Committee. Such a task can only be brought to a successful conclusion with the co-operation of our own competent committees and the committee of governmental experts; and this point is covered by paragraph 2 of the substantive text of the Recommendation to be found at the beginning of this document. There must also be co-operation with the appropriate international organisations, both governmental and non-governmental.

Moreover, by their very nature, requirements like those of the Social Charter can only be fulfilled by easy stages, as I shall explain in due course. The pledges made by the signatory States will in fact be honoured by stages covering longer or shorter periods according to the means and opportunities of each separate State. To take one instance, this applies to the progressive introduction of the forty-hour week, mentioned in Article 2, paragraph 2, sub-paragraph (d), of the draft, on which I shall have more to say at the end of my speech.

We are well aware, I am sure, that the attainment of this goal—and, in our text, the signatory States only undertake to encourage measures which will ensure its progressive attainment—depends on three factors, namely the establishment of a common market, increased production and the application of an international agreement, on the lines of the forty-eighth-our week Convention concluded after the first world war within the framework of the International Labour Office.

This is a vital point. It is the answer to the misgivings expressed yesterday by M. Feder-spiel, Chairman of the Committee on Economic Questions. I sincerely hope that it will not escape his attention.

My second remark is as follows: in spite of its provisional and, I might almost say, experimental nature, the text submitted by your Committee—in accordance with your instructions, let it be added—must even at this stage be a precise and self-contained Social Charter. There are two reasons for this.

In the first place, when dealing with social, economic and cultural rights, your Committee felt that the main thing was to present an exhaustive list, and this will be found in Part II of the draft.

We were well aware that the list as it now stands may contain rights or provisions which invite criticism and discussion. That is the danger of such a method. We know quite well that there will be criticism of such matters as the right to share in the management of undertakings (Article 4), protection against fluctuations in the value of money (Article 13) and the forty-hour week (Article 2, paragraph 2) to which I have already referred. We are expecting amendments, and I am authorised by the Committee on Social Questions to say that we shall consider all amendments without prejudice. I shall leave it at that for the moment and return to the question at the end of this evening's debate. We considered it our duty to take this risk because this approach has the advantage of enabling the Assembly to go into the whole matter.

Moreover, it is clear from a study of similar covenants and charters, particularly the draft Covenant on Economic, Social and Cultural

Rights drawn up by the United Nations Human Rights Commission, which served as a model for our work, that the wording of a draft Social Charter must conform with accepted legal, technical and institutional concepts. In this context, indeed, it seems justifiable to regard such concepts as essential, not to say sacrosanct—especially when it comes to guaranteeing and conferring the rights in question.

The fact that guarantee and conferment of the rights recognised in the Charter are inseparable from the social aims and criteria by which they are determined was another reason which compelled your Committee to present a coherent compilation of all the social, political, legal and institutional factors involved.

Indeed, only by considering all these factors in relation to a single, composite text does it seem possible to gain a sound appreciation of the problem in hand.

Ladies and Gentlemen, I now come to the text itself, the structure of which is as follows:

Part I, which serves as a Preamble, defines the general principles of the common social policy of the signatory Governments.

Part II defines the social, economic and cultural rights of individuals and, in respect of each of these rights, the measures which the signatory Governments agree to promote or introduce to ensure their effective exercise, albeit on a differential and progressive scale.

Part III deals with the European Economic and Social Council, the organ for the implementation of the Charter. The provisions appearing in this Part may be regarded as the first draft of an Act setting up the Council. As you know, this Part will be dealt with in due course in the Report of my colleague and fellow-countryman, M. Dehoussé.

Part IV embodies the provisions necessary for the implementation of the Charter, namely those which define the pledges made by the participating States and the methods whereby these pledges will be fulfilled and supervised.

Lastly, Part V includes a number of general provisions relating to the application of the rights set forth in Part II and to the procedure governing the conclusion, entry into force and denunciation of the Convention, which is the institutional form of the Charter.

One of the main problems arising from this draft Charter concerns the provisions which are intended to have legal force.

So far as Part I is concerned—that is to say the Preamble—there is thus no difficulty. This takes the form of a series of introductory clauses which impose no legal obligations on the participating States. As is often the case with preambles prefacing declarations, constitutions or charters, the introductory clauses in question have no more than a moral force. An exception should, however, be made in the case of the last paragraph of the preamble (paragraph 15) which forms the link between Parts I and II of the draft.

This paragraph defines the dual commitment entered into by High Contracting Parties when acceding to the Charter, namely:

(a) to recognise the social, economic and cultural rights set forth in Part II of the Charter, and

(b) to introduce or authorise all measures required to ensure the effective exercise of these rights one of these measures being the

establishment of a European Economic and Social Council.

The measures in question, Ladies and Gentlemen, are outlined in Part II of the draft and, in respect of every economic, social and cultural right recognised, may be taken at the local, national or international level—for instance by means of labour conventions, which the Charter encourages the Governments to conclude or ratify.

Finally, these measures may be taken by the milieux concerned, even in the absence of any direct action on the part of the public authorities.

With this I come to Part II of the draft, which may be regarded as the mainspring of the whole document.

It is in this part that we find a list of the rights recognised in the Charter and the obligations to be assumed by the signatory States. Each of these Articles begins with a declaration of principle, relating to the individual and subjective aspect of a right which is recognised, and each continues with a number of measures and general conditions governing the exercise of that individual right.

In view of the fact that the aims of some of these provisions are too high to be achieved immediately—and you will remember that I mentioned the 40-hour week in this connection—the contents of Part II of the Charter should be regarded, by and large, as a target to be reached by dint of gradual progress. This idea of progressive implementation finds explicit expression in Article 40, Part V, of the draft—a general clause which should be regarded as applying to every Article of Part II. The same idea is implicit in the second paragraph of Article 34 (Part IV), whereby, after the entry into force of the Charter, a programme is to be drawn up providing for the gradual fulfilment of the pledges made by the signatory States.

This provision, which is both the pivot for the application of the Charter, and a saving clause for the signatory States, is modelled on Article 18 of the United Nations draft Covenant. As I hope to show later in my speech, the method adopted for implementing the Charter is closely related to that of the United Nations Covenant.

It would be impossible, Ladies and Gentlemen, to exaggerate the importance of the provisions I have just mentioned. They mean that the Social Charter, far from resembling other Council of Europe instruments, is in fact no more than an outline convention, or, to borrow the more accurate term which the French delegate to the Tenth Session of the United Nations Human Rights Commission invented for the United Nations draft Covenant on Economic, Social and Cultural rights, it might be described as a "covenant-programme", which should be developed and completed by a series of subsequent measures on an international, national, local and professional scale.

As may be seen from the preparatory work on the United Nations draft Covenant, and particularly from the speeches of the United Kingdom delegate and Professor René Cassin, the French delegate, it is generally held that the pledges made by the signatory States in a document of this type commit them to the extent of doing everything necessary by their

own particular constitutional, legislative, administrative or other methods to ensure that steps are taken which will finally result in the full exercise of social, economic and cultural rights.

The question arose in Committee, Ladies and Gentlemen, as to whether it was necessary to insert a specific provision whereby signatory States could make reservations when accepting the Charter.

The question of a clause covering reservations, which caused the authors of the United Nations draft Covenant considerable difficulty, seems to be far less vital in view of the notion of progressive implementation of the provisions of the Charter. For this reason, your Committee decided to leave this question open, on the understanding that nothing should prevent the insertion of such a clause at a later stage in the examination of the draft.

To make sure that you fully understand the points I have tried to make concerning the scope of the pledges of the signatory States, I must dwell for a moment on the machinery for implementing the Charter. Here, your Committee adopted almost intact the system of implementation to be found in Articles 17 to 24 of the United Nations draft Covenant, which provide for an essentially administrative system of implementation, operating under the aegis of ECOSOC, through the machinery of its Human Rights Commission and the Specialised Agencies of the United Nations.

However, it is clear that, at the European even more than at the world level, the gradual process of development and extension inherent in the implementation of social, economic and cultural rights could only be vested in a specialised body with deliberative functions and in close and continuous touch not only with the Governments of the signatory States, but also with the social, economic and cultural interests concerned, particularly employers' and workers' unions.

This necessitates the creation of a body which could perform the same functions within the area covered by the fifteen member countries of the Council of Europe as ECOSOC has assumed on a world scale for the protection of social, economic and cultural rights.

In view of these considerations your Committee decided to propose the creation of a European Economic and Social Council within the framework of the Council of Europe. This meets the point raised yesterday by M. Mommer and should give him full satisfaction.

As a body for co-ordination and technical assistance in the social field—standing in similar relation to the Council of Europe as ECOSOC and I. L. O. in relation to the United Nations—this Council would provide the machinery whereby the Consultative Assembly and the Committee of Ministers could remain effectively associated in the implementation of the European Social Charter which they themselves would have created.

The provisions relating to the powers and composition of the Council, which appear in Part III of the draft Charter, were drawn up in accordance with the instructions of the Joint Sub-committee and will be dealt with by M. Dehousse.

In point of fact, the European Economic and Social Council will be the framework within

which the debate and steady process of implementation of the Social Charter will take place. It is clearly understood that this process will be followed and approved, at every stage, by the Committee of Ministers, since Recommendations will be transmitted to it by the Council in accordance with Article 21 (b) and Article 38 of the draft, after approval by the Assembly.

To sum up, the procedure proposed is as follows :

a. The Economic and Social Council will draw up a programme for the gradual implementation of the Charter. This is to be prepared after consultation with the signatory Governments and is to be approved by the Committee of Ministers. (Article 34, paragraph 2).

b. The signatory Governments will thereafter present to the Council reports on the progress made in implementing this programme (Article 34, paragraphs 1 (b) and (c) and 2).

c. In accordance with its general powers under Article 21, paragraph (b) (i) of the Charter, the Economic and Social Council may with the concurrence of the Assembly—we constantly return to this idea that the Assembly should give its opinion—address recommendations to the Committee of Ministers arising out of its examination of these reports (Article 38, paragraph (a)).

Moreover, in agreement with the Committee of Ministers, it may convene conferences of the Parties to the Charter (Article 38, paragraph (b)).

That, I think, should be sufficient information for the moment on the implementation of the Charter, since the next speaker, M. Dehousse, is certain to go further into the subject in his Report on the Economic and Social Council.

Before I conclude this part of my speech, I should, however, like to refer to what the

Australian delegate to the Tenth Session of the United Nations Human Rights Commission said on this subject during the preparation of the draft Covenant, which is the counterpart of this draft Charter.

To forestall the criticism of certain Soviet countries who feared interference in their national sovereignty, the Australian delegate, Mr. Whitlam, declared that

"the measures of implementation of the covenant in question had been designed as a form of international co-operation to assist States by elucidating their real difficulties in giving effect to the rights, rather than as a method of censuring them for failing to do so."

Before concluding, Ladies and Gentlemen, I should like to make a few comments on the particular rights recognised in Part II of the Charter. This Part, which is the crux of the whole document, has been divided into four Sections, the first of which deals with rights pertaining to employment, the second with the right to an adequate standard of living and social security, the third with rights pertaining to the family and to children and the fourth with rights relating to the cultural development of the human personality.

In my desire not to exceed the time at my disposal, you will forgive me at this stage of the debate for not explaining all the provisions of these four sections. I shall content myself

with three final remarks of a general nature. First, I would remind you of my opening comments on the dual nature of the Articles of Part II. This is determined by the fact that the Charter should not only contain a declaration of subjective individual rights, but should also guarantee the exercise of these rights by means of pledges of principle, whereby the signatory States undertake to promote or introduce a number of administrative, legislative or other measures.

To avoid misunderstanding, and for reasons of homogeneity, it was necessary as far as possible to combine these two aspects of the problem in each Article of Part II of the draft.

I take as an example the right to work, because, here again, I know that there may be criticism if the matter is not properly explained. The same holds good for the right to a decent standard of living, which appears in Article 10.

A mere acknowledgement of these rights could easily have aroused false hopes and even have led to legal claims by individuals against the public authorities. It is in order to overcome these disadvantages that the provisions of this part of the draft all contain a second paragraph making the exercise of the rights in question dependent upon economic facts and prospects and upon certain measures to be introduced by the signatory States.

It follows that no claim against the public authorities can be entertained on their account. For instance, an unemployed person cannot sue the authorities with a view to securing guaranteed employment. Moreover, by the terms of Article 11 of the draft Charter, the guarantees provided by the public authorities in the event of unemployment relate to social security benefits, which rules out the possibility of direct action by the unemployed person concerned. If need be, this idea could be more explicitly stated in Article 1.

I chose this example because in one particular country there was some discussion of the possibility of such disputes.

In the second place, it should be noted that many of the social criteria laid down in the draft Charter—and this applies particularly to the conditions of work mentioned in Article 2—are embodied in existing international labour conventions which have been signed on behalf of the Member States by representatives of the International Labour Organisation. Although some of the Signatories have not yet ratified these conventions, the fact remains that the progressive system of honouring commitments under the Charter makes it impossible to introduce more limited obligations than those already accepted under the labour conventions.

Now for my third and last observation. As I have frequently repeated in this Assembly, the Council of Europe's social responsibilities are more extensive than those of other international organisations concerned with social matters, for the social field in which the Council of Europe operates is by no means restricted to labour questions alone.

Have we not realised, in connection with this Charter, that it even extends to certain cultural rights? This is, moreover, the aspect on which

the greatest emphasis should be placed, for the special characteristics of the work of the Council of Europe should be coherence and depth. Since its main purpose is to achieve a greater unity between its Members, it cannot be successful, particularly in the social field, unless its action is planned and executed as a co-ordinated whole throughout the field of social policy.

Once more, Ladies and Gentlemen, I would recommend this point for your earnest consideration. Based as it is on a common history, a common outlook and common interests, such action must inevitably surpass the limitations of world organisations, whose work, however important—and we fully appreciate its significance—must by its very nature be somewhat haphazard and empirical. It is precisely this sense of community, this concern for human dignity that we find enshrined in the draft European Social Charter, which I have the honour to introduce today on behalf of your Committee on Social Questions.

By adopting the draft submitted by your Committee, you will not only enable the Council of Europe to pass from the empirical stage to the stage of co-ordinated and concerted action, but, what is more, you will be giving it the means of accomplishing its real mission.

THE PRESIDENT. — I call M. Dehousse, Rapporteur of the Committee on Social Questions for the question of the European Economic and Social Council.

M. DEHOUSSE (Belgium) (Translation). — Mr. President, Ladies and Gentlemen, I am not as fortunate as my friend and colleague M. Heyman, since I myself am out to defend a controversial draft, which, indeed, seems to have become a tradition for me in this Assembly.

This draft has a lively history behind it, but one which began under the most brilliant auspices.

From the very outset, right from the moment when the European idea first began to take shape, we see that the major organisations working for this idea have been continually calling for the creation of a European Economic and Social Council. I do not propose to go into details, since they are already contained in my report which you have before you. I shall only say that as long ago as 1949, at a conference of the European Movement held at Westminster, the idea of a European Economic and Social Council was strongly advocated.

The story of the Council, moreover, is strewn with texts on the subject to which I feel it is worth while drawing your attention. There was, for instance, the draft Treaty for a European Political Community which devoted considerable attention to the idea of an Economic and Social Council; the Treaty, I recall, went quite a long way in this direction. Although this was to be a Community of Six, it was, nevertheless, intended that the Economic and Social Council to be established within its framework should sooner or later be integrated in the far broader framework of the Council of Europe, of which it would, after a while, merely have formed a special section which might meet separately to consider certain questions.

As you can see, there is little justification for the charges of isolationism which were made on this subject at one time.

I shall now pass over several years and various schemes and come straight to our Assembly itself.

In 1949 this Assembly had already passed a recommendation calling for an Economic and Social Council, and in January, 1953, four years later, it went much further by adopting a Resolution, the famous Resolution 26, which thenceforth formed an integral part of the whole subject and stated:

"An Economic and Social Council shall be set up with consultative functions representing the fifteen member countries of the Council of Europe."

These were the fairies who surrounded the child at its birth and watched over its cradle. Very soon, however, it met with resistance; and when I speak of "resistance" I do not, of course, mean in the sense used during the war. The resistance to which I refer here was compounded of that immobility and conservatism which never fail to appear in the face of any new idea.

The Committee of Ministers, for example, resisted by setting up a Social Committee. This was a praiseworthy intention, as I said in this very Chamber when we first heard the news; but it is also a two-edged weapon. For,

whilst, it is true, that this Social Committee founded by the Committee of Ministers could be given certain tasks of its own, it could also be an excuse for not establishing the deliberative Council advocated by the Assembly.

There is a great difference between the Social Committee of the Ministers and the Economic and Social Council which we advocate—or at least which the Committee on Social Questions advocates unanimously but for two abstentions. This immense difference is due to the fact that the members of the Social Committee are officials. I do not wish either to disparage officials or praise parliamentarians. I would merely point out that they perform different functions in different fields and that to talk of entrusting to officials a task which calls for some measure of dynamism is a contradiction in terms.

The Social Committee cannot, by definition, act as a driving force, since it was never intended to be one. I do not say that all parliamentary assemblies are invariably dynamic forces, but at least they are intended to be, and if they are not, they have only themselves to blame.

To give you an example of what I mean, I may say the Social Committee sought surreptitiously to lay hands on the draft Social Charter on which M. Heyman has just commented, and to prevent the Assembly from holding even an academic debate on this Social Charter. It failed in these endeavours, for various reasons which it would be indiscreet to go into here, but all the same we must admit that it points to the regrettable frame of mind I described just now.

Another form of resistance I might mention was that of the big international and European bureaucracies. Today we have powerful administrations which in time, by a natural evolution, have become monopolistic bodies inasmuch as they can no longer conceive anything new happening outside themselves. I do not say that their attitude was dictated solely by their dislike of novelty. I am the first to agree that some of the objections previously formulated

against the plan for an Economic and Social Council are warranted. Some of them need to be squarely faced, and your Committee on Social Questions can assure you that it has already done its utmost to overcome them.

Furthermore, even in the Assembly itself a discordance of views has arisen between the Committee on Social Questions and that on Economic Questions. Nearly all the members of the Social Committee are in favour of an Economic and Social Council, whilst nearly all the economists are against. In the debate following the reports by M. Heyman and myself, you will certainly hear a chorus of hostile voices; and you may be sure that they will be those of the economists of this Assembly. Note, too, that I have not yet used the term "economist" in a derogatory sense. I have simply suggested an origin for certain objections which may be advanced.

You may ask, Ladies and Gentlemen, how this child (whose cradle, as I said, was guarded by so many good fairies) could, nevertheless, have braved all obstacles and reached the point it has. The explanation is simple. Your Joint Sub-committee—this is all very complicated, especially for the general public—consisting of representatives of the Committee on Economic Questions and the Committee on Social Questions was struck one day by a vision; it was touched by the hand of faith. It suddenly realised that the draft European Social Charter, whatever its merits and intrinsic worth, was likely once again to remain a dead letter if it could not be brought to life by some administrative machinery.

Once again we were faced with that problem which eternally haunts us within these walls: whether to confine ourselves to the easier task of uttering vague declarations of no practical use to anyone, or whether to draw up texts in the form of treaties, that is, definite undertakings, and set up the necessary international machinery to enable these treaties to have real influence on the course of affairs.

I showed you just now, though, how much moderation we have exercised in this institutional field. So far there has been no sign of what some people regard as the supranational monster. Of this there is not the slightest trace, even to the most suspicious minds, in the draft you have before you. I shall explain in a moment of what this draft consists. First, of all, however, I should like to quote, as an example of how the European Economic and Social Council should operate, a text which seems to me to be an excellent one. This is a resolution

which was adopted a few months ago by a private organisation, the International Committee of the Socialist Movement for the United States of Europe. This resolution ends with the following paragraph:

"The Committee of the Movement regards the establishment of the Economic and Social Council as a guarantee of the influence which the Social Charter should have on the social policy of Member States. It accordingly appeals to the Committee of Ministers of the Council of Europe to accept the scheme for an Economic and Social Council and to grant this organ the functions assigned to it in the draft text of the Assembly's Social Committee, seeing that the prestige

enjoyed by the Council of Europe among the general public would certainly suffer by any refusal to set up this body, without which the Social Charter would be deprived of all practical meaning and purpose."

It is considerations such as those which were in mind when we decided, at a memorable meeting held in Paris last June under the Chairmanship of M. Heyman, to treat the Social Charter and the Economic and Social Council as a single subject. We did this for two reasons which I shall repeat for the last time: to bring the Charter into being and to enable it to evolve.

A text like the Charter is not everlastingly immutable; it is subject to all kinds of changes in the course of events.

The time has now come for those people who advocate building Europe by empirical methods to put their ideas into practice and to agree with us that the Economic and Social Council should be so conceived as to enable the Charter not only to continue to be a living force, but to change and evolve.

You will find a long description of the machinery of the Economic and Social Council on pages 44 *et seq.* of my Report. Here again, I shall not go into details but merely mention the fact and stress a few important points.

The Economic and Social Council will operate solely by means of recommendations addressed to the Committee of Ministers and, where necessary, for the attention of the Government directly concerned. It may also convene conferences; but there is nothing new in that.

Lastly, the Governments—and this is where the officials come in—will draw up reports on the action they have taken on the programme mentioned by M. Heyman just now, the programme suggested by the Economic and Social Council and approved by the Consultative Assembly.

And here we do for the first time encounter a novel idea. That is the idea of a programme. Maurras—this, too, is an ill-omened quotation—would have called it empiricism, but creative empiricism.

Thus, the Charter will evolve, but along the lines of a definite programme drawn up both by the Council and the Assembly. Is there really anything revolutionary or subversive in that? I honestly do not think so, and I cannot imagine how anyone can claim that there is. The Report also describes the methods used by the Council to supervise the enforcement of the Charter. Here again it displays the greatest moderation. There is really nothing in this Report to make anyone apprehensive. The text is concerned with one thing only: to prevent the conflicts of competence which might arise, in the case of disputes, between the different bits of machinery of the Council of Europe which help to implement the Charter and the International Labour Office.

The text is conceived in a very liberal manner since, having to solve a possible conflict of competence between the Council and the I. L. O., it settles the question out of hand, with a rare generosity, in favour of the International Labour Organisation.

A third important point also mentioned in the Report is the task conferred on the Council in Article 21 of Part III. This text was discussed in detail by M. Heyman, but he said that I, too, intended to touch upon it, which is only

natural, since we come here to a point which we wished to emphasize, namely the evolution of the Charter under the supervision of the Economic and Social Council.

Read this text. You will find nothing new in it except procedures for making proposals or arranging consultations. Not one of the proposed methods is intended to lead to a decision of any sort. Thus the text remains within the bounds of that extremely moderate internationalism I mentioned just now.

These remarks apply only to the general features of the new Economic and Social Council and will, of course, be amplified during the debate, when the Rapporteurs will reply to the questions put to them.

There is, however, one point I should like to dwell on in passing: you must not think that this subject, even when briefly outlined as I have just tried to do, is a simple one. There is, for instance, one extremely difficult problem we have had to contend with from the outset and which we cannot claim to have solved in a wholly satisfactory way. If, therefore, you wish to criticise this point, I would ask you not to confine yourselves to a negative criticism but to propose an alternative solution to that suggested by the Committee on Social Questions.

This point relates to the composition of the Economic and Social Council. We started out with two considerations in mind: the first was that the different member countries of the Council of Europe should be represented on the Economic and Social Council, not on an egalitarian basis—an idea which I am glad to see has been dropped—but by means of a weighted system. The second was that present-day Western society consists in reality of three major forces: the employers, the workers and a third which is made up of people from widely differing professions.

We have thus combined the idea of a weighted system with that of the present social composition of the West. You will notice that we have somewhat deviated from the system in force in the International Labour Organisation, but we have done so in a progressive way.

The Labour Conference of the I. L. O. consists of four representatives per country (apart from experts, etc.) on the basis of two Government delegates, one workers' delegate and one employers' delegate. If we had taken the same figure and combined it with the idea of a weighted system, however, this would have given rise to an abnormally high number of seats for the new Council.

We had to ensure that even the smallest country—take Iceland, for instance, in order to avoid any more compromising examples for the moment—had enough seats for all the different forces of present-day society to be represented: that is, at least three.

If representation in this Council is weighted on the same scale as that in the Assembly, we arrive at a figure of 93 seats: 31 for the employers, 31 for the workers and 31 for the third group composed of all kinds of people, even Government representatives.

The text is flexible enough to enable States to be represented in this third group by their own delegates, if they so desire.

As you can see, this system is fairly flexible and progressive. At the same time it will

give the Council the character of a deliberative assembly truly emanating from the social strata of the various countries.

I should like to make one more point: in this difficult matter we have taken care to ensure that the number of the Council's members should not exceed that of the Consultative Assembly. We took this view, not for any naive or puerile tactical reasons, but because we honestly did not wish to turn this Council into a new Assembly. Within the framework of the Council of Europe there is and will remain only one Assembly, namely this Assembly. The Economic and Social Council will be a subordinate body which will submit recommendations to the Assembly or to the Committee of Ministers.

This, in short, Mr. President, Ladies and Gentlemen, is the child to whom we ask you to give civil status, a name and later an education. Now that I review it some months later, I am reminded of an old fable of La Fontaine's about the camel and the floating sticks. Confronted with this new structure, I feel like saying:

"From afar it looks like something; from near at hand it is nothing".

To say this, however, would be to kill our child, because you could at once retort that if it is nothing, then it serves no useful purpose whatsoever. I should therefore like to amend this quotation slightly and say:

"No, it is already something".

Is that something enough? Some will say yes, and others no. At all events it is a beginning and a most necessary one.

If we are really anxious to preserve the European idea, at present so gravely threatened

by storms and tempests, then it is high time we took action instead of merely talking about it. If we are to survive, we need the confidence of the people, particularly that of the workers. So long as this confidence is lacking, our work to promote the European idea may well remain purely academic.

I believe that the draft now before you is capable of rendering most valuable service to the Council of Europe; but more than this, that it can render even greater service to the European idea and to workers everywhere.

THE PRESIDENT. — I call Mr. Corish.

Mr. CORISH (*Ireland*). — I should like to say how pleased I am to have the opportunity of welcoming this attempt to formulate a Social Charter for Europe. For too long we have been labouring under the delusion that the mere expansion of economic activity is a sufficient objective in itself, and that social development and organisation is but a by-product which may virtually be left to look after itself. But man must not be regarded solely as a cog in the economic machine or a chattel of government. He has rights, the more important and fundamental of these being rights that come from God and not from the State, such as rights to freedom of conscience, to freedom of religion, family rights, etc. We have recognised these rights and other civil and political rights in the European Convention for the Protection of Human Rights and Fundamental Freedoms.

further and naming other rights and social objectives. These are based largely on the principles set out in the Preamble which is in general an admirable expression of the urge to promote social justice. If our work here, deriving from such principles, serves as a means of developing the human personality and raising standards of living, it will indeed have been worth while. It is symptomatic of the need of the situation that it is apparently necessary to do this, to clear our thoughts and to fashion our resolution, so that men may take action collectively to achieve ends which should really come about without any such instigation.

The rights of mankind are of supreme importance, and it is essential to be clear both as to their meaning and as to their limitations. Room for misunderstanding or doubt should be wholly eliminated or at least reduced to the very minimum, so far as this is possible.

For these reasons, I was pleased to note in the Explanatory Memorandum, paragraphs 7 to 10, that it was part of the intention of those drafting the Charter that rights should be defined with precision so as to avoid creating illusions and making promises which could not be fulfilled. I venture to think, however, that this intention has not been wholly realised in the Draft Charter. Most of the Articles combine a statement of a right followed by a declaration committing the Contracting Parties to certain lines of action. This, to my mind, creates a certain doubt as to the exact nature of the document, whether it is a charter of rights, a target or a blueprint of standards to be aimed at, or merely a political programme heralded by a flourish of rhetoric. Apart from this, it seems to me that, instead of providing us with a closer definition of the right contemplated under each Article—and this is really necessary—the draft seeks to achieve greater "precision" only in that part of the Article which deals with the undertakings to be made by the Contracting Parties as regards the implementation of fulfilment of the right.

For example, the "right to work" can hardly be intended to have the literal meaning it would have if it were to have an analogous meaning with the right to social security, namely, that the Government would be under obligation to provide jobs for all. To say that full employment shall be the constant preoccupation of a Contracting Party is an excellent sentiment which I wholeheartedly endorse, but to translate that into a right of the individual, except in some general sense, is a different matter.

I am also to some extent unhappy about the concept that the particular nature of the social, economic and cultural rights laid down in the Charter is to be accepted as being different from rights of a more fundamental character, from civil and political rights, in that these social rights are held to be merely a target to be reached by dint of gradual progress (paras. 8, 9, 14 and 17 of the Explanatory Memorandum). If the rights laid down in this Charter are to be understood, not in an absolute sense but in accordance with national possibilities and long-term objectives, the document may well do harm. Is there not a possible danger, when we are here describing something

as a right which is not really a right at all in the usually understood sense of the term, or is only a right in a relative sense, that the word "right" might become debased in the public mind, with adverse consequences in regard to the public attitude towards what I have described as the more fundamental rights? This would, I submit, be an unfortunate outcome.

I realise that the recognition by Governments of social or economic rights may involve something much more than a mere statement of agreement in principle or a protective benediction, but it seems to me that the extent of the commitments foreshadowed for Government activity is somewhat too far-reaching and not sufficiently realistic. In many of the aspects of life covered by the Articles in the draft, Government undertakings may well involve public expenditure of a sizeable order and they may also, in some instances, mean a degree of interference with the free play of economic forces, which may be unwise. As far as is consistent with the common good, the individual should be allowed the maximum liberty, and Government control should not be extended over fields where it is unnecessary.

It is possible that the public and their Governments may dismiss the document as being of no practical value if it aims too high. No purpose would be served by producing a charter of rights which, because of its over-ambitiousness, became pigeon-holed and perhaps the subject of ridicule. If too onerous a responsibility is sought to be placed on Governments, they will have no desire to become Contracting Parties and our work will become virtually a dead letter. Would not the public become disillusioned by the promulgation of a new Charter which held out a programme too idealistic for implementation in a reasonable time and granting rights whose fulfilment would be virtually unattainable? There is no use courting disillusion.

The proposal for a European Economic and Social Council is an ambitious plan, perhaps too ambitious, and I should like to make a few observations on it for your consideration, which I hope will be helpful to those who are again to study the question in the various Committees.

I have refrained from moving any obstructive resolutions, and I am limiting myself to voicing my criticisms in a friendly spirit and honestly expressing my misgivings.

The proposed Economic and Social Council has to be viewed under two separate aspects: (1) a large complex international body exercising wide functions in the economic, social and cultural fields, and (2) a special organism set up to implement the first two parts of the Social Charter.

To take the first aspect, I must admit that M. Dehousse has put before us a very strong case for a European Economic and Social Council and his analysis of the inadequacies—from a European viewpoint—of the existing international bodies operating in the social and economic fields sounds very plausible and convincing, but we are given only one side of the case. Certainly, as an ideal, no one can deny that there is a lot to be said in favour of a tripartite body as proposed in the Social Charter. But we must be realists and, before we plunge

into recommending the adoption of this Charter in its present form to the Committee of Ministers and to the Member Governments. I would urge the Assembly to pause a moment and consider coldly and deliberately whether or not we are asking for too much, too soon.

The Council of 93 members meeting not less than once a year, its sections and subsections meeting more frequently, and the special secretariat, from the new Deputy Secretary-General down, will add a heavy burden on to the subscriptions of Member States, possibly about 33,1/3% on to the present budget, and we need not complain if the Ministers and Member Governments will examine in cold monetary terms the costs of the proposed Council against the facilities already available.

The Assembly may feel that the European Economic and Social Council is well worth this expense, but it will have to give solid reasons for this sentiment.

The general functions of the Council must be closely examined in the light of Article 1 (c) of the Statute, namely, that its activities shall not affect the collaboration of its Members in the work of the United Nations and of other international organisations or unions to which they are parties. We must face facts, and it is a fact, even if an unpleasant fact, that one of the most consistent and serious criticisms levelled at the Council of Europe is that in many spheres the Council of Europe has been needlessly duplicating the work of already existing international organisations. Despite its wider scope, the proposed Council cannot but duplicate much of the work of the I. L. O. as far as worker and employer groups are concerned. I cannot say how much overlap in subject-matter there might be between the proposed Council and the United Nations Economic and Social Council, but I suspect that it is considerable.

The basic difference between the structure of the proposed Council and that of the I. L. O. is that in place of Governments we have the interests of the general public, and it may be argued that this innovation compensates for the duplication involved in other sectors. But if we, the members of the Consultative Assembly of the Council of Europe, do not represent the interests of the European general public, what do we represent? Apart from governmental experts, whose co-operation with Assembly Committees is a matter of some difficulty in my country because of legal-constitutional problems, we have in this Assembly excellent Representatives, acknowledged experts in all the fields of general public interest as defined in Article 26 of this Charter, and more.

I think this Assembly should jealously guard its role of initiating, discussing and examining European social and economic policy and, in the present stage of European integration, I fear that the activities of the proposed Council would largely duplicate the work of this Assembly to little extra advantage.

However, I do agree that the second aspect of the proposed Council, that of the body immediately concerned with the implementation of the Charter, is necessary if the Charter is to be effective. But could this role not be more efficiently carried out by setting up a Social Charter Commission on a basis similar to that of the Human Rights Commission, with which it should co-operate on the lines laid down in Part IV of the draft Charter? Indeed, I

imagine one of the first acts the tripartite Council would have to do, if it is to come into being in the form proposed here, would be to set up a special committee to supervise and do the actual work involved in implementing the Charter.

My country has taken its obligations to the Council of Europe very seriously, and I am proud to say that our record in ratifying the Conventions made under the auspices of the Council is second to none. We view these Conventions, modest as some of them may be, as forming a solid mortar in the structure of Europe. I should like to see a Social Charter added to the list of Council of Europe Conventions, but, in its present form, I do not see the charter ever coming into force, as I doubt that it will obtain the ten ratifications required by Article 47. It is thus only for realistic commonsense reasons that I urge the Assembly to consider carefully whether or not its demands can be met, and to be satisfied for the present with those demands that will meet with a reasonable general degree of acceptance on the part of Member Governments.

I am very pleased that the Assembly yesterday decided not to have a vote on this document. In my own case, I should find myself in a dilemma, because while I could not vote for the document *in toto* I must confess that I could not vote against it *in toto*. It is a wise move to have the document and its proposals reconsidered. In saying that, may I congratulate M. Heyman and M. Federspiel on the attitude which they adopted yesterday, an attitude which is indicative of the close co-operation, reasonableness and understanding that there is between the member countries of the Council of Europe?

I prepared my speech before M. Heyman spoke. I must confess that some of the doubts, misgivings and fears that I had about the proposals contained in the document were dispelled by the detailed analysis which M. Heyman and M. Dehousse gave of Doc. 403. However, by and large, I have no doubt that on further re-examination of Doc. 403 in the two Committees concerned there will emerge a Social Charter which will in itself have justified the existence of the Council of Europe.

THE PRESIDENT. — I call M. Gudmund Harlem, Norwegian Minister of Social Affairs.

M. Gudmund HARLEM (*Minister of Social Affairs, Norway*). — Allow me first, Mr. President, to say how glad I am to take part in and to listen to your debate on the important subject of a European Social Charter and a European Economic and Social Council.

I have studied with great interest Doc. 403, with the draft Recommendation for a European Social Charter, and I have also studied the letter sent to you, Mr. President, the day before yesterday by the Chairman of the Committee on Economic Questions. I think that the points put forward in the letter against the Recommendation under discussion are very well taken indeed, and I am sure all of you are — as I am — going to bear very much in mind in your future work the points of view of M. Federspiel, founded as they are on economic considerations.

Personally, I agree with the points of view of the Committee on Economic Questions in most details and with its general approach to the problem, and I am sure that the Committee of Ministers, on very much the same basis, will find it impossible to accept a Social Charter as drafted in Doc. 403.

In addition to the economic considerations set forth, I should like to say that, also from a purely social point of view, the proposed Charter is, in my opinion, open to criticism on many points. Allow me, Mr. President, just to mention two points.

In the draft Charter a retirement age of 65 is recommended. Even if we do not consider the difficulties met in communities where the percentage of the population above 65 years of age is increasing sharply, it is very doubtful indeed whether it is to the benefit of the individual to retire at the age of 65. The results which have accumulated from recent research show how enormously important it is to the health and well-being of the elderly person to stay at work and keep up his activities. The low retirement age recommended may possibly be recommendable from a social point of view in a community with unemployment, but I should say that the solution of the problem of unemployment ought not to be to shift unemployment from the young people to the elderly.

The draft Social Charter also recommends the sharing of profits. I believe that this might easily lead to socially indefensible differences in the standard of living between employees in undertakings with modern equipment and great capital investment and employees, just as skilled and working just as hard, in undertakings not making a great profit for reasons far beyond the control or influence of the employees.

Other points might merit more careful study from the social point of view, but I shall not use the valuable time of the Assembly for this purpose.

However, if you will allow me, Mr. President, I should like to say a few words on the proposed European Economic and Social Council.

In addition to the point put forward by the Committee on Economic Questions with reference to the dangers involved in organising groups which in certain circumstances might act as pressure-groups vis-à-vis elected parliamentarians, a point which is very well taken indeed, it is my feeling that international and European co-operation is limited in its speed of development and achievement not by any lack of interest on the part of Parliaments, Governments or the general public but by the limited funds which are available in all countries for such international work and by the limited number of personnel available in many countries who are qualified to further often very difficult international co-operation.

Bearing this in mind, I think that we have, from a purely social point of view, all possible reasons to avoid duplication of effort. In the field of interest where the proposed European Economic and Social Council would work, we have already the Economic and Social Council of the United Nations, the International Labour Organisation and the World Health Organisation. All three are experienced organisations, all three have a qualified and well-trained technical staff at their disposal, all three are

interested also in European affairs, and all three are hampered in their work not because of lack of ideas and knowledge about what to do but because of lack of money and personnel.

This being the situation, the proposed European Economic and Social Council would, in my opinion, very easily hinder and slow down international work in the social and related fields.

It would be my suggestion, Mr. President, that the Council of Europe would be very well served through the three existing organisations. I think they would be only too happy to do their best to serve you, if you ask them to carry out what you recommend. That would mean concentration of effort, and it would mean that the Council of Europe would not be open to the often hard criticism that it duplicates work already done by others—the criticism referred to by the Minister of Social Welfare of Ireland.

Speaking about duplication, may I point out that, in this case, duplication of work has been going on inside the Council of Europe itself? As will be seen in the note submitted by the Secretariat on the procedural history of the European Social Charter, the Committee of Ministers in May, 1954, stated that it would endeavour to elaborate a European Social Charter as recommended by the Assembly in September, 1953, and that the Committee of Ministers would entrust this task to the governmental Social Committee which is composed of social experts. However, on 9th July, 1954, two months later, the Standing Committee instructed the Committee on Social Questions to prepare a draft Social Charter. This meant that when the Committee of social experts met for the first time they learned that two committees, both served by the Secretariat of the Council of Europe, were working independently of each other on the same subject, namely, that of drafting a Social Charter.

As you may know, the five Northern countries have through the years gained practical experience in implementing the idea of international co-operation. This experience has led to the definite practice of parliamentarians expressing their general wishes in any specific field. On this basis, technical experts work out a concrete proposal, which is then considered again by the parliamentarians. We feel that to ask parliamentarians to penetrate too deeply into the technicalities of any problem, in order to be able themselves to draft a detailed proposal, would be a misuse of those highly-qualified and much-needed parliamentarians.

With this in mind, Mr. President, may I suggest that on the basis of the General Debate here today, and on the basis of consultations between interested Committees of this Assembly, a common meeting be called between Representatives of the Assembly and the Committee of social experts? In this joint meeting the Representatives of the Assembly should point out the wishes and intentions of the Assembly and then the Committee of social experts should be left with the task of drafting a proposal likely to be acceptable both to the Assembly and to the Committee of Ministers.

However, the Committee of social experts should be granted reasonable time in which to

prepare such a draft. It simply cannot be done in a matter of weeks. This holds true whether we ask the Committee of social experts to draft a minimal code of social security or to draft a manifesto pointing out the aims which all European countries should strive to achieve. From a practical point of view, I feel that a minimal code of social security would be very important, whereas a declaration of principles might be of less practical value, and might also lead to considerable disagreement simply because social problems at present are different in different parts of Europe, and the ultimate goal of our social policy necessarily must look different for the time being.

THE PRESIDENT (Translation). — I call M. Santero.

M. SANTERO (Italy) (Translation). — Mr. President, Ladies and Gentlemen, I should like in the first place to thank the Committee on Social Questions for its valuable work and congratulate the Rapporteurs, M. Heyman and M. Dohousse, on their particularly able and comprehensive reports and statements.

The proposed European Social Charter and European Social and Economic Council form a fitting pendant to the Convention on Human Rights and Fundamental Freedoms which, as has been so rightly observed, marks a new departure in relations between European countries. It is indeed the first time that sovereign States have allowed other States the right to inquire into the treatment meted out to their

own citizens. Yet that Convention has not been immune from criticism. The objection has been made that it makes no mention of freedom from want, which is just as important a factor as political freedom in the development of human personality and the promotion of human well-being and a measure of happiness.

I well remember the discussion which took place in the Foreign Affairs Committee of the Italian Senate concerning the Convention on Human Rights, which came in for similar criticism from both supporters and opponents of union between the Western European peoples. As for the opponents, there was no means of convincing them—there is none so deaf as he who will not hear. But there was no difficulty in persuading those in favour of European union that a Convention designed to liberate men from want as well as protect their economic, social and cultural rights must come later, in view of the complexity of a charter of this kind and especially the difficulty of putting it into effect.

The good will of Governments may indeed suffice to guarantee political and civic rights, which can be protected, as M. Heyman quite rightly points out, by legal provisions of a purely negative character. On the other hand, the States, which by ratifying this Charter, undertake to safeguard social, economic and cultural rights will be called upon to make positive and constructive efforts in order to do so. The implementation of this Charter will not only make demands on the public authorities: it will require the exertions of the whole active population. As M. Heyman says, this will mean a good deal of positive work for the administration and legislature.

The Charter is something more than an abstract declaration of economic, social and cultural rights. Effective exercise of these rights cannot be secured without specific measures, which the signatory States undertake to introduce. Thus, the Charter we have before us for approval today is of considerable importance and will involve heavy responsibilities for Governments which subscribe to it.

It would therefore be advisable to improve the text in certain respects. The Charter should be so drafted as to allow of a stage-by-stage development following an agreed programme.

To ensure fulfilment of the obligations accepted under the Charter, it is proposed to institute a European Economic and Social Council. It should be noted that this body is intended to help the signatory States to overcome the obstacles and difficulties they may well, or indeed will, encounter in endeavouring to honour their commitments, rather than to impose disciplinary measures in the case of their failure to do so. We must applaud the spirit in which the European Economic and Social Council is conceived, for it is an expression of the solidarity which should guide the united efforts of our member countries.

We note that the Economic and Social Council is to be tripartite and represent employers, workers and the interests of the general public, thus embracing the entire activities of the population, apart from the armed forces. It would therefore occupy an important place in the framework of the Council of Europe. Its function of pronouncing opinions and of making recommendations to Governments and international organisations will be exercised under the supervision of our Assembly. The same applies to the planning of its operational programmes. These opinions, recommendations and programmes have then to be approved by the Committee of Ministers. Furthermore, this Council is expected to report each year to the Assembly on progress made in the implementation of the Social Charter.

With this functional and organic role in the Council of Europe, the Economic and Social Council will most surely enhance our prestige and support our efforts to attain the aims we have set ourselves.

Furthermore, Article 21 of the Charter specifies that one of the tasks of the Council is to prepare, guide and facilitate measures for integration and co-operation in all sectors of European social and economic life. If only the representatives of every branch of activity

will take a broader view of their interests and consider them, not from the standpoint of their individual country or particular occupation, but with an eye to the common European cause, that will certainly help to cultivate a European consciousness, a genuine European community of interests, and stir the world of industry out of its ignorance of, or indifference to, the work of the Council of Europe and its Assembly.

It is for those reasons, Mr. President, that I hope to see the Economic and Social Council established as soon as possible. I took part in the Social Conference at Rome in 1950, when a Council of this kind was advocated as a practical demonstration of the importance of European unification to workers and employers

I was also a member of the Constitutional Committee of the Ad Hoc Assembly, which was envisaging an Economic and Social Council as an organ of the European Political Community, and became more and more convinced of the need for such a body. Only last year, when plans were maturing for Western European Union, I proposed that they include the formation of an Economic and Social Council. We must open our doors to the best types of employer, to representatives of the best workers and the most public-spirited citizens.

It has been said that this Economic and Social Council may overlap with other organisations such as I. L. O. at Geneva or the Economic and Social Council of the United Nations. But there are important political reasons why we should choose without hesitation a European in preference to a world-wide organisation. We shall learn by experience how to avoid undesirable duplication and dispersion of effort.

There is another reason which predisposes me more and more in favour of setting up this council. I have seen how keenly the Italian people, particularly those in industry, were interested in the formation of a National Economic and Industrial Council, which has been passed by the Chamber of Deputies and referred to the Senate for examination and approval. The interest shown by the world of labour in the work of bodies concerned with economic and industrial problems, and in all forms of social legislation, is a sufficient pointer to the satisfaction with which our peoples will welcome the Social Charter, especially if its text is improved and its provisions wisely applied, and to the valuable influence it will exert in the awakening of a European consciousness.

THE PRESIDENT. — I call upon Miss Burton.

Miss BURTON (*United Kingdom*). — Mr. President, I am very glad, as other speakers have been, that it has been decided that there shall be no vote upon this matter today. As Vice-Chairman of the Committee on Social Questions and as one who wishes above all that our Social Charter shall, in the not-too-distant future, be accepted both by the Assembly and by the Committee of Ministers, I should like to explain why I feel like that.

I am not saying anything here which my colleagues on the Committee on Social Questions have not heard me say therein, but I think it brings the Council of Europe into disrepute if we put forward suggestions or documents which must of themselves inevitably be turned down. It may be that Governments will not agree with something which is proposed; that, of course, is a matter of opinion, and I am not talking about affairs like that. But if we set down in our proposals which go from this Assembly to the Committee of Ministers actual plans and suggestions which will be quite unacceptable in any circumstances whatsoever, whichever political party may be in power, to some of those Governments, then I think it is unfortunate.

I want to take three practical examples, because I think a short dose of what is practical is of infinitely more value than a mass of theory.

I should like to try to explain to my Continental colleagues, who have been very patient with me in the Committee on Social Questions, why it is that the British representatives— I think of whatever party— could have been unable to vote for this Social Charter, had it been put to the vote today, because when this Social Charter comes back to the Assembly, I should like to see matters so framed that they are acceptable.

The first part of Document 103 deals, in the Preamble, with viewpoints. The viewpoints and aims which are set out in this Charter obviously are admirable and I am quite sure that the British contingent would subscribe to them. But I believe that the difficulty arises when we get on to Part II and deal, first of all, with the aim, or right, and then set out categorically how that aim or right is to become practical politics or law. In page 5, Article 2, the Committee on Social Questions— of which I am very proud to be a member— sets out definite conditions of work. We state that there should be equal pay for equal work—and I am certainly in agreement with that—and we discuss hours of work, etc. The British contingent and I myself would accept all those aims as desirable, but my colleagues will note that at the end of the statement of these aims, in page 5 of the document, it is stated that

“ The High Contracting Parties undertake to ensure that the standards laid down in this Article are implemented in individual and collective employment contracts. ”

I cannot believe that Great Britain is the only country in Europe where matters of industry and conditions are matters on which agreement has to be reached by both sides of industry. It would be utterly and completely impossible for any United Kingdom Government, whatever party was in power, to undertake forthwith to implement any of these things in industrial agreements. It just could not do it. It seems to me to be very unfortunate that we should have this sort of thing when it would mean perhaps the turning down of a Social Charter which means so much to us all.

I want to reinforce the plea that I have already made to the Committee on Social Questions. When this matter is further considered by the various Committees, I ask them to bear in mind that it will be quite impossible to get any Social Charter through the Assembly and the Committee of Ministers unless it is so drafted that the different countries may be able to bring about these things according to the possibilities of the laws of those countries. It is quite impossible to arrange these matters by law in Britain: it must be done by collective agreements and bargaining between trade unions and employers.

Secondly, I want to refer to Article 7, which says that everyone has the right to form trade unions. Of course he has, but it is not practical politics. We cannot have people forming break-away unions in different countries. When a thing cannot be done, it is simply not worth while putting it in the Charter, because it just does not mean anything. No Government in Britain would accept that: the trade unions would refuse at once to tolerate it. I

ask my colleagues from other countries whether Great Britain is the only country in which the trade unions would say: "This cannot be done." In theory, of course, everyone has the right to form a trade union, but every one of us must know that we cannot go back to our countries and start forming trade unions just because we have the right to do so. It does not make sense.

My last example concerns Article 14 and is a little more difficult. I hope that my colleagues will not think that I am adopting a strange way of supporting the Social Charter, but my great desire is to see the Social Charter accepted. I tried to explain this matter in the Committee on Social Questions, but perhaps I was not too clear. Article 14 contains a definite statement concerning matters in industry, and refers to the amount of leave with pay which shall be granted to mothers in connection with childbirth. There is a definite fact laid down here, and it states categorically that that leave shall be with pay for not less than six weeks before and six weeks after childbirth. In Great Britain we certainly give that amount of leave with pay; we give 13 weeks, but we believe that it is for the woman herself to decide whether she shall have, for example, three weeks before and ten weeks after. We think that the woman is the best judge of that, and I think that nobody in this Assembly will deny that fact. We could not sign an agreement which laid down that a woman must have six weeks before and six weeks after. She might not want it. I feel that these Articles should be drafted so that it is possible for Governments to sign them. As I say, in Great Britain we give a period of 13 weeks, but we believe quite definitely that it is for the woman herself to decide how those 13 weeks shall be divided.

Having in a somewhat definite way not spoken in favour of the Social Charter, I want to say, with my Chairman, that I believe this Social Charter is a conception which it would be wonderful if the Council of Europe could bring about. My sole aim is that each country shall find it possible to sign the Social Charter and that it shall be so worded that all of us who want to bring it about shall have a chance of doing so, and this means that the actual drafting must make it possible for each country to interpret those aims according to its own legislation and the position obtaining in its own country. I believe, as the Minister from Norway said, that the final draft must be acceptable both to the Assembly and to the Committee of Ministers, and I hope very much that my strange way of supporting the Social Charter will not be without some usefulness when it comes back to us again.

THE PRESIDENT. -- I shall now adjourn the General Debate on the European Social Charter and European Economic and Social Council. The General Debate will be resumed at the next Sitting.

CONSULTATIVE ASSEMBLY OF THE COUNCIL OF EUROPE

SEVENTH ORDINARY SESSION

OFFICIAL REPORT

Sixteenth Sitting

Tuesday, 18th October, 1955, at 3.30 p.m.

SUMMARY

1. Adoption of the Minutes	445	
2. Attendance Register	445	
3. Examination of Credentials (debate on the report of the Credentials Committee, Doc. 431)	445	caution from the Committee on Economic Questions, Doc. 407) 446
Speakers : Mr. Oakshott (Rapporteur), the President		Speakers : Mlle. Klompé, M. Federspiel (Chairman of the Committee on Economic Questions) the President, Mlle. Glierfelt-Tarp, M. Birkelbach, Mlle. Weber, Miss Pitt, MM. Nicolson, Pezet, Mrs. Crowley, Lord Layton, MM. Mammis, Smithers, Hellwig, Heyman (Chairman and Rapporteur of the Committee on Social Questions), Tümerkan.
Adoption of the conclusions of the report of the Credentials Committee.		Question referred to the competent Committees.
4. European Social Charter and European Economic and Social Council (resumed General Debate on the draft Recommendation proposed by the Committee on Social Questions, Doc. 403, and on the communi-		5. Date, Time and Orders of the Day of the next Sitting 479
		Appendix: Attendance list 481

The Sitting was opened at 3.30 p.m. with M. Margue, Vice-President of the Assembly, in the Chair.

THE PRESIDENT (Translation). — The Sitting is open.

1. Adoption of the Minutes

In accordance with Rule 21 of the Rules of Procedure, the Minutes of the previous Sitting have been distributed. Are there any comments?...

The Minutes were adopted.

2. Attendance Register

THE PRESIDENT (Translation). — The names of the Substitutes present at this Sitting have been posted on the board.

The Attendance Register appears as an Appendix to the Minutes and to the Official Report of Debates.

3. Examination of Credentials

(Debate on the report of the Credentials Committee, Doc. 431)

THE PRESIDENT (Translation). — The Credentials Committee has examined the credentials of M. Erden, substitute member of the Turkish Delegation, and it is ready to present

its report to the Assembly.

I call Mr. Oakshott, Rapporteur of the Committee.

Mr. OAKSHOTT, *United Kingdom*. I have to report that, in accordance with Rule 6 of the Rules of Procedure.

1. the Committee responsible for the examination of credentials examined those of M. Erden who, in accordance with paragraph (c) of Article 25 of the Statute, has been appointed Substitute to the Consultative Assembly of the Council of Europe and whose credentials have been duly handed in to the Secretary-General of the Council of Europe;

2. for the first part of the Session Turkey appointed its ten Representatives but no Substitute;

3. no objection having been raised, the Committee unanimously proposes that the Assembly confirm the validity of M. Erden's appointment.

THE PRESIDENT (Translation). — The Credentials Committee duly approves the credentials of M. Erden. Are there any objections?...

The conclusions of the report of the Credentials Committee are adopted.

M. Erden is authorised to take his seat as Substitute for the Seventh Session.

4. *European Social Charter
and European Economic
and Social Council*

*(resumed General Debate
on the draft Recommendation
proposed by the Committee
on Social Questions, Doc. 403,
and on the communication from
the Committee on Economic Questions, Doc. 407)*

THE PRESIDENT (Translation). — The next item in the Orders of the Day is the continuation of the General Debate on the draft European Social Charter and the creation of a European Economic and Social Council. I call Mlle. Klompé.

Mlle. KLOMPÉ (Netherlands). — The Assembly was well advised when it decided yesterday not to vote today on the final text of the draft Recommendation containing the Draft European Social Charter. As M. Heyman pointed out this morning, this matter is so important that one day's debate is not sufficient: to arrive at a definite text we need more study in our Committees, we need consultations with committees on the Ministerial side and also with many non-governmental organisations. I welcome the start which has been made with this text, because we have to make a beginning some day, and I am hoping that this debate can contribute to the quality of the final draft.

In this era of technical development and achievement, in this era of atomic energy when humanity is possessed by fear and we are confronted with the possibility of mass destruction and the tendency towards "massification" the important problem to solve is the adaptation of mankind to modern conditions of life. It is our task to restore to the individual an inner harmony and to give him the feeling that he belongs to a community in which he feels at home and in which he has his own responsibilities and the chance to develop his own capacities. In short, it is our task to watch that the common man, every human being, gets the opportunity to be a person worthy of respect and love, his human dignity being based on his divine origin and immortal destiny. All our efforts towards European unity will be in vain if we forget this most fundamental aspect of man's well-being.

I read the draft Recommendation with great interest and with great care; I am very conscious of the immense work that has been done by the Committees, and I am grateful for it. I should like my remarks to be considered by members of the Committee on Social Affairs as a positive contribution for the further study we are going to make. In making my remarks I am aware of two facts: the first is that my comments will not be of an exhaustive character, as time is too limited, and, secondly, it is much easier to criticise texts than to draft them.

Before coming to the text itself, I should like to make one general remark. In reading the text, there are two conditions which to my mind have to be fulfilled. The first is that we should not write and proclaim provisions in this Charter which create false illusions, provisions which we cannot in the end implement. I shall give an example later, but I am wonder-

ing whether the Committee has really succeeded in avoiding this danger. My second condition is that we should read every provision in the light of the necessity of maintaining and promoting the personal responsibility of the human being.

I shall now comment on the draft Recommendation, starting with the Preamble. I have two remarks to make on the Preamble. On page 18 the Rapporteur, M. Heyman, discusses the juridical importance and legal scope of the Preamble. This morning he repeated that these provisions are morally binding in character, with one exception that is, the last paragraph, which is legally binding. Perhaps it may be more a question of form than of substance, but, from the point of view of international law, I should like to know whether this is a proper procedure, namely, to combine in a Preamble which many juridical experts consider to be only morally binding one provision, paragraph 15, which is juridically binding. Most of what is said in paragraph 15 is repeated afterwards in various provisions in the Charter—for example, Articles 40, 41 and others. I wonder whether we could not include in the Charter itself a provision showing the legal commitments which the Contracting Parties undertake.

I should like to avoid having a Preamble containing two sorts of paragraphs, one only morally binding and the other juridically binding—the more so because it would be possible in the interpretation of the Preamble to say, since paragraph 15 is binding, what is the exact sense of the other paragraphs? For instance, take paragraph 14. How should we read paragraph 14, which states that the High Contracting Parties will further develop their co-operation in social and economic matters and in particular will harmonise their social legislation at the highest level attainable? What does the Committee mean by this general statement of wanting to harmonise at the highest level attainable our social and economic legislation?

Such legislation comprises many measures in the social and economic fields. For instance, there might be one measure at the highest level in France or Italy, another measure at the highest level in Germany, and a third measure at the highest level in Holland. Would that mean that all those countries would have to bring their various social measures to the highest level of anyone of those countries? I wonder: in my remarks I appear mostly to be putting questions to the Committee—whether that would upset the balance in the social legislation of a particular country. I cannot feel that that is the meaning of the Article, but I wonder whether the words which have been used are the correct ones.

I now come to Part II, Article 2. The Rapporteur has pointed out that every time we recognise a right we give, in the same Article, the means and measures for securing the right and implementing it. But in reading these Articles generally I ask myself whether giving these measures in an exhaustive fashion is the proper procedure. The impression given is that these things have to be done. I wonder whether there might not be, in different circumstances, other measures to be taken to implement the right concerned. I wonder whether the draft is not presented to us in too

exhaustive a manner, in that it says that our goal may be attained by doing certain things when at other times we may find other means at our disposal.

I agree with most of the rights set forth in Article 2. I would, in passing, call attention to the right to

"equal pay for equal work".

which is wrongly rendered in the English text. The original French text correctly expresses it as

"equal pay for work of equal value".

I think it is merely a question of the translation. I agree with this principle, but I think that in declaring it we ought to know what we mean by "value". Is it economic value? Is it social value? Are we thinking of work classification? Is it not necessary to be more precise?

I then turn with some hesitation to Article 2 (d), concerning the 40-hour week. I have some hesitation about this. I recognise that there might be a situation in which a 40-hour week would be a good thing—for instance, when the work is such that from the point of view of health 40 hours a week is the maximum that should be worked—and, on the other hand, I recognise that in times of depression (not at a time of boom, such as we have today) a 40-hour week would be justified in an effort to give all the workers an equal share of working hours instead of having some of the workers employed for 48 hours a week and the remainder unemployed, but, in general, I hesitate to say "yes" to this right. Is there not now much to be done in Europe? We are just beginning to get on our feet in the world from the economic and social points of view. Is this the time to think about reducing our working hours?

Have we not a choice between two solutions? One solution is to reduce the hours of work per week and give the workers more spare time, at the same time creating a sociological problem about the use of that spare time. The other solution is to give the worker the opportunity to work longer hours, but in that event giving him a better share of the prosperity resulting, giving him the opportunity—referred to in Article 8—of becoming the owner of real and personal property.

My preference is for the second solution, but this is such a complicated problem that today I do not dare to express myself explicitly one way or the other. However, we ought clearly to be aware that declaring such rights in a Charter like this can have a great influence on public opinion. Consequently, we ought to bear in mind all the social and economic effects of such a right.

This morning Miss Burton commented on the last part of Article 2, which refers to the High Contracting Parties having the opportunity to intervene in the arrangement of collective and individual employment contracts. I agree with her comments. I wonder whether it would not be going too far to interfere in what is done by private enterprise and professional groups. Here again the factor of responsibility comes into play.

I shall not comment on every Article, for that would take too much time. I merely want to take a few examples.

I think there is a translation error in Article 5. The English text refers to

"the introduction of joint labour inspectorates and tribunals."

I wonder whether the word "tribunal" is the precise translation of what the French call *juridiction paritaire du travail*. Does this Article mean that the worker would be deprived of the free choice of being judged either by a tribunal or by a court?

Article 12 (e) deals with the right to free basic medical care and treatment. Is it necessary to give anyone free medical care and treatment? From the point of view of the responsibility of the individual, would it not be possible for everyone to bear his own responsibility? Of course, Governments should promote and encourage the existence of insurance companies—giving reasonable terms so that everyone is able to avail himself of their services. It may be that in some countries the right stated in the Article is the best solution, but why should it be enforced on all countries? Also, what is "basic medical care"?

In this respect, am I wrong in saying that at present a European Code of Social Security is being studied? Would it not be better to put into the Charter, in general terms, the social security rights and work them out in more detail in the Code of Social Security?

I do not quite understand Article 13. When inflation occurs and devaluation takes place, the purpose of the devaluation is chiefly to bring one's economy into balance again. When wages and incomes adapt themselves to the new situation and when Governments are asked to protect savings and social benefits, I do not see the use of the devaluation. In such circumstances the whole burden would be put on only a small group of the population, not the workers and not the people with savings, but the people owning some sort of property from which they get a living. I cannot think that that would be the solution. Should not a proper economic and monetary policy avoid inflation?

I have one comment to make on Article 17 which deals with cultural development. The second line reads:

"This education should be based on respect for the values and traditions enshrined in the European spirit."

I agree, but when we ask the man in the street in Italy, France, Germany, Holland or Turkey what exactly is meant by "the European spirit" the answers will be quite different. I should like very much to see the work of the Round Table Conference in Rome, which started, I think, two years ago, stimulated and encouraged, because it is very important that in our schools we should teach our children the general meaning of the European spirit. Of course, everyone will say that it is a respect for human rights. All of us who have been outside Europe know very well that, being outside, we immediately recognise whether something is European or not, but, when in our schools, in discussing culture, we teach children that

Verdi was an Italian composer and that Rembrandt was a Dutch painter, we forget to give them a general view of European culture. However, that is by the way.

I now come to the European Economic and Social Council. M. Dehousse divided us into two kinds of colleagues: the social ones being in favour of, and the economic ones being against, the Council. I am in favour of the Council, so, in his opinion, I belong to the social ones. I do not see that such a Council would be merely a duplication of the Economic and Social Council of the United Nations, because the composition is quite different. The United Nations is composed of delegates of Governments, and the field of the United Nations is wider and therefore more difficult, because divergence of situation as between the various countries in the United Nations is far greater than it is between European countries.

I must confess that, when I first read the text, I was not satisfied. Then I read the comment and, later on, I learned from the speeches of the two rapporteurs that the character of this Council would be only consultative. To this I agree. There should not be any confusion between the responsibilities of an advisory body of professional groups, of workers and of employers, on the one hand, and, on the other, the responsibility of Parliamentary representatives.

However, the text is not very clear. It is stated at the beginning of Article 20:

"To ensure the observance and implementation of the pledges made..."

The last paragraph of Article 37 deals with the Commission which is to draw up a report, and then with the Council "which shall then determine" measures. I think this phraseology will create misunderstanding; it is a consultative body, to promote observance but not to ensure it. It is a consultative body which recommends but does not determine. Could the Committee review the wording in this light?

This morning M. Dehousse told us that he had taken care to ensure that the Assembly would always exert influence. Especially when speaking of the programme that is to be drawn up by the Council, he said that it would be after the Assembly had agreed. However, the second paragraph of Article 34 refers to a programme drawn up by the Council after consultation with the Governments of the High Contracting Parties and "with the approval of the Committee of Ministers". But there is no reference to the Assembly in this respect. May I ask M. Dehousse if I should understand that paragraph in this way: that the programme drawn up by the Council will be in the form of a recommendation going to the Assembly, and from the Assembly to the Committee of Ministers?

We refer to recommendations. Would it not be a good thing to define exactly what we mean by that, since in the Coal and Steel Community a recommendation has quite a different meaning from one in our Assembly. Therefore, it would be as well to show clearly that a recommendation in this Council is not binding, either as to the means or the goal.

In general, I agree with the idea of setting up a European Economic and Social Council, but I want to put another question to M. De-

housse: why does he limit the membership of the Council to the members of the Council of Europe? Why does he exclude any country willing to accept the Charter from membership of that Economic and Social Council? When, for instance, for perhaps political reasons having nothing to do with the respect of human rights and so on, one country in Europe would like to join the Council of Europe but cannot do so, I should like to know the reason why the Committee would exclude that country from association in this respect.

I apologise for taking so long, Mr. President and in conclusion may I say a few words on the procedure? I hope the Committee has understood that my remarks are meant as a contribution to the debate and I hope that the Committee will continue its study. I welcome very much the final part of the speech made by the Norwegian Minister this morning when he proposed that there should be discussion between our Committees and the Committee of social experts. Would not the best solution be for us, before leaving Strasbourg, to pass a resolution to the effect that all our competent Committees should review the text in the light of this debate, and that during this winter they should have discussions and consultations with the Committee of social experts? In that case we could have a second and more precise text for our Session next May. If we had that text in time, we should have more time to think it over and amend it finally. I consider this debate today to be a First Reading, the first reaction, from which you can have some indication whether, in general, there is agreement or not.

I should not like it to be thought that I am not in favour of adopting a Social Charter, but I have made some critical remarks because I want this Charter in future to be as good as possible. In congratulating the Committee on the work which it has done, I do hope that they will consider my remarks as a constructive contribution and as the expression of my good will for us to work together and reach our final aim in this matter.

THE PRESIDENT (Translation). — I call M. Federspiel, Chairman of the Committee on Economic Questions.

M. FEDERSPIEL (Denmark). — If you go through the history of the document before us (Doc. 403), I think you will find that it is the result of a somewhat sudden marriage between two originally quite separate items on the Agenda of this Assembly: one, the Resolution to set up a Social Charter, and the other, the proposal for the creation of the Economic and Social Council. This marriage took place as late as 1st April this year, when these two items were combined in the Sub-committee of the Committee on Social Questions. I have every reason to doubt whether either of those parties to the marriage had attained sufficient maturity to enter into this union.

I shall not at this stage go into the procedural problems involved in dealing with this question. I trust that Representatives will not misunderstand what happened yesterday and think that there is any jealousy on the part of the two Committees about dealing with this matter. The reason your Committee on Economic Questions raised this matter was that we

found enormous economic problems involved in the text before us. I also find, upon further study, that there are both legal and political problems involved. I have already dealt with this in my letter, circulated in Doc. AS'B 7 8, to the President of the Assembly.

This morning I listened with the greatest interest and, I should also like to say, admiration to the way in which M. Heyman and M. Dehousse advocated the draft before us, but I am afraid that, in spite of this brilliant advocacy, I was not in any way convinced either of the advisability of adopting a Social Charter on the lines proposed or of the benefits to be derived from an Economic and Social Council; on the other hand, I hardened in my belief that this draft as it stands is very likely, if passed by this Assembly, to lead us into an *impasse* which might bring about stagnation of social progress or perhaps even a setback to the progress which is being achieved every day in every one of our countries.

It is the duty of this Assembly not to try the impossible. We are a political body and we have to take political possibilities into consideration. This morning we heard statements by our colleagues the Irish Minister for Social Welfare and the Norwegian Minister for Social Affairs in which they made quite clear what would be the reception of the draft which has been presented to the Assembly if it were put forward in its present form to the Committee of Ministers.

I should like to congratulate Miss Burton on a very brilliant contribution to the criticisms which have already been directed against the text before us. I agree with Miss Burton on two of the points which she criticised, but I am not quite sure that I agree on the third. I know perfectly well that in her country the question of the competence of trade unions is a very important one, but I think that the conclusion she drew might certainly be challengeable, like so many of the other things in the Charter.

That leads me to the next paragraph, which I have a feeling that Miss Burton would have dealt with, had she not made her criticism by way of examples rather than by way of an exhaustive analysis, and that is the provision in Article 6 which says quite categorically that every worker has the right to strike. I agree that the right to strike is an important element in the whole of our social procedure, but I doubt whether the wording is altogether happy. Surely the right to strike is not an individual one: the right to strike must also be regulated by quite definite rules. In my country we recently had a very lengthy and extremely useful discussion on the right of printers to strike in a political crisis. It touches on one of the freedoms laid down in the European Convention on Human Rights—the right to free expression. This is just one of the numerous problems which will undoubtedly require a great deal more close examination before it can be laid down in the Social Charter.

But let me not at this stage go into further details. It seems to me that the principles of the first two parts of the Social Charter—Part I laying down the principles and Part II containing definite undertakings by the Contracting Parties—lay down certain objectives of social policy and then, in the form of a convention, bind Governments to adapt their policy to

these objectives by certain very specific acts of legislation, to be undertaken in consecutive stages. This seems to me to be an extremely dangerous procedure. We are not living in a static society. Every day development takes place, new ideas spring up, new procedures are adopted in the relations between employers and workers, new legislation is invented, and what is attempted here is to compress this initiative into a sort of strait-jacket—“These are the ways by which we must progress and by which we must all progress”—ignoring the fact that conditions are different in different countries, that conditions in the labour market, traditions of social policy, vary from country to country and, more especially, that economic conditions also vary from year to year and from country to country. What may seem wildly revolutionary today may seem trite and old-fashioned tomorrow. We are—I think all my colleagues will agree—moving in all our countries rapidly towards better social security and towards better living conditions. The impact of new technical inventions is a thing that we know very little about. What do we know about the economic consequences of atomic energy? Do we know that the complete harnessing of all the resources of nature will not mean that we should not be able to work even forty hours a week; that we might work only one day a week?

I entirely agree that it would be desirable, from the point of view of integrating our European communities, to institute a Social Charter. Most of the ideals underlying the document before us are things to which we can all subscribe in principle, but we do not know that the means of achieving these ideals will be the same next year or the year after. That is why I am opposed to the whole of the Social Charter in so far as it lays down definite rules to be followed by legislation in individual countries.

But there is another matter which, I think, is extremely serious. The Social Charter, with all the economic consequences it involves, is revolutionary in character in the sense that it strikes at the very roots of our social order by failing to place rights and duties in their proper perspective. Mlle. Klompé said a few moments ago that one of the most important things we have to consider is the question of individual responsibility, but then she added one thing which, I must say, shocked me, particularly as it came from such a brilliant source. She used words to the effect that Part I might not be so difficult to accept because, after all, it was only morally binding. There has been a tendency in this discussion to distinguish between what is morally binding and what is legally binding. But can we, as responsible politicians, accept any such distinction? Is not that which binds us morally as important as that which binds us legally?

The Social Charter sets out a number of rights, but it forgets one thing: that rights should always be accompanied by duties. There is not a single duty of the individual set out in the Charter, but there is set out the duty on the part of the State.

That leads me to consider how this Social Charter came about in the period between 1st April and now, and I look at page 17 of the document, where I find the source of this Charter. I should like to call the attention of my colleagues to it, because I think it shows that

we can get somewhere if we leave aside all the theoretical dogmas and sit down together round the table, with the experience we have of social and economic conditions in our own countries, and work out a political and social charter.

The chapter on page 17 of the Document is headed "Composition and Structure" and states that the present draft Charter was drawn up in the light of certain indications submitted to the Assembly in a preliminary draft, the draft Covenant on Economic, Social and Cultural Rights, drawn up by the United Nations Human Rights Commission, various international texts, charters, declarations and constitutions, reproduced in Doc. AS/Soc. 6/23 etc. the United Nations Universal Declaration on Human Rights; the European Convention for the Protection of Human Rights and Fundamental Freedoms; the Philadelphia Declaration concerning the aims and the purposes of the International Labour Organisation; as well as the latter's Constitution; the American Declaration of the Rights and Duties of Man, Bogota; the Inter-American Charter of Social Guarantees, Bogota; the Geneva Declaration of the Rights of the Child, and certain national constitutions.

I should like to ask my colleagues who presented this draft, where is the experience of all the distinguished members of the Committee on Social Questions, the experience from their own countries? Where is the practical breath of life, which should have been brought to bear in a document such as this which was to be presented to this political body, a document which should have been based on the political experience of our fifteen countries? There is a distinction, which I noted very clearly, between the draft Social Charter and the Convention on Human Rights. The Convention on Human Rights is based on the idea of freedom, guaranteeing the freedoms for which we have fought for centuries. The draft Social Charter is entirely different. In an examination of this document this is borne out by the sources from which it has come. There are three trends which I noticed and which, I think, we should be warned against. These may come out perhaps more clearly in the proposal for an Economic and Social Council, but I shall take them at this stage because they apply equally to the proposal for a Social Charter and to that for an Economic and Social Council.

First, there are the curious hibernating relics of what was known in the 1920s as syndicalism. The second is brought out particularly in the composition of the Economic and Social Council. It is the political idea of which we have had grave experience, the idea of the corporative State. The third is that of diluting the responsibilities and powers of elected parliamentary bodies. I should like particularly to quote what M. Dehousse says in his Report, which I have quoted in my letter to the President of the Assembly:

"There is a general tendency these days for democratic institutions to show ever increasing concern for the opinion of the various sectors of economic and social life or, more specifically, of the professional and trade union organisations which represent them.

The effect of this tendency is to create, side by side with the political institutions, more or less developed and co-ordinated bodies whose function is to ensure that these various sectors can officially bring their influence to bear."

I see in that a very dangerous tendency, that of delegating the power of elected assemblies, whether it be of our own national Parliaments with their powers, or this Assembly with its right to express its opinions and to be consulted, to bodies entirely outside what we know as democratic control.

I have not dealt with what I might have gone into in greater detail, the economic consequences, the tremendous spring of inflation which is contained in the Social Charter. I shall not deal with that now because the Committee on Economic Questions, of which I have the honour to be a member, although I am now speaking in a personal capacity, has not had time to study the other very grave aspects of the document now before us.

With regard to the Economic and Social Council, I would call the attention of the Assembly to its history. It was supposed to be originally a parallel body to the Economic and Social Council to be set up under the political authority of the six countries. It was supposed to be a body closely associated with and responsible to this Assembly. The proposal now before us is to set up a body with powers of the same nature as the Assembly here but, at the same time, with contacts and the right to make recommendations over the head of this Assembly direct to Ministers and to other inter-governmental bodies.

Are we not nearing the saturation-point of international institutions? Are we not approaching the point where it is simply impossible to find the personnel to travel round to all these meetings? Should we not be cautious in creating unnecessary institutions? I can find in the proposal before me nothing whatever to justify a new body with duties exactly similar to those of the Committee which my distinguished colleague, M. Heyman, represents, those of the Committee on Economic Questions, and, indeed, those of the Assembly as a whole.

In the document it is suggested that this should be an independent body expressing the overall views of the various interests. In his report today M. Dehousse even stated that this was to be an expression of the three estates, the employers, the workers, and then all the rest of us. Is it democracy to divide the community of our nations into these three groups and to set up a body responsible for voicing the opinions of this strange, corporative set-up? I find an extremely dangerous political tendency contained in this proposal.

Another matter which is worth considering is the danger of duplication. The Economic and Social Council will have no powers. It will have authority to express the views of bodies which it represents, and, as it is proposed that this body should be appointed by Governments, is it likely that that body is going to express anything except the views of Governments?

I should like also at this stage to call the attention of the Assembly to the Report which

Labour Office. It is Doc. 266, issued on 18th August, 1954. It describes how under the International Labour Office regional conferences can be held. There, no doubt, you have the social machinery to deal with the questions involved in the Social Charter, which I sincerely hope we shall be able to establish. We have in the O. E. E. C. a body which has functioned excellently in dealing with the economic problems of Europe. We have in the United Nations Economic Commission for Europe another body which has to a remarkable extent avoided duplication with the O. E. E. C. but has rendered extremely useful services to the economic development of Europe.

For all these reasons, I believe that it would be wise of this Assembly to discard the idea of setting up an Economic and Social Council. The change in European policy which took place when the French National Assembly turned down the proposal for a European Army has really removed the foundations of the proposed Economic and Social Council. It was supposed to have been based, like the political community on the foundations of integration in Europe—the Defence Community, the Political Community and the Coal and Steel Community. But that is no longer so.

We have embarked on a new, more troublesome and more difficult road of integration by governmental co-operation. Whether we like it or not, that is the situation today. I would welcome the development of further governmental co-operation in the field of social security and even in the creation of a Social Charter. I was very glad to hear this morning the suggestion of the Norwegian Minister of Social Affairs for the holding of joint consultations between the governmental Social Committee under the Committee of Ministers and Representatives of this Assembly. As I suggested at the beginning of this speech, I believe that we shall be able to sit down together, the Government side and the Parliamentary side, and discuss the social, economic, legal and political problems involved in agreeing on the elements of a Social Charter. I believe that that will be the time when all practical experience can be brought to bear on the draft presented to us, and decisions can be taken with the prospect of having a Charter adopted which is reasonable and which gives, not false hopes, but a sense of security to our peoples as a document based on realism and not a number of theories.

THE PRESIDENT (Translation). — Ladies and Gentlemen, in view of the rate at which the discussion is proceeding, I hope you will forgive me for making a brief observation.

There remain a dozen speakers whose names appear on the list. Without wishing to restrain their right to speak, I would ask them not to go too far beyond the time-limit which they have set for themselves. Otherwise I fear we shall not get to the end of the Orders of the Day for this Sitting and that we shall not even finish the general discussion of this one item in the Orders of the Day.

I call Mme. Gloerfelt-Tarp.

Mme. GLOERFELT-TARP (Denmark). — The European Social Charter should state the social objective aimed at today and in the future by all Members of the Council. To my mind,

this aim is not fulfilled by all the provisions of the draft, and I shall give some examples, in addition to some which have already been given by Mlle. Klompé and other speakers.

The aim of Article 2 (8) is to secure for everyone the possibility of retirement with a pension at the age of 65 at the latest. The Norwegian Minister of Social Affairs has already referred to this subject. I am definitely in favour of the right to a pension at a certain age, but I am not in favour of the suggestion that the age should be 65 as limit-date. The great progress of medical science and public health during the last decades has already had an influence not only on length of life, but on the health and working capacity of the older people, and it is probable that this development will continue. Therefore, the age of retirement in general ought to be higher than 65.

I consider it doubtful also whether it is reasonable to prohibit young people under sixteen years of age from being employed in any occupation for more than six hours a day, as is laid down in Article 3 (3).

Section C deals with the right pertaining to the family and to children. This question has been dealt with by Miss Burton and Mlle. Klompé. It is indeed an important subject, but I do not agree with all the provisions in the draft, and particularly with Article 14 (b) and (c). I am very warmly in favour of supporting the family by an allowance in proportion to the number of children, as proposed in paragraph (a). This may, to a certain extent, help mothers to remain in the home if they so desire, and, maybe, this allowance should be higher during a certain period after childbirth, as financial assistance during the nursing period, referred to in paragraph (c); but I am opposed to a general supplementary allowance to enable the mother to stay at home. Therefore, I wish to delete paragraph (b).

Paragraph (c) deals with special protection to mothers before and after childbirth. The woman worker who is incapacitated for her usual work by reason of pregnancy or confinement should, in my view, have the same right *vis-à-vis* the employer as any worker who is incapacitated for his usual work and, where a medical certificate is required in the one case, it should also be required in the other.

The Draft Charter, however, entitles the mother to leave her work for a certain number of weeks before and after confinement, even though she is not incapacitated for her work. The length of this incapacity varies, however, markedly from one person to another in relation to the general state of health, the kind of work being done, the climate, working conditions, etc. The existence of individual variations in the duration of incapacity for work resulting from confinement is a fact. I know what I am speaking about. For a generation I was in the Factory Inspectorate and made a special investigation into this matter; and I am myself a mother. Therefore, to my mind the only way in which account may be taken of all the eventualities in connection with childbirth is to base leave of absence on a medical certificate of incapacity for work, as is our practice in the Government service of Denmark.

The Draft Charter states that the mother has the right to leave with pay for a certain period. This must mean that the employer has to pay.

I oppose such a general provision. It is not because I want especially to protect the employers—I think they themselves can take care of their own interests—but because I want to take care of the interests of the women workers. Special burdens put on a women's employer operate against the employment of women and are to the detriment of women wage-earners. The mother ought *vis-à-vis* the employer to have the same right to pay, when taking leave because of incapacity for work by reason of pregnancy or confinement, as any worker has who is incapacitated in his usual work. The further benefit to which she might be entitled should be borne out of public funds.

Likewise, a woman incapable of work because of childbirth should be under the same protection from dismissal as other incapacitated workers and not have an unconditional right of reinstatement in her former work. She should have such a right only if it is compatible with the interests of the establishment is a provision which will have only a moral and not a legal significance, but, nevertheless, it will not be without influence.

In order to secure the most reasonable protection of the mother, I should prefer, paragraph (c) to be formulated along the following lines:

“ special protection accorded to mothers during reasonable periods before and after childbirth: the mother incapacitated for work by reason of pregnancy or confinement has the same right to leave—with pay—as any worker proved incapacitated for his work by illness or other similar cause. The mother shall have the right in so far as this is compatible with the interests of her employer to keep her job after her absence by reason of childbirth.

Furthermore the mother shall have the right to receive both medical attention for herself and her child, and financial assistance during the nursing period. ”

These are just a few examples to show that the Draft Social Charter requires a good deal of further study from different angles of thought before it is suitable for adoption as a code of social policy which should be accepted by all our Member States.

This matter is one which should not be unduly delayed, and I therefore feel it is important that the work of completing the Social Charter should be pursued with energy and good will, whether this is done in immediate co-operation with the Committee of Social Experts of the Committee of Ministers, as suggested by the Norwegian Minister for Social Affairs, or not.

THE PRESIDENT (Translation). — I call M. Birkelbach.

M. BIRKELBACH (*Federal Republic of Germany*) (Translation). — Mr. President, Ladies and Gentlemen, I think we can be grateful to the Committee on Social Questions for having submitted this text to us, particularly as we now know that it is only intended to be a working paper, a compromise text enabling us to ascertain whether a Charter can really be drawn up on this basis. I particularly welcome this public debate on the subject, since it has already shown that opinion in the

various countries appears to be divided concerning the measures which should be put into effect by means of direct legislation. We have even observed that the people most directly concerned—in this case the trade unions and employers' associations of the various countries—do not appear to have had an opportunity to follow the discussions of the Committee on Social Questions as closely as is necessary if a real solution is to be found. I know that the executives of international trade union organisations took part in these discussions and that other competent bodies were also consulted. It is clear from Miss Burton's remarks, however, that precisely in those countries where there are strong trade unions many factors need to be taken into account which do not fully come to light here. I feel therefore that today's General Debate may serve as an introduction to national and international discussions on the principles outlined here.

This draft Social Charter we have before us does not conflict as much with the laws of the countries represented here as may at first appear. It has many more features in common and contains many more possibilities of finding a common denominator for these laws than one might at first suppose. There is, however, a big difference between what may be claimed under the terms of the written promulgated law and that which reality offers. We in this Assembly must take additional measures and try to find a means of bringing reality more into line with what we have in mind.

To my astonishment I have heard a number of statements concerning individual provisions, which, as I see them, fall short, even, of what has already been adopted in Conventions drawn up by the International Labour Organisation. We Europeans, who take the view that we can create minimum standards on a far higher level than those which can be enforced within I. L. O., should make a bad impression if we were to content ourselves with anything less. Of course, this may be merely a question of method. I would refer particularly to the special maternity provisions mentioned by Miss Burton this morning. The terms of Article 14 of the Social Charter correspond more or less to what is contained in Convention No. 103 of the International Labour Organisation. Surely we cannot afford to fall short of what is already laid down there.

Without wishing to embark on an exhaustive discussion, I should just like to quote an example, an indication of the kind of difficulties which in my view would arise, especially in Germany, if the present text were to become final. Article 2 of Part II raises the question of minimum wages, which concerns the interests of workers and employers. We can, of course, introduce legislative measures, laying down a general minimum wage. As soon as we go further, however, and contemplate the measures mentioned in this section, we get into serious difficulty. I can see the danger of this sliding wage-scale, applied according to Article 2, having economic repercussions far beyond what it was intended should be achieved by this procedure, however beneficial it may be for individual countries. In any case I feel

that if, under the controlled currency systems now prevailing in our countries, we were to relax some of our safeguards against devaluation or the decline of purchasing power, the workers might suffer greatly thereby. For this reason I am not much in favour of such schemes as the sliding wage-scale or the pegging of the minimum wage to certain price indices. On the contrary, we should perhaps point out that we have to reckon with a growing social product in our economies, that the workers are entitled not only to a fair share but to the benefits of this improvement, in particular. In the present text I see no reference, for example, to the rights arising from the steady rise in productivity.

Another question, already dealt with in this Assembly, is that of the right to strike and the conciliation measures existing in the various countries (Part II, Section A, Article 6). In our opinion it is highly dangerous to try to extend to other countries machinery which may have proved successful in one country, or to regard this as a desirable aim for other countries. To my mind, these questions need first to be discussed in public by those directly concerned, in this case the trade unions and employers' associations.

In giving these examples I wished to make it clear that while approving the fundamental idea and supporting the principle of a European Social Charter, one must bear in mind that there is still much to be done in regard to its content and scope and the wording of its provisions. I am glad that a solution is now being found making it possible to initiate a public debate.

I should like now to comment briefly on the proposed Economic and Social Council. As has already been said, and rightly, if a new institution is set up it may well prove very difficult to induce the really responsible and active leaders in such fields to work for these institutions in a way commensurate with the Council of Europe's standing. I say this quite frankly. I know how over-burdened with work workers' and employers' representatives are, who have to attend international conferences; it would be a mistake to arrange matters in such a way that the very persons who were most competent would fail to appear.

I perceive another danger. This Council is intended to be a consultative organ for a Consultative Assembly. Of course, it is also possible to make direct recommendations to individual Governments. In my opinion, however, this is actually a very roundabout way of trying to establish true co-operation between those concerned. I feel that the agreements with I. L. O. could provide a far better basis for effective work in this respect. We should therefore consider whether a new institution of this kind is desirable.

Furthermore, the experts in constitutional law will also have to concern themselves a little with all these proposals from a legal point of view. Nor should we overlook the question of a budget for this kind of organisation.

I do not intend to go into the question— with which we are also familiar in Germany— of the interference of private interests in a sphere which should properly be reserved for Parliament and the elected representatives of the people. All developments in this direction

must be viewed with every reserve, since a powerful combination of interests might lead to inappropriate developments, which it would afterwards be impossible to control.

I have tried to put forward one or two ideas. It is important to know the attitude of various political forces represented here to the main features and some of the individual provisions of these texts. We should give the whole matter further careful thought and try to ensure that the formulas adopted, if any, are capable of being translated into practice.

Meanwhile, our work here should also go forward in another direction. I myself must confess that upon looking a little more closely into the practical achievements of the Brussels Treaty Powers in the social field, I noted that they had apparently explored certain methods and possibilities which, on the whole, there had not so far been any opportunity of exploiting successfully on the European plane.

I should like to give just two examples. The first concerns the investigations into the most efficient form of social welfare institution; the second, the causes and extent of abuses in the field of social benefits. I feel that these are matters to which we ought to give renewed consideration here. We must get hold of some real documentary material on these matters which we can compare and discuss. We must not only talk about certain principles, but find out how we may bring reality into harmony with what we have in mind. Our aim is, it seems to me, to enable even the poorest inhabitant of Europe to lead a life worth living. During this debate it was suggested that there had been too much talk about rights. As a German, however, I may say, Ladies and Gentlemen, that in my country there is a duty which, although we do not talk much about it, is our daily duty, namely, that every able-bodied person shall work and shall regard work as a duty. This duty in turn gives rise to certain rights which to my mind have been greatly neglected in recent years. A true balance exists here, provided this prime duty, this special duty, is fully recognised.

I would therefore recommend that these matters be further discussed, not only in this Assembly; they should also be made the subject of a truly public discussion. Once this is achieved, the Council of Europe will become, so to speak, the impulse, the driving force helping to ensure that the importance of the interdependence of the various standards of living to the working population in this field is at last recognised: for one depends on the other, even though this has, in recent years, often appeared to have been overlooked. As a result of constantly increasing economic interdependence during recent years we have progressed to a point at which we are now obliged to think no longer of how we can keep our own house in order, but how we may all best help each other.

THE PRESIDENT (Translation). — I call Mrs. Weber.

Mrs. WEBER (Federal Republic of Germany) (Translation from German). — Mr. President, Ladies and Gentlemen, the Social Charter is intended to complement the European Convention on Human Rights and Fundamental Freedoms, even though a Social Charter is

something completely different from a Convention of Human Rights. Social, economic and cultural rights should be guaranteed in the same way. I should like to say to M. Federspiel that, when in modern constitutions there is mention of human rights, the corresponding obligations are also understood. It is correct that the Contracting Parties consider economic policy not a goal in itself but rather a means for attaining social targets. According to this Social Charter, social policy must respect the dignity of man and the unity and promote the well-being of the family, so that man can develop his qualities for himself and in relation to his duties toward the community. For the attainment of this goal the right to work, that is full employment, should be maintained in all European countries. Employees should have a share in the results of their work and in the profits.

I have mentioned only a few of the basic questions in the Preamble in order to broach the question particularly for M. Heyman, whether the most advantageous standards of the Social Code should be adjusted to one another, or whether minimum demands should be set forth. I raised this question repeatedly in the session which we held. Not all European countries have the same economic conditions. It is, of course, possible to fix a target—it is mentioned in various passages of the Social Charter that a specific goal is to be set which is to be achieved in progressive stages. But it must be a goal which can be reached in the near future. This applies to all Articles of the Preamble. In the light of this we should once again investigate and discuss all the Articles of the Preamble.

Part II, Section A, concerns the rights pertaining to employment. As far as Article 2 is concerned, we in Germany have no all-embracing social welfare system; the German social security aids only a certain group of people. Article 2 seems, however, to imply that an all-embracing social welfare programme should be laid down. We felt we must speak out against this.

All Contracting Parties should provide for steady and equitable employment conditions, particularly for adolescents. Labour's right to participation in management, which Germany has, and which we in Germany support, is perhaps not yet ripe for inclusion as a proposal in a Social Charter, because our experience is not yet extensive enough.

Germany does not as yet have the forty-hour week. But this is the aim of German economic and social policy.

In connection with the right to strike I should like to refer to Article II, paragraph 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, where it is stated that the provision of the right to strike need not be applied to members of the armed forces, of the police or of the administration of the State.

Section B concerns the right to a decent living. In connection with Article 10, I should particularly recommend the building of adequate living quarters.

In Article 12, neither should there be provision for a means test, nor should the possibility of self-participation be excluded. The main consideration is that there should be self-help, a sense of responsibility. Perhaps this should

be more strongly emphasized in the Social Charter. The Charter reads:

"...free basic medical care and treatment."

We desire responsible self-participation. Whether an actual guarantee for the maintenance of social measures, as stated in the Social Charter can become a reality is doubtful to me and my friends.

I come to section C concerning rights pertaining to the family and to children and adolescents. Protection of the family and of children and adolescents is, in our view, a serious obligation for the Contracting Parties. In principle we agree with these Articles.

Section D concerns the cultural development of personality. These rights should certainly be protected. European culture is the most valuable possession of Western civilization. But, first, the Committee on Cultural Questions must pronounce on these questions, after having considered them in committee.

In order to ensure that the obligations assumed by the Contracting Parties are kept and put into effect, an Economic and Social Council is to be established within the framework of the Council of Europe. Its business will be to maintain contact with the professional and social organisations and to transmit recommendations to the Committee of Ministers and to the European organisations. It is planned to have in it 93 representatives of the employers, of the workers and of the interests of the general public. I consider contact with the social and other European organisations to be a good thing, indeed a necessity. But my friends have raised the valid point: is it necessary for this purpose to establish an Economic and Social Council of the kind proposed? Until now Germany has not created a Federal Economic Council. My friends and I fear that, by establishing a European Economic and Social Council, the Council of Europe itself and its Social Committee might lose influence; and that this new Council, although established within the framework of the Council of Europe, might to a considerable degree be independent of the latter. This is certainly not intended. The third group, which is called "representatives of the interests of the general public", has no great importance, as compared with the other groups.

To sum up my points:—my friends and I welcome the institution of a European Economic and Social Charter. Since the political unification of Europe has become for the time being unattainable—which is our principal and longed-for goal—we should, in the social field at least, put through common measures and develop extensive exchange among the peoples of the Council of Europe. It is our opinion, too, that a European Social Charter has its purpose alongside that of the United Nations and the International Labour Office. Europe has its own particular social structure and social tasks, and has them particularly in respect of Russia and its satellite States. But we must view the social goals in the sober light of economic possibilities. Our constant goal must remain a politically united Europe. We shall still have to work out many changes in the draft proposal, but in one thing we are one and all agreed: we want a social Europe.

THE PRESIDENT (translation) : I call Miss Pitt.

Miss PITT (*United Kingdom*) : Mr. President, it is customary in our United Kingdom Parliament, when a Member is making his or her first speech, to ask the indulgence of the House, and that is always freely given. I hope that my colleagues here today will be equally generous, because I feel rather nervous at making my first speech in our Assembly.

I should like also to say that, although I am a member of the Committee on Social Questions, I have not yet taken part in the tremendous

amount of work which has gone towards drafting this Charter. I make that point because I do not feel that I can support all the recommendations. I agree with the general principles and I think that, whether we find them morally or legally binding, most of us would agree with the Preamble, because it is in broad outline; it is when we come to the details in Part II that some of us find ourselves unable to give our support.

I should like to take as my keynote a sentence from paragraph 4 in the Preamble, which reads

"...the Governments will adopt no measures incompatible with human dignity and the integrity of the family."

That is the first thing for which we all want to work. I think that, to be successful and to be workable, this Charter must be realistic and flexible; in fact, I find it too rigid and the recommendations too concrete at present. I do not think that any international body can lay down detailed methods, which must always vary with the circumstances of each country and which, I believe, should take into account the present practices of that country, the temperament and habits of the people of the country.

For instance, Article 2, as my colleague Miss Burton has already said, would undermine the practice and the power of trade unions in the United Kingdom. This Article proposes that Governments should fix wages, ensure equal pay for equal work—or "the rate for the job", if we want to be precise in our definition—and that Governments should lay down minimum wages and the adjustments of wages in accordance with the cost of living. In the United Kingdom, as I imagine is well known, rates of pay, working conditions, hours of work and holidays are all negotiated by the trade unions with the employers; that is the main responsibility of the trade unions—their main task. Therefore, we feel it important to maintain it. To transfer this responsibility to the Government in our country would be to break down all that the trade unions have achieved in the last century; it would diminish the responsibility which I believe today makes

trade unions in the United Kingdom an Estate of the Realm, with great responsibility to the people. So I found myself in entire agreement with Miss Burton this morning when she stated that no Government in the United Kingdom, whatever its political colour, could wish to break down this responsibility and power of the trade unions as they now enjoy it in our country.

In Article 2 there is the recommendation as to the possibility of retirement at the age of 65 at the latest, with a pension ensuring a decent living. Like other speakers today, when I read this I felt that it laid down an arbitrary retirement age of 65. I noticed M. Heyman shaking his head when the point was made earlier, and perhaps that is not the intention, but that is how I read it, and that is surely how many other people would read it if the Article remained as drafted at present. I could not possibly agree with it, because, although in the United Kingdom we have a retirement pension which is available to men at the age of 65 and to women at the age of 60, there is no compulsory condition of retirement, and I know from my own experience—I was a factory welfare officer before I became a Member of Parliament—that men do not wish to retire when they reach the age of 65; they want to go on, they feel that they have the capacity to go on and they are afraid that if they retire they will generally break down and their health will be demoralised. So, although I think it proper to provide for a pension at 65 if a man's health does not permit him to carry on, I also think it most important to the community that men and women should be encouraged to carry on so long as they are physically able.

I wonder what this word "decent" means in our draft. It must vary with each of our countries and with the standard of living in our countries. I think that the lawyers and social workers would have many arguments on what they felt constituted a decent standard, but I think that so long as there is a reasonable standard—in my own country, at the moment, £2 a week on reaching retirement age—then that is the basis on which we should work. Again, I would commend the practice in the United Kingdom—possibly the practice in other countries—whereby if a man goes on working after the normal retirement age of 65 he earns for every six months of additional work after that age an additional increment on his retirement pension when he finally ceases to work. So there is the financial inducement and encouragement to go on working as well as the moral obligation to allow a man to work on as long as possible, and that we should certainly wish to continue in the United Kingdom.

Article 14 recommends the grant of allowances in proportion to the number of children, which, I assume, means an addition to wages. In the United Kingdom we do it differently. We provide family allowances which are paid as part of the social benefits under our National Insurance Scheme, and I think that, again, this fits the temperament of the British people; they would rather enjoy a benefit to which they contribute through National Insurance than that there should be an increase in their rate of pay for this particular benefit. That is where I suggest we must be flexible.

The same Article further recommends the grant of allowances to enable a mother to stay at home—and that is a point which has again been picked up earlier. It might suggest to many people that the countries which commit themselves to such a clause are not prepared to pay a man a fair rate for the job, but that it is necessary to give a supplement if he is to

maintain a wife. That surely is something that we should not wish to suggest. I am quite sure that this Assembly would not like to suggest to women that their place is always in the home. That, you know, is becoming a little old-fashioned these days. Where a woman has young children, yes, I agree entirely that her job is at home with those children but when those children are growing up and off her hands, is she not entitled to go out and earn more money, to meet people, to refresh herself by contact with others by taking a job if she so desires? I think that that is the modern tendency, and I should not like us to condemn women to vegetate at home like cabbages.

Article 14 recommends leave with pay six weeks before and six weeks after childbirth, a point on which other women Representatives have commented. I would merely add my own support to what has been said. You cannot possibly lay down regulations stating when a woman should take her ante-natal or post-natal leave. It will vary with every individual case. It is done in my own country through payment of a social benefit—not as an addition to wages—for approximately the same period as the Charter recommends. I think that we in the United Kingdom would prefer to retain our own scheme of social benefits and contributions.

Article 17 raises an important point. It refers to secondary education to the age of 18. If this means raising the school-leaving age to 18, are those countries who would pledge themselves to such proposals prepared to accept the changing of the whole social fabric in their country, because that is what it means? It would mean adjustment of the whole pattern of family life. At present, the school-leaving age in the United Kingdom is 15. A great upheaval is caused when you change the school-leaving age, as we found when we increased ours from 14. Not only is the adjustment of family life involved. There is a loss in productive capacity when the school-leaving age of the younger members of the community is increased; there is the physical difficulty of finding additional schoolrooms and equipment and teachers, as, again, we found in Britain when we increased our own school-leaving age. I think that the proposal is impossible of achievement for many years ahead, even though we might think it desirable.

I do not believe that this Assembly should accept this document in its present detail, because some countries could not—indeed would not—accept some of its recommendations. Other recommendations could not be implemented for a long time. I have just instanced the question of raising the school-leaving age to 18. I think it would be wrong of us to raise false hopes among the peoples of Europe that we could do something in the foreseeable future when we know that it is not practicable. It could have the effect of reducing confidence in the work of the Council of Europe.

The document, set out in all its detail, has a vaguely familiar ring to me. Exactly at this time last year I was in Russia and there, with other delegates from the United Kingdom Parliament, I found that they had planned for everything—but that performance fell far short of the plan. I would not wish us to commit ourselves to this kind of blueprint. For instance, in

Russia they have a regulation that a child shall not work under the age of 16, but I talked to girls of 15 who were working and who were receiving pay. They also have a regulation that women must not do heavy work. I know something about this, as I come from Birmingham, the heart of the industrial Midlands of England. I have never in all my life seen women doing such heavy work as some were doing in Russia. There is also a regulation in Russia that each person shall be allocated nine square metres of living space, but, judging from all the accommodation that my colleagues and I were allowed to see, I should say that the amount of living-space fell far short of the regulation.

I would not, therefore, wish that we should bring the Assembly's Charter into contempt. If I may refer back to my visit to Russia, may I say that I am sure that we British Parliamentarians who went there would have returned with a much higher regard for what the Soviet Union had tried to do, had it not been for this fact of everything being so wonderful on paper—And practice being so vastly different. I do think that this Charter would be brought into contempt unless we are realistic about what can be achieved. I would rather we enjoyed respect for what we believe now to be possible than lose confidence by giving a false impression to the peoples of our countries.

I see that there is no direct reference in the document to the value of voluntary work in the social field, in which I believe greatly, as, I am sure, does everyone else here. Governments can legislate for many social services, but above that there is a quality which the individual who comes to voluntary work because of a real desire to serve can give, and for which no Government can legislate. May I give an example? In the United Kingdom we have an association which helps to care for unmarried mothers. The Government provides benefits, but the association does more. It endeavours to rehabilitate young women, to

restore them to family life and to find them work so that they can help to take care of their babies. You cannot legislate for the generous impulse of human nature of those who wish to do things for other people. That our Charter should encourage.

In the United Kingdom we also have associations, which care for physically and mentally handicapped children, a pattern which, I am sure, can be repeated in every country represented in this Assembly. That, again, is voluntary work which I wish to see encouraged. More important, in the industrial field in my country the practice is growing of employers introducing their own supplementary pension schemes. A man much more enjoys the benefit of a scheme to which he has contributed during his working years and which he knows he draws as his right when he finally retires. That, too, I wish to see encouraged.

Finally, we must all consider, or reconsider, just how far the State should assume responsibility for every detail and how far that takes away personal initiative and individual liberty, the duties which have been referred to in this Debate. These are things which all of us here wish to preserve. I go back to my keynote, which is the integrity of the family. I think it would be wiser if we were to confine ourselves

to general principles in the Charter rather than to lay down details which may not be practical or realistic, and which may extinguish some of the individual enterprise and initiative that encourages a man to look after his family and to maintain that integrity which is the cornerstone of happiness, the thing we all want to encourage.

I ask, therefore, that we shall reconsider the detailed provisions of the Charter, although I agree with its broad outline.

THE PRESIDENT (Translation). — I call Mr. Nicolson.

Mr. NICOLSON (*United Kingdom*). — As our debate has proceeded it has become more and more evident that there is a serious division of opinion between the two parts of our Assembly. It is equally clear that we are not divided on the subject on national lines or on party lines, and I do not think that we are divided into economists and those who are specialists in social affairs. We are divided between the visionaries and the realists, and when I use those two words I am not using the word "visionary" in a derogatory sense nor the word "realist" in a laudatory sense. I simply mean that to be a visionary is to believe that one should set before oneself some goal which may or may not be attained, but which acts as a sort of magnet drawing us towards its achievement. Those who are realists believe in going very little further than what is already accepted principle and current practice.

I was a member, temporarily, of the Committee on Social Questions which drew up this Charter, and for eight hours in Paris at the beginning of September I and my colleagues went through this Charter Article by Article, and I asked myself the question, as we turned over each page and came to each individual provision: "Does this proposed principle, this detailed measure, conform with what is actually being done in my own country, the United Kingdom, or can we lay our hands on our hearts and say that we very soon intend to do such a thing?" If I was not able, as so frequently happened, to answer both those questions with an honest "yes", then I felt it my duty to register my protest, and Miss Burton, who was my colleague, and I forced division after division upon these issues. Our colleagues were remarkably generous towards us. They must have become tremendously irritated by hearing us repeatedly say "But we do not do it that way in England." What was important for us to drive home was that we do not intend to do it that way in England, and it would have been grossly dishonest for any person speaking in the name of his country to give the Committee then or the Assembly now the impression that we were going to fulfill these pledges to their last detail. We lost some of our fights in Paris, but it seems that others have won the battle for us at Strasbourg, and that this Charter is not, on the whole, acceptable to the Assembly.

It seems to be the impression or the desire of the Assembly, with which I entirely agree, that the Charter should be sent back for further revision either to its original Committee or to a new Committee which is rather more broadly based.

It has been emphasised this morning by

M. Heyman that it is not, and never was, intended that this Charter should be acceptable now to everybody who signs it. He has told us once more that it is only intended that its principles should be gradually introduced. Even the word "gradually" implies some sort of limit in time, and I would put this further point to the Assembly—that whereas you can gradually introduce a programme, you cannot gradually introduce a principle. If you disagree with a principle now you cannot say: "Well, perhaps in a year or two I may have come round and agree with it." You must express your protest now—and the only way in which you can express it is to refuse to sign that particular clause.

Perhaps I may give an example. If we sign this Charter in its present form we are undertaking to allow any worker into our countries, whatever his nationality and whatever the state of employment may be in our own countries. Even if we have severe unemployment or the threat of it, we are obliged by this Charter to allow anybody in from another country which may be suffering from even worse unemployment. That will not happen in England. It is not simply that a Government would never introduce such legislation in our Parliament; it is that the feeling of the people, rightly or wrongly, is that their own countrymen in time of acute unemployment must take precedence over the foreigner.

It has happened only very recently that the British miners have refused to allow Italian workers into our coal mines. I am not passing any judgment or asking you to do so on whether that is right or wrong. All I am saying is that that decision by the British trade union of mining workers could not have been upset by the Government because it would have led to severe disruption of our industry. Nobody wanted to upset that decision. It was accepted in our country, and if we had passed this Draft Charter we should have been guilty under the Charter itself of a serious breach of its provisions.

I want to devote a few moments to considering the proposed Economic and Social Council, as I do not think any of my British colleagues have done so. I want first to draw the attention of the Assembly to the strange way in which it is proposed that the Council shall be composed. It is to have one-third of its members trade unionists, one-third representatives of the employers and the remaining one-third of the seats are to be allotted to representatives of the general public. I cannot see that that is a very good arrangement. I cannot see that the employers as a group or category have very much to say about questions which form the main subject of this Charter. They are not experts on health, housing, or education. They are only partial experts in their own industries; yet one-third of the 93 seats are given to this category, and the remaining one-third, after you have allowed for the trade union seats, is all that is left for the men and women who really know about the subject, the local government officers, town planners, and doctors. They are the people who can contribute most and who can form the most wise judgment, yet they are all crammed into one-third of the seats. There will also, of course, be an overloading on the industrial side and a grossly unfair, low proportion allotted to the social services themselves.

Having made that comparatively trivial observation, I want to go to the root of this matter. In this document there are hints that the proposed Council may have actual powers of enforcing its decision and ensuring that the provisions of this Charter are put into effect in every country which signs it. What are the hints? We find them first in the Preamble, where the word "guarantee" is used in paragraph 15. We find again in Article 34 the word "powers" used in regard to the proposed Economic and Social Council. In Article 37 there is an even vaguer phrase, which reads that the Council shall determine, in the case of a report from the Commission of Human Rights, what measures shall be adopted in order to ensure the implementation of the Charter and the fulfilment of its obligations by the Government directly concerned. We want to know exactly what is meant by that. What is meant by the use of the word "guarantee" or "power"? We want to know how it is proposed if it is proposed that this Social Council shall be given teeth. We, naturally, realise that those who drafted this particular clause were given considerable difficulty. We have been reminded by the Rapporteur this morning that this Economic and Social Council is by no means a supranational authority. We know that it will be impossible so long as it is not a supranational authority for it ever to enforce its decisions, and yet here is a pretence that in some way it will be possible to do exactly that.

Suppose that the Council confines itself to purely moral pressure, as it is strongly suggested here that it will. There will be an opportunity in the last resort for a country that does not live up to the pledges in the Charter to be pilloried publicly in this very place before its fellow member nations. Will that do any good at all? I do not think that it will. What it will do is to bear more heavily on the poorer countries, upon those who find it more difficult to live up to the sometimes fantastic pledges which they are required to take. Moreover, it will set the people and the Governments of those countries against the Council of Europe itself. They will not tolerate their Governments being publicly held up to defamation; because it will be nothing else. They will say that they wish to have no part in an organisation which can humiliate them in this way.

Other speakers have enlarged on the other disadvantages of the Economic and Social Council. We have had, in particular, the excellent observations made by the Irish Minister of Social Welfare, who pointed out that the advantages to be gained from signature of this Charter are infinitely outweighed by the disadvantages. There will be overlapping and considerable expense, and he came to the conclusion—a conclusion with which I agree—that if and when we have settled on a reasonable form of Social Charter, its implementation and the survey of its progress in each of our countries should be left to the Committee on Social Questions itself or to an enlarged Committee on Social Questions. M. Federspiel underlined this when he said that the Council is an unnecessary institution, which is just what I think. It is unnecessary; it is more than unnecessary, because it can be positively harmful. In that

most excellent speech of his, M. Federspiel pointed out two major reasons. He said that this Charter destroys itself by attempting the impossible, and he further said that it does not allow for the variety of institutions, of legislation and of administrative methods in each of our countries—which cannot be exactly dovetailed.

Social progress is not stimulated by a Charter such as this. Social progress is stimulated largely by the desires of the people expressed in their votes at the general elections and by the common humanity of Members of Parliament, and, above all, of Ministers, who wish to leave behind them a reputation for having helped their people instead of having hindered their advance. The speed with which we advance is limited quite simply by the shortage of money. Shortage of money is the root of the whole matter. If we had enough money in our treasuries we should perhaps put every one of these provisions into effect at once, but if we commit ourselves now to do so with the knowledge that we cannot afford it, we are merely deluding our people with false hopes just as if we introduced Acts into our own Parliaments knowing that we were not prepared to carry them out.

I conclude my remarks by one further observation. My experience during those two days in Paris surprised me by how much we were able to agree as between our fifteen nations on what the social problems of Western Europe are and upon the solutions to meet them. We have all met the same problems and we have all solved them in very much the same sort of way. The number of clauses in this Social Charter with which we could express no disagreement is a measure of our common aims and, to a very large extent, of our common practice. Let us, then, amend this Charter so as to take away from it the inconsistencies and rash promises which turn it into a document scarcely worth the paper on which it is written.

THE PRESIDENT (Translation). — I call M. Pezet.

M. PEZET (*France*) (Translation). — Mr. President, Ladies and Gentlemen, we are called upon to undertake a difficult task but at the same time both a noble and a necessary one.

What is, in fact, the problem facing us? In considering this great project on the highest possible level, and in estimating its chances of success, our purpose is to make all European workers aware of the reality of European unity and brotherhood, and, more than that, at a later stage, to secure their equality in the social field.

The present debate has already shown that much time and effort and much patience will be required if this object is to be attained.

I apologise to the authors of the draft Charter and of the draft proposal for an Economic and Social Council, of which on the whole I approve, for pointing out that to carry such an undertaking to fruition—and this cannot be achieved all at once—it will inevitably be necessary to compare and co-ordinate the existing social systems in the various European countries. It will also be necessary to see how they may be applied in each State, and, in the first place, to all foreign workers.

Governments, negotiations and agreements for reciprocal treatment.

I believe social legislation in all other countries is analogous, as regards the principle, to that in my own country, and that experience shows it to be, generally speaking, territorial. This means that the benefits conferred by such legislation are denied to nationals living abroad.

It is also true that the conclusion of agreements providing for reciprocity provides only a partial solution which it is sometimes impossible to apply and not seldom precarious owing to the over-great disparity existing between the various social systems involved. Such an expedient is frequently inadequate, because these agreements do not, as a rule, cover all the social benefits to which claim may in due course be laid.

I should like to mention an experience of my own which, although personal, will, nevertheless, I think, be of some interest to you.

In France we have a *Conseil Supérieur des Français de l'Étranger*, whose members are elected in all countries of the world. At its annual Congress held at the Quai d'Orsay, under the chairmanship of the Minister for Foreign Affairs, delegates inform the Ministers of the needs, wishes and claims of French nationals living in various parts of the globe. These French nationals resident abroad are, I may say, represented by three senators, of which I am one.

Now, Ladies and Gentlemen, at least a third of the memoranda and of the correspondence received from these people for each session of the *Conseil Supérieur* consists of complaints and expressions of surprise at being excluded from the benefits of social security legislation.

I should add that it is in vain that the Social Security Department of the French Ministry of Labour has sought to eliminate this aspect of territoriality. It has, indeed, sought to mitigate its effects. Some slight improvement of a secondary nature has been obtained in respect of supplementary pensions and maternity allowances to French women living in areas close to the French frontier. Nevertheless, the territorial character of social legislation in practice excludes nationals resident abroad from the benefits to be derived from the social legislation of their country of origin.

This is what led me to the conclusion that even reciprocal agreements are insufficient. These agreements cannot be wholly satisfactory and still less can they pave the way to the European unity and social brotherhood to which I referred just now. This, then, is one conclusion, based on experience.

And here is a second reason why I approve of the great project which we are now discussing. Reciprocity agreements, although necessary at the present stage, are ultimately inadequate and will remain so. Therefore, in order to achieve what I have just now described as the unity, brotherhood and social equality of European workers, the possibility has been considered of creating a European body of legislation on social security. At all events the need has been recognised for a social Charter codifying such legislation and an institution to put it into effect. As regards social security, for instance, such an institution would one day inevitably have to provide for the establishment of a

European equalisation and compensation fund which would be all the more necessary since both benefits and contributions would vary from one country to another.

Consequently, from a general and theoretical point of view I am in full agreement on the need to codify such legislation in a social Charter and to set up an organ to give effect to its provisions. We must, however, take into account the fact that several international organisations already exist in this field, in particular the Economic and Social Council of the U. N. On this point I am in agreement with some of the remarks made just now by M. Federspiel. We cannot fail to see that there will inevitably be some duplication of work and that nothing could be worse for the proposed Council. This risk of overlapping may well prevent it from ever being set up, or, if it is set up, cause it such difficulties as may one day bring about its demise.

What practical problems would arise, assuming that the basic principle and the ultimate goal are accepted? We would have to harmonise, within a European framework, four types of legislation and social security regulations:— legislation for preventing accidents at work and providing compensation in respect of such accidents, legislation providing for insurance against sickness, disablement, old age, death and even maternity; legislation providing for special social security schemes, for example in the mines; finally, supplementary and optional social security schemes, as for example pension schemes for higher paid employees.

This is what has to be done, Ladies and Gentlemen, but it will clearly not be easy. Hence the need for patience, to which I referred just now, and for a realistic approach, which will require a transitional period of accumulated contacts, negotiations and reciprocity agreements.

Ladies and Gentlemen, however difficult and complex the task may be, it is, nevertheless, one which must be undertaken, in any event in relation to the co-ordination of European economies. And this brings me to the well-known problem, the inevitable problem, the need to equalize, in some measure, the social charges of the various countries. Indeed, social security contributions—in addition to many other factors—play an important part in determining cost prices and therefore have a considerable influence on trade and competition.

As you see, we are constantly speaking about equalising salaries and social security charges as between countries, members of a specific "pool", for example the Coal and Steel Pool. We must not, however, overlook the need to co-ordinate national insurance on the international plane and gradually build up a body of European social legislation, starting from this co-ordination of the social security laws of the various countries. We all recognize the need for such co-ordination. It would certainly not amount to a codification of social security legislation, but it must be regarded as the indispensable first step.

A wages pool or a social security pool is, of course, not something for tomorrow. But we shall never obtain these things at all unless we begin by co-ordinating what can be co-ordinated, given determination and good will.

When I spoke just now of the inadequacy of reciprocity agreements, I did so from some experience of such agreements, of which we French have concluded a great many. The one usually cited as an example is the Franco-Belgian Agreement. But, albeit the most complete of its kind, this agreement gives no reason for being particularly optimistic about the usefulness of other agreements of the same nature between either European or non-European countries.

Social charges in other countries are generally lower than in France; so, too, are the benefits accruing to the workers.

What is more, I do not consider that this over-simplified juxtaposition of social security schemes is a first stage in the development of a European body of social security legislation. It is, however, the road which we have chosen to take. I am quite content that we should persevere in this direction, but on condition this is regarded as a pragmatic experiment and not as a final objective. The final objective must be the formation of a European body of social legislation, however long may be the preparatory stages through which we have to pass. If we want to achieve this aim it will be necessary, in addition to reciprocity agreements, to conduct a patient search for a general solution within the framework of the Council of Europe.

At this point I wonder whether I should not do better to pass on quickly to the conclusion of these few remarks of mine. I had intended to examine the text of the Charter—but I fancy there is no point in burdening you with such an analysis. There is only one matter which causes me some slight concern, and on which I should like to make a few observations; that is the particular question of savings dealt with in Articles 8 and 13. I am sure my old friend M. Heyman will not regard these remarks as unfavourable criticism, because he understands the spirit in which they are made.

These two articles deal with savings. The second one provides that :

"The High Contracting Parties undertake to protect savings and social benefits and allowances against the consequences of fluctuation in the value of money."

The first point, which I believe was made by Mlle. Klompé just now, is that this provision is more or less gratuitous as long as the necessary methods are not defined. But is not this a basic political objective? Protecting savings against monetary inflation means preventing inflation as such. But preventing inflation is one of the general objects of economic policy. As Baron Louis said :

"Give me a sound policy and I'll give you sound finance."

This is obviously a problem for individual Governments. But what is sound policy? That is my first observation.

The second point relates to Article 11. We are still concerned with savings in the sense that people seem to think that there is no inconsistency between the spirit of thrift and social security. But, after observing what has taken place in my own country, I do not think, in spite of the statistics which every month show the amounts paid into French savings banks, that it is possible to maintain that social security

encourages the desire to save.

I have several children, and this is what they and their friends, well-established young people of good education, are quite openly saying : "Why save? If we save we shall soon get through what we have saved." And I must say that the publicity of certain trading firms incites them to buy on credit to an ever-greater extent.

If, on the one hand, there is an economic and commercial policy of developing credit purchases and, on the other hand, the removal of all worry as regards illness and old age, what is the result? How can a spirit of thrift be fostered? For my part I admit that this is a matter which causes me some concern. In the French Parliament I have on several occasions drawn a comparison between what I call the democracy of "wants" and the democracy of "effort".

Man is a creature of wants. He is for ever acquiring fresh wants, often beyond his means to satisfy. But take those wants which are satisfied. They then become needs, and other wants take their place. So that, whenever we speak, quite sincerely, of the need to improve the standard of living of the population and its manner of life, we are willy-nilly breeding new wants. And these will give rise to more needs which in turn are the source of fresh wants.

Gentlemen, it is essential that we save as much as possible, and the social security schemes of the future will need to have considerable funds at their disposal in order to be able to meet all the needs created by an ever-increasing number of wants.

Two short points to finish with. Is priority to be given to the social or to the economic aspect of all this? In this connection I am thinking of the remarkable speech, with which I partly agree, by M. Federspiel. There can be no doubt whatever! Humanly, morally speaking, it is certainly to the social aspect that precedence must be given. The object of economics is man—and, in particular, man in the family. Yet it is clear that, practically, social conditions are governed by economic factors.

Social progress necessarily implies economic prosperity. Although my distinguished friend, the French Head of State, said a few days ago, in the north of France, that there can be no economic progress without social progress, there is no incompatibility here, for I am acquainted with his basic conceptions. There is no inconsistency in saying that if the social structure, which we are trying to build and to extend year by year, is to be a solid one, its foundations must be sound. We know very well what unpleasant surprises may be in store when a granite building is erected on a foundation of clay.

There can thus be no doubt at all. Though economics may not be an end in itself, it is—and I am sure M. Federspiel would accept this—an essential instrument of social progress.

Hence, whether we like it or not, and without this in any way detracting from their moral importance, social factors are to economic conditions as the effect is to the cause. Without a prosperous and strong economy there can be no assurance of increased social benefits.

We have in France an ever-increasing number of pension funds, most of which operate on the distributive principle. Many of the people who run these funds have told me that what worries them most is the contingency of an

economic collapse, a slump in production. Since, on the distributive principle, the young by their work provide for the pensions of the old, any decline in the economic position, with less money going into the funds, would mean an immediate threat to their pensions. It cannot therefore be too strongly emphasised how much the development of social institutions depends on economic prosperity.

But there is also another factor which conditions economic prosperity and hence social progress, a factor which, to be quite frank, is not sufficiently appreciated in labour circles, not even among trade union leaders.

Just as there is a decline in civic consciousness in many countries, including, I admit, my own, there is also a decline in professional consciousness. This has already been referred to during the debate, in particular by Mlle. Klompé, who spoke of the responsibilities of the individual and by M. Federspiel who took up the same point.

I was particularly struck, M. Dehousse, by M. Federspiel's observation that the word "duty" is not once mentioned in this draft Charter but that the word "rights" occurs in every Article. Duties? Not a word about them. Only the State, only society, it seems, would have any duties. Yet every right should have its correlative duty.

Take, for example, the right to full employment and the obligations on States to ensure it. Is there not a corresponding duty on the part of the employee and of the worker to give of his utmost, to do his work conscientiously, a duty, based on the principle of distributive justice, *vis-à-vis* his employer and society and the State, which is responsible for ensuring full employment?

It would be desirable, in the interests of social morality, indeed of morality pure and simple, to line up "duties" against "rights". This is perfectly possible, and when we come, as I hope we shall, to the final drafting of the Social Charter, I am sure we shall find ways and means of applying this principle, a principle based on justice, on the individual conscience and on the duty we all have to do our fair share of work.

My final remarks are concerned with Article 47 and with what was said by M. Federspiel.

Article 47 provides that when the Charter has been drawn up and adopted here it shall be ratified; that is to say, it must secure the assent of the parliaments which will authorise their Governments to give the Charter their final approval.

On the other hand, M. Federspiel said just now that it was necessary—and that this was the most satisfactory method—to organise a kind of round table conference of Governments. They must meet and discuss the Charter in the light of their economic and political possibilities. They would thus gradually arrive at an understanding and would succeed by slow degrees in evolving a scheme which, although it might not take the form of a Social Charter, would at least be a coherent body of rules for social security covering all the States of united Europe. Even in the latter case, however, parliamentary consent would be necessary.

We have tended, I fear, to forget that even after six years we are still in the preparatory stage of our efforts to unite Europe. We are in far too much of a hurry. Before we can

create fully European institutions, there is a long intermediate stage through which we must pass, whether we like it or not. At this stage—be it in regard to the Green Pool, as formerly the Coal and Steel Pool, or the Agricultural Pool, or the Air Transport Pool or the Telecommunications Pool or the Social Charter—it will be the national Parliaments that will have to decide. The Social Charter may well be adopted, but, if it is not ratified by the French or by the Italian Parliaments, it will be impossible to apply it.

Here I accept the views of M. Mommer, which are both wise and realistic. We have certainly not done enough in our national parliaments to inform the public and to give them a European consciousness. M. Mommer was quite right in making this point: as long as national parliaments fail to support the recommendations of the Assembly calling for decisions by the Committee of Ministers, there is little hope that Governments will attach to such recommendations the importance which they deserve.

It has perhaps not been sufficiently appreciated that the Europe which we wish to create is a Europe of freedom, a Europe which will protect free institutions, among the most important of which are our European parliaments. There is, of course, freedom of expression, freedom of association and even freedom of opposition; but we must not forget our parliamentary institutions.

To create a United Europe overnight would have needed a Stalin or a Hitler. That would have meant the end of freedom: because a 4th of August night is, obviously, not conceivable or possible for the parliaments of Europe. The latter had no right to adopt such methods, and so they could not be adopted. The responsibility of these parliaments being firmly established, until such time as they might be relieved of such responsibility, until and unless they were sure of being replaced, national parliaments must necessarily act as national parliaments.

There is therefore the need for propaganda, directed at the parliaments themselves—it is perhaps even more essential than the propaganda directed at public opinion, which has not had a sufficiently far-reaching effect.

This, then, is the conclusion at which I have arrived. If we desire, by dint of great effort and firm resolve, to achieve the objective which we have set for ourselves today, a Social Charter and an Economic and Social Council, which I for my part accept without question, it is necessary in the first place to induce the Governments to co-operate with us through the joint meetings to which M. Federspiel referred, to give these meetings practical effect by means of more comprehensive reciprocity agreements and at the same time to convince parliaments that their working committees, their Committees on public health, on social security and on family questions—and there are such Committees in our French Assembly and in our Senate—should set to work, in co-operation with us, to achieve this great aim, an aim which will require time but which has got to succeed.

THE PRESIDENT (Translation). — I call Mrs. Crowley.

Mrs. CROWLEY (*Ireland*).—The Preamble to the draft Charter is the best indication of its spirit. It recognises the dignity of man and the integrity of the family. These are the foundations on which the Charter in its final details must, in fact, rest. The ideals are high and therefore will be difficult to implement to the fullest extent. Some of the provisions in the Articles may be already a matter of fact in some countries, others will be implemented by degrees in other countries over a relatively short period, and others again, which are more difficult of fulfilment, will take a relatively longer period.

In fact, looking at the Charter as a whole, as the Norwegian Minister has said, one is conscious of the diversity in the economic and social patterns of the European nations. This is one reason why countries cannot be put into a strait-jacket so far as this Charter is concerned. Too much regimentation may have the opposite effect from that which is intended.

A more realistic approach could be obtained if the Council, through its Committees, would consider a practical road of social progress by degrees. By this I mean that we should first formulate a series of social aims or targets and then tackle the political problem of the implementation of rights and duties by stages. It should not be too difficult to frame a document which permits a progressive, if gradual, raising of social levels on these lines. Thus, the Governments would not be forced into rejecting all of the Charter because of one or two sections, and, as the majority of Member States accepted some of the more non-contentious portions, the minority would, so to speak, be shamed into raising their standards by the moral force of the Council of Europe.

This debate has shown that the work which has been done by the Committee on Social Questions has certainly been worth while. It has been a frank and healthy debate and will, I am sure, be a tremendous help to those of us who have to tackle the problem of producing the final draft of a Social Charter which will be acceptable to the member countries.

Doc. 403 is so all-embracing and so very important to millions of people in Europe that the closest examination of each Article and each line is absolutely necessary before finality is reached. M. Heyman and M. Dehousse have rendered a great service to the idea of social security in the document presented and much more so by their excellent presentation of it this morning.

THE PRESIDENT (Translation).—I call Lord Layton.

LORD LAYTON (*United Kingdom*).—I entirely agree with the remark made by Mrs. Crowley that this debate has been well worth while. We are touching here a social and economic question which forms one of the two legs on which civilisation progresses—the other, of course, being political freedom. The fact that five out of ten of the speakers who have spoken this afternoon are women members of this Assembly is itself an indication of the fact that we are right down to human issues.

I shall not go over much of the ground again, because it is quite clear that Doc. 403 is to be

reconsidered, taken back and thrashed out in many important ways; but I want to indicate, for certain personal reasons, why I associate myself with much that has been said today to the effect that this Charter in its present form cannot be accepted by the Assembly, still less by the Governments of the countries here represented.

I shall not mention at this stage of the debate any of the many points that may be taken on the Charter itself and on the rights, but I want to indicate in particular some of my own reflections on the point that was made a few moments ago by Mr. Nicolson.

As my colleagues know very well, I have defended and supported from my place here in this hemicycle, again and again and again, the case for an Economic and Social Council. This Doc. 403 contains in one of its later pages a history of the suggestions which have been made for an Economic and Social Council. I was present at the Westminster Conference where this matter was threshed out, and proposals were put forward for such a body. It was to be an advisory body, and if you look again at the quotation relating to that body, you will see that it covered a much wider field than this present Charter. It concerned many economic questions, monopolies, difficulties in the way of production, and so forth. It was a wide-sweeping field to which it was proposed that the proposed Council should apply.

I supported, again in this Chamber, the suggestion for an Economic and Social Council linked with the political statute that was drafted two years ago. That, again, was a consultative body, but it was given something more than just the opportunity of vaguely being asked to express an opinion. It was given the obligation, or the right, to be consulted on economic and social legislation brought forward in the Parliament to be set up. It was given a more important and deeply-rooted position than a purely consultative body, and I supported it because that consultative body, if it had been linked with a Social Council of this Assembly, would have been one of the major safeguards for ensuring that the economic conditions of the six countries did not tend to go along a separate road from that travelled by the "Fifteen". It was one of several links designed at that time to prevent further fragmentation of Europe. I supported this scheme on those two occasions and I still support the concept of an Economic and Social Council linked with this body.

I attach great importance to what M. Dehousse said today—that we must be more closely in touch here with the world of labour. I recall a conversation in the first year of this Assembly, when M. Bidault asked me about the personnel of the Labour delegation from the United Kingdom on that occasion. Everybody was new to everybody else. Among the eighteen Representatives who came from the United Kingdom was Mr. Lee. M. Bidault said, "Who is Mr. Lee?" I replied, "Mr. Lee is far and away the most important person in the British delegation." I said that without disparagement of the standing of Mr. Herbert Morrison and Mr. Dalton and others who were members of the Labour delegation at that time. M. Bidault said "Why?" and I said, "He is the only trade unionist in the delegation; unless the British Trade Union Movement supports the

qualifications of our independent action that may be involved. Britain will not be in it and you will never get it." What was true then is true today.

I have been a protagonist of the Economic and Social Council. I have also supported the concept of a Social Charter, though I have never liked the word in that context, but in the sense of establishing targets, that is, minimum or standard conditions towards which you will work, the international movement should work day in and day out, towards the equalisation of standards throughout Europe. Economic integration is an aim of this Council. Tariffs alone will not do it unless you have in the background an equalisation of standards going on all the time. I need hardly repeat that I have been a supporter of—and have stated the view of British Liberalism on it—the Convention on Human Rights. All these three elements are, to some extent, involved in the present Charter. What I do not like, however, is the mixture. I believe that a good deal of the criticism of Doc. 403 arises from the fact that the amalgam of these three concepts has caused some confusion of ideas, and certainly confusion in the use of terms.

May I name three kinds of confusion that I have in mind? First, the document refers clearly to the difference between political rights and social rights or economic rights. But the terms used suggest that we are trying to do in the social field what we have done in the political field. There is not sufficient recognition of the fact that there is a basic difference between the two kinds of rights in the way in which you can enforce them. When, in 1949, we drafted the Convention on Human Rights and finally passed it in 1950, we parted company from the Declaration of the United Nations, with its 30, 40 or 50 rights, and picked those which could be enforced, which could be made easily the object of not only a common obligation but a common guarantee between the countries concerned.

Far and away the most heated debate in the first year of our Assembly was on the question whether one or two rights came within the sphere of justiciable and definable rights which could be guaranteed jointly or not. There is a large number of these social or economic rights in this Charter. I think there is confusion here because there is an attempt to treat them as though they were basic, fundamental rights. There is also confusion of thought created by the concept of an Economic and Social Council as a consultative body, which, as Mr. Nicolson pointed out, is also a body recommending action to be taken or even taking action.

That brings me to the question of implementing the Charter. We know that in the case of the Human Rights Charter the signature of the countries concerned, carries with it some pooling of sovereignty consciously undertaken. It carries also with it some sanction. Is there any sort of suggestion of a similar pooling of responsibility or of a sanction at all in this Charter? I do not think that you can answer that question clearly. I agree entirely with Mr. Nicolson's conclusion from some words used in the Charter. I noted also several phrases that were used during the Debate this morning which indicated that the Economic and Social Council in this context can do something other than just

advise. One of them was that it is to "influence the action of the countries". If anyone wanted to make a textual criticism of this document, he would find things which made him wonder whether the concept did or did not imply some action which the Council as such might take.

What, in fact, is clear is, first of all, that the Council is to be a negotiating body—at least I take it that it means that—forming a programme with the country concerned. But does that programme involve a time-table? Is it to be a commitment that action shall be taken within a certain time? If the progress is unsatisfactory, Ministers may be recommended to take action. That is the clause referred to by Mr. Nicolson. A recommendation may be made and in certain circumstances it may be passed to the Commission of Human Rights. That gives the Commission of Human Rights the responsibility of an investigating body, which is something quite new in that it will be investigating economic affairs.

I share Mr. Nicolson's concern as to whether this Charter as drafted does, or does not, imply any qualification of sovereignty, and whether the Council is to be used as a means, so to speak, of bringing pressure to bear where that sovereignty is qualified. An important phrase which seems to suggest that—and which appears on more than one occasion—is that the Council is "an institutional organisation for implementing the Charter." That is surely what is implied here. It is the institutional organisation and it is to ensure the implementation of the Charter. But how? In my opinion, that type of organisation, the personnel, the distribution amongst the nations and so on, does not make it the sort of body that could in fact exercise any such directing influence on the respective countries, and I think that when weeks ago—it may be months—the Committee on Social Questions decided to amalgamate the concept of the Economic and Social Council with the Charter, it made a mistake. It began to go in the wrong direction, and I hope that when the matter is considered again that decision may be reserved.

It is, in my view, quite essential that the exact character and nature of the commitment which the countries are to be asked to undertake must be absolutely crystal-clear. I would remind my colleagues that some years ago the initial steps were taken to set up the Coal and Steel Community and the approach then made to Great Britain was an approach in which it was laid down that we must first and foremost accept the supranational character of that organisation. Exactly what was the supranational content of the Coal and Steel Community was, of course, not known then, and from this tribune not so very much later the Belgian Foreign Minister declared that in the course of negotiation most of the supranational character, to which Belgium had objected, had been eliminated from the draft. I think that every one of my colleagues in the British delegation would agree when I say that if that had not been made a pre-condition it is more than likely that the Coal and Steel Community would have been an enterprise in which Great Britain would have taken part, and certainly would have tried to take part in moulding.

What I want to say about this present Charter is that there is a danger not only that the defi-

dition of rights and commitments so forth will not be clear and definite, but also that there may be confusion and misunderstanding on this issue of the pooling of sovereignty, or of any limitation of sovereignty for a period by the individual Governments. That would tend to ensure, as one speaker said this morning, that you could not possibly get ten ratifications of the Charter in its present form.

If that is so, elaboration of a document such as this which is not really crystal-clear on the essentials of international authority will not only prevent it coming into effect in its own right, but will tend to diminish the success of the Council of Europe and the unity of Europe in many other directions. For that reason, I would press most strongly that in these respects, when the Charter comes under consideration, the issue should be made crystal-clear.

THE PRESIDENT (Translation). — I call M. Manoussis.

M. MANOUSSIS (Greece) (Translation). — Mr. President, Ladies and Gentlemen, the European Social Charter is one of the Council of Europe's finest achievements. I should like to offer my warmest congratulations to our distinguished colleagues M. Heyman and M. Dehousse, Rapporteurs of the draft, and also to the Working Party.

After all the efforts it has already made to consolidate peace and safeguard European security, first through the European Defence Community and, after the setback to that Community, through the Western European Union, the Council of Europe is now pursuing its institutional aim of progress and social welfare.

After the work done to ensure protection against the fear of aggression, another task is now beginning, that of protecting the European peoples against want, against poverty and against the fear of want.

The draft Charter now being debated affords manifest proof of this. It also marks the opening of a new era for Europe.

Let us consider, first of all, some of the main reasons underlying the preparation of the Charter, and, afterwards, some fundamental points in the substance of that Charter. Many arguments have worked in favour of the presentation of this Charter: I should like to mention three of them.

The first is that other organisations, on a world-wide scale, have already proclaimed the urgency of a social policy and the fact that poverty, wherever it exists, endangers the welfare of the whole community.

In 1944 the International Labour Organisation, in its Philadelphia Declaration, stated that the struggle against want must be waged with unflagging energy in every country and by exerting a continuous and concerted international effort in which the representatives of workers and employers, co-operating on an equal footing with Government representatives, would take part in free discussions and arrive at democratic decisions for the promotion of social welfare.

The United Nations, in its Charter signed at San Francisco in 1945 and in the Universal Declaration of Human Rights—and, above all, of economic and social rights—in 1948, proclaimed that their fundamental task was to lay

the foundations of international stability and prosperity by helping to raise the standard of living and promoting full employment and social progress. It was for this purpose that the Economic and Social Council was set up.

The Council of Europe was, therefore, in honour bound to prepare a social charter of its own.

The second argument is this: we have already introduced a Convention on Human Rights, and a solemn promise was given that it would be followed by another Convention or Charter relating to economic and social rights, to supplement the civil rights and fundamental freedoms.

As long as destitution, poverty, malnutrition and inadequate living conditions continue to exist, the fundamental freedoms are insufficient to ensure the dignity of the human being. Hunger, squalor and pauperism are in flagrant incompatibility with that dignity.

It rests with the Council of Europe and our Consultative Assembly, which represent the spirit, the genius, of Western civilisation, as well as Cartesian rationalism and Christian personalism, to proclaim before the whole world, as a new doctrine, the co-existence of freedom and prosperity and the extreme urgency of safeguarding economic and social rights at the same time as civil and political rights.

Considered from this angle, the Social Charter bears solemn witness to the depth of the European spirit. The true meaning of human dignity is now being revealed. This marks the triumph of Western wisdom. Instead of old-style declarations in which civil and social rights were inextricably mingled, we now have two declarations couched in clear terms, one relating to civil and the other to social and economic rights.

I now come to the third reason: this Charter was becoming more and more necessary: for, unfortunately, there is great poverty in our Europe especially in Southern Europe.

Two examples of this are Italy and Greece. A parliamentary survey recently carried out in Italy, the statistical findings of which are given in an article by our distinguished colleague

M. Montini, published in the *International Labour Review* for January of this year, shows that out of a population of 11,592,000 Italian families about 3,000,000—one-quarter—live in poverty. Their standard of living is very low. 70 per cent of these families live in huts, caves, cellars or overcrowded houses with two, three or four people sharing a room, and are unable to afford meat, sugar or wine. Their yearly income does not exceed 100 dollars per family.

In my own country, Greece, the position is no better. According to the official statistics issued by our Ministry of Public Welfare, 2,500,000 persons out of a total population of 8 million are destitute, which means that out of 2 million families one-quarter—500,000 families—live in extreme poverty, with a yearly income of even less than 100 dollars per family. Most of them live in huts, caves, cellars and overcrowded houses.

By extending these analogies to the majority of other countries in our Europe, we can form an approximate idea of the poverty-stricken existence of large sections of our population. This situation, which is not only extremely distressing, but dangerous, indicates the urgent need to face this problem and to take every

possible step to raise the standard of living of the workers.

The Council of Europe deserves most of the credit for this excellent initiative. We may be proud of the day on which our Assembly embarked upon the discussion and approval of this Charter to combat poverty and, by setting up the European Economic and Social Council, set about, with untiring vigour, the task of raising the standard of living of the peoples of Europe.

With regard to the substance of the Charter, I should like to mention a few points which seem to me to be of fundamental importance.

On all problems connected with social policy, the European Charter—which may be described as a “framework-agreement” or “programme-agreement” to be subsequently expanded and supplemented by measures to be taken at international, national, local and vocational levels—embodies truly novel and progressive principles. I shall not analyse them, for that would take too long, but shall confine myself to the following two points:

First of all, on the question of the right to work and of freedom in work, the Charter, after laying down those principles, takes a new line. It lays down as a premise and a condition full employment and an appropriate economic policy. Economic policy thus becomes the mainstay of social policy and the chief weapon in the campaign to do away with unemployment. Unemployment and under-employment, which are prevalent today, especially in Southern Europe, undermine prosperity and are the main source of destitution and poverty.

It would be hopeless to strive to mitigate this danger by old-fashioned palliative measures such as unemployment allowances and other social welfare arrangements. The battle against unemployment must be waged through economic expansion, by the development of resources available either nationally or within Europe as a whole, and by making full use of available manpower and its potential productivity.

The European Social Charter gives full force to this concept and lays down guiding principles. The views it embodies have already been expressed in three Resolutions, adopted by the International Labour Organisation in 1944, 1945 and 1951 respectively, on the economic policy to be followed to achieve social objectives and do away with unemployment.

The Charter stipulates that the contracting parties shall take steps to maintain investments at the level necessary to ensure full employment in Europe: that they shall meet fundamental shortages by the investment of public funds, assist, stimulate or create new forms of economic activity, and undertake the rehabilitation of the unemployed.

This will be the principal task of the European Economic and Social Council, namely to put forward a precise programme and define the policy to be pursued at national and international levels to maintain a high and stable level of employment, reduce economic fluctuations to a minimum and ensure a steady rise in production.

The second point which deserves special attention is the Article of the Charter dealing with the right of workers to share in the life, management and profits of an undertaking.

The question of the workers' control of undertakings and of works councils is, of course, dealt with in scientific publications on labour laws. Workers' rights are also set forth in the Constitutions of certain countries. The preamble to the French Constitution of 1946 declares, for instance, that

“every worker shall participate, through his elected representatives, in the management of an undertaking.”

The International Labour Organisation does not, however, as yet recognise the workers' right to share in the profits of an undertaking. This is apparent from two celebrated texts adopted by the Labour Conference at its 35th Session, in 1952: a Recommendation and a Resolution.

These documents acknowledge that consultation and co-operation founded on mutual confidence are essential to the efficiency and productivity of a business enterprise and to the economic and social welfare of its workers; but they do not suggest that co-operation extend to profit-sharing. Co-operation is to be confined to measures such as providing the works council with the necessary premises and staff, informing it at regular intervals of the activities of the enterprise and of plans for the next financial year, supplying it with general information regarding the financial and technical position of the undertaking and allowing the workers' representatives the necessary time to carry out their duties without reducing their wages. Measures should also be taken to ensure that the members of works councils do not pass on any confidential information which may come to their knowledge in the performance of their duties.

Today the European Social Charter proclaims a right which goes beyond the mere right of control; namely the workers' right to share in the profits. That is a big step forward! A new era is beginning, which will open up fresh prospects of increasing the worker's income, raising his standard of living, ensuring higher wages and better pay for work done.

The dream of generations of workers, to whom the enjoyment of this right to share in profits seemed the only hope of improving their lot, will now come true. It is for the European Economic and Social Council to make a start on the solution of this thorny problem and to press forward with all measures calculated to implement and give effect to this profit-sharing principle.

Ladies and Gentlemen, I shall now conclude. The necessitous elements among the peoples of Europe will hail this new gospel with great satisfaction. The Social Charter will stand for ever as the triumph and the glory of the Council of Europe and our Assembly.

THE PRESIDENT (Translation). — I call Mr. SMITHERS.

Mr. SMITHERS (United Kingdom). — I do not now wish to address the Assembly, as I think that my point of view has been admirably put by my colleagues, by the Irish Minister who spoke this morning, and by M. Federspiel, Chairman of the Committee on Economic Questions.

THE PRESIDENT (Translation). — Thank you.

I now call the last speaker, M. Hellwig.

M. HELLOWIG (*Federal Republic of Germany*; (Translation from German). — Mr. President, at the conclusion of this extensive first reading of the draft for a European Social Charter an appeal should be made to those groups and organisations in the social field which are without parliamentary means of expression to take greater interest in this work than has been generally the case. I believe that the initiative of the Council of Europe and its Consultative Assembly, which is given expression in this draft, can be unhesitatingly supported. Support is due, moreover, for the prominence which the draft for a European Economic and Social Council gives to the Council of Europe itself by providing that decisions of the European Economic and Social Council, if they are of a certain importance, require the approval of this Assembly of the Council of Europe.

I should like, however, to mention the following consideration. International employers' organisations, and, in particular, European employers' organisations, have, up to now, not shown as much interest in the work of the Council of Europe in this field as has long been the case with labour organisations. Almost all labour organisations of any importance have Consultative Status A in the Council of Europe, while the participation of corresponding management organisations in the work of this House has up to now not reached this level. We should seize the opportunity of this debate to appeal to European employers' organisations to participate in the work of this House, to take an interest in it and to apply for consultative status, as is the case with labour organisations.

At this stage I may perhaps be allowed to limit myself to this suggestion by way of completing the picture. A great deal has already been said. I think that, particularly, the connections between economic and social policy have been brought out strongly enough, even if the economists were at the beginning criticized by our worthy colleague, Mr. Dehousse, who thought that we should perhaps take a far too negative view of these proposals. Our work in the Committee on Economic Questions will attest to the fact that we are much more favourably disposed to the basic conception as a whole than it would perhaps seem when we call attention to certain reservations which we have.

Experts in economic and social policy must work together, because economic and social policy are two sides of the same coin. The social policy side of this coin cannot be larger than the side which is determined by economic policy, or in other words: in social policy no more can be distributed than is produced in the economy; than is achieved by the means of economic policy and placed at the disposal of the distributors.

In the light of this connection between economic and social policy even our colleagues and friends who give priority to the aims of social policy will recognize the fundamental reason for our reservations. With our reservations we have no intention of making the application of measures of social policy more difficult; rather are these reservations directed against only such measures as might disadvantageously influence the volume of the social products to be distributed. Since the distribution of social products at a national as well as at a supranational level presupposes certain definite

measures of economic policy if it is to be increased, the experts on social policy should therefore also recognize the constructive content of our reservations.

I should like to touch briefly on one point which seems dangerous to me, because, in view of the tendencies of this draft, it might cause unnecessary possibilities of conflict with other organisations. I refer to the far-reaching intervention in domestic economic and social policy which, with the realization of this Charter and with the establishment of the European Economic and Social Council, as foreseen by this draft, would doubtless result. This possibility of intervention in matters of economic and social policy, in respect of the legal codes of the signatory countries, goes much further than has been up to now possible on the basis of all other plans and at all other levels of European economic integration. In the light of this possible conflict, before programmatical formulations and obligations are written into this Charter such points should be brought into agreement with whatever possibilities of supranational or international intervention in the domestic affairs of individual countries now exist which can influence their economic and social policy.

May I call attention to a further area of conflict already mentioned by my colleague M. Birkelbach: the fact that, in the draft of this Charter, initiative by the State, that is a certain amount of direction of policy, is demanded. This applies right down to the regulation of wages and to many other things. Now, we in Germany, as is probably the case in other countries, have placed over against this State initiative a clearly-defined area of concern of self-government and self-responsibility for the partners in the wage question, in other words for management and labour organisations. In Germany experience made under the strong intervention of the totalitarian State may have played a role in this development, for example the abuse of the State fixing of wages in the totalitarian State leading on to the State's actual dictation of wages. This experience was one of the fundamental reasons for making self-responsibility and self-participation of the wage-partners a basic principle in the regulation of wages. With the realization of this Charter a certain amount of conflict might therefore arise between direction by the State and the responsibilities of self-government.

The hour is too late, Mr. President, for me to take a position on all the remaining questions. I feel, however, that I must call attention to the fact that, in the present draft, from whatever standpoint of economic or social policy it be judged, there are still a great many contradictions to be found, which indicate the necessity of a very careful reconsideration of the whole text.

THE PRESIDENT (Translation). — As we have now come to the end of the speakers on the list, I call M. Heyman, Chairman and Rapporteur of the Committee on Social Questions.

M. HEYMAN (*Belgium*) (Translation). — Mr. President, Ladies and Gentlemen, I promise not to make a second speech, if only because of the late hour and the danger of getting myself thrown out. (*Laughter.*)

I should like to draw a general conclusion from this long debate straightaway; how right we were to hold it. Yes, and how right we

... proposes this important question to another Session of *some day*, without allowing Members of the Assembly to express their views on the significance of the documents we were presenting.

So what is immediately obvious from this debate is the importance of the problems we have been examining.

What were we aiming at? We said in effect: "Here is a document; examine it, criticise it and tell us what you think of it."

Allow me as Chairman of the Committee on Social Questions to say that rarely has a Committee had a more difficult task than the one assigned to our Committee and the joint sub-committee.

So you will certainly not hold it against me if I take this opportunity of asking all our members not to lose heart: and of paying special tribute to the great work they have done. At meetings in Strasbourg, Paris and other places—isn't that so, Mr. Nicolson?—we studied the draft conscientiously, article by article. It is no secret to say that we were not always in agreement! I must admit that I, personally, had, and still have, objections to certain texts: but finally a compromise document was worked out and put before you.

Well, today we have listened to eighteen speakers. What shall I do? Reply to them all? To every point that has been made? What would you think of a Committee Chairman who, at 7 o'clock in the evening, started replying to a hundred or so comments, mostly—it must be admitted—criticisms and objections!

I propose therefore to do no more than draw two conclusions from this debate.

In the first place, I note with deep satisfaction that there has not been a single criticism directed against the fundamental idea of the Charter. Everybody has said: "Social Charter? Agreed! But these are our criticisms and our comments." Against the idea itself nobody has protested.

I have every reason to feel gratified at this unanimity. Speaking as a man who lives among working people, and I use the word in its broadest sense, I can tell you that the very fact that the Council of Europe at least feels that there should be some kind of Social Charter will have a very favourable effect on these people.

In the second place, in the light of the debate, and with the help of the reports, documents and statements we are going to receive, it only remains for us to get down to work again. That is what we are going to do, of course; but first we have something to ask.

Ladies and Gentlemen, we recognise the right of members to advance criticisms and to make comments. This is the very nature of our parliamentary system. For my part, I always appreciate it when someone says what he has to say, just as everybody has done today, sincerely and conscientiously. But that in itself is not enough: we must resolve to produce constructive work together.

That is why I should like most respectfully to make the following request. Will all those who have criticised articles in the draft Charter or in the draft plan for an Economic and Social Council please make it their business to draw up and table amendments within the next week. We shall then really know what are the criti-

cisms, the suggestions, the proposals for redrafting that you have to make. I shall go even further. I know from experience that it is not always easy to draft texts or amendments. If some people are unwilling to present their comments in the form of a draft for legislation, it would do if they were to send us a note in which their personal point of view was set forth: we should then be able, if need be, to draft an appropriate amendment.

This being so, we can agree on two points. First, that at the end of this debate—and here I am of the same opinion as my excellent and distinguished colleague, the Chairman of the Committee on Economic Questions—we should not vote on a recommendation. In all conscience I do not feel we should be in a position to pass a Recommendation committing the Council of Europe.

Secondly, as was thought yesterday, it would be unwise to vote next week on any amendments that may be tabled.

During the debate I realised that if we wanted to express in amendments all the criticisms and observations put forward, it would take perhaps 40 or 50. Are we going to discuss these amendments next week? I hope not. The best thing, in my opinion, would be to refer back documents, comments and amendments to a new study group of which I shall speak at the end of my speech.

I must admit, Ladies and Gentlemen, that I have been greatly tempted to reply to certain observations on the spot. You must not be vexed if I say—forgive me if I am wrong—that perhaps not all the members who spoke had devoted enough time or attention to studying the draft.

The Committee must not be accused of crimes of which it is innocent. I noted perhaps some thirty comments criticising things which did not figure in our draft. I shall confine myself to two examples.

First, the old age pension, a subject dealt with by Miss Pitt, one of our distinguished colleagues, whom I should like to thank, as Lord Layton did just now, together with the other women who spoke in this debate, mainly on family problems. This is your very own domain, Ladies. In parliamentary organisations the rôle of women is to speak out whenever the interests of family and children are threatened. That is what you have done today.

But Miss Pitt said: "Are you going to prevent workers from keeping their jobs after the age of 65?"

No such prohibition exists in the Charter. There is no suggestion that people should stop working at the age of 65. If there were any question of ceasing work at 65, I should be the first to be affected and should have to leave my seat here immediately. (Laughter.) But there is no thought of that. The Charter simply insisted on the possibility of retirement at the age of 65. If you want to go on working till you are 66, 67 or even 70, all the better. If your health permits, go ahead. You will find it of advantage because, of course, your pension will be larger. I hope, however, that this will also apply to elderly parliamentarians! (Laughter.) If we examine the English text we shall realise that it is still more explicit, since the word "progressively" is used.

That is one error. And now for the second error, which I noted in Miss Burton's speech.

According to the Charter, a mother would get six weeks rest before and after childbirth. Do you know where this clause came from? It is taken word for word from the Geneva Convention. When I was at the Labour Conference twenty years ago—I recall the occasion vividly—and we passed this text, the country of our esteemed Vice-President ratified it just as the majority of the others did.

Why this obligatory leave before and after childbirth? First of all, in order to introduce some uniformity as between our national laws. Is this not the goal we are all aiming at?

In the second place, to ensure adequate protection for young mothers. Allow me to recall a personal experience: forgive me, but I must explain why I am going back to the text of the Geneva Convention.

As Minister of Labour and State Insurance in Belgium, I remember going on an official mission to a country which is now, alas, behind the Iron Curtain. There I visited a Belgian textile factory. In one section, in a room oozing with damp, were three or four hundred women at work and it didn't require very keen sight to see that there were some in their last stages of pregnancy. As I came out of the factory, the Director, who was a Belgian engineer, asked me what I thought of it. I told him that in Belgium the Labour Office would have sued him under the terms of the Geneva Convention for the Protection of Young Mothers.

How can we allow a woman to decide to work up to a week or a fortnight before the birth of her child and afterwards take eight or ten weeks leave? No, we must sometimes protect the workers against themselves. And in these cases two lives are involved, the mother's and the child's. This was our reason—and this is what has caused the misunderstanding.

I should like to end by addressing our distinguished colleague, Mr. Nicolson, who has just made a very interesting speech.

This is, roughly, what he said: "According to the Charter, we in the United Kingdom shall be compelled to accept any worker who may wish to go there."

Where did our honourable colleague read of such an obligation? There is something vaguely similar to this in the Preamble, where it is pointed out that all international organisations ought to encourage the free movement of goods, men and capital. But you are right, my friend, in saying that it would not be proper to compel a country where there is unemployment to receive all comers, in all circumstances. There is no question of that.

Mr. NICOLSON (*United Kingdom*). — It is in Article 42.

M. HEYMAN (*Translation*). — I don't want to have a whole discussion on the matter now. I repeat that such a fear is quite unfounded.

I now come to the conclusions which my colleague M. Dehousse was to put before us. M. Dehousse had to leave this meeting to carry out an even more painful duty than listening to the attacks against his draft Economic and Social Council. Naturally, he is not responsible for what I am about to say, but I know that he would agree.

The creation of the European Economic and Social Council has not met with as much appro-

val as the Social Charter. Nevertheless, I hope that we shall obtain a tangible result. I remember, as the honourable Lord Layton does, that the origin of the Economic and Social Council was the Westminster Conference in London. I had the honour to be with you then, Lord Layton, and I recognise that it is a British idea. We shall have the opportunity of dealing with this problem later on.

My conclusion, Mr. President, is as follows. Next week, we are to present the Assembly not with a draft Recommendation, but with a draft Order. You have already received a text tabled by the Chairman of the Committee on Economic Questions. I should like to return to this text and, since it does not give us entire satisfaction, to add two or three paragraphs. We shall first try to come to an agreement. don't you think, M. Federspiel? I have no doubt that we shall succeed, as we have always done in the past.

To what Committees, Mr. President, must we afterwards refer back the question as a whole? I suggest; the Committee on Social Questions, the Committee on Economic Questions, the Social Committee of Experts, perhaps the Legal Committee, and others. I suggest, too, that the Secretariat-General take the matter in hand so that a fuller study of it may be made by the Committee of Ministers and by the Standing Committee.

But in any case, we promise you—and this will be my last word—to resume the study of the problem in the light of your comments and, if God spares us, to present you with a new draft next year.

THE PRESIDENT (*Translation*). — Ladies and Gentlemen, I owe the Assembly an apology. I was mistaken just now when I said that there were no more speakers on the list. There is one more name, that of M. Tümerkan. I think the Assembly will want to hear what he has to say.

I call M. Tümerkan.

M. TÜMERKAN (*Turkey*) (*Translation*). — Mr. President, perhaps you will allow me to begin by expressing my pleasure that this debate is being held, as I was one of those who were in favour of it. There is no doubt that everything that has been said since this morning either for or against the draft Social Charter will help us to fix our course.

After these preliminary remarks I should like to make a few observations on certain articles of the draft.

The proposals which I made in committee, on Article 14 for example, were not accepted. I did not break my heart over this as I thought that my colleagues on the Committee would, in the meanwhile, have time to think about why I had made them. This morning, I was pleased to hear one of my colleagues, the Vice-Chairman of the Committee, expressing an opinion which was close to my own. I hope that the Chairman of the Committee will be as much in agreement with me after he has heard what I have to say now.

Paragraph (c) of Article 14 gives an expectant mother six weeks leave with pay before and six weeks leave with pay after the birth of her child. As a former practitioner I shall make bold to say, Mr. President, that the application of this principle has often come up against, and

will again come up against, difficulties, of which the mothers themselves have of course to bear the brunt. For instance, in the case of premature births, many employers have refused to add to the post-confinement leave the period still outstanding from the pre-confinement leave. This is why I am proposing that it should be clearly stated in this paragraph that the total amount of paid leave granted should not be less than twelve weeks. It will certainly be necessary to obtain a doctor's opinion first. I hope that one day the International Labour Office will also agree with the proposal that I have just submitted to you.

I now pass on to Article 2, paragraph (b). I think that we should define more closely the meaning of the word "wage", which is variously interpreted. If that cannot be done, we should take out the first line of this paragraph. As for the second line, it should be modified by adding: "which is in keeping with the same standing of living."

I shall not do more than refer to one last question, the most difficult of all. It is worthy of very close examination. In the Preamble, on page 2, at the end of paragraph 9 there are the words "or other opinions." There should be added here, I think, the words

"except subversive opinions or propaganda."

It is very clear that the provisions of the Social Charter are designed to satisfy basic needs, but it is also obvious that the ways in which they are applied will vary with the countries in which the Charter comes into force.

There is no doubt, for instance, that food is a primary need for everyone, yet it will be much easier for some countries to satisfy this primary need than for others.

Our real problem is not whether to accept the proposal: that is indispensable. The problem, I repeat, is not to fail in practice to carry out those parts of it which prove difficult.

THE PRESIDENT (Translation). — Does anyone wish to speak?...

The General Debate is closed.

In accordance with the decision taken by the Assembly at its Sitting yesterday afternoon, there will be neither a vote on the draft Recommendation in document 403, nor, in consequence, on the amendment which has already been tabled or on any others to come.

I have received a draft Order presented by M. Federspiel on behalf of the Committee on Economic Questions; however, it follows from what the Chairman of the Committee on Social Questions has just said that the two Chairmen will now agree on the text of an Order to be submitted to the Assembly and on which a vote can be taken, without lengthy discussion, at a later meeting.

M. Heyman, Chairman of the Committee on Social Questions, has mentioned some of the committees to which this question will have to be referred. I must ask him if he will be good enough not to forget the Committee on Cultural Questions when he is negotiating with M. Federspiel, as the participation of this Committee was asked for in the course of the debate. I should also like him to consider at the same time whether it would not be proper to submit the

whole draft to the Committee on General Affairs as well, for it has, unquestionably, political implications.

M. HEYMAN (Belgium) (Translation). — We agree.

THE PRESIDENT (Translation). — We shall therefore wait for the text of the Order which will be jointly submitted by the two Chairmen.

After this very serious and searching debate, I think that the Assembly will undoubtedly wish to postpone until its Sitting at 10 a.m. tomorrow morning the debate on the draft Recommendation, for which Miss Burton has acted as Rapporteur on behalf of the Committee on Social Questions (Doc. 504). (Agreed.)

The debate on the draft Resolution in reply to the social section of the Fourth Report on the work of the Brussels Treaty Organisation will have to be postponed to a later Sitting, as the Rapporteur, M. Fens, is at present ill and unable to come to Strasbourg.

OFFICIAL REPORT*Twenty-sixth Sitting*

Wednesday, 26th October, 1955, at 3.10 p.m.

**10. European Social Charter
and European Economic and Social Council**

*(Debate on a draft Order
presented by the Committee on Social Questions,
Doc. 445)*

THE PRESIDENT (Translation). — The next item in the Orders of the Day is a debate on the draft Order proposed by the Committee on Social Questions, Doc. 445, concerning the European Social Charter and the European Economic and Social Council.

I call M. Heyman, Chairman and Rapporteur of the Committee on Social Questions.

M. HEYMAN (*Belgium*) (Translation). — Mr. President, Ladies and Gentlemen, I am pleased to say that my speech can be very brief.

You will remember that last week the Assembly spent a whole day discussing the Social Charter and the Economic and Social Council. It decided—wisely, I think—to vote on neither a resolution nor a recommendation, but to ask the Committee to get into touch with the Committee on Economic Questions, which had raised objections to the proposed text, to try to come to some agreement on a joint resolution.

We at once acted upon this recommendation of the Assembly, and have held several meetings since last Tuesday's debate. I can, I think, state, even in the absence of the Chairman, M. Federspiel, that after this morning's very lengthy meeting, he now concurs with the draft Order which I proposed, and which derives from,

I might even say combines two draft resolutions, namely one put forward by M. Federspiel and the other by me. There is therefore no need for me to read out the text of Document 445 now. As you will, however, realise, this document calls upon us to make a great effort to agree on a joint text for submission to you at next year's Session.

This morning, the Committee on Economic Questions and the Committee on Social Questions held a long meeting to draw up a timetable; and I think I may assure you that, by the next Session, we shall be in a position to submit a new text, on which, after three years, the Assembly can at last take a decision.

I should, therefore, be grateful if the Assembly would agree to the draft Order I have the honour to submit.

THE PRESIDENT (Translation). — I call M. Radius.

M. RADIUS (France) (Translation). — I fully approve the draft Order presented by the Chairman of the Committee on Social Questions, but I should like to explain briefly what my approval signifies.

It is essential that the Assembly, in deciding upon the draft Order, realise how its decision will affect the work done between now and the next Session.

The Assembly must, in the first place, be aware of the purpose of a European Social Charter. It is, primarily, to establish the foundations and trace the broad outlines of a European social policy which alone can bring well-being and social progress to Europe.

The aim is, to be more specific, progressively to harmonise—and I must emphasise the word progressively—the social legislation of the various countries. That this is essential to the social integration of Europe, there can be no doubt, since this is the only means, first, of extending the benefits granted to workers in countries with advanced social legislation—which include my own country—gradually to the whole of Europe; and, secondly, of eliminating the economic inequalities which unfortunately exist in countries with more advanced social legislation, since those countries find it hard to compete on the international market with countries which, owing to the rudimentary nature of their social legislation, are able to produce more cheaply though often in deplorable working conditions.

Lastly, it is time that the Council of Europe did something practical for workers, who are always being told about Europe and the need to support Europe, without being given any guarantee that in that Europe they will hold the place to which they are entitled.

I am afraid that the efforts of us parliamentarians may come to naught unless we have the conscious, resolute, I might even say enthusiastic support of European workers as a whole.

That is why I am firmly convinced that we need a social charter, one which is not confined to a proclamation of principles, but which contains compulsory provisions—subject of course, to conditions to be defined by the Governments of the Member States of the Council of Europe—as a guide for the domestic legislation of those countries.

With this in mind, I, certainly, share the view—already taken, I believe, by my British and Scandinavian colleagues—that the provisions of the Charter should, not attempt to fit in with national laws—which would make the Charter useless—but, nevertheless, take the differences and peculiarities of national laws into account.

I spoke just now of the importance of the Charter for the workers of Europe. It would, indeed, be inconsistent of the Council of Europe to forgo the co-operation of the workers, who have hitherto, within the narrow limits of their consultative status, lent us considerable support. Their representatives should therefore in my view, be closely associated with the work of all those Council of Europe institutions engaged in drafting the Charter. If we continue to work in this spirit we shall, I think, be in a position, at the Eighth Session of the Assembly, advisedly to adopt a recommendation submitting a precise and constructive draft Charter to the Committee of Ministers.

I come now to the Economic and Social Council which, in last week's debate, bore the brunt of criticism by opponents of the Charter. In fact, brief consideration of the purpose of this Council shows that there are no grounds for misgivings. The Council is intended to exercise control over and implement the Charter, with which it is closely linked: in other words, it is to be an institution for the promotion of a European social and economic policy. As such, it would be unique, since no similar body has hitherto existed in Europe.

Would it be a rival to our Assembly? By no means. Quite the opposite. By providing the Assembly with a special advisory body to afford technical aid in the economic and social fields, it would leave the Assembly more time for political questions.

Is it a case of setting up another European Assembly? Certainly not. It will be an institution—and this I wish to emphasise—within the framework of our Council of Europe.

There has been talk, too, of the risk of duplicating the work of some existing international organisations, such as the I. L. O., and the Economic and Social Council of the United Nations: but the I. L. O. has no special organ for the promotion of a European economic and social policy. Its regional conferences are not empowered to adopt conventions, and the Conference of last January demonstrated what a paralysing and frustrating effect participation of the Communist countries can have upon such conferences.

As for the United Nations Economic and Social Council, its structure as well as the nature and scope of its work are patently so different as to rule out all rivalry between it and the proposed European Economic and Social Council. Indeed, the European Council could, through an agreement co-ordinating its activities in Europe with the world-wide activities of the United Nations Council, eventually serve most usefully to complement the work of that Council.

Nor can we overlook the fact that the workers of Europe impatiently await the establishment of this Council, which will provide the tangible, practical proof they need to give them faith in Europe. Will it, indeed, be possible to achieve a united Europe at all unless their faith in it is maintained?

... to grant them consultative status, as is done by European organizations such as ours. We must give this proof that we associate ourselves fully and unconditionally with the workers of Europe in fostering the European idea.

In the face of this argument, budgetary figures and legal data are meaningless. We must avoid giving the impression that Europe is so immersed in political problems as to lose sight of the importance of economic and social objectives.

In my opinion, therefore, it is important that the competent committees should take steps quickly, in co-operation with the Committee of Social Experts, to implement the earlier decisions of the Assembly, and so wipe out the unfortunate impression which last week's debate may have made on the workers of Europe.

True, we must proceed with caution; but go forward we must.

The question of the social charter has raised high hopes amongst all workers everywhere who believe in the idea of Europe. Let us beware of betraying those hopes.

THE PRESIDENT (Translation). — I call M. Montini.

M. MONTINI (*Italy*) (Translation). — Mr. President, I should like to add a few words to what has just been said by our colleague.

This debate has given us a somewhat unfortunate impression with regard to a project which has cost us much time and effort: the draft Social Charter. We knew that our task was a difficult one and that we should meet many obstacles in the path to its achievement. We encountered the first obstacle in a parliamentary organ, namely in this Assembly. In one sense this is a cause for satisfaction since it enables us to discuss our difficulties in a truly democratic atmosphere and to seek a joint solution. The need for this was implicit in the vote of the Assembly. The draft Social Charter could but be approved by the Assembly in its general principles.

The Social Charter is necessary. There is no need to repeat the social arguments that lead to this conclusion and to mention once again the, as it were, sentimental factors that are involved. For two years now, we have been convinced that the public is waiting for this Social Charter. We must not adopt an equivocal attitude and allow difficulties connected with the application of the Charter to impair its success.

What then is the solution? Must we give the whole thing up or can we, even from the point of view of procedure, find some solution? The Resolution proposed by our Committee Chairman could, I feel, with the co-operation of the Committee on Economic Questions, provide a solution.

The Economic Committee needs to be sure that, in the social field, we stick to facts and do not close our eyes to economic realities. It would otherwise be vain and useless to submit the Social Charter to national Parliaments and Member States, which might recognise its value but nevertheless consider it impossible to put into practice.

We therefore fully agree that the Social Charter is a necessity and that we should seek to avoid anything that might cancel out

what we have done when it is tabled before our Parliaments.

What, then, is the solution? I should here and now like to stress the competence of the Social Committee on this subject. It is undoubtedly entitled to deal with the Social Charter. But we cannot, on the other hand, agree to the Assembly handing over all its rights in the matter to a party of experts, for, as parliamentarians, we cannot relinquish our rights and allow "experts" to do our work for us. The work of the members of a parliamentary assembly may from a technical point of view be satisfactory or not, but we consider that we, and we alone, are entitled to establish the Charter.

It thus appears clear to me that the matter should remain in the hands of the Committee on Social Questions and that parliamentary responsibility should not be handed over to a group of experts. I say once again that the proposal made by the Chairman of the Committee on Social Questions is one which may lead us somewhere. Let us try to find some common ground of agreement, together with the Committee on Social Questions, the Committee on Economic Questions and the Governmental Committee, in respect of our draft. Here it is. Let us not try to conjure up another. Let us review what has been done—even though hastily—and reconsider, point by point, positions which may have been assumed on somewhat general grounds. But in doing so let us do it through the agency of the competent organs of the Council of Europe and let us not leave the task to an anonymous, if distinguished, body of experts. I feel the motion for the Resolution now before you meets the case—I hope and believe you will give it your approval.

THE PRESIDENT (Translation). — I call Mme. Weber.

Mme. WEBER (*Federal Republic of Germany*) (Translation). — Mr. President, Ladies and Gentlemen, the first draft of the European Social Charter received lively criticism in the session of the Consultative Assembly. But it would be completely wrong for us to allow ourselves to become discouraged for this reason. We should now, especially in conjunction with the Committee on Economic Questions, do further work on the basic principles of a Social Charter so that after having put together a certain basic framework we can formulate the individual paragraphs of the Social Charter.

Last week I closed my remarks on this question with the words: we want a social Europe! This aim should be shared by all of us, no matter to which country we belong. Especially in this time of tension between East and West must the West distinguish itself in social affairs. Therefore we must not, I should like to re-emphasize this, we must not become discouraged. We shall put forth all our efforts—we have a lot of courage—to present a Social Charter of which we hope that it will be almost, in fact, today I am bold enough to say that it will be—unanimously accepted.

When the existence of the International Labour Office is here mentioned then I must add: the case with social questions is the same as for human rights; by way of the European

nations we also have a special message for the International Labour Office.

Thus I join with the two speakers who preceded me in saying: let us with courage, confidence and firmness of purpose tackle the problem anew.

THE PRESIDENT (Translation). — I call M. de la Vallée Poussin.

M. de la VALLÉE POUSSIN (*Belgium*) (Translation). — Mr. President, Ladies and Gentlemen, may I begin by saying how much I approve what has just been said by M. Radies, M. Montini and Mme. Weber.

I think it is of great importance that the work begun by the Committee on Social Questions should be brought to a successful conclusion and that the Charter now before us—which will doubtless be carefully revised and perfected—should continue to receive our attention so that the matter may be settled by a political decision of the Assembly, without unnecessary loss of time.

May I be allowed to say, however, that this work seems just now to be coming to a dead end, owing, perhaps, to mistaken working methods.

There is, obviously, marked disagreement between the Committee on Economic Questions and the Committee on Social Questions. But when such a situation arises between two Assembly Committees, I think that they should recede into the background and leave it to the Assembly to act. After all, our Committees are not legal entities and once they have fulfilled their function of determining what should be our attitude to a scheme, it is then for our Assembly to decide.

It would be an unfortunate precedent if we allowed a disagreement between two Committees to involve us in loose talk about diplomatic negotiations, for they have no real powers, even of an advisory nature, or if we treated this debate as if it were not our business as an Assembly to come to a decision.

I admit, Ladies and Gentlemen, that, in spite of, or perhaps because of, the disagreement between these two Committees, this matter does not seem to me to have been completely clarified. Our debate last week left me with a somewhat painful impression, for some of the objections to the Charter and the criticisms of the proposed text seemed to suggest that the speakers had not read or properly understood the provisions which they were being asked to adopt. This may be inevitable in so technical a field as that of social legislation.

I must remind you of a truth which may not be very palatable to some Members of this Assembly, namely that social problems are also legal problems.

Very rarely do social problems not become legal problems at some stage. Unfortunately, both here and in our national Assemblies, there is often a conflict between the desire of one committee for social reform and the power of another committee to translate it into concrete terms.

Excellent ideas are thus often put forward in our Assemblies which fail to yield the anticipated results because of a failure to frame them in the appropriate legal terminology.

In the present case, it is my impression that we shall make no further headway by renewed series of discussions, jointly or otherwise, between the Committees on Economic and Social Questions. We must try a different approach, and, in my opinion, one really points to a suggestion emerges from the Resolutions now under discussion, namely that we should now have the opinion of the governmental committee.

Personally, I admit to a certain scepticism about this governmental committee. It is a committee of civil servants and one which may not have a very strong social consciousness. Moreover, like all committees of experts, it will have much more to say about the difficulties in the way than about how a solution can be reached. After all, it is the function of experts to point out the difficulties, whereas an Assembly like ours should resolve them by making the political choice on which any technical solution must depend.

What I expect of this governmental committee, therefore, is not that it should solve the problem but that it should do something effective to clarify the situation.

Here is what I hope we shall ask the governmental committee to do; first, study the text of the Charter which emerges from our discussions, that is to say the draft resulting from joint discussions between the two Committees; second, explain point by point what the results of the text may be, showing the real difficulties and the practical impediments; and finally, if it has any imagination, put forward solutions.

Then—and I hope it will not be later than the beginning of the next Session—having before us a clear, concrete and legally phrased opinion by members of the governmental committee, I think that our Assembly should again look into the matter, so that it can assume the political responsibility of declaring its wishes. By that time, I am convinced, we shall be able to propose to the Governments a progressive draft Social Charter accompanied by practical suggestions as to how its principles may be speedily put into practice.

When we have done that with a full knowledge of the technical difficulties involved, we may perhaps find it easier to set up the political body to deal with technical questions or, rather, to reach the political decision which transcends technical considerations.

That is why I am anxious that you should interpret the present text first and foremost as a reference to the governmental committee. But we must be clear what we are asking the governmental committee to do. We do not want a political opinion, for that would be inconsistent with its functions, but a thorough technical opinion enabling us to debate this question with a useful range of working papers.

THE PRESIDENT (Translation). — I call Mme. Schroeder.

Mme. SCHROEDER (*Federal Republic of Germany*) (Translation). — Mr. President, Ladies and Gentlemen, first of all, I should like to express my thanks to the Rapporteurs for the excellent work which they have done on the draft Social Charter. In looking through this draft we find a tremendous number of proposals which should be put into force in order to raise the standard of living of the working population

of Europe. We Germans in particular, who, during the Weimar Republic, tried to improve social conditions and who then experienced the terrible setback of the Nazi régime and the war, have a very special interest in social questions.

There are two reasons which prompt us to refer the draft Social Charter back to the Committees for reconsideration. First, perhaps through an oversight, the Committee on Economic Questions did not work on the drafting of the Social Charter at the same time and together with the Committee on Social Questions. Consequently, several provisions of the draft are presented in such a form as to be unacceptable, as we heard this morning in the lengthy joint meeting of the two Committees.

The second error arises perhaps from the fact that declarations of principle are not clearly enough differentiated from those provisions which national parliaments or Governments can reconsider and modify when put in to the form of laws.

There are a whole series of ILO conventions; to mention only a few, the convention on protection against unemployment, on benefits for maternity and family, on equal pay for equal work and a number of other conventions. Therefore I should like to express my agreement with the previous speaker, who said that in future this work must take place in close connection with the International Labour Organisation. There must be no duplication of work, no rivalry, and we must co-operate wholeheartedly.

The preparation of a European Social Charter is an extremely important task; equal in importance to the political work which we are doing. This Charter must have real value. For this reason I am very pleased that M. Heyman, Chairman and Rapporteur of the Committee on Social Questions—and I hope also M. Debousse who, unfortunately, was unable to be present—has agreed to work on the revision of the draft in co-operation with the Rapporteur of the Committee on Economic Questions. I hope that at the next session of the Council of Europe, we shall be presented with a proposal which we can approve.

Allow me just to say a few words about the second question contained in this draft, namely the European Economic and Social Council. From the very beginning I had—and still have—serious reservations about setting up, in addition to the Council of Europe, a second Council of 93 members similar to ours which is solely to be concerned with these questions. This problem must, I think, be seriously reconsidered lest we in this way set up a number of Councils or Parliaments thereby risking the possibility of duplication of work or even of rivalry. As we already have the International Labour Organisation, which has done much preparatory work, and also the United Nations, it seems to me that we are in danger of having parliaments working individually on the same tasks rather than any real co-operation.

In addition, may I say, on behalf of my German political friends, that we are, of course, greatly interested in the European Social Charter? We hope that when we have the final draft Charter we may thereby give the working people of Europe something which they really need and have really earned.

THE PRESIDENT (Translation). I call Mr. Smithers.

Mr. SMITHERS (United Kingdom). I think it is desirable to say a word or two as a member of the Committee on Economic Questions, in view of some of the speeches that have been made in the last half-hour. Those Representatives who do not belong to either Committee may have received the impression that there is some conflict of intention between the Committee on Social Questions and the Committee on Economic Questions as regards the Social Charter. I am sure that there is nothing of the kind, and therefore it is worth while pointing out two important facts about the meeting this morning.

After a long meeting, and thanks to the great patience of M. Heyman who was in the Chair, and who listened to a great many objections very patiently and carefully, and thanks to his tact in reconciling points of view, two important things were agreed.

First of all, it was apparent that there was, I should think, total unanimity as to the desirability of establishing a Social Charter. Secondly, with some difficulty, we did, as I understand it, finally agree to a programme of work towards that end. Those seem to me to be two things about which this Assembly ought to be pleased. I hope it will be. At any rate, I was pleased when I came out of the meeting.

Now, beyond that point, when we get to the question of the Economic and Social Council, I think it is plain that there is no prospect of agreement, but I should like to point out that that is not a division which is peculiar to the Committee on Social Questions or to the Committee on Economic Questions—with all the Committee on Social Questions on one side and all the brutal economists on the other! It is doubtless a division which goes right through the Assembly.

Therefore, our prospect is quite clear. So far as the Charter is concerned, we have a programme of work and both Committees, I believe, intend to go forward vigorously with it.

What, then, is the difference in point of view?—for that, I think, is a real difference. I think it is worth stating it here. There is a natural tendency in the Committee on Social Questions to say "Here are our intentions; let us push ahead and put them into practice as quickly as possible". That arises from the sense of social duty which doubtless pervades a Committee particularly charged with social matters. But in the Committee on Economic Questions it is our duty to look at this problem from another angle. Economic facts are ugly things, and if one sets up a machinery without due regard to the economic facts they have a way of finally working through and breaking the machinery. We in the Committee on Economic Questions are just as anxious, I am sure—at least that is the impression I have—to see this Social Charter established, but we are very anxious that when it is established it should be not only, in the first place, immune from serious criticism, but, in the second place, able to withstand the test of time and the currents of politics.

When the draft first came to us, and when I first saw it, it seemed to me apparent that it would be very seriously criticised, that it would be subject to most damaging criticism not only in this Assembly but in the outside world. That was why I, for one, thought that it would have been much better to have postponed the debate in the Assembly and to have brought elements of economic realism into the Charter which it did not at that time possess. If I may say so with respect to the Assembly, had that course of advice then been followed a serious blow to the prestige of the whole project would not in fact have been delivered.

It is now, if we wish to see this Charter drawn up and accepted, doubly important that we should not have a second failure either in this Assembly or in the eyes of the public outside. It is for that reason that I, as a member of the Committee on Economic Questions, have done my best to insist that we shall go right back to fundamentals, that we shall examine the economic facts on which this social structure must rest, and make sure from the very beginning that we are building on thoroughly sound foundations.

I do not think there is anything anti-social or reactionary in that point of view. I am not ashamed to say to my friends in the Committee on Social Questions, "Have patience, let us build thoroughly and well, even if it takes longer". I am sure that my friends in the Committee on Social Questions will realise that this is a reasonable and not an anti-social point of view, and I am sure that the Assembly will realise that in putting it forward as an individual member of the Committee on Economic Questions I am not opposing the Committee on Social Questions but am doing my best—and so I am sure are all of our colleagues—to try to forward the work which the Committee on Social Questions has in hand and to bring it finally to a successful conclusion.

THE PRESIDENT (Translation). — I call M. Heyman, Chairman of the Committee on Social Questions.

M. HEYMAN (*Belgium*) (Translation). — Ladies and Gentlemen, after so many speeches on the substance of the question, it is tempting to let myself be drawn into the discussion, but I must resist this temptation. As I said this morning at the joint meeting of the two Committees, I think it would be tactless to raise the second question while the Rapporteur, M. Dehousse, is unable to attend—for reasons which you all understand. Whatever may be your opinion on the substance of the matter, you must give M. Dehousse an opportunity of expressing his views.

For the moment, therefore, I shall simply offer an opinion on the procedure to be followed. That was what we were instructed to prepare, and, as the competent Committee, it is our duty to obey your directives. It is not the Committees that settle a problem as my friend and fellow-countryman, M. de la Vallée Poussin, has so rightly pointed out—the final decision must always rest with the Assembly.

What, then, was the procedure agreed upon as a result of your decision last Tuesday and

after the two or three meetings held in the meantime?

You instructed your Committee on Social Questions, which is in charge of this matter, to get into touch with the Committee on Economic Questions, and this for a perfectly sound reason.

M. Federspiel, the distinguished Chairman of the Committee on Economic Questions, has explained quite rightly—though I must respectfully point out that I do not see eye to eye with him on all aspects of the question—that the introduction of a Social Charter and an Economic and Social Council is bound to have economic repercussions.

Moreover, as M. de la Vallée Poussin has just said, there will also be legal repercussions. This, too, is undeniable.

It has even been said that there will be political, cultural and, indeed, agricultural repercussions.

In that case, nearly all our Committees ought to have a hand in the matter. Surely, that is going a bit far. However, I am always prepared to seek common ground when it is possible to find it. As an old Flemish saying puts it: "Agree upon a goal and there is always a way of reaching it, given the necessary goodwill".

This morning, our Committee held a joint meeting with the Committee on Economic Questions at which it was decided to begin by consulting committees and milieux which might be of assistance to us. We agreed that the Rapporteurs should meet to consider the problem and any changes to be proposed. I repeat that the international trade union Organisations which send observers to our meetings will be allowed to give their opinion on these matters, as has always been the case in the Committee on Social Questions. For my part, I must admit that I have a very clear conception of such consultations.

What is the next step after that? When we have tried to reach agreement on a provisional text, we must consult the Committee of Experts, as M. de la Vallée Poussin has just said.

Let us be clear about this. I am sure there is no confusion in the mind of our colleague but what he said might conceivably create misconceptions. We shall not refer our proposals to the Committee of Experts; we shall transmit them to the Committee of Ministers which will then consult the Committee of Experts, if it thinks fit. Now, whether we like it or not, it is obvious—I might even say inevitable—in this case that the Committee of Ministers will consult the Committee of Experts.

As M. de la Vallée Poussin requests, therefore, we shall ask the Committee of Ministers for a technical opinion, whereas the Committee on Social Questions, having held all the necessary consultations and shown the maximum goodwill, will place before you a draft Social Charter at the next Session. As for the plan to set up an Economic and Social Council we shall see what can be done when we have heard M. Dehousse.

Such is the procedure we have decided upon, and I must now put in a strong plea for the necessary vote of confidence.

If there is any member of this Assembly who understands the importance of this pro-

rapporteur. For three years now I have kept this problem constantly before your eyes and this is the third or fourth time that I have presented a report on the subject, for I am deeply convinced that a Social Charter is an essential adjunct to the Convention on Human Rights.

Ladies and Gentlemen, allow me to repeat what I said this morning—and I hope you will trust in the sincerity of my words. I live among the working masses and I claim to have some knowledge of their life. You must believe me when I say that hitherto the workers as a whole have had too little knowledge of the Council of Europe, and by "workers as a

whole" I mean all who earn their own livelihood, regardless of whether they are manual workers or otherwise.

Furthermore, this broad section of the population has never had sufficient confidence in the Council of Europe because, rightly or wrongly—and in my opinion we have not been entirely at fault—we have shown insufficient interest in problems of general concern to the workers of our countries.

As I took the liberty of saying this morning, Ladies and Gentlemen, let us take care that the broad masses do not turn away from us and away from freedom and democracy. Democracy is not a mere catchword; it is something based on sentiment and reason. We must not let the workers turn their backs on it, as has happened in certain countries, for that would be a terrible disaster!

I am convinced that we can save many of these people, not only in our own countries, but even in countries behind the Iron Curtain, though it may only be on an individual scale.

Ladies and Gentlemen, I am giving away no secrets when I tell you that I am one of the members of this Assembly who belongs to organisations in which we still meet statesmen from behind the Iron Curtain—men who managed to escape from communist tyranny at the last minute.

I do not wish to indulge in sentiment, but I must say that I always come away from these meetings with a heavy heart. Many of us are often close to tears when these people describe the lot of the common man in such countries and ask us, for the love of God, for an assurance that the free countries will not abandon them socially, but will give them those personal contacts which can always transcend frontiers in spite of difficulties. The Social Charter is a means to this end.

I must now conclude by repeating what I said just now. Now that we have done our utmost to find common ground, we think it would be useful if you would give the Committee on Social Questions your instructions, which it is in honour bound to carry out. At the next Session your Committee will submit resolutions or other texts on which we think there will be agreement. I freely admit that when we have reached unanimity on these great problems, it will be a happy day for me, for we shall have realised one of the great dreams I have always cherished since I first had the honour to sit in this Assembly.

THE PRESIDENT (Translation). — I call Mr. Edwards.

Mr. EDWARDS (United Kingdom). — When the distinguished Chairman of the Committee on Social Questions introduced this draft Order this afternoon—and he did so in purely procedural terms—I did not think I should have anything to say to the Assembly. In fact, the occasion has been used for a re-statement of the position taken up by the Committee at an earlier date by some members of the Committee. I should therefore like to say one or two things which I think are important.

I would beg the Assembly, and particularly members of the Committee on Social Questions, to believe that those of us in the Committee on Economic Questions who may be highly critical of some proposals herein made are not indifferent to the burning questions which lie behind the whole thing. I now speak on economic questions, but, previously, I was for two years deputy to the Minister of Health at a time when the British Parliament carried through a most radical reform in social history. I took through Parliament a Bill that abolished the Poor Law and established enormously improved standards for our people.

I beg the Assembly to believe that the members of the Committee on Economic Questions want to help, but we believe that in order to help we must be true to ourselves and must do our work in accordance with our convictions.

It has been said that the workers of Europe are waiting for this Social Charter. The workers in the United Kingdom would doubtless agree with many things in the Social Charter as it is at present framed, but I also want Representatives to know that the workers of Britain organised in the trade unions would never for one moment agree to some parts of the Social Charter—I am sure that my

friends from the United Kingdom will confirm what I am saying—because they would see in the Social Charter a code of rules which would impinge on some functions which they are at present enjoying. I think that this has to be taken into account.

In my view—I said this in the joint meeting this morning—we have to distinguish between statements of objectives and concrete and specific rights. M. de la Vallée Poussin very rightly drew our attention to the fact that we are here involved in a legal problem because there is absolutely no point in asserting a right unless it is an enforceable right. I would agree with him entirely—indeed, I have said so, and so have my colleagues in the Committee on Economic Questions—that the sooner we can get the help of the social experts the better. This is an extremely difficult part of our problem. The sooner we can bring to our aid the social experts, I am sure the better we shall be able to deal concretely with the problems and get beyond a statement of ideal objectives.

So far as the procedure now proposed is concerned, we shall, of course, do everything we can to make it work. However, having said that, we still have very many reservations, including reservations about the Economic and Social Council, which I do not propose to discuss this evening. Nevertheless, I should hope that there would be an approximation of views. After all, no one can say that the Social Charter had exactly a good reception

when we debated it a few days ago, and we want to be sure that when the matter next comes forward we have something in general accord with the great majority of our views and something which may give some real hope—I say “real hope”, not “dream hope”—to the workers of Europe and may mark a step forward on what is in legal terms an extremely difficult road.

THE PRESIDENT (Translation). — Does anyone else wish to speak?...

The debate is closed.

I shall now read aloud the draft Order on which the Assembly will be asked to vote by a show of hands.

“ The Assembly,

Recalling its Opinion No. 5 adopted on 23rd September, 1953, and approved by the Committee of Ministers in its Special Message of 20th May, 1954, in which the Assembly declared itself in favour of the preparation of a European Social Charter;

Recalling its Resolution 26 of 17th January, 1953, proposing the creation of a European Economic and Social Council and its Orders 9 and 10 instructing the Committee on Economic Questions and the Committee on Social Questions to prepare a draft Recommendation on this subject;

Taking note of the debate on first reading held on Tuesday, 18th October, 1955;

Having examined the draft European Social Charter prepared by the Committee on Social Questions, which contains the plan for the creation of an Economic and Social Council (Doc. 403);

Having examined the communication of the Chairman of the Committee on Economic Questions, dated 15th October, pointing out the important economic aspects of this plan;

Considering the request of the Committee of Ministers that the proposals of the Assembly be transmitted to the governmental Social Committee before their final adoption;

Expressing its satisfaction with this new method of collaboration between the two organs of the Council, provided that it involves an exchange of opinions and not merely the transmission of documents,

1. Instructs the Committee on Economic Questions to examine the proposals of the Committee on Social Questions in the presence of representatives of the latter;

2. Instructs the Committee on Social Questions to examine, in the presence of representatives of the Committee on Economic Questions, such amendments as the latter Committee may in due course propose, and any other amendments or proposals which may be submitted to it by other members of the Assembly;

3. Instructs the two Committees and other competent committees to appoint representatives to undertake an exchange of views with the governmental Social Committee;

4. Retains the draft Social Charter and the proposals for the creation of an Economic and Social Council on its Agenda, with a view to a second debate and the adoption of a recommendation in the course of the Eighth Session.”

I shall now ask the Assembly to vote upon this draft Order by a show of hands...

The draft Order is unanimously adopted.

Now that the Assembly has decided how a revised text of the Social Charter shall be prepared, I would draw its attention—and this applies particularly to members of the Committees concerned—to the importance of continuing the work in close association with

the central organisations of the Christian and Free Trade Unions. Representatives of these organisations have hitherto taken an active part in the work of the Committee on Social Questions in this field. The Assembly will no doubt agree that such collaboration should be continued and extended to any other Committees which may be concerned with this problem.

M. HEYMAN (Belgium) (Translation). — The Committee on Social Questions is with you there, Mr. President.